

LEG. FINANCE - BILLS 1985 - 1986 2409

CSHB 470 cont. - SSHB 475 2409

(A) any hazardous waste identified by the department pursuant to AS 46.03.299 an element or compound that, when it enters into or on the surface or subsurface land or water of the state, presents an imminent and substantial danger to the public health or welfare, or to fish, animals, vegetation, or any part of the natural habitat in which fish, animals, or wildlife may be found; or

(B) a substance defined as a hazardous substance under 42 U.S.C. § 9601(14)-9657 ~~(Comprehensive Environmental Response, Compensation, and Liability Act of 1980)~~ (CERCLA);

(6) "permitted release" means

(A) any federally permitted release as defined under 42 U.S.C. § 9601(10) (CERCLA), or

(B) any release authorized by statute, ordinance, regulation, or rule of any state, municipality or local government or by any specific permit, license, or similar authorization from any such agency, including one of the foregoing which recognizes a standard industry practice, including variances obtained from any such agency which allow operations for facilities during a period of time when such facilities do not conform with relevant statutes, ordinances, regulations or rules. The term includes releases in accordance with any court order or consent decree.

(7) (5) "release" means any release as defined under 42 U.S.C. § 9601(22) (CERCLA), except that the term does not include any permitted release as intentional or unintentional release into the environment of the state.

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

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

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

(1) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or nonmilitary man-made cause including, but not limited to, fire, flood, earthquake, landslide, mudslide, avalanche, wind-driven water, weather condition, tsunami, [OIL SPILL OR OTHER WATER

CONTAMINATION REQUIRING EMERGENCY ACTION TO AVERT DANGER OR DAMAGE], volcanic activity, epidemic, air contamination, blight, infestation, explosion, riot, equipment failure, or shortage of food, water, fuel, or clothing, or the release of either a hazardous substance requiring prompt action to avert environmental danger or damage;

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

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

* Sec. 6 AS 45.45.900 is amended to read:

Sec. 45.45.900. INDEMNIFICATION AGREEMENTS CONTRA TO PUBLIC POLICY. A provision, clause, covenant, or agreement contained in, collateral to, or affecting a ANY construction contract that [WHICH] purports to indemnify the promisee against liability for damages for (1) death or bodily injury to persons, (2) injury to property, (3) design

defects or (4) [ANY] other loss, damage or expense arising under (1), (2), or (3) of this section from the sole negligence or wilful misconduct of the promisee or the promisee's agents, servants or independent contractors who are directly responsible to the promisee, is against public policy and is void and unenforceable; however, this provision does not affect the validity of an [ANY] insurance contract, workers' compensation, or agreement issued by an insurer subject to the provisions of AS 21, or a provision, clause, covenant, or agreement of indemnification respecting the handling, containment and or cleanup of oil-or hazardous substances as defined in AS 46.

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

(a) When the department finds that an actual or imminent discharge of oil, a hazardous substance, or low level radioactive materials to the air, water, land or subsurface land of the state poses an immediate and substantial threat to the public health or welfare, or the environment of the state, it may issue an order declaring an emergency and directing a person or persons to take action the department believes necessary to meet the emergency, and protect the public health, welfare, or environment.

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

~~Sec. 46.03.745. HAZARDOUS-SUBSTANCE-RELEASE-
Except for a controlled release, the reporting of which is~~

~~the-subject-of-an-agreement-with-the-commissioner-under
AS-46.09.010(b),-a-person-may-not-cause-or-permit-the
release-of-a-hazardous-substance-as-defined-in-AS-46.09.900.~~

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

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

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

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

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

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

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

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

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

thereby causes the death of fish, animals, or vegetation or otherwise injures or degrades the environment of the state is liable to the state for damages.

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

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

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

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

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

(d) Notwithstanding (a) and (b) of this section, a person who fails to provide or falsely states information required under AS 46.03.755, [OR] AS 46.04, or AS 46.09 is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$25,000, or by imprisonment for

not more than one year, or by both. Each unlawful act constitutes a separate offense.

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

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

*Sec. 16. AS 46.04.090(b) is amended to read:

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

* Sec 17. Not later than January 1, 1987, the commissioner of environmental conservation shall develop guidelines under AS 46.09.020, added by sec. 2 of this Act.

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

* Sec. 19. Notwithstanding the provisions of AS 37.05.159(b) and AS 37.07.080(e), the governor may, during the 1987 fiscal year, transfer from the reserve for emergency operating expenses account to the oil and hazardous substance release response fund (AS 46.08) amounts that, when added to the amounts appropriated, reappropriated, or transferred to the response fund in laws enacted by the legislature during the 1986 regular legislative session, do not exceed \$1,000,000.

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

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

* Sec. 22. Section 19 of this Act takes effect July 1, 1986.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST Page 1 of 4

FISCAL DETAIL

Bill/Resolution No.: CSHB 470 (Fin)
Title: An Act Relating to the Release of Oil and Hazardous Substances

Agency Affected: Environmental Conservation
BRU: Environmental Quality

Sponsor: Rep. Mike Davis
Requestor: House Finance Committee
Date of Request: 3/12/86

Components: Director's Office

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	100.8	132.2	132.2	132.2	132.2
TRAVEL	0	13.0	15.0	15.0	15.0	15.0
CONTRACTUAL	0	21.0	21.0	21.0	21.0	21.0
SUPPLIES	0	8.5	10.0	10.0	10.0	10.0
EQUIPMENT	0	6.0	2.0	2.0	2.0	2.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	149.3	180.2	180.2	180.2	180.2

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	0	149.3	180.2	180.2	180.2	180.2
FEDERAL FUNDS						
OTHER						
TOTAL	0					

POSITIONS : *3.0 PFT

FULL-TIME	0	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Al Adams, Chair Phone: 465-3706
Division: House Finance Committee Date: 3/12/86

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 470(Fin) - Page 2 of 4

In order to manage a program which responds to both immediate and long-term releases of oil and hazardous substances and to make effective use of the fund created by this proposed legislation, several new positions would be required. TOTAL
REQUEST

Funding for nine months of personal services is requested for FY 87, 100.8

A. Response Capability

1. Two environmental field officer positions to investigate reports of spilled materials, monitor cleanup activities, work with community government and safety agencies on plans for responding to local emergencies involving chemical spills/fires. The field officers would be assigned in Anchorage for the South-central Region but would be available to respond to emergencies throughout the state. The new position form total reflects funding for one position and should be doubled to reflect the two positions.

2. One administrative assistant position to assist program staff by preparing contract documents for municipalities, by tracking and recording expenditures of the fund and by preparing the fiscal reports required by the Legislature.

B. Support Costs

1. Travel funds of 3.0 for the administrative position and 5.0 per field officer position will be necessary to conduct hearings on regulations, investigate incidents and participate in training programs. 13.0

2. Contractual funds of about 7.0 per position are required to pay office costs including telephones, xeroxing, word processing, utilities, janitorial costs, printing and advertising costs and registration fees for training courses. 21.0

3. Funds for office supplies amounting to about 1.5 are requested; 2.0 is requested to replace expendable field sampling and safety supplies; and 5.0 is requested to repair laboratory testing equipment and replace supplies. 8.5

4. Equipment funds of 2.0 are requested for desks, chairs, partitions, bookshelves and similar items necessary to equip the office of each position. 6.0

6.0
149.3

Position Title Administrative Assistant II			No. of Positions One	Range/Step 14 A	Borg. Unit GGU	Gov. Leg.	Approv.	Disapp.
Time Status Full Time	Staff Months 12	RP Number	Location Juneau		Election District			
Justification								
Type of Expenditure			Amount					
1	2	3						
Salary	21.2							
Benefits	5.8							
Premium Pay								
Other								
Total Personal Services		28.0						
Travel		3.0						
Contractual		11.0						
Commodities		1.5						
Equipment		2.0						
Other								
Total Cost		45.5						
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. P. Match 1003					
			General Funds 1004 45.5					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only								
Key Number _____								

Justification

This new position will assist the program staff by preparing documents necessary to contract for services to contain and clean up hazardous substances, by recording and tracking expenditures from the response fund and preparing the fiscal reports required to report program activities to the Legislature. This person will also maintain records describing incidents and spills from across the State and other data necessary to obtain cost-recovery from responsible parties.

We expect to fill this position on October 1, 1986.

Funding for nine months has been requested for FY 87.

**Request For
New Position**

Agency Environmental Conservation
 DRU Environmental Quality
 Component Water Quality Management

CSHB 470(Fin)

FY 87

Page 3 of 4
 Revised Date _____

Position Title Environmental Field Officer III			No. of Positions Two	Range/Step 18 A	Req. Unit GGII	Clas.	Agency	Disapp.
Time Status Full Time	Staff Grade 12	EP Number	Location Anchorage		Station District	ESG		
Type of Expenditures			Justification					
			This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.					
Amount								
1	2	3						
Salary	28.1							
Benefits	8.3							
Premium Pay								
Other								
Total Personnel Services		36.4						
Travel		5.0						
Contractual		5.0						
Commodities		3.5						
Equipment		2.0						
Other								
Total Cost		51.9						
Receipt Code			Funding Source					
			Federal Receipts 1802					
			G. F. Match 1081					
			General Funds 1824					
			FA Receipts 1805					
			Program Receipts 328					
			CIP Receipts 1061					
			Other					
			51.9					
Pw. 3000 Unit Only Key Number								

We expect to fill this position on October 1, 1986.

Funding for nine months has been requested for FY 87.

**Request For
New Position**

Agency Environmental Conservation
 BAU Environmental Quality
 Component Southcentral Region

CSHB 470(Fin)

FY 87

Page 4 of 4
 Revised Date

Sectional Analysis

Senate Finance Committee amendments to CSHB 470 (Fin) am - An Act relating to the release of oil and hazardous substances; repealing the oil spill mitigation account; and providing for an effective date.

Page 6, Line 10

Paragraph (8) is deleted, and new definitions are added to read:

(8) "permitted release" means a release occurring under the authority of a valid permit issued by the department or by the Environmental Protection Agency.

(9) "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, except that release does not include a permitted release or an act of nature which is unforeseeable in kind or degree.

(10) "threatened release" means a situation in which there is an imminent danger that a release will occur.

Page 7, Line 5

to human life or health than if the release [ITSELF] were not contained or cleaned up.

Page 7, Line 24

to human life or health than if the release [ITSELF] were not contained or cleaned up.

Page 10, Line 1

Paragraph (5) is deleted, and new definitions are added to read:

(5) "permitted release" means a release occurring under the authority of a valid permit issued by the department or by the Environmental Protection Agency.

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(7) "threatened release" means a situation in which there is an imminent danger that a release will occur.

Page 15, Line 7

Sections 19 - 22 are deleted and replaced with the following language:

* Sec. 19. AS 46.03.758(k) is repealed.

* Sec. 20. This Act takes effect immediately in accordance with AS 01.10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST Page 1 of 4

FISCAL DETAIL

Bill/Resolution No.: CSHB 470 (Fin)
 Title: An Act Relating to the Release
 of Oil and Hazardous Substances

Agency Affected: Environmental Conservation
 BRU: Environmental Quality

Sponsor: Rep. Mike Davis
 Requestor: House Finance Committee
 Date of Request: 3/12/86

Components: Director's Office

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	100.8	132.2	132.2	132.2	132.2
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SUPPLIES	0	8.5	10.0	10.0	10.0	10.0
EQUIPMENT	0	6.0	2.0	2.0	2.0	2.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	149.3	180.2	180.2	180.2	180.2

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	0	149.3	180.2	180.2	180.2	180.2
FEDERAL FUNDS						
OTHER						
TOTAL	0					

POSITIONS : *3.0 PFT

FULL-TIME	0	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Al Adams, Chair
 Division: House Finance Committee

Phone: 465-3706
 Date: 3/12/86

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 470(Fin) - Page 2 of 4

In order to manage a program which responds to both immediate and long-term releases of oil and hazardous substances and to make effective use of the fund created by this proposed legislation, several new positions would be required.

TOTAL
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2. One administrative assistant position to assist program staff by preparing contract documents for municipalities, by tracking and recording expenditures of the fund and by preparing the fiscal reports required by the Legislature.

B. Support Costs

1. Travel funds of 3.0 for the administrative position and 5.0 per field officer position will be necessary to conduct hearings on regulations, investigate incidents and participate in training programs.

13.0

2. Contractual funds of about 7.0 per position are required to pay office costs including telephones, xeroxing, word processing, utilities, janitorial costs, printing and advertising costs and registration fees for training courses.

21.0

3. Funds for office supplies amounting to about 1.5 are requested; 2.0 is requested to replace expendable field sampling and safety supplies; and 5.0 is requested to repair laboratory testing equipment and replace supplies.

8.5

4. Equipment funds of 2.0 are requested for desks, chairs, partitions, bookshelves and similar items necessary to equip the office of each position.

6.0

149.3

Position Title Administrative Assistant II			No. of Positions One	Range/Step 14 A	Org. Unit GGU	Gov. L28	Appov.	Disapp.																																				
Time Status Full Time	Staff Months 12	RP Number	Location Juneau		Election District																																							
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For B&M Use Only Key Number _____																																												

**Request For
New Position**

Agency Environmental Conservation
BRU Environmental Quality
Component Water Quality Management

CSHB 470(Fin)

FY 87

Page 3 of 4
Revised Date _____

Position Title Environmental Field Officer III			No. of Positions Two	Range/Sup 18 A	Borg. Unit GGU	Clas. 1-9	Appoint.	Disapp.
Time Status Full Time	Staff Months 12	RP Number	Location Anchorage		Division District			
Type of Expenditure			Justification					
Amount			<p>This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.</p> <p>We expect to fill this position on October 1, 1986. Funding for nine months has been requested for FY 87.</p>					
1	2	3						
Salary	28.1							
Benefits	8.3							
Premium Pay								
Other								
Total Personnel Services		36.4						
Territorial		5.0						
Contractual		5.0						
Commodities		3.5						
Equipment		2.0						
Other								
Total Cost		51.9						
Receipt Code	Position Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1020	51.9					
	FA Receipts	1005						
	Program Receipts	1070						
	CRF Receipts	1061						
	Other							
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> For BAMS Use Only Key Number _____ </div>								

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Southcentral Region

CSHB 470(Fin)

FY 87

Page 4 of 4
 Revised Date

Sectional Analysis

Senate Finance Committee amendments to CSHB 470 (Fin) am - An Act relating to the release of oil and hazardous substances; repealing the oil spill mitigation account; and providing for an effective date.

Page 6, Line 10

Paragraph (8) is deleted, and new definitions are added to read:

(8) "permitted release" means a release occurring under the authority of a valid permit issued by the department or by the Environmental Protection Agency.

(9) "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, except that release does not include a permitted release or an act of nature which is unforeseeable in kind or degree.

(10) "threatened release" means a situation in which there is an imminent danger that a release will occur.

Page 7, Line 5

to human life or health than if the release [ITSELF] were not contained or cleaned up.

Page 7, Line 24

to human life or health than if the release [ITSELF] were not contained or cleaned up.

Page 10, Line 1

Paragraph (5) is deleted, and new definitions are added to read:

(5) "permitted release" means a release occurring under the authority of a valid permit issued by the department or by the Environmental Protection Agency.

(6) "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, except that release does not include a permitted release or an act of nature which is unforeseeable in kind or degree.

(7) "threatened release" means a situation in which there is an imminent danger that a release will occur.

Page 15, Line 7

Sections 19 - 22 are deleted and replaced with the following language:

* Sec. 19. AS 46.03.758(k) is repealed.

* Sec. 20. This Act takes effect immediately in accordance with AS 01.10.070(c).

cc
3/14

HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
CS HB 470 (FINANCE)

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 CS HB 470 (Finance) 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.



Al Adams, Chair
House Finance Committee

Adopted by House 3/19/86

1 Sec. 46.08.020. 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

Offered: 3/14/86
Referred: Rules

Original sponsors: Davis, Koponen,
Hurley, et al

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 470 (Finance) 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 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.

1 Sec. 46.08.020. 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. 46.08.060. 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(e), 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(e) 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 only
7 those regulations which are expressly required to implement the
8 specific purposes of this chapter.

9 Sec. 46.08.900. DEFINITIONS. In this chapter

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

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

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

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

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

24 (6) "hazardous substance" means

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

1 or

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

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

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

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

13 CHAPTER 09. HAZARDOUS SUBSTANCE RELEASE CONTROL.

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

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

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

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

1 technically infeasible;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (b) Authority to contain, clean up, or prevent a release or

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

6 Sec. 46.09.070. REGULATIONS. The commissioner shall adopt only
7 those regulations which are expressly required to implement the
8 specific purposes of this chapter.

9 Sec. 46.09.900. DEFINITIONS. In this chapter

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

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

16 (3) "department" means the Department of Environmental
17 Conservation;

18 (4) "hazardous substance" means

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

25 (B) a substance defined as a hazardous substance under
26 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response,
27 Compensation, and Liability Act of 1980);

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

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

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

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

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

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

27 Sec. 44.19.050. DEFINITION. In AS 44.19.048 and 44.19.049,
28 "disaster" means the occurrence or imminent threat of widespread or
29 severe damage, injury, or loss of life or property resulting from any

1 directing a person or persons to take action the department believes
2 necessary to meet the emergency, and protect the public health,
3 welfare, or environment.

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

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

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

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

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

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

29 (3) the economic savings realized by the person in not

1 natural or man-made cause including, but not limited to, fire, flood,
2 earthquake, landslide, avalanche, wind-driven water, weather condi-
3 tion, tsunami, [OIL SPILL OR OTHER WATER CONTAMINATION REQUIRING
4 EMERGENCY ACTION TO AVERT DAMAGE,] volcanic activity, epidemic, air
5 contamination, blight, infestation, explosion, [OR] riot, or the
6 release of oil or a hazardous substance requiring prompt action to
7 avert environmental danger or damage.

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

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

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

25 (a) When the department finds that an actual or imminent dis-
26 charge of oil, a hazardous substance, or low level radioactive mate-
27 rials to the air, water, land or subsurface land of the state poses an
28 immediate threat to the public health or welfare, or the environment
29 of the state, it may issue an order declaring an emergency and

1 complying with the requirement for which a violation is charged.

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

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

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

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

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

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

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

2 (b) Except as provided in (d) - (f) of this section, a person
3 who knowingly violates a provision of this chapter, [OR] AS 46.04, or
4 AS 46.09, or of a regulation, lawful order of the department, or
5 permit, approval, or acceptance, or term or condition of a permit,
6 approval, or acceptance issued under this chapter, [OR] AS 46.04, or
7 AS 46.09 is guilty of a class A misdemeanor.

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

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

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

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

26 * Sec. 16. AS 46.04.090(b) is amended to read:

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

1 * Sec. 17. Not later than January 1, 1987, the commissioner of environ-
2 mental conservation shall develop guidelines under AS 46.09.020, added by
3 sec. 2 of this Act.

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

7 * Sec. 19. Notwithstanding the provisions of AS 37.05.159(b) and
8 AS 37.07.080(e), the governor may, during the 1987 fiscal year, transfer
9 from the reserve for emergency operating expenses account to the oil and
10 hazardous substance release response fund (AS 46.08) amounts that, when
11 added to the amounts appropriated, reappropriated, or transferred to the
12 response fund in laws enacted by the legislature during the 1986 regular
13 legislative session, do not exceed \$1,000,000.

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

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

17 * Sec. 22. Section 19 of this Act takes effect July 1, 1986.

HOUSE
COMMITTEE REPORT

2/7
JUDICIARY

Date referred: 1/15/86

FURTHER REFERRALS: FINANCE

DATE: 2/5/86

HEALTH, EDUCATION AND
The SOCIAL SERVICES Committee has considered HB 474

"An Act relating to volunteer guardians ad litem in the Office of Public Advocacy."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 474 (HESS) same title new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note Sup # 81
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

Thompson [Signature]

[Signature]

[Signature]

Hurley [Signature]

Taylor [Signature]

Pettyjohn [Signature]

SIGNING OTHER RECOMMENDATIONS:

Hurley [Signature] - No Rec

[Signature] Koponen
Chairman

[Signature] Gruenberg
Co-Chair

W. C. C.

Offered: 2/26/86
Referred: Finance

Original sponsors: Sund, Gruenberg,
Cotton, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 474 (Judiciary)

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 volunteer guardians ad litem in,
7 and grants to, the Office of Public Advocacy."

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

9 * Section 1. AS 44.21.410 is repealed and reenacted to read:

10 Sec. 44.21.410. POWERS AND DUTIES OF PUBLIC ADVOCACY OFFICE.

11 (a) The office of public advocacy shall

12 (1) perform the duties of the public guardian under AS 13.-
13 26.350 - 13.26.410;

14 (2) provide visitors and experts in guardianship proceed-
15 ings under AS 13.26.131;

16 (3) provide guardian ad litem services to children in child
17 protection actions under AS 47.17.030(e) and to wards and respondents
18 in guardianship proceedings who will suffer financial hardship or
19 become dependent upon a government agency or a private person or
20 agency if the services are not provided at state expense under AS 13.-
21 26.112;

22 (4) provide legal representation in guardianship proceed-
23 ings to respondents who are financially unable to employ attorneys
24 under AS 13.26.106(b), to indigent parties in cases involving child
25 custody in which the opposing party is represented by counsel provided
26 by a public agency, and to indigent parents or guardians of a minor
27 respondent in a commitment proceeding concerning the minor under
28 AS 47.30.775;

29 (5) provide legal representation and guardian ad litem

1 services under AS 25.24.310; in cases arising under the Uniform Inter-
2 state Compact on Juveniles (AS 47.15); in cases involving petitions to
3 adopt a minor under AS 25.23.100(j); in cases involving petitions to
4 remove the disabilities of a minor under AS 09.55.590; in children's
5 proceedings under AS 47.10.050(a); and in cases involving indigent
6 persons who are entitled to representation under AS 18.85.100 and who
7 cannot be represented by the public defender agency because of a
8 conflict of interests.

9 (b) The office of public advocacy may develop and coordinate a
10 program to recruit, select, train, assign, and supervise volunteer
11 guardians ad litem from local communities to aid in delivering
12 services in cases in which the office of public advocacy is appointed
13 as guardian ad litem.

14 (c) The commissioner of administration may

15 (1) adopt regulations that the commissioner considers
16 necessary to implement AS 44.21.400 - 44.21.460;

17 (2) report on the operation of the office of public advo-
18 cacy when requested by the governor or legislature or when required by
19 law;

20 (3) solicit and accept grants of funds from the federal
21 government, local governments, persons, and private foundations, and
22 allocate or restrict the use of those funds as required by the
23 grantor.

24 * Sec. 2. AS 44.21 is amended by adding new sections to read:

25 Sec. 44.21.450. NON-ATTORNEY VOLUNTEER GUARDIANS AD LITEM. A
26 non-attorney volunteer guardian ad litem may not give legal advice or
27 act in the capacity of legal counsel or attorney for a minor before a
28 court or administrative agency.

29 Sec. 44.21.460. CIVIL LIABILITY. (a) A volunteer guardian ad

1 litem under the supervision of the office of public advocacy may not
2 be held personally liable in a civil action for acts or omissions
3 during the good faith performance of duties as a guardian unless the
4 volunteer was guilty of gross negligence or reckless or intentional
5 misconduct.

6 (b) This section does not affect the civil liability of the
7 office of public advocacy.
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Offered: 2/7/86
Referred: Judiciary and Finance
Original sponsors: Sund, Gruenberg,
Cotten, et al

*17 State Sept 81
(3/20/81)*

Hein

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 474 (HESS)

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 volunteer guardians ad litem and
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18 protection actions under AS 47.17.030(e) and to wards and respondents
19 in guardianship proceedings who will suffer financial hardship or
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21 agency if the services are not provided at state expense under AS 13.-
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8 cannot be represented by the public defender agency because of a
9 conflict of interests;

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11 train, assign, and supervise volunteer guardians ad litem and court-
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13 ing services in cases in which the office of public advocacy is ap-
14 pointed as guardian ad litem.

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16 (1) adopt regulations that the commissioner considers
17 necessary to implement AS 44.21.400 - 44.21.440;

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20 law;

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22 government, local governments, persons, and [FROM] private foun-
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24 by the grantor.

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28 special advocate under the supervision of the office of public advoca-
29 cy may not be held civilly liable for acts or omissions during the

1 good faith performance of duties as a guardian unless the volunteer
2 was guilty of gross negligence or reckless or intentional misconduct.
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Introduced: 1/15/86
Referred: Health, Education &
Social Services, Judiciary and
Finance

1 IN THE HOUSE

BY SUND, GRUENBERG, COTTEN,
GOLL AND TAYLOR

2 HOUSE BILL NO. 474

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 volunteer guardians ad litem in
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27 respondent in a commitment proceeding concerning the minor under
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29 (5) provide legal representation and guardian ad litem

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2 Interstate Compact on Juveniles (AS 47.15); in cases involving peti-
3 tions to adopt a minor under AS 25.23.100(j); in cases involving
4 petitions to remove the disabilities of a minor under AS 09.55.590; in
5 children's proceedings under AS 47.10.050(a); and in cases involving
6 indigent persons who are entitled to representation under AS 18.85.100
7 and who cannot be represented by the public defender agency because of
8 a conflict of interests;

9 (6) develop and coordinate a program to recruit, select,
10 train, assign, and supervise volunteer guardians ad litem from local
11 communities to aid in delivering services in cases in which the office
12 of public advocacy is appointed as guardian ad litem.

13 (b) The commissioner of administration may

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16 (2) report on the operation of the office of public advo-
17 cacy when requested by the governor or legislature or when required by
18 law;

19 (3) solicit and accept grants of funds from the federal
20 government, local governments, private individuals, and from private
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22 quired by the grantor.

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24 Sec. 44.21.450. CIVIL LIABILITY OF VOLUNTEER GUARDIANS. A
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26 public advocacy may not be held civilly liable for acts or omissions
27 during the good faith performance of duties as a guardian unless the
28 volunteer was guilty of gross negligence.

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Handwritten initials and numbers

REQUEST Page 1 of 4 # *1*

Revision Date: _____

Bill/Resolution No.: HB 474
Title: "An Act relating to volunteer guardians ad litem..."

FISCAL DETAIL
Agency Affected: Administration
BRU: Office of Public Advocacy

Sponsor: Rep. Sund
Requestor: Finance
Date of Request: January 27, 1985

Component: Office of Public Advocacy

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-0-	83.6	88.6	93.9	99.5	105.4
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
SUPPLIES		4.0	4.2	4.5	4.7	5.0
EQUIPMENT		14.3	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	101.9	92.8	98.4	104.2	110.4

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	------------	------------	------------	------------	------------	------------

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	101.9	92.8	98.4	104.2	110.4
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	101.9	92.8	98.4	104.2	110.4

POSITIONS :

FULL-TIME	-0-	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSTS : Attach a separate page if necessary

Prepared by: *Brant McGee*, Public Advocate *AMG*
Division: Office of Public Advocacy

Phone: 274-1684
Date: 2/3/86

Approved by Commissioner: *Eleanor Andrews*
Agency: Department of Administration

Date: 2/4/86

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 474

Page 2 of 4 #/

This bill relates to the establishment of a volunteer guardian ad litem program within the Office of Public Advocacy. This bill would substantially improve the ability of the Office of Public Advocacy to provide guardian ad litem representation to children in abuse and neglect cases as well as contested custody cases.

Since the Anchorage Office of Public Advocacy began accepting guardian ad litem cases in January of 1985, approximately 658 cases have been opened from the period of January, 1985 through December, 1985. The Anchorage office presently has two attorneys and two associate attorney positions who handle guardian ad litem responsibilities.

It is anticipated that the Office of Public Advocacy would need a program coordinator position and a clerk typist III position in order to implement a volunteer guardian ad litem program.

BUDGET ANALYSIS

Personal Services

Program Coordinator - Range 20	56.2	
Clerk Typist III - Range 08	<u>27.4</u>	
	83.6	83.6

Supplies

4.0

Equipment

Program Coordinator	2.4	
Clerk Typist III	<u>11.9</u>	
	14.3	<u>14.3</u>

TOTAL: 101.9

Position Title Program Coordinator			No. of Positions 1	Range/Step 20/A	Borg. Unit G	Gov.	Appoint	Disapp			
Time Status PFT	Staff Months 12	RP Number	Location EBA	Election District 8		Log					
Type of Expenditure			Justification								
			<p>A program coordinator position is essential if the volunteer guardian ad litem program is to be implemented. It is not possible for present staff positions to carry a full guardian ad litem caseload and assume the duties of establishing and coordinating the volunteer program. It is anticipated that the program coordinator will coordinate the solicitation, screening and training of volunteers in the Anchorage area. The program coordinator will also be responsible for establishing similar volunteer programs in Fairbanks and Juneau, and will study the feasibility of establishing such a program in the rural area of Alaska.</p>								
Amount											
1	2	3									
Salary	42,768										
Benefits	13,466										
Premium Pay											
Other											
Total Personal Services		56,234									
Travel		-0-									
Contractual		-0-									
Commodities		2,000									
Equipment		2,429									
Other											
Total Cost		60,663									
Receipt Code	Funding Source										
	Federal Realloc		1002								
	G. E. Match		1003								
	General Funds		1004				60,663				
	I-A Receipts		1005								
	Program Receipts		1028								
	CIP Receipts		1061								
	Other										
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> For B&M Use Only Key Number _____ </div>											

**Request For
New Position**

Agency Department of Administration
BRU Office of Public Advocacy
Component Office of Public Advocacy

HB 474 #1

FY 87

Page 3 of 4
Revised Date

Position Title Clerk Typist III			No. of Positions 1	Range/Step 08/A	Org. Unit G	Gov.	Approv.	Disapp.
Time Status PPT	Staff Months 12	RP Number	Location EBA	Election District 8				
Type of Expenditure			Justification					
		Amount	<p>A Clerk Typist III position will be necessary to provide clerical support to the volunteer guardian ad litem program coordinator. At present, Office of Public Advocacy has only 3 clerical positions who provide clerical support to a professional staff of 12 in the Anchorage office. It is not possible for the present secretarial positions to absorb the additional clerical support generated by the program coordinator and the volunteer program.</p>					
1	2	3						
Salary	19,572							
Benefits	7,804							
Premium Pay								
Other								
Total Personal Services		27,376						
Travel		-0-						
Contractual		-0-						
Commodities		2,000						
Equipment		11,838						
Other								
Total Cost		41,214						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		11,838					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For BAM Use Only								
Key Number _____								

**Request For
New Position**

Agency Department of Administration
 DRU Office of Public Advocacy
 Component Office of Public Advocacy

HB 474 *HH*

FY 87

Page 4 of 4
 Revised Date _____

CP

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No. : HB 474 #2
 Title : An Act relating to volunteer guardians ad litem
 Sponsor : Sund, Gruenberg, et al
 Requestor : _____
 Date of Request : 2/3/86

FISCAL DETAIL

Agency Affected : Health & Social Services
 BRU : Social Services
Youth Services
 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-
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by: Michael L. Pralle *Michael L. Pralle* Phone: 465-3170
 Division: Family & Youth Services Date: February 4, 1986 *gcc*

Approved by Commissioner: John R. Pugh *John R. Pugh* Date: 2/15/86
 Agency: Health and Social Services

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

ALASKA STATE LEGISLATURE

14th... Legislature SECOND... Session

HOUSE BILL..... NO. 474...

By SUND, GRUENBERG AND COTTEN
COLL, TAYLOR

"An Act relating to volunteer guardians ad litem in the office of Public Advocacy."

Public Advocacy, guardians

Introduced in the House ..1/15...., 1936.

HISTORY IN THE HOUSE

1936		Read first time and referred to Committee on												
Jan	15	HESS, JUDICIARY AND FINANCE Reported back with recommendation that												
		Read second time and												
		Read third time and												
		<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
PASS	Effective Date													
Yeas	Yeas													
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		<table border="0"> <tr> <td colspan="2">Reconsideration</td> </tr> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
Reconsideration														
PASS	Effective Date													
Yeas	Yeas													
Nays	Nays													
Absent	Absent													
Excused	Excused													
		Reported correctly engrossed Signed by Speaker Sent to Senate												
CHIEF CLERK OF THE HOUSE														

HISTORY IN THE SENATE

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

HISTORY IN THE HOUSE

19		Received from Senate
		Concurred in Senate amendment thus adopting: VOTE
		Failed to concur in Senate amendment; asked Senate to recede VOTE
		Senate receded from amendment VOTE
		Senate failed to recede from amendment VOTE
		CC appointed by House
		CC appointed by Senate
		CC adopted by House VOTE
		CC adopted by Senate VOTE
		To enrolling Reported correctly enrolled Sent to Governor by Governor
		Filed with Lt. Governor
		Chapter No.

Offered: 2/26/86
Referred: Finance

Original sponsors: Sund, Gruenberg,
Cotten, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 474 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

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4 volunteer was guilty of gross negligence or reckless or intentional
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6 (b) This section does not affect the civil liability of the
7 office of public advocacy.

Offered: 2/7/86
Referred: Judiciary and Finance

Original sponsors: Sund, Gruenberg,
Cotten, et al

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 474 (HESS)

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 volunteer guardians ad litem and
7 court-appointed special advocates in the Office of
8 Public Advocacy."

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

10 * Section 1. AS 44.21.410 is amended to read:

11 Sec. 44.21.410. POWERS AND DUTIES OF PUBLIC ADVOCACY OFFICE.

12 (a) The office of public advocacy shall

13 (1) perform the duties of the public guardian under AS 13.-
14 26.360 - 13.26.410;

15 (2) provide visitors and experts in guardianship proceed-
16 ings under AS 13.26.131;

17 (3) provide guardian ad litem services to children in child
18 protection actions under AS 47.17.030(e) and to wards and respondents
19 in guardianship proceedings who will suffer financial hardship or
20 become dependent upon a government agency or a private person or
21 agency if the services are not provided at state expense under AS 13.-
22 26.112;

23 (4) provide legal representation in guardianship proceed-
24 ings to respondents who are financially unable to employ attorneys
25 under AS 13.26.106(b), to indigent parties in cases involving child
26 custody in which the opposing party is represented by counsel provided
27 by a public agency, and to indigent parents or guardians of a minor
28 respondent in a commitment proceeding concerning the minor under
29 AS 47.30.775;

1 (5) provide legal representation and guardian ad litem
2 services under AS 25.24.310; in cases arising under the Uniform Inter-
3 state Compact on Juveniles (AS 47.15); in cases involving petitions to
4 adopt a minor under AS 25.23.100(j); in cases involving petitions to
5 remove the disabilities of a minor under AS 09.55.590; in children's
6 proceedings under AS 47.10.050(a); and in cases involving indigent
7 persons who are entitled to representation under AS 18.85.100 and who
8 cannot be represented by the public defender agency because of a
9 conflict of interests;

10 (6) develop and coordinate a program to recruit, select,
11 train, assign, and supervise volunteer guardians ad litem and court-
12 appointed special advocates from local communities to aid in deliver-
13 ing services in cases in which the office of public advocacy is ap-
14 pointed as guardian ad litem.

15 (b) The commissioner of administration may

16 (1) adopt regulations that the commissioner considers
17 necessary to implement AS 44.21.400 - 44.21.440;

18 (2) report on the operation of the office of public advoca-
19 cy when requested by the governor or legislature or when required by
20 law;

21 (3) solicit and accept grants of funds from the federal
22 government, local governments, persons, and [FROM] private foun-
23 dations, and allocate or restrict the use of those funds as required
24 by the grantor.

25 * Sec. 2. AS 44.21 is amended by adding a new section to read:

26 'Sec. 44.21.450. CIVIL LIABILITY OF SPECIAL ADVOCATES AND VOLUN-
27 TEER GUARDIANS. A volunteer guardian ad litem or court-appointed
28 special advocate under the supervision of the office of public advoca-
29 cy may not be held civilly liable for acts or omissions during the

- 1 good faith performance of duties as a guardian unless the volunteer
- 2 was guilty of gross negligence or reckless or intentional misconduct.

Introduced: 1/15/86
Referred: Health, Education &
Social Services, Judiciary and
Finance

BY SUND, GRUENBERG, COTTEN,
GOLL AND TAYLOR

1 IN THE HOUSE

HOUSE BILL NO. 474

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 volunteer guardians ad litem in
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5 children's proceedings under AS 47.10.050(a); and in cases involving
6 indigent persons who are entitled to representation under AS 18.85.100
7 and who cannot be represented by the public defender agency because of
8 a conflict of interests;

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10 train, assign, and supervise volunteer guardians ad litem from local
11 communities to aid in delivering services in cases in which the office
12 of public advocacy is appointed as guardian ad litem.

13 (b) The commissioner of administration may

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17 cacy when requested by the governor or legislature or when required by
18 law;

19 (3) solicit and accept grants of funds from the federal
20 government, local governments, private individuals, and from private
21 foundations, and allocate or restrict the use of those funds as re-
22 quired by the grantor.

23 * Sec. 2. AS 44.21 is amended by adding a new section to read:

24 Sec. 44.21.450. CIVIL LIABILITY OF VOLUNTEER GUARDIANS. A
25 volunteer guardian ad litem under the supervision of the office of
26 public advocacy may not be held civilly liable for acts or omissions
27 during the good faith performance of duties as a guardian unless the
28 volunteer was guilty of gross negligence.

HOUSE
COMMITTEE REPORT

2/14

Date referred: 1/20/86

FURTHER REFERRALS: FINANCE

FINANCE

DATE: 2/12/86

The STATE AFFAIRS Committee has considered SSHB 475

"An Act making January 15, Martin Luther King Day, a legal holiday."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CSSSH475 (SA) same title
- new title

and recommends DO PASS

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - 2 new fiscal notes *Sup 85*
 - zero fiscal note */w analysis Sup 85*

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Katie Hurley
Bob Bump
Greg Hall
Roger Jones
Mike Hovane
~~_____~~
M. Hill

Katie Hurley
 Chairman

Offered: 2/14/86
Referred: Finance

*17 mate
13000/analysis } says Bonmiller*

Original sponsors: Clockain, Uehling,
Koponen, et al

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 475 (State Affairs)

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 legal holidays."

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

8 * Section 1. AS 44.12.010 is amended to read:

9 Sec. 44.12.010. LEGAL HOLIDAYS. The following days are legal
10 holidays:

11 (1) the first of January, known as New Year's Day;

12 (2) the third Monday of January, known as Martin Luther
13 King Day [THE 13TH OF FEBRUARY, KNOWN AS LINCOLN'S BIRTHDAY];

14 (3) the third Monday in February, known as Presidents' Day
15 [WASHINGTON'S BIRTHDAY];

16 (4) the last Monday of March, known as Seward's Day;

17 (5) the last Monday in May, known as Memorial Day;

18 (6) the fourth of July, known as Independence Day;

19 (7) the first Monday in September, known as Labor Day;

20 (8) the eighteenth of October, known as Alaska Day;

21 (9) the 11th of November, known as Veterans' Day;

22 (10) the fourth Thursday in November, known as Thanksgiving
23 Day;

24 (11) the 25th of December, known as Christmas Day;

25 (12) every Sunday;

26 (13) every day designated by public proclamation by the
27 President of the United States or the governor of the state as a legal
28 holiday.

29 * Sec. 2. AS 44.12.045 is repealed.

Bonnette

Introduced: 1/20/86
Referred: State Affairs and
Finance

BY CLOCKSIN, UEHLING, KOPONEN,
M.M. MILLER, COLLINS, GRUENBERG
AND DUNCAN

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 475

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making January 15, Martin Luther King Day, a
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14 King Day [THE 12TH OF FEBRUARY, KNOWN AS LINCOLN'S BIRTHDAY];

15 (3) the third Monday in February, known as Presidents' Day

16 [WASHINGTON'S BIRTHDAY];

17 (4) the last Monday of March, known as Seward's Day;

18 (5) the last Monday in May, known as Memorial Day;

19 (6) the fourth of July, known as Independence Day;

20 (7) the first Monday in September, known as Labor Day;

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24 Day;

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28 President of the United States or the governor of the state as a legal
29 holiday.

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* Sec. 2. AS 44.12.045 is repealed.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

2/14/85

Page 1 of 3 No. 1 Revision Date: 01/20/86
 REQUEST Bill/Resolution No.: CSSSHB 475 FISCAL DETAIL
 Title: Martin Luther King, Jr. (SA) Agency Affected: All agencies
 Legal Holiday BRU: _____
 Sponsor: Clocks in Components: _____
 Requestor: _____
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-0-	423.6	423.6	423.6	423.6	423.6
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	423.6	423.6	423.6	423.6	423.6
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	423.6	423.6	423.6	423.6	423.6
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	423.6	423.6	423.6	423.6	423.6

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

See attached.

Prepared By: Bruce Cummings Phone: 465-4404
 Division: Labor Relations Date: 11/3/86
 Approved by Commissioner: Eleanor Andrews Date: 2/3/86
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSSHB-475 (SA) No. 1

SUBJECT OF PROPOSED BILL:

Page 2 of 3

SSHB 475 amends AS 44.12, modifying the days recognized by the State as legal holidays.

Specifically, it:

1. Combines the existing holiday for Lincoln's Birthday (February 12) with the existing holiday for Washington's Birthday (third Monday in February) into a single holiday known as President's Day, to be observed on the third Monday in February.
2. Establishes a holiday on the third Monday in January, to be known as Martin Luther King Day.

It concurrently repeals the existing January 15, Martin Luther King Day as a day of honor provided for in AS 44.12.045.

SUMMARY/EXPLANATION OF INTENT:

Provided that the same, or equivalent, holiday modifications proposed by this bill can be implemented for all State employees prior to January 20, 1987, the bill creates no additional costs for the State. However, because holidays for most State employees are provided for by collective bargaining agreements rather than statute, this note assumes that labor contracts will continue to provide for holidays other than those designated in AS 44.12. The annual costs projected in this note assume that:

1. Excepting institutions and emergency operations, State agencies and facilities will be closed on January 20; most employees will not work, but will be paid.
2. \$423.6K is necessary to pay overtime and benefits for Executive Branch essential personnel who work on January 20; no adjustment for inflation has been computed for succeeding fiscal years.
3. No cost savings will result from eliminating February 12 as a statutory holiday, since under labor contracts this is now a "floating" holiday for most employees on which State offices and operations remain open.
4. Labor organizations will not voluntarily forfeit an existing contractual holiday following the statutory establishment of a new holiday on January 20.

5. Closure of offices on January 20 would reduce employee productivity approximately .4% (one work day: 238 annual workdays = .4%); productivity loss would equal approximately \$2.4 million for the Executive Branch.

The preceding set of assumptions represent the maximum projected costs resulting from enactment of this legislation. By changing Assumption No. 4, costs may be reduced as follows:

- 4(a). Labor organizations will voluntarily agree to forfeit one existing fixed-date (i.e., Alaska Day, Seward's Day, etc.) contractual holiday.

Result = 0 cost, and no productivity loss.

- 4(b). Labor organizations will voluntarily agree to forfeit one existing "floating" contractual holiday.

Result - \$423.6K, but no productivity loss.

No attempt has been made to calculate costs to any other businesses or organizations which would not transact business with the State on January 20.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST Page 1 of 2 No. 2

FISCAL DETAIL

Bill/Resolution No.: CSSSHB 475 (SA)
 Title: Martin Luther King, Jr.
 Legal Holiday

Agency Affected: Administration
 BRU: Finance

Sponsor: Clocksini
 Requestor: _____
 Date of Request: _____

Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-0-	25.0	3.0	3.0	3.0	3.0
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	25.0	3.0	3.0	3.0	3.0

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

GENERAL FUND	-0-	25.0	3.0	3.0	3.0	3.0
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	25.0	3.0	3.0	3.0	3.0

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

See attached.

Prepared by: *KES* Kenneth E. Bischoff
 Division: Finance

Phone: 465-2240
 Date: _____

Approved by Commissioner: *Eleanor Andrews* Eleanor Andrews
 Agency: Department of Administration

Date: 2/2/86

Distribution (by Agency preparing fiscal note):

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

ATTACHMENT

Continuation of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSH 475 (SA) No. 2

Page 2 of 2

SUBJECT OF PROPOSED BILL:

SSH475 amends AS 44.12, modifying the days recognized by the State as legal holidays.

ANALYSIS:

Automated statewide Leave and Payroll systems must recognize State Holidays in order to maintain accurate leave records and pay employees correctly.

If in the process of implementing new and changed paid holidays for the different groups of state employees, we are required to provide for different sets of holidays depending on employee group (Bargaining Unit), then there will be a one-time cost for modifying the central leave and payroll computer systems. There would also be an on-going increase in manual effort required to ensure that employee pay is correctly calculated.

Any differences we currently have are built into numerous computer programs and any change or expansion of these differences will require computer system changes.

The following additional operating costs will be experienced if different holiday sets will result:

One time cost to update computer systems:

Estimated Analyst/Programmer hours = 400
Cost = Annual Programmer Cost of \$55 X 400 hours
= \$22,000

Additional on-going operating cost:

\$3,000 per year.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

No. 3

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSSHB 175 (SA)
 Title: An Act making January 15, Martin Luther King Day, a legal holiday
 Sponsor: Rep. Don Clocksin
 Requestor: Rep. Don Clocksin
 Date of Request: 1/16/86

FISCAL DETAIL

Agency Affected: Legislative Affairs
 BRU: Legislative Council, Senate, Leadership, House Leadership, Budget & Audit, Ombudsman
 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-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
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FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

There is no fiscal impact for the Legislative Branch with SSHB 475 in that it does not increase the number of State holidays. SSHB 475 replaces Lincoln's Birthday with Martin Luther King Day.

Prepared by: Pamela A. Stoops, Manager *Pamela A. Stoops* Phone: (907)465-3850
 Division: Administrative Services Date: 1/20/86
 Approved by Executive Director: Warren W. Endicott *Warren W. Endicott* Date: 1/20/86
 Agency: Legislative Affairs Agency

Distribution (by Agency preparing fiscal note):

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

ALASKA STATE LEGISLATURE

14th Legislature SECOND Session

SPONSOR SUBSTITUTE
HOUSE ... BILL ... NO. ... 475 ..

By ..CLOCK SIN; UEHLENG; KOTONEN;
M.M. MILLER, COLLINS, GRUENBERG, A
DUNCAN

"An Act making January 15,
Martin Luther King Day, a legal
holiday."

Martin Luther King Day

Introduced in the House 1/20, 19. 86

HISTORY IN THE HOUSE

19 86	Read first time and referred to Committee on STATE AFFAIRS AND FINANCE												
Jan 20	Reported back with recommendation that												
	Read second time and												
	Read third time and												
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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Absent	Absent												
Excused	Excused												
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Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed												
	Signed by Speaker												
	Sent to Senate												
	CHIEF CLERK OF THE HOUSE												

HISTORY IN THE SENATE

19	Read first time and referred to Committee on												
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	Read third time and												
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PASS	Effective Date												
Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed												
	Signed by President												
	Returned to House												
	SECRETARY OF THE SENATE												

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor by Governor
	Filed with Lt. Governor
	Chapter No.

ALASKA STATE LEGISLATURE

14th Legislature SECOND Session

SPONSOR SUBSTITUTE HOUSE BILL NO. 475

By CLOCKSIN; UHILING; KOPONEN M.M. MILLER, COLLINS, CRUENBERG, DUNCAN

"An Act making January 15, Martin Luther King Day, a legal holiday."

Martin Luther King Day

Introduced in the House 1/20, 1986

HISTORY IN THE HOUSE

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Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	<p>Reconsideration</p> <table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by Speaker										
	Sent to Senate										

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by President										
	Returned to House										

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	by Governor
	Filed with Lt. Governor
	Chapter No.

Offered: 2/14/86
Referred: Finance

Original sponsors: Clocksin, Uehling,
Koponen, et al

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 475 (State Affairs)
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 legal holidays."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
8 * Section 1. AS 44.12.010 is amended to read:
9 Sec. 44.12.010. LEGAL HOLIDAYS. The following days are legal
10 holidays:
11 (1) the first of January, known as New Year's Day;
12 (2) the third Monday of January, known as Martin Luther
13 King Day [THE 12TH OF FEBRUARY, KNOWN AS LINCOLN'S BIRTHDAY];
14 (3) the third Monday in February, known as Presidents' Day
15 [WASHINGTON'S BIRTHDAY];
16 (4) the last Monday of March, known as Seward's Day;
17 (5) the last Monday in May, known as Memorial Day;
18 (6) the fourth of July, known as Independence Day;
19 (7) the first Monday in September, known as Labor Day;
20 (8) the eighteenth of October, known as Alaska Day;
21 (9) the 11th of November, known as Veterans' Day;
22 (10) the fourth Thursday in November, known as Thanksgiving
23 Day;
24 (11) the 25th of December, known as Christmas Day;
25 (12) every Sunday;
26 (13) every day designated by public proclamation by the
27 President of the United States or the governor of the state as a legal
28 holiday.
29 * Sec. 2. AS 44.12.045 is repealed.

Introduced: 1/20/86
Referred: State Affairs and
Finance

BY CLOCKSIN, UEHLING, KOPONEN,
M.M. MILLER, COLLINS, GRUENBERG
AND DUNCAN

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 475

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making January 15, Martin Luther King Day, a
7 legal holiday."

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

9 * Section 1. AS 44.12.010 is amended to read:

10 Sec. 44.12.010. LEGAL HOLIDAYS. The following days are legal
11 holidays:

- 12 (1) the first of January, known as New Year's Day;
- 13 (2) the third Monday of January, known as Martin Luther
14 King Day [THE 12TH OF FEBRUARY, KNOWN AS LINCOLN'S BIRTHDAY];
- 15 (3) the third Monday in February, known as Presidents' Day
16 [WASHINGTON'S BIRTHDAY];
- 17 (4) the last Monday of March, known as Seward's Day;
- 18 (5) the last Monday in May, known as Memorial Day;
- 19 (6) the fourth of July, known as Independence Day;
- 20 (7) the first Monday in September, known as Labor Day;
- 21 (8) the eighteenth of October, known as Alaska Day;
- 22 (9) the 11th of November, known as Veterans' Day;
- 23 (10) the fourth Thursday in November, known as Thanksgiving
24 Day;
- 25 (11) the 25th of December, known as Christmas Day;
- 26 (12) every Sunday;
- 27 (13) every day designated by public proclamation by the
28 President of the United States or the governor of the state as a legal
29 holiday.

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* Sec. 2. AS 44.12.045 is repealed.