

LEGISLATIVE FINANCE - HOUSE / SENATE FINANCE COMM. FILES 8879

SB 273 cont.

SB 277

1989-1990

647

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(a) An individual who has not passed the examination required by AS 21.27.090(a)(3) or does not have the experience or special education with reference to the handling of loss claims required under AS 21.27.090(a)(11), but who otherwise meets the requirements of AS 21.27.090, [AS 21.27.290(3)] may be employed and licensed as a trainee adjuster, subject to the provisions of this section.

* Sec. 28. AS 21.27.310(b) is amended to read:

(b) A licensed adjuster employing a trainee adjuster shall immediately submit to the director the [INFORM THE DIVISION OF INSURANCE BY CERTIFIED MAIL, WITH RETURN RECEIPT REQUESTED, OF THE EMPLOYMENT OF A TRAINEE ADJUSTER, GIVING THE EXACT DATE OF EMPLOYMENT AND ENCLOSING WITH THE CORRESPONDENCE THE ADJUSTER LICENSE] application [FORM] of the trainee adjuster, with the fee set under AS 21.06.250 [PROPERLY COMPLETED].

* Sec. 29. AS 21.27.310(c) is amended to read:

(c) A trainee adjuster shall comply with the adjuster licensing requirements of AS 21.27.090(a)(3) and (11) within 12 months after the effective date of [MAY TAKE] the trainee adjuster license [EXAMINATION AFTER SIX MONTHS FROM THE DATE OF RECEIPT OF THE APPLICATION BY THE DIVISION OF INSURANCE].

* Sec. 30. AS 21.27.310 is amended by adding a new subsection to read:

(g) The director shall terminate the license of a trainee adjuster who is not in compliance with this section. A licensee or other person having possession or custody of the license shall immediately deliver the license to the director either personally or by mail.

* Sec. 31. AS 21.27.320(a) is amended to read:

Sec. 21.27.320. [ADJUSTMENT BY] AGENT OR GENERAL AGENT AS ADJUSTER; [AND] NONRESIDENT ADJUSTERS. (a) On behalf of and as

authorized by an insurer for which the agent or general agent is ap-
pointed [LICENSED AS AGENT], an agent or general agent may occasion-
ally [FROM TIME TO TIME] act as an adjuster and investigate and report
upon claims without being required to be licensed as an adjuster.

* Sec. 32. AS 21.27.330 is amended to read:

Sec. 21.27.330. PLACE OF BUSINESS. A [EACH] licensed agent,
general agent, broker, and adjuster, other than those [AN AGENT]
licensed for life or disability insurances or annuities only, shall
have and maintain in this state, or if a nonresident agent or nonresi-
dent broker, in the state of domicile, a place of business accessible
to the public [. THE PLACE OF BUSINESS IS] where the licensee [AGENT,
BROKER, OR ADJUSTER] principally conducts transactions under the
licenses. The address of the place of business must [SHALL] appear on
all licenses of the licensee, and the licensee must [SHALL] promptly
notify the director of any change of address. If the licensee main-
tains more than one place of business in this state, the licensee
shall obtain a [DUPLICATE OF THE] license or licenses for each addi-
tional place, and shall pay an additional license fee for each [DUPLI-
CATE] license.

* Sec. 33. AS 21.27.340 is amended to read:

Sec. 21.27.340. PUBLIC DISPLAY OF LICENSE. (a) The license or
licenses of each agent, general agent, broker, and adjuster, other
than licenses as to life or disability insurances or annuities only,
[OR OF EACH BROKER OR ADJUSTER] shall be displayed in a conspicuous
place in that part of the place of business that [WHICH] is customar-
ily open to the public.

(b) The license of a solicitor shall be displayed in each place
of business of the agent, general agent, or broker by whom the solici-
tor is employed.

* Sec. 34. AS 21.27.350 is amended to read:

Sec. 21.27.350. MAINTENANCE OF RECORDS; FORM AND CONTENT [OF AGENTS, BROKERS, ADJUSTERS]. (a) An [EACH] agent, general agent, broker, or adjuster shall keep at the address [AS] shown on the license a record of all transactions consummated under the license. This record shall be in organized form and must include

(1) if an agent, general agent, or broker,

(A) a record of each insurance contract procured, issued, or countersigned, together with the names of the insurers and insureds, the amount of premium paid or to be paid, and a statement of the subject of the insurance;

(B) the names of any other licensees from whom business is accepted, and of persons to whom commissions or allowances of any kind are promised or paid;

(2) if an adjuster, a record of each investigation or adjustment undertaken or consummated, and a statement of the fee, commission, or other compensation received or to be received by the adjuster on account of the investigation or adjustment;

(3) additional information that [WHICH] is customary, or that [WHICH] may reasonably be required by the director.

* Sec. 35. AS 21.27.350(c) is amended to read:

(c) In addition to the record required under (a) of this section, each agent, general agent, or broker shall have and maintain at the [AGENT'S OR BROKER'S] principal place of business current accounting and financial records maintained under [IN ACCORDANCE WITH] generally accepted accounting principles. The director may request summary or detailed copies for examination by the division. Records examined under this subsection are confidential when in the possession of the division, but may be used by the director in a proceeding against the

licensee. For purposes of this subsection, the records of a firm are also [SHALL BE CONSIDERED] the records of an individual licensee [AGENT OR BROKER] acting on behalf of the firm.

* Sec. 36. AS 21.27.360 is amended to read:

Sec. 21.27.360. REPORTING AND ACCOUNTING FOR PREMIUMS. (a) A licensee [AN AGENT OR OTHER REPRESENTATIVE OF AN INSURER] involved in the procuring or issuance of an insurance contract shall report to the insurer the exact amount of consideration charged as a premium for the contract. The amount charged shall be shown in the contract and in the records of the licensee [AGENT].

(b) All money [FUNDS], except that [THOSE] made payable to the insurer, representing premiums or return premiums received by the licensee [AN AGENT OR BROKER], shall be received in the fiduciary account of the licensee [AGENT OR BROKER,] and shall be deposited in a bank account or depository separate from any other account or depository, and shall be promptly accounted for and paid to the insured, insurer, or agent entitled to the money [FUNDS]. For purposes of this subsection, the fiduciary account of the firm shall be considered the fiduciary account of an individual licensee [AGENT OR BROKER] acting on behalf of the firm. Money [FUNDS] deposited into a fiduciary account may not be commingled or otherwise combined with other money [FUNDS], except as allowed under (d) of this section.

(c) A licensee [AN AGENT, SOLICITOR, OR BROKER] who, [NOT BEING LAWFULLY ENTITLED TO FUNDS,] is determined by the director, following an appropriate hearing as provided in AS 21.06.170 - 21.06.230, to have unlawfully diverted or appropriated money [THEM OR ANY PORTION OF THEM] to personal use, is subject to a civil penalty not to exceed \$25,000 for each violation.

(d) A licensee [AN AGENT OR BROKER] may commingle with premium

money [FUNDS], additional money [FUNDS] for the purpose of advancing premiums, establishing reserves for the payment of return premiums, or reserves for receiving and transmitting premium or return premium money. Money [FUNDS. FUNDS] collected for the payment of premium taxes, policy or filing fees, late payment charges, and interest from fiduciary money [FUNDS] on deposit, may be commingled in a fiduciary account, but shall be separately accounted for and periodically removed from the fiduciary account.

(e) A licensee [AN AGENT OR BROKER] may not treat money [FUNDS] required to be in a fiduciary account as a personal asset, as collateral for a personal or business loan, or as a personal asset or income on a financial statement, except that money [FUNDS] in a fiduciary account may be included in a financial statement of the licensee [AGENT OR BROKER] if clearly identified as fiduciary account assets.

(f) In this section, "fiduciary account" means an account in which the licensee [AGENT OR BROKER] holds money [FUNDS] as a trustee for the insured, insurer, general agent, surplus lines broker, or agent entitled to the money [FUNDS].

* Sec. 37. AS 21.27.360 is amended by adding a new subsection to read:

(g) The director may adopt regulations as necessary to implement this section.

* Sec. 38. AS 21.27.380 is repealed and reenacted to read:

Sec. 21.27.380. LICENSE CONTINUATION. (a) A license continues in force, upon payment of

(1) an annual fee set under AS 21.06.250 for resident and nonresident agent, general agent, solicitor, and adjuster licenses that must be received by the director on or before the close of business on the 30th day of June;

(2) an annual fee set under AS 21.06.250 for resident and

nonresident broker licenses, that must be received by the director on or before the close of business on the 31st day of December.

(b) An agent, general agent, or broker shall file the annual fee set under AS 21.06.250 on behalf of a solicitor employed by the agent, general agent, or broker.

(c) If payment of the annual license fee is not received by the director before the due date as required under this section, the licensee shall pay to the director and the director shall collect, in addition to the regular fee, a surcharge as established by regulation under AS 21.06.250. This subsection does not exempt a person from a penalty provided by law for transacting business without a valid license.

(d) If a licensee does not wish to continue a license issued under this chapter, the licensee shall surrender the license as provided in AS 21.27.460. *3/23/90 New language in final approved by Dale Gray - Sen. Kelley's office memo.*

(e) A license continues in force if, in addition to meeting the other requirements of this chapter, the individual licensee, or, if a firm licensee, the principal or manager demonstrates to the director that the licensee continues to meet additional educational requirements that the director prescribes by regulation.

* Sec. 39. AS 21.27.390(a) is amended to read:

(a) The director may issue a [ADOPT REGULATIONS REGARDING THE ISSUANCE OF AN AGENT OR BROKER] temporary license to

(1) the surviving spouse or next of kin or to the administrator or executor of a deceased licensed agent, general agent, or broker;

(2) the spouse, next of kin, employee, or legal guardian of a licensed agent, general agent, or broker who is disabled because of sickness, insanity, or injury;

(3) a surviving member, officer, or employee of a firm licensed as agent, general agent, or broker, upon the death of the principal or manager of the firm holding the same licenses as the firm; or

(4) the designee of a licensed agent who enters active service in the armed forces of the United States [;

(5) A PERSON PREPARING FOR EXAMINATION FOR PERMANENT LICENSE UNDER THE SUPERVISION OF AN AUTHORIZED INSURER].

* Sec. 40. AS 21.27.400(b) is amended to read:

(b) A person requesting a temporary agent or general agent license because of the death or disability of an agent or general agent may not be appointed by [LICENSED FOR] an insurer for which the agent or general agent was not appointed [LICENSED] at the time of death or commencement of disability.

* Sec. 41. AS 21.27.410(a) is amended by adding a new paragraph to read:

(10) if the applicant failed to continue or surrender a similar license as provided in AS 21.27.380, that resulted in revocation of the license within the 12 months preceding the date the new application is received.

* Sec. 42. AS 21.27.460(a) is amended to read:

(a) A [EACH] license issued under this chapter [,ALTHOUGH ISSUED AND DELIVERED TO THE LICENSEE AGENT, BROKER, SOLICITOR, OR ADJUSTER,] is the property of the state. Upon the termination, suspension, or revocation of the license, the licensee or other person having possession or custody of the license shall immediately deliver it to the director either personally [BY PERSONAL DELIVERY] or by mail.

* Sec. 43. AS 21.34.140(d) is amended to read:

(d) A firm or corporation is eligible for license if the firm or

corporation complies with AS 21.27.090(d) and 21.27.140

[(1) THE LICENSE LISTS INDIVIDUALS WITHIN THE CORPORATION WHO HAVE SATISFIED ALL REQUIREMENTS OF THIS CHAPTER TO BECOME SURPLUS LINES BROKERS; AND

(2) ONLY THOSE INDIVIDUALS LISTED ON THE LICENSE WILL TRANSACT SURPLUS LINES BUSINESS].

* Sec. 44. AS 21.34.140 is amended by adding a new subsection to read:

(f) The requirements of (b)(4) of this section do not apply to an individual who acts on behalf of a firm that files and maintains in force the bond described in (b)(4) of this section. The director may adopt, by regulation, an alternative to the bond required by (b)(4) of this section.

* Sec. 45. AS 21.88.050(a) is amended to read:

(a) The corporation shall

(1) in the form approved by the director, issue to all physicians, nurses, and hospitals who are found to be acceptable risks under standards developed under (5) of this subsection, and who pay the premiums for it, a contract or contracts indemnifying physicians, nurses, and hospitals and their employees who are health care providers against loss by reason of liability for covered claims for an act or omission in the delivery of professional health care in this state, and agreeing to tender on behalf of the physicians, nurses, and hospitals and their employees who are health care providers a defense to a covered claim in a proceeding brought under AS 09.55.530 - 09.55.560; the limits of liability for policies issued by the corporation shall be approved by the director; the contract shall cover the defense against but need not indemnify liability for punitive damages arising from a covered claim; at the option of the corporation, if approved by the director, and for an additional premium the contract

may cover claims against the physician, nurse, or hospital that arise out of professional services performed by the physician, nurse, or hospital for any period before the contract is issued, except that coverage will not be provided for a claim already filed or that the physician, nurse, or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased;

(2) charge a premium for the protection provided by the contracts issued by the corporation which shall be determined by the board of governors under [IN ACCORDANCE WITH] AS 21.88.080 and subject to the approval of the director;

(3) comply with or be subject to AS 21.06.090, 21.06.120, 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250, [21.09.280,] AS 21.12.020(b) - (e), AS 21.18, AS 21.21, AS 21.24, AS 21.27.100, and AS 21.36; and shall be exempt from participation as a member insurer in the Alaska Insurance Guaranty Corporation;

(4) carry out the obligations of the contracts issued by the corporation by defending all covered claims made against insured health care providers and by paying all liabilities that are finally adjudicated against the insured health care provider or that may in the opinion of the corporation reasonably be expected to be finally adjudicated against the health care provider to the extent of the contract obligation;

(5) establish standards for the acceptability of risks; in establishing these standards the corporation may exclude an applicant for insurance based on individual risk selection factors, but may not exclude an applicant based only on the classification of the applicant.

* Sec. 46. AS 21.90.900 is amended by adding new paragraphs to read:

(24) "general agent" means a person, firm, or corporation

that

(A) has authority to exercise general supervision over the business, or any part of the business, of one or more authorized insurers in this state, with the authority to appoint agents for the insurer and to terminate the appointment; and

(B) for compensation from an authorized insurer performs administrative functions normally performed by the insurer including claims administration and payment, marketing administration, agent appointment, premium accounting, premium billing, coverage verification, final underwriting authority, and certificate issuance; "general agent" includes a third-party administrator;

(25) "licensee" means a person or firm licensed as provided in AS 21.27 or AS 21.34.

* Sec. 47. AS 21.09.280; AS 21.27.180, 21.27.220, 21.27.230, 21.27.-280(e), 21.27.290, and 21.27.300 are repealed.

* Sec. 48. This Act takes effect January 1, 1991.

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CS SB 273 (L&C), An act relating to regulation of insurance agents.

AMENDMENT: #1

BY KELLY

Section 38, page 16, line 16. Add new subsection to read:

(e) A license continues in force, if the individual licensee, or principal or manager if a firm licensee, has demonstrated to the director that the person has continued to meet additional educational requirements as the director may prescribe by regulation adopted for the purpose of maintaining or improving the licensees insurance skills or knowledge.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 11, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

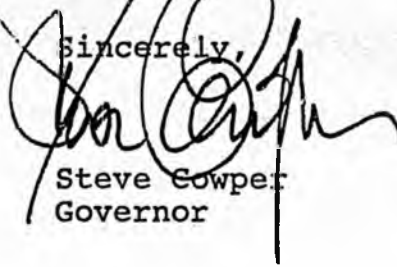
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the licensing of insurance agents, brokers, solicitors, and adjusters. This bill will improve and up-date our licensing system.

The proposal is based on a National Association of Insurance Commissioners model Act. The proposal makes a number of changes in the present licensing statutes, the most important of which are the following:

- (1) requires more frequent re-testing of applicants who were previously licensed, by requiring that persons who have dropped out of the industry for more than two years be retested;
- (2) adds educational requirements for licensing by requiring a high school degree or its equivalent;
- (3) allows the director of insurance to establish more educational or experience requirements by regulation;
- (4) increases bond requirements for brokers and their firms;
- (5) limits the term of a trainee adjuster to one year; after that time, a person must obtain a regular adjuster license; and
- (6) limits the use of a "temporary license" to cases involving the disability or death of an agent, general agent, or broker.

The bill contains other, more technical, changes up-dating our statutes. The division of insurance will provide you with a section-by-section analysis.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely,".

Steve Cowper
Governor

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SENATE COMMITTEE REPORT

FURTHER

4/14/89

DATE TURNED INTO OFFICE 4/28/89

Mr. President:

Finance

Committee considered

SB 277

establishing a panel to investigate the Valdez oil discharge disaster and to recommend changes needed to minimize the possibility and effects of similar oil discharges; efd and recommended

- replace with CS SB 277 (Fin)) same title
- or adopt _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero Gov 1000 FY89/445.0 FY90 fiscal impact appropriation no FN

new updated previous

same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature: Rich Hill (DO PASS)]

Chairman signature and recommendation

Committee Backup attached

REVISED

FISCAL NOTE

REQUEST:

Revision Date: 4/27/89
Title: "An Act establishing a commission to investigate the Exxon Valdez oil spill..."
Sponsor: Faiks, Halford, Kelly, et al.
Requestor: Senator Faiks

Agency Affected: Office of the Governor
BRI: Commissions and Special Offices

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	8.5	76.3				
TRAVEL	13.0	95.0				
CONTRACTUAL	53.0	248.7				
SUPPLIES	5.5	25.0				
EQUIPMENT	20.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	100.0	445.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	100.0	445.0				
FEDERAL FUNDS						
OTHER						
TOTAL	100.0	445.0				

POSITIONS:

FULL-TIME	2	2				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached analysis

Prepared by: Michael A. Nizich, Director *Man* Phone: 465-3616
Division: Division of Administrative Services Date: 4/28/89

Approved by Commissioner: Garrey M. Peska *[Signature]* Date: 4/28/89
Agency: Chief of Staff

Distribution (by preparer):

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

CS SB 277 (Finance) Fiscal Analysis:

Due to the complexity of this proposed legislation, it is not possible to accurately assess the cost of the Exxon Valdez Oil Spill Commission.

The number of staff the commission would need to hire, including legal counsel, investigative staff, and administrative staff with legal expertise is unknown. The timeframe specified for the commission to complete its investigations and gather information for its final recommendations would indicate a substantial staffing requirement. For the purposes of this analysis, the minimum staff requirement for 1 month in FY 89 and 9 months in FY 90 is assumed at one coordinator, salary range 22A, and one secretary, salary range 12A. Additional personal services expenses for legal/investigative staff is reflected in the contractual line.

The number of meetings that will be necessary in order to hear testimony, review documents and depositions, evaluate information and formulate final recommendations are impossible to predict. In addition to travel and per diem as set out in AS 39.20.180, each non-governmental member of the commission will receive \$150.00 per day while on commission business.

The needed funds are indicated from the general fund. As the specified charges of the commission appear to be duplication of the work of existing entities, i.e., the Department of Law, the Department of Environmental Conservation, federal efforts under the Clean Water Act and the T.A.P.S. Act, N.O.A.A.'s long-term impact studies, etc., recovery of commission costs from Exxon is unlikely.

Original sponsors: Faiks, Halford,
Kelly, et al.

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 277 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing a commission to investigate the Exxon Valdez oil spill disaster and to recommend changes needed to minimize the possibility and effects of similar oil spills; and providing for an effective date."

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

* Section 1. EXXON VALDEZ OIL SPILL COMMISSION. (a) There is established in the Office of the Governor the Exxon Valdez Oil Spill Commission. The commission consists of seven members appointed by the governor.

(b) The seven members must include

(1) a chair who is a distinguished state resident committed to impartial fact-finding and who is not a state or federal employee or an employee of a company that is part of the oil industry; and

(2) six persons who are not affiliated with any party directly related to the Exxon Valdez disaster, including at least one person with relevant scientific and technical knowledge and one person with business experience involving petroleum production or transportation.

(c) The commission may hire staff it considers necessary to perform its duties, including legal counsel.

(d) Members of the commission serve without compensation, but nongovernmental members are entitled to \$150 per day while on commission business plus per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

* Sec. 2. DUTIES OF THE COMMISSION. (a) The commission shall gather

1 information relating to

2 (1) the events leading up to the Exxon Valdez oil discharge that
3 began March 24, 1989;

4 (2) the ensuing efforts to contain and clean up the oil dis-
5 charged;

6 (3) the short-term and long-term effects of the Exxon Valdez oil
7 discharge on the natural resources and the economy of the state.

8 (b) By March 1, 1990, the commission shall submit a report to the
9 governor and to the legislature containing its findings and recommendations
10 on

11 (1) the factual chain of events that preceded the grounding of
12 the Exxon Valdez and the extent to which oil industry practices and govern-
13 mental practices or laws should be changed to minimize the potential for
14 future similar events;

15 (2) the containment and cleanup actions that were taken or not
16 taken after the discharge, the extent to which current technology was
17 available and used, and ways to improve oil spill response technology and
18 procedures;

19 (3) the environmental and economic effects of the oil discharge;
20 and

21 (4) recommendations on steps that should be taken by the oil
22 industry and by all levels of government to ensure proper management,
23 handling, and transportation of crude oil and to improve the ability of
24 industry and governmental agencies to respond to oil discharges.

25 * Sec. 3. INVESTIGATIONS; HEARINGS. (a) The commission may issue
26 subpoenas, administer oaths, hold hearings, and conduct investigations
27 related to its duties.

28 (b) The commission may compel the attendance of witnesses and produc-
29 tion of papers, books, records, accounts, documents, and testimony, and may

1 have the deposition of witnesses taken in a manner prescribed by court rule
2 or law for the taking of depositions in civil actions when consistent with
3 the duties assigned to the commission.

4 (c) On a majority vote of the commission, subpoenas and subpoenas
5 duces tecum may be issued and served in the manner prescribed by AS 44.62.-
6 430(b) and (c) and court rule. The failure, refusal, or neglect to obey a
7 subpoena is punishable as contempt in the manner prescribed by law or court
8 rule. The superior court may compel obedience to the commission's subpoena
9 in the same manner as prescribed for obedience to a subpoena issued by the
10 court.

11 (d) State agencies shall, to the extent permitted by law, cooperate
12 with the commission and provide it with information it requests for carry-
13 ing out its duties.

14 (e) The commission is governed by AS 44.62.310.

15 * Sec. 4. This Act is repealed March 21, 1990.

16 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

6-1209D
Lauterbach
4/27/89

4/28/89
ADOPTED

Original sponsors: Faiks, Halford,
Kelly, et al.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 277 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a commission to investigate the
7 Exxon Valdez oil spill disaster and to recommend
8 changes needed to minimize the possibility and ef-
9 fects of similar oil spills; and providing for an
10 effective date."

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

12 * Section 1. EXXON VALDEZ OIL SPILL COMMISSION. (a) There is estab-
13 lished in the Office of the Governor the Exxon Valdez Oil Spill Commission.
14 The commission consists of seven members appointed by the governor [one
15 senator appointed by the president of the senate, and one representative
16 appointed by the speaker of the house of representatives]

17 (b) The seven members [appointed by the governor] must include

18 (1) a chair who is a distinguished state resident committed to
19 impartial fact-finding and who is not a state or federal employee or an
20 employee of a company that is part of the oil industry; and

21 (2) six persons who are not affiliated with any party directly
22 related to the Exxon Valdez disaster, including at least one person with
23 relevant scientific and technical knowledge and one person with business
24 experience involving petroleum production or transportation.

25 (c) The commission may hire staff it considers necessary to perform
26 its duties, including legal counsel.

27 (d) Members of the commission serve without compensation, but nongov-
28 ernmental members are entitled to \$150 per day while on commission business
29 plus per diem and travel expenses authorized for boards and commissions

1 under AS 39.20.180.

2 * Sec. 2. DUTIES OF THE COMMISSION. (a) The commission shall gather
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6 (2) the ensuing efforts to contain and clean up the oil dis-
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8 (3) the short-term and long-term effects of the Exxon Valdez oil
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17 (2) the containment and cleanup actions that were taken or not
18 taken after the discharge, the extent to which current technology was
19 available and used, and ways to improve oil spill response technology and
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21 (3) the environmental and economic effects of the oil discharge;
22 and

23 (4) recommendations on steps that should be taken by the oil
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2 tion of papers, books, records, accounts, documents, and testimony, and may
3 have the deposition of witnesses taken in a manner prescribed by court rule
4 or law for the taking of depositions in civil actions when consistent with
5 the duties assigned to the commission.

6 (c) On a majority vote of the commission, subpoenas and subpoenas
7 duces tecum may be issued and served in the manner prescribed by AS 44.62.-
8 430(b) and (c) and court rule. The failure, refusal, or neglect to obey a
9 subpoena is punishable as contempt in the manner prescribed by law or court
10 rule. The superior court may compel obedience to the commission's subpoena
11 in the same manner as prescribed for obedience to a subpoena issued by the
12 court.

13 (d) State agencies shall, to the extent permitted by law, cooperate
14 with the commission and provide it with information it requests for carry-
15 ing out its duties.

16 (e) The commission is governed by AS 44.62.310.

17 * Sec. 4. This Act is repealed March 21, 1990.

18 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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To: Lynn
FR: Vicki (4935)
Cap Rm. 413

4/27/89

6-1209H ✓
Lauterbach
4/25/89

Please prepare & revised
DRAFT CS (Fin) and return
to me ASAP.

Original sponsors: Faiks, Halford,
Kelly, et al.

THANK!

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 277 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a commission to investigate the
7 Exxon Valdez oil spill disaster and to recommend
8 changes needed to minimize the possibility and ef-
9 fects of similar oil spills; and providing for an
10 effective date."

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

12 * Section 1. EXXON VALDEZ OIL SPILL COMMISSION. (a) There is estab-
13 lished in the Office of the Governor the Exxon Valdez Oil Spill Commission.
14 The commission consists of ⁷~~11~~ members appointed by the governor, ^{one}~~two~~ sena-
15 tors appointed by the president of the senate, and ^{one}~~two~~ representatives
16 appointed by the speaker of the house of representatives.

17 (b) The ⁷~~11~~ members ~~appointed by the governor~~ must include

18 (1) a chair who is a distinguished state resident committed to
19 impartial fact-finding and who is not a state ^{or federal} employee; and ^{or an employee of the oil}
20 ^{industry}

21 (2) ⁶~~10~~ persons who are not affiliated with any party directly
22 related to the Exxon Valdez disaster, including at least one person with
23 relevant scientific and technical knowledge and one person with business
24 experience involving petroleum production or transportation.

25 (c) The commission may hire staff it considers necessary to perform
26 its duties, including legal counsel.

27 (d) Members of the commission serve without compensation, but nongov-
28 ernmental members are entitled to \$150 per day while on commission business
29 plus per diem and travel expenses authorized for boards and commissions
under AS 39.20.180.

1 * Sec. 2. DUTIES OF THE COMMISSION. (a) The commission shall gather
2 information relating to

3 (1) the events leading up to the Exxon Valdez oil discharge that
4 began March 24, 1989;

5 (2) the ensuing efforts to contain and clean up the oil dis-
6 charged;

7 (3) the short-term and long-term effects of the Exxon Valdez oil
8 discharge on the natural resources and the economy of the state.

9 (b) By March 1, 1990, the commission shall submit a report to the
10 governor and to the legislature containing its findings and recommendations
11 on

12 (1) the factual chain of events that preceded the grounding of
13 the Exxon Valdez and the extent to which oil industry practices and govern-
14 mental practices or laws should be changed to minimize the potential for
15 future similar events;

16 (2) the containment and cleanup actions that were taken or not
17 taken after the discharge, the extent to which current technology was
18 available and used, and ways to improve oil spill response technology and
19 procedures;

20 (3) the environmental and economic effects of the oil discharge;
21 and

22 (4) recommendations on steps that should be taken by the oil
23 industry and by all levels of government to ensure proper management,
24 handling, and transportation of crude oil and to improve the ability of
25 industry and governmental agencies to respond to oil discharges.

26 * Sec. 3. INVESTIGATIONS; HEARINGS. (a) The commission may issue
27 subpoenas, administer oaths, hold hearings, and conduct investigations
28 related to its duties.

29 (b) The commission may compel the attendance of witnesses and
CSSB 277(Fin)

1 production of papers, books, records, accounts, documents, and testimony,
2 and may have the deposition of witnesses taken in a manner prescribed by
3 court rule or law for the taking of depositions in civil actions when
4 consistent with the duties assigned to the commission.

5 (c) On a majority vote of the commission, subpoenas and subpoenas
6 duces tecum may be issued and served in the manner prescribed by AS 44.62.-
7 430(b) and (c) and court rule. The failure, refusal, or neglect to obey a
8 subpoena is punishable as contempt in the manner prescribed by law or court
9 rule. The superior court may compel obedience to the commission's subpoena
10 in the same manner as prescribed for obedience to a subpoena issued by the
11 court.

12 (d) State agencies shall, to the extent permitted by law, cooperate
13 with the commission and provide it with information it requests for carry-
14 ing out its duties.

15 (e) The commission is governed by AS 44.62.310.

16 * Sec. 4. This Act is repealed March 21, 1990.

17 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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Alaska State Legislature

Chairman
(907) 465-4523



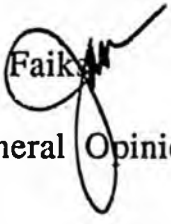
Jan Faiks
Post Office Box V
Juneau, Alaska 99811

Senate Judiciary Committee

April 28, 1989

MEMORANDUM

TO: Senator Rick Uehling, Co-Chairman
Senate Finance Committee

FROM: Senator Jan Faiks 

SUBJECT: Attorney General Opinion on CS SB 277 (Finance)

Per your request, attached is the Attorney General's written opinion on the points he raised during testimony before the committee on constitutional concerns with legislative membership on the commission established in Senate Bill 277.

Members

Mike Szymanski, Vice-Chairman • Rick Halford • Drue Pearce • Pat Rodey

Out of Session

3111 C Street, Anchorage, Alaska 99503 • (907) 561-7610

Doug Baily April 27

Senator Faiks -

The problem is the dual
appointment procedure. -

By the Governor & the Legislature
which may well (and probably
does) violate separation of
powers. While this problem is
often "overlooked" - here, where
the panel has the subpoena
power there will likely be
efforts to block the investigation.
I expect, if challenged, the
Commission in this form will
be declared invalid.

RECEIVED

APR 29 1989

CSSB 277

JAN FAIKS

MEMORANDUM

Date: April 22, 1989
To: Members, Senate Finance Committee
From: Senator Tim Kelly
Subj: Proposed amendments to CSSB277 (Oil & Gas)

During expedited consideration of Exxon Valdez oil spill-related legislation in the Oil and Gas Committee, members acknowledged that the measures probably would require additional amendments during the course of the standing committee process.

I have given considerable thought to CSSB277 creating an Exxon Valdez Oil Spill Commission and believe amendments are necessary to strengthen the ability of the commission to fulfill its mandate while inspiring the trust and confidence of all Alaskans.

In summary, my amendments would more closely track President Reagan's executive order which created a respected and successful commission on the Challenger Space Shuttle disaster. Like the Challenger panel, the Exxon Valdez Oil Spill Commission should be composed of "distinguished" men and women rather than representatives of designated interest groups.

As currently proposed, the legislation would mandate appointment of representatives from Exxon, Alyeska, the Coast Guard and other parties which I believe, upon reflection, Alaskans will conclude have serious conflicts of interest. I think it is critical that we create a commission that the people of Alaska will view as objective and unbiased. President Reagan did not name Morton Thiokol, Rockwell or NASA to the Challenger panel.

I believe the industry and government entities designated in the original bill have an important role to play in this process but not as members of the commission. As an alternative, I would propose the creation of an advisory committee to the commission to represent the various governmental, industry and other interests listed in the original bill.

As with the Challenger panel, I believe Exxon Valdez Oil Spill Commission members should be appointed based on their reputations for integrity, knowledge and stature within the "government, scientific, technical, management and business" communities. However, I do not believe they should represent specific interest groups, businesses or governmental agencies.

In addition, I believe the commission should be a "working commission" and the size of the panel should be reduced accordingly. Under my amendments, the chairman and the vice chairman also would serve full-time to direct a professional staff, eliminating the need for a staff director or deputy director. Also included is an amendment to designate the oil and hazardous substance response release fund as the source for funding for the commission.

I also believe the enabling legislation should make it absolutely clear that all meetings of the commission and advisory committee be open to the public. Healing the wounds of the Prince William Sound catastrophe will require the full and open disclosure of the complete truth about the spill and its consequences.

With the adoption of the amendments I have proposed, the commission will be insured of the credibility it needs to get the job done, and the people of Alaska will be insured of the facts they need to make informed decisions.

I feel strongly about the necessity of these changes because of the pivotal role the commission is likely to play in the unfolding drama in Prince William Sound. The U.S. Coast Guard and National Safety Transportation Board will be conducting their own investigations, but the scope of these probes will be limited. I am informed that neither the President nor Congress are planning a full-scale or broad-based inquiry of their own. State government managers are engaged in their various mandates to help confront and resolve the day-to-day challenges of post-spill problems, and they should not take time away from those jobs for the kind of in-depth and time-consuming retrospective necessary. I do not mean to demean the dedication of state agencies in this disaster, but this is not a job for the bureaucracy.

The Exxon Valdez disaster drove home the fact that—like earthquakes and airplane crashes—the chance of a major spill is a probability we're going to have to live with as long as Alaska remains a major oil producing state. But what happened in Prince William Sound also demonstrated the danger of complacency.

It was like having a jetliner crash on the runway at Anchorage International Airport and discover there's no hoses on the fire trucks. We can't totally eliminate the statistical probabilities that we will have another spill, but we can reduce those probabilities and be absolutely certain that we're prepared, if and when there's a next time.

If properly constituted, funded and staffed, the proposed Exxon Valdez Oil Spill Commission can focus a powerful spotlight on what went wrong and what we can do to cut down on the probabilities of a recurrence.

In conclusion, I support the creation of a commission which will go down in history as generating the authoritative body of information on this world-class disaster. I want Alaskans to demonstrate to the nation and the world that we have the will and ability to transcend the rhetoric of the past—that we can provide America with the energy it needs and protect our environment at the same time.

Amendment No. 1

Page 1, line 12 through Page 2, line 5, delete, substitute the following and re-number accordingly.

Section 1. EXXON VALDEZ OIL SPILL COMMISSION AND ADVISORY COMMITTEE. (a) There is established the Exxon Valdez Oil Spill Commission consisting of seven (7) members. The commission shall consist of:

(1) One member of the Senate appointed by the President of the Senate.

(2) One member of the House of Representatives appointed by the Speaker of the House.

(3) Two distinguished leaders or former leaders of government appointed by the Governor.

(4) One distinguished leader from the scientific, technical, management or business community appointed by the President of the Senate.

(5) One distinguished leader of the scientific, technical, management or business community appointed by the Speaker of the House.

(6) One distinguished leader of the scientific, technical, management or business community appointed by the Governor.

(b) There is established an Exxon Valdez Oil Spill Commission Advisory Committee consisting of fifteen 16 members which shall perform such duties as defined and assigned by the commission. The advisory committee shall be appointed by the commission from nominees submitted by the following:

(1) United States Coast Guard

(2) Environmental Protection Agency

(3) Alaska Department of Environmental Conservation

(4) Alaska Department of Fish & Game

(5) Alaska Environmental Community

(6) Prince William Sound Commercial Fishing Community

(7) Exxon Corporation

(8) Alyeska Pipeline Service Company

(9) National Transportation Safety Board

(10) City of Valdez

(11) City of Cordova

(12) City of Seward

(13) Chugach Native Association

(14) Three public members, one each nominated by the Governor, the President of the Senate and the Speaker of the House.

(c) The governor shall designate a chairman and a vice chairman from among the members of the commission.

Amendment No. 2

Page 2, line 6 to define the kind of skills to be considered in engaging staff.

(3) The commission may hire staff that it considers necessary to perform its duties. Staff shall include, but not be limited to, persons with experience in tanker operations, oil spill recovery, transportation economics and marine biology.

Amendment No. 3

Page 2, lines 8 through 11, replace with the following.

(f) Members of the commission and advisory committee serve without compensation, but non-governmental members are entitled to \$150 per day while on commission business plus per diem and travel expenses authorized for boards and commissions under AS 39.20.180 except that the chairman and vice chairman of the commission are entitled to compensation equal to that of a commissioner and deputy commissioner, respectively.

Amendment No. 4

Page 3, insert after line 25 a new section and re-number accordingly.

Sec. 4. All meetings of the commission and the advisory committee shall be open to members of the public.

Amendment No. 5

Page 3, after line 25, insert a new section and renumber accordingly

Sec. 4. Funding for the commission and its activities shall be derived from the Oil and Hazardous Substance Release Response Fund.

Senate Bill 277 - Exxon Valdez Oil Spill Commission

Proposed Finance CS	Oil and Gas CS	Kelly Amendments
Commission Established:		
In office of Governor	Not specified	Not specified
15 Members:	15 Members:	23 Members:
2 Senators, appointed by President 2 Representatives, appointed by Speaker	2 Senators, appointed by President 2 Representatives, appointed by Speaker	7 Member Commission: 1 Senator appointed by President 1 Representative, appointed by Speaker 2 government leaders, appointed by Governor 1 distinguished leader appointed by President 1 distinguished leader appointed by Speaker 1 distinguished leader appointed by Governor
10 persons unaffiliated with parties not directly related to disaster, including one or more persons with (A) relevant scientific and technical knowledge; and (B) petroleum production or transportation business experience	11 members appointed by Governor representing: DEC Coast Guard EPA Alyeska Exxon Merchant shipping industry Environmental community Prince William Sound fisherman; and 3 experts in science, technology, management	16 member Advisory Committee Established: Duties defined and assigned by Commission; appointed by Commission from nominees by: Coast Guard
1 distinguished Alaskan as chairman		

Senate Bill 277 - Exxon Valdez Oil Spill Commission

Proposed Finance CS	Oil and Gas CS	Kelly Amendments
		EPA DEC Fish and Game Environmental Community Prince William Sound Commercial fisherman Exxon Alyeska National Transportation Safety Board City of Valdez City of Cordova City of Seward Chugach Native Association 3 public members appointed one by Governor, President, Speaker

<p>Commission Chairman: 1 distinguished Alaskan committed to impartial fact finding who will serve as chairman</p>	<p>Chairman and vice chairman selected by commission members</p>
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Senate Bill 277 - Exxon Valdez Oil Spill Commission

Proposed Finance CS	Oil and Gas CS	Kelly Amendments
<p>Commission Staff: Commission may hire staff necessary to perform duties, including legal counsel</p>		
<p>Compensation: Non-governmental members receive \$150 per day in addition to per diem and travel</p>	<p>Non-governmental members receive \$150 per day in addition to per diem and travel</p>	<p>Non-governmental members receive \$150 per day in addition to per diem and travel; Chairman and Vice Chairman shall receive same level of compensation as a department commissioner and deputy commissioner</p>
<p>Meetings: Shall be open to the public (AS 44.62.310)</p>		
<p>Funding: 500.0 general funds FY 90 Fiscal Note - Office of the Governor</p>	<p>Sponsor estimates \$1.7 million from Oil and Hazardous Substance Release Response Fund</p>	

4/22/89

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

CS Senate Bill 277 (Oil and Gas) Sectional Analysis

Establishing a panel to investigate the Valdez oil discharge disaster and to recommend changes needed to minimize the possibility and effects of similar oil discharges; and providing for an effective date

Section 1. VALDEZ OIL DIASTER REVIEW PANEL.

- (a) A 15 member panel is established consisting of:
 - 2 Senators appointed by President of the Senate
 - 2 Representatives appointed by the House Speaker
- (b) and (c) Eleven members appointed by the Governor, representing:
 - 1 Department of Environmental Conservation
 - 1 United States Coast Guard
 - 1 Environmental Protection Agency
 - 1 Alyeska Pipeline Service Company
 - 1 Exxon USA Corporation
 - 1 merchant shipping industry
 - 1 environmental community
 - 1 fishermen from Prince William Sound area
 - 3 recognized for expertise in science, technology or management
- (d) The panel shall select its chairman and vice chairman.
- (e) The panel may hire staff to perform its duties.
- (f) Non-governmental commission members are entitled to \$150 per day while on commission business in addition to per diem and travel expenses.

OUT OF SESSION

3111 C STREET ANCHORAGE, ALASKA 99503 907-561-7610

Section 2. DUTIES OF THE PANEL.

(a) The panel shall gather information relating to:

- (1) events leading up to the Valdez spill
- (2) efforts to contain and clean up the oil discharged
- (3) short and long term effects of the spill on the natural resources and the economy of the state.

(b) The panel's report shall be submitted by March 1, 1990 and will include findings and recommendations on:

- (1) factual chain of events preceding the grounding of the Exxon Valdez and the extent oil industry and governmental practices or law should be changed to minimize the potential for future similar events;
- (2) containment and clean up actions, the extent to which current technology was available and used, and ways to improve spill response;
- (3) environmental and economic effects of the oil discharge;
- (4) recommendations on steps to be taken to ensure proper management, handling, and transportation of crude oil in the future

Section 3. INVESTIGATIONS; HEARINGS.

(a) - (c) The panel may issue subpoenas, administer oaths, hold hearings and conduct investigations related to its duties.

(d) State agencies shall, to the extent permitted by law, cooperate with the panel and provide information requested.

Section 4. Panel Termination

The panel sunsets twenty days after submission of its report (March 21, 1990).

Section 5. Effective Date

Immediate effective date.

MEMORANDUM

Date: April 22, 1989
To: Members, Senate Finance Committee
From: Senator Tim Kelly
Subj: Proposed amendments to CSSB277 (Oil & Gas)

During expedited consideration of Exxon Valdez oil spill-related legislation in the Oil and Gas Committee, members acknowledged that the measures probably would require additional amendments during the course of the standing committee process.

I have given considerable thought to CSSB277 creating an Exxon Valdez Oil Spill Commission and believe amendments are necessary to strengthen the ability of the commission to fulfill its mandate while inspiring the trust and confidence of all Alaskans.

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In addition, I believe the commission should be a "working commission" and the size of the panel should be reduced accordingly. Under my amendments, the chairman and the vice chairman also would serve full-time to direct a professional staff, eliminating the need for a staff director or deputy director. Also included is an amendment to designate the oil and hazardous substance response release fund as the source for funding for the commission.

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- (1) One member of the Senate appointed by the President of the Senate.
- (2) One member of the House of Representatives appointed by the Speaker of the House.
- (3) Two distinguished leaders or former leaders of government appointed by the Governor.
- (4) One distinguished leader from the scientific, technical, management or business community appointed by the President of the Senate.
- (5) One distinguished leader of the scientific, technical, management or business community appointed by the Speaker of the House.
- (6) One distinguished leader of the scientific, technical, management or business community appointed by the Governor.

(b) There is established an Exxon Valdez Oil Spill Commission Advisory Committee consisting of ~~16~~ 16 members which shall perform such duties as defined and assigned by the commission. The advisory committee shall be appointed by the commission from nominees submitted by the following:

- (1) United States Coast Guard
- (2) Environmental Protection Agency
- (3) Alaska Department of Environmental Conservation
- (4) Alaska Department of Fish & Game
- (5) Alaska Environmental Community
- (6) Prince William Sound Commercial Fishing Community
- (7) Exxon Corporation
- (8) Alyeska Pipeline Service Company
- (9) National Transportation Safety Board
- (10) City of Valdez
- (11) City of Cordova
- (12) City of Seward

(13) Chugach Native Association

(14) Three public members, one each nominated by the Governor, the President of the Senate and the Speaker of the House.

(c) The governor shall designate a chairman and a vice chairman from among the members of the commission.

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Page 2, line 6 to define the kind of skills to be considered in engaging staff.

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Amendment No. 4

Page 3, insert after line 25 a new section and re-number accordingly.

Sec. 4. All meetings of the commission and the advisory committee shall be open to members of the public.

Amendment No. 5

Page 3, after line 25, insert a new section and renumber accordingly

Sec. 4. Funding for the commission and its activities shall be derived from the Oil and Hazardous Substance Release Response Fund.



Alaska State Legislature

APR 25 1989

*Sen
Uehling*

Please enter into the record my testimony to the House Resource & Senate Finance
committee name

committee on Senate Bill 277 , dated 4/14/89
bill/subject

I am in favor and support of the SB 277 Valdez Disaster Investigative Commission with the following concern:

The Villages and People that rely heavily on subsistence in addition to the fishing industry need to be included in the efforts stated within this bill. They have been effected in every way and seem to have little in voicing their perspective and reccomendations. I strongly urge you to recommend that there be provided representation for the Native People in addition to others who rely heavily on subsistence for their survival. The emotional impact in addition to the threatened lifestyle and culture needs a voice. The expertise within the realm of the subsistence lifestyle is beyond those with degrees in science, biology or any other field requiring schooling. These People have lived and learned from the land and possess life long skills that are earned from living from and with the land.

Please support us in our efforts to be included not only in Senate Bill 277, but in other efforts towards finding a means to protect our environment.

Thank you for your support and attention.

Signed: *Dolly C. P. Puff*
Testifier

KANA - 402 Center St. Kodiak 99615
Representing (Optional)

KODIAK AREA NATIVE ASSOCIATION - KONTAG REGION
Address

486-5725
Phone No.

APR 20 1989

Alaska State Legislature

Chairman
(907) 465-4523



Jan Faiks
Post Office Box V
Juneau, Alaska 99811

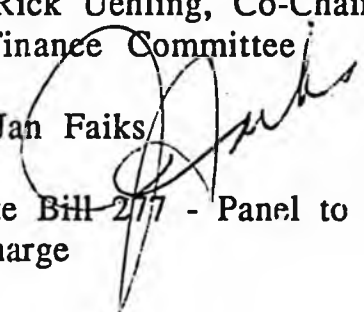
APR 20 1989

Senate Judiciary Committee

April 19, 1989

MEMORANDUM

TO: Senator Rick Uehling, Co-Chairman
Senate Finance Committee

FROM: Senator Jan Faiks 

SUBJECT: CS Senate Bill 277 - Panel to Investigate the Valdez
Oil Discharge

CS Senate Bill 277 (Oil and Gas) has been referred to the Senate Finance Committee for its consideration. I would appreciate the opportunity to discuss the legislation with the committee at your earliest convenience.

The bill is modeled after the executive order which established the Presidential Commission on the Space Shuttle Challenger Accident. It is my hope that by establishing a similar mechanism, Alaskans will be able to examine the facts and circumstances leading to the spill as well as develop recommendations on steps which can be taken to minimize the possibility of a similar accident occurring again in the future.

For your reference, attached is a sectional analysis of the bill, as well as a copy of the Presidential Commission's executive order and summary of the commission's report on the Challenger accident.

SPONSOR'S BACKGROUND MATERIAL

Members
Mike Szymanski, Vice-Chairman • Rick Halford • Drue Pearce • Pat Rodey

Out of Session
3111 C Street, Anchorage, Alaska 99503 • (907) 561-7610

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

CS Senate Bill 277 (Oil and Gas) Sectional Analysis

Establishing a panel to investigate the Valdez oil discharge disaster and to recommend changes needed to minimize the possibility and effects of similar oil discharges; and providing for an effective date

Section 1. VALDEZ OIL DIASTER REVIEW PANEL.

- (a) A 14 member panel is established consisting of:
- 2 Senators appointed by President of the Senate
 - 2 Representatives appointed by the House Speaker
- (b) and (c) Eleven members appointed by the Governor, representing:
- 1 Department of Environmental Conservation
 - 1 United States Coast Guard
 - 1 Environmental Protection Agency
 - 1 Alyeska Pipeline Service Company
 - 1 Exxon USA Corporation
 - 1 merchant shipping industry
 - 1 environmental community
 - 1 fishermen from Prince William Sound area
 - 3 recognized for expertise in science, technology or management
- (d) The panel shall select its chairman and vice chairman.
- (e) The panel may hire staff to perform its duties.
- (f) Non-governmental commission members are entitled to \$150 per day while on commission business in addition to per diem and travel expenses.

OUT OF SESSION

3111 C STREET ANCHORAGE, ALASKA 99503 907-561-7610

Section 2. DUTIES OF THE PANEL.

(a) The panel shall gather information relating to:

- (1) events leading up to the Valdez spill
- (2) efforts to contain and clean up the oil discharged
- (3) short and long term effects of the spill on the natural resources and the economy of the state.

(b) The panel's report shall be submitted by March 1, 1990 and will include findings and recommendations on:

- (1) factual chain of events preceding the grounding of the Exxon Valdez and the extent oil industry and governmental practices or law should be changed to minimize the potential for future similar events;
- (2) containment and clean up actions, the extent to which current technology was available and used, and ways to improve spill response;
- (3) environmental and economic effects of the oil discharge;
- (4) recommendations on steps to be taken to ensure proper management, handling, and transportation of crude oil in the future

Section 3. INVESTIGATIONS; HEARINGS.

(a) - (c) The panel may issue subpoenas, administer oaths, hold hearings and conduct investigations related to its duties.

(d) State agencies shall, to the extent permitted by law, cooperate with the panel and provide information requested.

Section 4. Panel Termination

The panel sunsets twenty days after submission of its report (March 21, 1990).

Section 5. Effective Date

Immediate effective date.

_____ , 1986, which established
the Presidential Commission on the Space Shuttle Challenger Accident

EXECUTIVE ORDER

PRESIDENTIAL COMMISSION ON THE
SPACE SHUTTLE CHALLENGER ACCIDENT

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to establish a commission of distinguished Americans to investigate the accident to the Space Shuttle Challenger, it is hereby ordered as follows:

Section 1. Establishment. (a) There is established the Presidential Commission on the Space Shuttle Challenger Accident. The Commission shall be composed of not more than 20 members appointed or designated by the President. The members shall be drawn from among distinguished leaders of the government, and the scientific, technical, and management communities.

(b) The President shall designate a Chairman and a Vice Chairman from among the members of the Commission.

Sec. 2. Functions. (a) The Commission shall investigate the accident to the Space Shuttle Challenger, which occurred on January 28, 1986.

(b) The Commission shall:

- (1) Review the circumstances surrounding the accident to establish the probable cause or causes of the accident; and
- (2) Develop recommendations for corrective or other action based upon the Commission's findings and determinations.

(c) The Commission shall submit its final report to the President and the Administrator of the National Aeronautics and Space Administration within one hundred and twenty days of the date of this Order.

_____ 1986, which established
the Presidential Commission on the Space Shuttle Challenger Accident

EXECUTIVE ORDER

PRESIDENTIAL COMMISSION ON THE
SPACE SHUTTLE CHALLENGER ACCIDENT

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- (1) Review the circumstances surrounding the accident to establish the probable cause or causes of the accident; and
- (2) Develop recommendations for corrective or other action based upon the Commission's findings and determinations.

(c) The Commission shall submit its final report to the President and the Administrator of the National Aeronautics and Space Administration within one hundred and twenty days of the date of this Order.

2

Sec. 3. Administration. (a) The heads of Executive departments and agencies shall, to the extent permitted by law, provide the Commission with such information as it may require for purposes of carrying out its functions.

(b) Members of the Commission shall serve without compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the government service (5 U.S.C. 5701-5707).

(c) To the extent permitted by law, and subject to the availability of appropriations, the Administrator of the National Aeronautics and Space Administration shall provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

Sec. 4. General Provisions. (a) Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act which are applicable to the Commission, except that of reporting annually to the Congress, shall be performed by the Administrator of the National Aeronautics and Space Administration, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall terminate 60 days after submitting its final report.

Ronald Reagan

THE WHITE HOUSE,

February 3, 1986.

Report to the President

By The

**PRESIDENTIAL
COMMISSION**

*on the Space Shuttle
Challenger Accident*

June 6th, 1986
Washington, D.C.

Presidential Commission on the Space Shuttle Challenger Accident

William P. Rogers, Chairman

Former Secretary of State under President Nixon (1969-1973), and Attorney General under President Eisenhower (1957-1961), currently a practicing attorney and senior partner in the law firm of Rogers & Wells. Born in Norfolk, New York, he was awarded the Medal of Freedom in 1973. He holds a J.D. from Cornell University (1937) and served as LCDR, U.S. Navy (1942-1946).

Neil A. Armstrong, Vice Chairman

Former astronaut, currently Chairman of the Board of Computing Technologies for Aviation, Inc. Born in Wapakoneta, Ohio, Mr. Armstrong was spacecraft commander for Apollo 11, July 16-24, 1969, the first manned lunar landing mission. He was Professor of Aeronautical Engineering at the University of Cincinnati from 1971 to 1980 and was appointed to the National Commission on Space in 1985.

David C. Acheson

Former Senior Vice President and General Counsel, Communications Satellite Corporation (1967-1974), currently a partner in the law firm of Drinker Biddle & Reath. Born in Washington, DC, he previously served as an attorney with the U.S. Atomic Energy Commission (1948-1950) and was U.S. Attorney for the District of Columbia (1961-1965). He holds an LL.B. from Harvard University (1948) and served as LT, U.S. Navy (1942-1946).

Dr. Eugene E. Covert

Educator and engineer. Born in Rapid City, South Dakota, he is currently Professor and

Head, Department of Aeronautics and Astronautics, at Massachusetts Institute of Technology. Member of the National Academy of Engineering, he was a recipient of the Exceptional Civilian Service Award, USAF, in 1973 and the NASA Public Service Award in 1980. He holds a Doctorate in Science from Massachusetts Institute of Technology.

Dr. Richard P. Feynman

Physicist. Born in New York City, he is Professor of Theoretical Physics at California Institute of Technology. Nobel Prize winner in Physics, 1965, he also received the Einstein Award in 1954, the Oersted Medal in 1972 and the Niels Bohr International Gold Medal in 1973. He holds a Doctorate in Physics from Princeton (1942).

Robert B. Hotz

Editor, publisher. Born in Milwaukee, Wisconsin. He is a graduate of Northwestern University. He was the editor-in-chief of *Aviation Week & Space Technology* magazine (1953-1980). He served in the Air Force in World War II and was awarded the Air Medal with Oak Leaf Cluster. Since 1982, he has been a member of the General Advisory Committee to the Arms Control and Disarmament Agency.

Major General Donald J. Kutyna, USAF

Director of Space Systems and Command, Control, Communications. Born in Chicago, Illinois, and graduate of the U.S. Military Academy, he holds a Master of Science degree from Massachusetts Institute of Technology (1965). A command pilot with over 4,000 flight

hours, he is a recipient of the Distinguished Service Medal, Distinguished Flying Cross, Legion of Merit and nine air medals.

Dr. Sally K. Ride

Astronaut. Born in Los Angeles, California, she was a mission specialist on STS-7, launched on June 18, 1983, becoming the first American woman in space. She also flew on mission +1-G launched October 5, 1984. She holds a Doctorate in Physics from Stanford University (1978) and is still an active astronaut.

Robert W. Rummel

Space expert and aerospace engineer. Born in Dakota, Illinois, and former Vice President of Trans World Airlines, he is currently President of Robert W. Rummel Associates, Inc., of Mesa, Arizona. He is a member of the National Academy of Engineering and is holder of the NASA Distinguished Public Service Medal.

Joseph F. Sutter

Aeronautical engineer. Currently Executive Vice President of the Boeing Commercial Airplane Company. Born in Seattle, he has been with Boeing since 1945 and was a principal figure in the development of three generations of jet aircraft. In 1984, he was elected to the National Academy of Engineering. In 1985, President Reagan conferred on him the U.S. National Medal of Technology.

Dr. Arthur B. C. Walker, Jr.

Astronomer. Born in Cleveland, Ohio, he is currently Professor of Applied Physics and was formerly Associate Dean of the Graduate Divi-

sion at Stanford University. Consultant to Aerospace Corporation, Rand Corporation and the National Science Foundation, he is a member of the American Physical Society, American Geophysical Union, and the American Astronomy Society. He holds a Doctorate in Physics from the University of Illinois (1962).

Dr. Albert D. Wheelon

Physicist. Born in Moline, Illinois, he is currently Executive Vice President, Hughes Aircraft Company. Also a member of the President's Foreign Intelligence Advisory Board, he served as a consultant to the President's Science Advisory Council from 1961 to 1974. He holds a Doctorate in Physics from Massachusetts Institute of Technology (1952).

Brigadier General Charles Yeager, USAF (Retired)

Former experimental test pilot. Born in Myra, West Virginia, he was appointed in 1985 as a member of the National Commission on Space. He was the first person to penetrate the sound barrier and the first to fly at a speed of more than 1,600 miles an hour.

Dr. Alton G. Keel, Jr., Executive Director

Detailed to the Commission from his position in the Executive Office of the President, Office of Management and Budget, as Associate Director for National Security and International Affairs; formerly Assistant Secretary of the Air Force for Research, Development and Logistics; and Senate Staff. Born in Newport News, Virginia, he holds a Doctorate in Engineering Physics from the University of Virginia (1970).

	Executive Secretary	White House MAJ, USA/OMB
Special Assistants		
Marie C. Hunter	Executive Assistant to the Chairman	Rogers & Wells
M. M. Black	Personal Secretary to Vice Chairman & Executive Director	OMB
Mark D. Weinberg	Media Relations	White House
Herb Hetu	Media Relations	Consultant
John T. Shepherd	NASA Tasking Coordination	CAPT, USN (Ret)/Atty.

Administrative Staff

Stephen B. Hyle	Administrative Officer	LTC, USAF
Patt Sullivan	Administrative Assistant	NASA
Marilyn Stumpf	Travel Coordination	NASA
Joleen A. B. Bottalico	Travel Coordination	NASA
Jane M. Green	Secretary	NASA
Lorraine K. Walton	Secretary	NASA
Vera A. Barnes	Secretary	NASA
Virginia A. James	Receptionist	Contract Support

Investigative Staff

William G. Dupree	Investigator, Development and Production	DOD IG
John B. Hungerford, Jr.	Investigator, Development and Production	LTC, USAF
John P. Chase	Investigator, Pre-Launch Activities	MAJ, USMC/DOD IG
Brewster Shaw	Investigator, Pre-Launch Activities	LTC, USAF/NASA Astronaut
John C. Macidull	Investigator, Accident Analysis	FAA/CDR, USNR-R
Ron Waite	Investigator, Accident Analysis	Engineering Consultant
John Fabian	Investigator, Mission Planning and Operations	COL, USAF/Former Astronaut
Emily M. Trapnell	Coordinator, General Investigative Activities	FAA Atty.
Randy R. Kehrli	Evidence Analysis	DOJ Atty.
E. Thomas Almon	Investigator	Special Agent, FBI
Patrick J. Maley	Investigator	Special Agent, FBI
John R. Molesworth, Jr.	Investigator	Special Agent, FBI
Robert C. Thompson	Investigator	Special Agent, FBI
Dr. R. Curtis Graeber	Human Factors Specialist	LTC, USA/NASA
Michael L. Marx	Metallurgist	NTSB

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Stephen M. Croll	Correspondence Support	Contract Support

Independent Test Observers

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Wilbur W. Wells	Rocket Propulsion Lab	USAF
Don E. Kennedy	TRW Ballistic Missile Office	Pro Bono
Laddie E. Dufka	Aerospace Corp	Pro Bono
Mohan Aswani	Aerospace Corp	Pro Bono
Michael L. Marx	Metallurgist	NTSB

An Overview

President Reagan, seeking to ensure a thorough and unbiased investigation of the Challenger accident, announced the formation of the Commission on February 3, 1986. The mandate given by the President, contained in Executive Order 12546, required Commission members to:

- (1) Review the circumstances surrounding the accident to establish the probable cause or causes of the accident; and
- (2) Develop recommendations for corrective or other action based upon the Commission's findings and determinations.

Following their swearing in by Chairman Rogers on February 6th, Commission members immediately began a series of hearings during which NASA officials outlined agency procedures covering the Shuttle program and the status of NASA's investigation of the accident.

Shortly thereafter, on February 10th, Dr. Alton G. Keel, Jr., Associate Director of the Office of Management and Budget, was appointed Executive Director. Dr. Keel began gathering a staff of 15 experienced investigators from various government agencies and the military services, and administrative personnel to support Commission activities.

During a closed session on February 10, 1986, the Commission began to learn of the troubled history of the Solid Rocket Motor joint and seals. Moreover, it discovered the first indication that the contractor, Morton Thiokol, initially recommended against launch on January 27, 1986, the night before the launch of 51-L, because of con-

cerns regarding low temperature effects on the joint and seal. To investigate this disturbing development, additional closed sessions were scheduled for February 13th and 14th at Kennedy. The February 13, 1986, session was an extensive presentation of film, video and telemetry data relating to the Challenger accident. It provided the Commission the first evidence that the Solid Rocket Motor joint and seal may have malfunctioned, initiating the accident.

The session on February 14th included NASA and contractor participants involved in the discussion on January 27, 1986, not to launch 51-L. After testimony was received, an executive session of the Commission was convened. The following statement was subsequently issued by the Chairman on February 15, 1986, reflecting the conclusion and view of the Commission:

"In recent days, the Commission has been investigating all aspects of the decision making process leading up to the launch of the Challenger and has found that the process may have been flawed. The President has been so advised.

"Dr. William Graham, Acting Administrator of NASA, has been asked not to include on the internal investigating teams at NASA, persons involved in that process.

"The Commission will, of course, continue its investigation and will make a full report to the President within 120 days."

The role of the Commissioners thus changed from that of overseers to that of active investigators and analysts of data presented by NASA and its contractors.

The Commission itself divided into four investigative panels:

1. Development and Production, responsible for investigating the acquisition and test and evaluation processes for the Space Shuttle elements;
2. Pre-Launch Activities, responsible for assessing the Shuttle system processing, launch readiness process and pre-launch security;
3. Mission Planning and Operations, responsible for investigating mission planning and operations, schedule pressures and crew safety areas; and
4. Accident Analysis, charged with analyzing the accident data and developing both an anomaly tree and accident scenarios.

By February 17th, the panel organization had been finalized and, on February 18th, Chairman Rogers described the Commission's new approach before Congress. Working groups were sent to Marshall, Kennedy and Thiokol to analyze data relating to the accident and to redirect efforts. NASA's investigation was also reorganized to reflect the structure of the Commission's panels.

A series of public hearings were planned on February 25th, 26th and 27th to assure an orderly and fair presentation of all the facts that the Commission had discovered concerning the launch decision making process for flight 51-L. At these hearings, additional information about the launch decision was obtained from the testimony of Thiokol, Rockwell and NASA officials. Details about the history of problems with the then suspect Solid Rocket Motor joints and seals also began emerging and served to focus the Commission's attention on a need to document fully the extent of knowledge and awareness about the problems within both Thiokol and NASA.

Following these hearings, a substantial portion of the investigative efforts of the Commission was conducted by the separate panels in parallel with full Commission hearings.

The Accident Analysis Panel, chaired by Major General Donald Kutyna, made several trips to both Kennedy and Marshall and traveled to Thiokol facilities in Utah to review photographic and telemetric evidence as well as the results of the salvage operation and to oversee the tests being conducted by NASA and Thiokol engineers.

The Accident Analysis Panel followed standard investigative procedures. An extensive effort

was needed to establish the design, manufacturing and processing baseline configuration of the Shuttle vehicle for STS 51-L. A data base was established for the examination and analysis of information related to all flight elements and segments. From these data and a compilation of possible and observed deviations from the norm, scenarios that might have led to the accident were developed. Tests and analyses were then performed to determine the specific scenarios most likely to have caused loss of Challenger.

Early in March, at the request of the Chairman, this group assembled and directed the Commission's independent team of technical observers with extensive experience in Solid Rocket Motor technology and accident investigation to validate and interpret the tests and analyses performed on the Thiokol motor by NASA and Thiokol.

The Development and Production Panel, chaired by Joseph Sutter, centered its investigation on the production and testing activities of the Shuttle element contractors. Starting at Johnson, the panel and staff investigators looked at how these contractors and their NASA counterparts interact.

They next traveled to the Wasatch plant of Thiokol in Promontory, Utah. Thiokol personnel briefed the group on the details of the design, manufacturing, verification and certification of the Solid Rocket Motors. Similar sessions took place in April in Downey, California, at the headquarters of Rocketdyne, Inc., the Shuttle main engine contractor; in Canoga Park, California, at the facilities of Rockwell International, the Orbiter contractor; in Michoud, Louisiana, at the plant of Martin Marietta, the External Tank contractor; and in Berea, Kentucky, at the facilities of Parker Seal Company, the manufacturers of the O-ring seals of the Thiokol Solid Rocket Motors.

In addition, the panel traveled to Marshall to learn about Marshall's interaction with Thiokol and to discuss issues that had been raised during the visits to the contractors' plants.

The Pre-Launch Activities Panel, chaired by David Acheson, centered its investigation at Kennedy where the Shuttle elements are assembled and all other final launch preparations are completed. This panel, in conjunction with the Mission Planning and Operations Panel, chaired by Dr. Sally Ride, met with its NASA counterparts in early March. This series of meetings identified for the Commission the various aspects of the pre-

launch process that required thorough review, not only for the purpose of the Challenger accident investigation but also to increase safety margins for the future.

Later in March the Pre-Launch Panel again met at Kennedy to receive the NASA Team's preliminary reports and to focus on the spare parts issue and Solid Rocket Booster assembly operations. Panel members also met with contractor personnel involved in Shuttle processing and Kennedy security work.

After the joint meeting at Kennedy with the Pre-Launch Activities Panel, the Mission Planning and Operations Panel traveled to Johnson to begin working with its NASA counterparts and to initiate its own investigative efforts. A specific focus of its work was the mission planning and crew preparation for STS 51-L and details of NASA's safety, reliability and quality assurance programs. Later meetings at both Johnson and Marshall dealt with range safety, weather criteria for launch, flight delays and hardware testing.

While the work of the individual panels and their investigative staffs was ongoing, a general investigative staff began a series of individual interviews to document fully the factual background of various areas of the Commission's interest, including the telecon between NASA and Thiokol officials the night before the launch; the history of joint design and O-ring problems; NASA safe-

ty, reliability and quality assurance functions; and the assembly of the right Solid Rocket Booster for STS 51-L. Subsequent investigative efforts by this group were directed in the area of the effectiveness of NASA's organizational structure, particularly the Shuttle program structure, and allegations that there had been external pressure on NASA to launch on January 28th.

More than 160 individuals were interviewed and more than 35 formal panel investigative sessions were held generating almost 12,000 pages of transcript (Table 1 and Table 2). Almost 6,300 documents, totaling more than 122,000 pages, and hundreds of photographs were examined and made a part of the Commission's permanent data base and archives. These sessions and all the data gathered added to the 2,800 pages of hearing transcript generated by the Commission in both closed and open sessions.

In addition to the work of the Commission and the Commission staff, NASA personnel expended a vast effort in the investigation. More than 1,300 employees from all NASA facilities were involved and were supported by more than 1,600 people from other government agencies and over 3,100 from NASA's contractor organizations. Particularly significant were the activities of the military, the Coast Guard and the NTSB in the salvage and analysis of the Shuttle wreckage.

Table 1

Commission Investigative Interviews

Interviews of January 27, 1986
Teleconference (8:15 PM EST)

Participants

Ben Powers
Frank Adams
Larry Wear
James Smith
Boyd Brinton
Robert Schwinghamer
William Reihl
Wayne Littles
John Q. Miller
John McCarty

John Schell
Keith Coates
George Hardy
Jud Lovingood
Jack Buchanan
Allan McDonald
Carver Kennedy
Cecil Houston
Lawrence Mulloy
Stanley Reinartz

William Macbeth
Brian Russeil
Jack Kapp
Ron Ebeling
Calvin Wiggins
Larry Sayer
Joel Maw
Kyle Speas
Jerry Burn
Don Keiner

Jerry E. Mason
Robert Lund
Joseph Kilminster
Roger Boisjoly
Arnold Thompson
Jerry Peoples
James Kingsbury

FISCAL NOTE

REQUEST:

Revision Date: 4/27/89
 Title: "An Act establishing a commission to investigate the Exxon Valdez oil spill..."
 Sponsor: Faiks, Falford, Kelly, et al,
 Requestor: Senator Faiks

Agency Affected: Office of the Governor
BRU: Commissions and Special Offices

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	8.5	76.3				
TRAVEL	13.0	150.0				
CONTRACTUAL	53.0	248.7				
SUPPLIES	5.5	25.0				
EQUIPMENT	20.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	100.0	500.0	-0-	-0-	-0-	-0-

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	100.0	500.0				
FEDERAL FUNDS						
OTHER						
TOTAL	100.0	500.0				

POSITIONS:

FULL-TIME	2	2				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached analysis

Prepared by: Michael A. Nizich, Director *MAN* Phone: 465-3616
 Division: Division of Administrative Services Date: 4/28/89

Approved by: Commissioner: Garrev M. Pecka Date: 4/28/89
 Agency: Chief of Staff

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CS SB 277 (Finance) Fiscal Analysis:

Due to the complexity of this proposed legislation, it is not possible to accurately assess the cost of the Exxon Valdez Oil Spill Commission.

The number of staff the commission would need to hire, including legal counsel, investigative staff, and administrative staff with legal expertise is unknown. The timeframe specified for the commission to complete its investigations and gather information for its final recommendations would indicate a substantial staffing requirement. For the purposes of this analysis, the minimum staff requirement for 1 month in FY 89 and 9 months in FY 90 is assumed at one coordinator, salary range 22A, and one secretary, salary range 12A. Additional personal services expenses for legal/investigative staff is reflected in the contractual line.

The number of meetings that will be necessary in order to hear testimony, review documents and depositions, evaluate information and formulate final recommendations are impossible to predict. In addition to travel and per diem as set out in AS 39.20.180, each non-governmental member of the commission will receive \$150.00 per day while on commission business.

The needed funds are indicated from the general fund. As the specified charges of the commission appear to be duplication of the work of existing entities, i.e., the Department of Law, the Department of Environmental Conservation, federal efforts under the Clean Water Act and the T.A.P.S. Act, N.O.A.A.'s long-term impact studies, etc., recovery of commission costs from Exxon is unlikely.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Office of the Governor
 Title: An Act establishing a commission to BRU: Commissions and Social Offices
investigate the Exxon Valdez oil spill
 Sponsor: Faiks, Halford, Kelly, et al.
 Requestor: Senator Pearce Components: Exxon Valdez Oil Spill
Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	100.0	500.0				
TOTAL OPERATING	100.0	500.0	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	100.0	500.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	100.0	500.0	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached analysis

Prepared by: Michael A. Nizich, Director Phone: 465-3616
 Division: Division of Administrative Services Date: 4-18-89
 Approved by Commissioner: Garrey M. Peska Date: 4-18-89
 Agency: Chief of Staff

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CS SB 277 (Oil & Gas) Fiscal Analysis:

It is not possible to accurately assess the costs of the proposed commission. They will, however, be substantial and will include personal services, travel, contractual services, supplies and equipment. An estimated total is shown on the miscellaneous line of the fiscal note.

The number of staff the commission would need to hire, including legal counsel, investigative staff, and administrative staff with legal expertise is unknown. The timeframe specified for the commission to complete its investigations and gather information for its final recommendations would indicate a substantial staffing requirement. The number of meetings that will be necessary in order to hear testimony, review documents and depositions, evaluate information and formulate final recommendations are impossible to predict.

The needed funds are indicated from the general fund. As the specified charges of the commission appear to be duplication of the work of existing entities, i.e., the Department of Law, the Department of Environmental Conservation, federal efforts under the Clean Water Act and the T.A.P.S. Act, N.O.A.A.'s long-term impact studies, etc., recovery of commission costs from Exxon is unlikely.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act establishing a panel to investigate the Valdez oil discharge disaster...
Sponsor: Senate Special Com. on Oil & Gas
Requestor: Senate Special Com. on Oil & Gas

Affect Agency Legislative Affairs Agency
BRU: Legislative Council
Legislative Operating Budget
Components Legislative Operating Budget
Session Expenses

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
----------------	---	---	---	---	---	---

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0	0	0	0	0	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)

No fiscal impact. Travel costs for legislators absorbed within existing budgets of Session Expenses and the Legislative Operating Budget.

Prepared By: Pamela Stoops, Director
Division: Administrative Services

Pamela Stoops

Phone: 465-3850
Date: 4/14/89

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren W Endicott

Date: 4/14/89

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LEGISLATIVE FINANCE
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AGENCY (IES)

LAA-8-orig.kill

S B

L 7 7

HOUSE COMMITTEE REPORT

(11)

Date Referred: May 5, 1989

FURTHER REFERRALS:

Date of Committee Action: 5/6/89

The FINANCE Committee considered:

CSSB 277 (FINANCE)

CS FOR SENATE BILL NO: 277 (Finance)

[VALDEZ DISASTER INVESTIGATIVE COMMISSION]

"An Act establishing a commission to investigate the Exxon Valdez oil spill disaster and to recommend changes needed to minimize the possibility and effects of similar oil spills; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with HCS CSSB 277 (Finance) [] the same title
[] a new title
[] have attached amendment(s)
[] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: H. Fin letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) Gov. Office 4/28/89
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

[Signature] Swackhammer
[Signature] Koponen
[Signature] Olmer
[Signature] Barnes
[Signature] Shultz
[Signature] Phillips

SIGNING:	Do Not Pass	No Rec	Amend
<u>[Signature]</u> Wallis		<input checked="" type="checkbox"/>	

[Signature] vice chair
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: 4/27/89
 Title: "An Act establishing a commission to investigate the Exxon Valdez oil spill..."
 Sponsor: Faiks, Halford, Kelly, et al.
 Requestor: Senator Faiks
 Agency Affected: Office of the Governor
 BRU: Commissions and Special Offices
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	8.5	76.3				
TRAVEL	13.0	95.0				
CONTRACTUAL	53.0	248.7				
SUPPLIES	5.5	25.0				
EQUIPMENT	20.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	100.0	445.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	100.0	445.0				
FEDERAL FUNDS						
OTHER						
TOTAL	100.0	445.0				

POSITIONS:

FULL-TIME	2	2				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached analysis

Prepared by: Michael A. Nizich, Director *Man* Phone: 465-3616
 Division: Division of Administrative Services Date: 4/28/89
 Approved by Commissioner: Garrey M. Peska *[Signature]* Date: 4/28/89
 Agency: Chief of Staff

Distribution (by preparer):

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

CS SB 277 (Finance) Fiscal Analysis:

Due to the complexity of this proposed legislation, it is not possible to accurately assess the cost of the Exxon Valdez Oil Spill Commission.

The number of staff the commission would need to hire, including legal counsel, investigative staff, and administrative staff with legal expertise is unknown. The timeframe specified for the commission to complete its investigations and gather information for its final recommendations would indicate a substantial staffing requirement. For the purposes of this analysis, the minimum staff requirement for 1 month in FY 89 and 9 months in FY 90 is assumed at one coordinator, salary range 22A, and one secretary, salary range 12A. Additional personal services expenses for legal/investigative staff is reflected in the contractual line.

The number of meetings that will be necessary in order to hear testimony, review documents and depositions, evaluate information and formulate final recommendations are impossible to predict. In addition to travel and per diem as set out in AS 39.20.180, each non-governmental member of the commission will receive \$150.00 per day while on commission business.

The needed funds are indicated from the general fund. As the specified charges of the commission appear to be duplication of the work of existing entities, i.e., the Department of Law, the Department of Environmental Conservation, federal efforts under the Clean Water Act and the T.A.P.S. Act, N.O.A.A.'s long-term impact studies, etc., recovery of commission costs from Exxon is unlikely.

Original sponsors: Faiks, Halford,
Kelly, et al.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 277 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a commission to investigate the
7 Exxon Valdez oil spill disaster and to recommend
8 changes needed to minimize the possibility and ef-
9 fects of similar oil spills; and providing for an
10 effective date."

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

12 * Section 1. EXXON VALDEZ OIL SPILL COMMISSION. (a) There is estab-
13 lished in the Department of Administration the Exxon Valdez Oil Spill
14 Commission consisting of seven distinguished members appointed by the
15 governor.

16 (b) The members must include

17 (1) five state residents with broad experience or expertise in
18 one or more of the following areas: physical or biological science, oil
19 transportation, fisheries, economics, sociology, or law; these members may
20 not be federal or state employees or employees of a political subdivision
21 of the state or be employees or independent contractors of any corporation
22 directly involved in the Exxon Valdez oil spill disaster;

23 (2) two persons who are recognized nationally for their exper-
24 tise in science, technology, or management and are not employees of a
25 governmental entity.

26 (c) The commission members shall elect from among themselves a chair
27 and vice-chair.

28 (d) The commission may hire staff it considers necessary to perform
29 its duties, including legal counsel.

1 (e) Members of the commission serve without compensation, but are
2 entitled to \$150 a day while on commission business plus per diem and
3 travel expenses authorized for boards and commissions under AS 39.20.180.

4 (f) The commission shall meet regularly to direct its investigation,
5 hold hearings, review progress, and draft final recommendations.

6 * Sec. 2. DUTIES OF THE COMMISSION. (a) The commission shall gather
7 information relating to

8 (1) the series of events that allowed the Exxon Valdez oil
9 discharge on March 24, 1989, to occur; and

10 (2) the ensuing efforts to contain and clean up the oil dis-
11 charged.

12 (b) By January 8, 1990, the commission shall submit a report to the
13 governor and to the legislature containing its findings and recommendations
14 on

15 (1) the containment and cleanup actions that were taken or not
16 taken after the discharge, the extent to which current technology was
17 available and used, and ways to improve oil spill response technology and
18 procedures;

19 (2) steps that should be taken by all levels of government and
20 by the oil industry to ensure proper management, handling, and transporta-
21 tion of crude and refined oil and to improve the statewide ability of
22 industry and governmental agencies to respond to oil discharges;

23 (3) the extent to which oil industry practices and governmental
24 practices or laws should be changed to minimize the potential for future
25 events similar to the grounding of the Exxon Valdez; and

26 (4) legislative proposals to encourage and fund prevention,
27 response, cleanup, and mitigation of all future discharges of oil.

28 * Sec. 3. INVESTIGATIONS; HEARINGS. (a) The commission may issue
29 subpoenas, administer oaths, hold hearings, and conduct investigations

1 related to its duties.

2 (b) The commission may compel the attendance of witnesses and produc-
3 tion of papers, books, records, accounts, documents, and testimony, and may
4 have the deposition of witnesses taken in a manner prescribed by court rule
5 or law for the taking of depositions in civil actions when consistent with
6 the duties assigned to the commission.

7 (c) On a majority vote of the commission, subpoenas and subpoenas
8 duces tecum may be issued and served in the manner prescribed by AS 44.62.-
9 430(b) and (c) and court rule. The failure, refusal, or neglect to obey a
10 subpoena is punishable as contempt in the manner prescribed by law or court
11 rule. The superior court may compel obedience to the commission's subpoena
12 in the same manner as prescribed for obedience to a subpoena issued by the
13 court.

14 (d) State agencies shall, to the extent permitted by law, cooperate
15 with the commission and provide it with information it requests for carry-
16 ing out its duties.

17 (e) The commission is subject to AS 44.62.

18 * Sec. 4. This Act is repealed February 15, 1990.

19 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

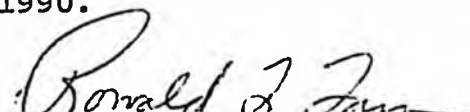
Official Business

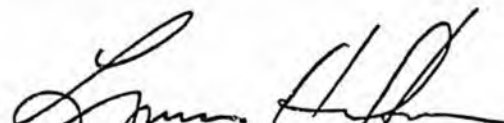
P.O. Box V
State Capitol
Juneau, Alaska 99811

LETTER OF INTENT
FOR
HCS CSSB 277 (FINANCE)

It is the intent of the Legislature that, within the context of its prescribed duties, the major goal of the commission should be to provide the state and federal governments with specific recommendations which will dramatically improve the management, handling and transportation of oil and other hazardous substances throughout Alaska. Because achievement of the goal will require congressional action, as well as state legislation, the commission should include within its work plan, coordination and consultation with other coastal states.

It is the intent of the Legislature that, in addition to the prescribed deadline for its report, the commission should structure a work plan which will permit submission of specific recommended legislation to the Legislature by February 1, 1990.


Representative Ron Larson
Co-Chairman


Representative Lyman Hoffman
Co-Chairman

Amendment #1 *adopted*.

HCS CSSB 277 (Resources)

Page 1, line 12:

Delete "ALASKA" and insert "EXXON VALDEZ".

Page 1, line 13:

Delete "ALASKA" and insert "Exxon Valdez".

Amendment #2

adopted

HCS CSSB 277 (Res)

Page 2, line 11:

✓ Delete "December 1, 1989" and insert "January 8, 1990"

✓ Page 3, line 17:

Delete "January 30" and insert "February 15"

Letter of Intent:

Change date of "January 8, 1990" in letter to "February 1, 1990" for due date for legislative recommendations.

Original sponsors: Faiks, Halford,
Kelly, et al.

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 277 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a commission to investigate the
7 Exxon Valdez oil spill disaster and to recommend
8 changes needed to minimize the possibility and ef-
9 fects of similar oil spills; and providing for an
10 effective date."

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

12 * Section 1. ~~ALASKA OIL SPILL COMMISSION~~ ^{Exxon Valdez} (a) There is established in
13 the Department of Administration the ~~Alaska Oil Spill Commission~~ ^{Exxon Valdez} consisting
14 of seven distinguished members appointed by the governor.

15 (b) The members must include

16 (1) five state residents with broad experience or expertise in
17 one or more of the following areas: physical or biological science, oil
18 transportation, fisheries, economics, sociology, or law; these members may
19 not be federal or state employees or employees of a political subdivision
20 of the state or be employees or independent contractors of any corporation
21 directly involved in the Exxon Valdez oil spill disaster;

22 (2) two persons who are recognized nationally for their exper-
23 tise in science, technology, or management and are not employees of a
24 governmental entity.

25 (c) The commission members shall elect from among themselves a chair
26 and vice-chair.

27 (d) The commission may hire staff it considers necessary to perform
28 its duties, including legal counsel.

29 (e) Members of the commission serve without compensation, but are

1 entitled to ^{\$150}~~\$250~~ a day while on commission business plus per diem and
2 travel expenses authorized for boards and commissions under AS 39.20.180.

3 (f) The commission shall meet regularly to direct its investigation,
4 hold hearings, review progress, and draft final recommendations.

5 * Sec. 2. DUTIES OF THE COMMISSION. (a) The commission shall gather
6 information relating to

7 (1) the series of events that allowed the Exxon Valdez oil
8 discharge on March 24, 1989, to occur; and

9 (2) the ensuing efforts to contain and clean up the oil dis-
10 charged.

11 (b) By ~~December 1, 1989~~ ^{January 8, 1990}, the commission shall submit a report to the
12 governor and to the legislature containing its findings and recommendations
13 on

14 (1) the containment and cleanup actions that were taken or not
15 taken after the discharge, the extent to which current technology was
16 available and used, and ways to improve oil spill response technology and
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20 tion of crude and refined oil and to improve the statewide ability of
21 industry and governmental agencies to respond to oil discharges;

22 (3) the extent to which oil industry practices and governmental
23 practices or laws should be changed to minimize the potential for future
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5 the duties assigned to the commission.

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8 430(b) and (c) and court rule. The failure, refusal, or neglect to obey a
9 subpoena is punishable as contempt in the manner prescribed by law or court
10 rule. The superior court may compel obedience to the commission's subpoena
11 in the same manner as prescribed for obedience to a subpoena issued by the
12 court.

13 (d) State agencies shall, to the extent permitted by law, cooperate
14 with the commission and provide it with information it requests for carry-
15 ing out its duties.

16 (e) The commission is subject to AS 44.62.

17 * Sec. 4. This Act is repealed ~~January 30, 1990~~ **February 15, 1990**

18 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523




JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

May 5, 1989

MEMORANDUM

TO: Representative Lyman Hoffman, Co-Chairman
Representative Ron Larson, Co-Chairman
House Finance Committee

FROM: Senator Jan Faiks 

SUBJECT: Senate Bill 277 - Oil Spill Commission Amendments

Upon further review of the House Resources Committee Substitute for Senate Bill 277, as the bill's prime sponsor I ask the committee's consideration of two amendments:

Name of the Commission

The Senate version of the bill establishes the "Exxon Valdez Oil Spill Commission", while the House Resources version changes the name to the "Alaska Oil Spill Commission". I request the committee's consideration of reverting back to the commission's original name.

The role of this commission is very specific and its work is in response to this disaster. As a result, I believe it more appropriate for the commission to bear a name reflecting its task.

Report Due Date

The Senate version required the commission to submit a report with its findings and recommendations to the Governor and Legislature by March 1, 1990. The House Resources Committee moves this date to

OUT OF SESSION

3111 C STREET ANCHORAGE, ALASKA 99503 907-561-7610

December 1, 1989 and in a letter of intent, asks that recommendations for legislation be submitted by January 8th.

I am concerned the December 1st deadline will not provide the commission with sufficient time to carry out its responsibilities. Its task is extremely important and it is vital they have sufficient time to do a thorough and competent job in which we can all have confidence. I therefore ask the committee's consideration in amending the report's due date to January 8th; legislative recommendations to the Legislature by February 1st; and the commission will sunset on March 1st.

The resulting timeframe will be:

Report Due	January 8, 1990
Legislative Recommendations Due	February 1, 1990
Commission Sunsets	February 15, 1990

Attached are proposed amendments for your consideration which address these points.

Thank you.

CORRECTED 5/5/89 4:30pm

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HCS CS SB 277 (Res)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: 5

Revision Date: May 6, 1989
Title: An Act Establishing a Commission to Investigate the Exxon Valdez Oil Spill
Sponsor: Faiks, Halford, Kelly, et al.
Requestor: Senator Faiks

Agency Affected: Department of Administration
BRU: Alaska Oil Spill Commission
Components: Alaska Oil Spill Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	11.7	83.0				
TRAVEL	29.8	232.0				
CONTRACTUAL	108.4	838.6				
SUPPLIES	3.0	24.0				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	152.9	1177.6				

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

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	152.9	1177.6				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	3.0	3.0				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: Mike Maher *Kevin Brooks (for)*
Division: Administrative Services

Phone: 465-2277
Date: 5-5-89

Approved by Commissioner: John M. Andrews
Agency: Administration

Date: 5-5-89

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HCS CS SB 277 (Res) Fiscal Analysis

Due to the complexity of this proposed legislation, it is not possible to accurately assess the cost of the Exxon Valdez Oil Spill Commission.

The number of staff the commission would need to hire, including legal counsel, investigative staff, and administrative staff with legal expertise is unknown. The time frame specified for the commission to complete its investigations and gather information for its final recommendations would indicate a substantial staffing requirement. For the purposes of this analysis, the minimum staff requirement for 1 month in FY 89 and 7 months in FY 90 is assumed at one coordinator, salary range 22A, one accounting technician, salary range 12A, and one secretary, salary range 12A. Additional personal services expenses for legal/investigative staff is reflected in the contractual line.

The number of meetings that will be necessary in order to hear testimony, review documents and depositions, evaluate information and formulate final recommendations are impossible to predict. Costs in this fiscal note are based on 12 meeting days per month. In addition to travel and per diem as set out in AS 39.20.180, each non-governmental member of the commission will receive \$250.00 per day while on commission business.

The needed funds are indicated from the general fund. As the specified charges of the commission appear to be duplication of the work of existing entities, i.e., the Department of Law, the Department of Environmental Conservation, federal efforts under the Clean Water Act and the T.A.P.S. Act, N.O.A.A.'s long-term impact studies, etc., recovery of commission costs from Exxon is unlikely.

This funding will be restricted in the State Accounting System until such time as the coordinator and staff of the commission are able to provide the Commissioner of Administration a detailed budget.

Every attempt will be made to live within the amount appropriated, however it should be made clear from the onset that should this level of funding prove to be insufficient, the commission will request a supplemental.