

LEGISLATIVE FINANCE-HOUSE/SENATE FINANCE COMM. FILES 8879

SB 359 cont.; SB 364 664 255

Chinoweth

6-1727P

Adopted

JFC

4-23-90

Original sponsor(s): SEN. SZYMANSKI, Adams, Zharoff, Kerttula

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and villages in matters relating to environmental conservation; relating to state assistance to municipalities and villages for expenses for prevention and abatement of environmental degradation; and providing for an effective date."

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

* Section 1. AS 29.35.020(b) is amended to read:

(b) A municipality may adopt an ordinance to exercise a power authorized by this subsection [PROTECT ITS WATER SUPPLY AND WATERSHED,] and may enforce the ordinance outside its boundaries. Before a [THIS] power authorized by this subsection may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance. A municipality intending to exercise its authority under this subsection shall act by ordinance, and may adopt an ordinance under this subsection to

(1) protect its water supply and watershed; or

(2) contain, clean up, or prevent the release or threatened release of oil or a hazardous substance that may pose an imminent or substantial threat to persons, property, or natural resources within the municipality's boundaries; however, this paragraph does not authorize a municipality to enforce an ordinance outside its boundaries to regulate exploration, development, or production of oil, gas,

1 or minerals in a manner inconsistent with the state's management of
2 those resources when the state is the owner of the land, tideland, or
3 submerged land; the ordinance adopted must be consistent with a
4 regional master plan for the region in which the municipality is
5 located if a plan has been prepared by the Department of Environmental
6 Conservation under AS 46.04.210; in this paragraph, "natural re-
7 sources" has the meaning given in AS 46.03.826.

8 * Sec. 2. AS 29.35.200 is amended by adding a new subsection to read:

9 (d) A first class borough that exercises power necessary to
10 contain, clean up, or prevent a release or threatened release of oil
11 or a hazardous substance, and exercise a power granted to a municipal-
12 ity under AS 46.04, AS 46.08, or AS 46.09 shall exercise its authority
13 in a manner that is consistent with a regional master plan for the
14 region in which the borough is located if a plan has been prepared by
15 the Department of Environmental Conservation under AS 46.04.210.

16 * Sec. 3. AS 29.35.210(a) is amended by adding a new paragraph to read:

17 (13) contain, clean up, or prevent a release or threatened
18 release of oil or a hazardous substance, and exercise a power granted
19 to a municipality under AS 46.04, AS 46.08, or AS 46.09; the borough
20 shall exercise its authority under this paragraph in a manner that is
21 consistent with a regional master plan for the region in which the
22 borough is located if a plan has been prepared by the Department of
23 Environmental Conservation under AS 46.04.210.

24 * Sec. 4. AS 29.35.220 is amended by adding a new subsection to read:

25 (e) A third class borough may by ordinance exercise power neces-
26 sary to contain, clean up, or prevent a release or threatened release
27 of oil or a hazardous substance, and exercise a power granted to a
28 municipality under AS 46.04, AS 46.08, or AS 46.09, but the power
29 authorized by this subsection may be exercised only on a nonareawide

1 basis. The borough shall exercise its authority under this subsection
2 in a manner that is consistent with a regional master plan for the
3 region in which the borough is located if a plan has been prepared by
4 the Department of Environmental Conservation under AS 46.04.210.

5 * Sec. 5. AS 29.60 is amended by adding new sections to read:

6 ARTICLE 6. OIL AND HAZARDOUS SUBSTANCE MUNICIPAL

7 IMPACT ASSISTANCE.

8 Sec. 29.60.500. PURPOSE AND POLICY. (a) The legislature finds
9 and declares that the release of oil or hazardous substances into the
10 environment presents a real and substantial threat to the economy and
11 public welfare of the municipalities and villages that are affected by
12 the release.

13 (b) The legislature concludes that, in the event of a release or
14 threatened release of oil or a hazardous substance that constitutes a
15 disaster emergency, it is in the best interest of the state and its
16 citizens to provide access to money in an available fund for the
17 payment of the expenses incurred by municipalities and villages to
18 mitigate the additional costs of reasonable and appropriate functions
19 and services that arise out of the release of oil or hazardous sub-
20 stances.

21 (c) It is the intent of the legislature and declared to be the
22 public policy of the state that money will be available to defray the
23 additional costs of reasonable and appropriate functions and services
24 by municipalities and villages arising from a release of oil or a haz-
25 ardous substance that constitutes a disaster emergency.

26 Sec. 29.60.510. MUNICIPAL IMPACT GRANTS AUTHORIZED. (a) If a
27 release of oil or a hazardous substance has been proclaimed a disaster
28 emergency by the governor under AS 26.23.020, the commissioner may use
29 money from the oil and hazardous release response fund to make grants

to a municipality or village that is affected by the release or by the response to the release and that demonstrates extraordinary expenditures that are beyond the reasonable capability of the municipality or village to meet from the municipality's or village's current revenue sources.

(b) For each disaster emergency declared by the governor under AS 26.23.020, the commissioner may expend not more than \$10,000,000 of the unrestricted balance of the fund as grants authorized under this section.

Sec. 29.60.520. PURPOSES OF MUNICIPAL IMPACT GRANTS. A grant made under AS 29.60.510 may be made

(1) only for

(A) provision of subsistence resources on which the residents of the municipality or village rely for subsistence needs;

(B) the additional costs of a reasonable and appropriate function or service, including administrative expenses for the incremental costs of providing the function or service, limited to:

(i) public health and welfare functions and services, including hospital, clinic, and emergency medical services; alcohol, drug abuse, and mental health services; family support services; and the operation of waste disposal systems and water quality improvement systems;

(ii) public safety functions and services, including police protection, search and rescue, and fire protection;

(iii) public utility functions and services, including the operation of electric generating plants and

distribution systems, water supply systems, telephone systems, and fuel distribution systems; and

(iv) housing functions and services, limited to leasing or making other arrangements for temporary housing to be occupied by persons associated with containment or clean up of the release;

(C) costs associated with leasing transportation facilities for use in activities associated with the containment or clean up;

(D) costs of repair or replacement of equipment or a capital asset associated with a function or service set out in (B) of this paragraph the useful life of which has been substantially reduced by use associated with the containment or clean up; and

(2) to compensate the municipality or village for

(A) the reduction of revenue attributable to the discharge of the oil or hazardous substance; and

(B) the costs of projects or activities that are delayed or lost because of the efforts of the municipality or village associated with the containment or clean up.

Sec. 29.60.530. CRITERIA TO EVALUATE GRANT APPLICATIONS. (a)

In determining whether an expenditure by a municipality or village is eligible for a grant under AS 29.60.510, the department shall consider

(1) the degree to which the effect on the municipality or village is directly caused by the oil or hazardous substance discharge;

(2) the availability of money to the recipient from other sources that can meet the costs of providing the functions or services;

3 (3) the degree to which the proposed expenditure in the
4 grant application alleviates or addresses an effect reasonably attrib-
5 utable to the oil or hazardous substance release;

6 (4) the ability of the municipality or village to respond
7 to the oil or hazardous substance release and its effects from exist-
8 ing resources;

9 (5) the severity of the effect addressed in the grant
10 application; and

11 (6) whether the functions or services for which assistance
12 is sought are part of a coordinated program with other affected munic-
13 ipalities and villages.

14 (b) The department may reject an application for a grant under
15 AS 29.60.510 or approve an application for a grant in an amount that
16 is less than the amount requested by a municipality or village if the
17 department determines that payment of the amount requested is not
18 warranted under (a) of this section.

19 (c) The department shall adopt, by regulation, criteria by which
20 to rank all or a portion of applications for the purpose of establish-
21 ing the priority order of awarding grants if money requested by eligi-
22 ble municipalities and villages under this section exceeds the amount
23 available. The criteria shall be based on the elements set out in (a)
24 of this section. If the total amount of money requested by eligible
25 municipalities and villages under this section exceeds the amount
26 available, the department shall rank applications for the purpose of
27 establishing the priority order of awarding grants in accordance with
28 the regulations. This subsection does not prevent the department from
29 making a grant payment in an amount that is less than an amount re-
requested by a municipality or village if the department determines that
payment of the amount requested is not warranted under (a) of this

1 section.

2 Sec. 29.60.540. LIMITATIONS ON USES OF GRANTS BY MUNICIPALITIES.
3 A municipality may not use a grant made under AS 29.60.510 to reduce
4 current municipal tax rates or to retire its existing bonded indebted-
5 ness.

6 Sec. 29.60.550. RECORDS. The department shall maintain records
7 showing the income and expenses of grants made under AS 29.60.510, and
8 shall develop procedures governing the expenditure of, and accounting
9 for, money expended.

10 Sec. 29.60.560. REPORT TO THE LEGISLATURE. The commissioner
11 shall submit a report to the legislature not later than the 10th day
12 following the convening of each regular session of the legislature.
13 The report may include information considered significant by the
14 commissioner but must include

15 (1) the amount of money expended under AS 29.60.510 during
16 the preceding fiscal year; and

17 (2) a detailed summary of department activities in adminis-
18 tering the grant program during the preceding fiscal year.

19 Sec. 29.60.570. IMPACT ASSESSMENT. (a) For each disaster
20 emergency declared by the governor under AS 26.23.020 based on a
21 release of oil or a hazardous substance, the commissioner shall, after
22 consulting with and securing the written approval of the attorney
23 general, make an assessment of the social and economic effects of the
24 release of the oil or hazardous substance on the municipalities, the
25 villages, and the region in which the discharge occurs. The
26 commissioner may make the assessment by

27 (1) using staff of the department;

28 (2) contracting with a municipality or other entity for the
29 assessment; or

(3) authorizing a municipality or other entity to make the assessment and supporting that effort by a grant.

(b) Only one assessment may be completed under this section for each declaration of a disaster emergency.

(c) The commissioner may pay the costs of the assessment from money available in the fund.

Sec. 29.60.580. REGULATIONS. The commissioner may adopt regulations that are necessary to implement the purposes of AS 29.60.500 - 29.60.599.

Sec. 29.60.590. RECOVERY OF CERTAIN GRANT EXPENDITURES AUTHORIZED. The commissioner may recover from a municipality or village amounts paid as impact assistance under AS 29.60.500 - 29.60.599 if the commissioner determines that the municipality or village receiving the grant is responsible for the violation that caused the oil or hazardous substance release.

Sec. 29.60.599. DEFINITIONS. In AS 29.60.500 - 29.60.599

(1) "containment and cleanup" has the meaning given in AS 46.08.900;

(2) "disaster emergency" means a disaster declared by the governor under AS 26.23.020;

(3) "fund" means the oil and hazardous substance release response fund established by AS 46.08.010;

(4) "hazardous substance," "oil," and "release" have the meanings given in AS 46.08.900;

(5) "village" means a community with a residential population of 25 or more not incorporated as a municipality under state law in the unorganized borough or within a borough if the power, function, or service for which the grant application is submitted is not exercised or provided by the borough on an areawide or nonareawide basis

at the time the grant application is submitted.

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

(e) In addition to liability under (a) - (d) of this section, a person who violates or causes or permits to be violated a provision of AS 46.03.740 - 46.03.750 is liable to the state, in a civil action brought under AS 46.03.822, for the full amount of actual damages caused to the state by the violation, including

(1) direct and indirect costs associated with the abatement, containment, or removal of the pollutant;

(2) [,] restoration of the environment to its former state;

(3) amounts paid as grants under AS 29.60.510 - 29.60.599 and as emergency first response advances and reimbursements under AS 46.08.070(c); [,] and

(4) all incidental administrative costs.

* Sec. 7. AS 46.03.822(a) is amended to read:

(a) Notwithstanding any other provision or rule of law and subject only to the defenses set out in (b) of this section and the exception set out in (i) of this section, the following persons are strictly liable, jointly and severally, for damages to persons or property, whether public or private, including damage to the natural resources of the state or a municipality, or to the natural resources that are owned by a village, [AND] for the costs of response, containment, removal, or remedial action incurred by the state, [OR] a municipality, or a village, and for the additional costs of a function or service, including administrative expenses for the incremental costs of providing the function or service, that are incurred by the state, a municipality, or a village [,] resulting from an unpermitted release of a hazardous substance or, with respect to response costs, the substantial threat of an unpermitted release of a hazardous substance:

1 (1) the owner of, and the person having control over, the
2 hazardous substance at the time of the release or threatened release;
3 this paragraph does not apply to a consumer product in consumer use;

4 (2) the owner and the operator of a vessel or facility,
5 from which there is a release, or a threatened release that causes the
6 incurrence of response costs, of a hazardous substance;

7 (3) any person who at the time of disposal of any hazardous
8 substance owned or operated any facility or vessel at which the haz-
9 ardous substances were disposed of, from which there is a release, or
10 a threatened release that causes the incurrence of response costs, of
11 a hazardous substance;

12 (4) any person who by contract, agreement, or otherwise
13 arranged for disposal or treatment, or arranged with a transporter for
14 transport for disposal or treatment, of hazardous substances owned or
15 possessed by the person, other than domestic sewage, or by any other
16 party or entity, at any facility or vessel owned or operated by an-
17 other party or entity and containing hazardous substances, from which
18 there is a release, or a threatened release that causes the incurrence
19 of response costs, of a hazardous substance;

20 (5) any person who accepts or accepted any hazardous sub-
21 stances, other than refined oil, for transport to disposal or treat-
22 ment facilities, vessels or sites selected by the person, from which
23 there is a release, or a threatened release that causes the incurrence
24 of response costs, of a hazardous substance.

25 * Sec. 8. AS 46.03.822(h) is amended to read:

26 (h) The state, [OR] a municipality, or a village is not liable
27 under this section for costs or damages as a result of actions taken
28 in response to an emergency created by a release or threatened release
29 of a hazardous substance generated by or from a facility or vessel

owned by another person unless the actions taken by the state, the
[OR] municipality, or the village constitute gross negligence or
intentional misconduct.

* Sec. 9. AS 46.03.900 is amended by adding new paragraphs to read:

(35) "service" means a function performed or service pro-
vided by the state or by a municipality under a duty or power author-
ized by AS 29 or other provision of law authorizing a municipality to
perform functions or provide services or a comparable function per-
formed or service provided by a village; "service" includes functions
not previously performed and services not previously provided;

(36) "village" means a community with a residential popula-
tion of 25 or more not incorporated as a municipality under state law.

* Sec. 10. AS 46.04.020 is amended by adding a new subsection to read:

(f) In fulfilling its responsibilities under (e) of this sec-
tion, the department shall consult with the governing bodies of munic-
ipalities and villages.

* Sec. 11. AS 46.04.900(5) is amended to read:

(5) "containment and cleanup" includes all direct and
indirect efforts associated with the prevention, abatement, contain-
ment, or removal of a pollutant, and the restoration of the environ-
ment to its former state; when applied to expenses, the term includes
the additional costs of providing a reasonable and appropriate func-
tion or service incurred in response to the discharge of a pollutant,
including [, AND ALL INCIDENTAL] administrative expenses for the
incremental costs of providing the function or service;

* Sec. 12. AS 46.04.900 is amended by adding new paragraphs to read:

(18) "service" means a function performed or service pro-
vided by the state, including functions not previously performed and
services not previously provided by the state;

(19) "village" means a community with a residential population of 25 or more not incorporated as a municipality under state law.

* Sec. 13. AS 46.08.040 is amended to read:

Sec. 46.08.040. PURPOSES OF THE FUND. In addition to money in the fund that may be used by the commissioner of community and regional affairs to make grants under AS 29.60.510 and to pay for impact assessments under AS 29.60.570, the [THE] commissioner of environmental conservation may use money from the fund to

(1) investigate and evaluate the release or threatened release of oil or a hazardous substance, and contain, clean up, and take other necessary action, such as monitoring and assessing, to address a release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or welfare, or to the environment;

(2) pay all costs incurred to establish and maintain the oil and hazardous substance response office and for the expenses of the oil and hazardous substance response corps and the oil and hazardous substance response depots established by that office;

(3) provide matching funds for participation in federal oil discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); [AND]

(4) recover the costs to the state, [OR TO] a municipality, or a village of a containment and cleanup resulting from the release or the threatened release of oil or a hazardous substance; [.]

(5) prepare, review, and revise

(A) the state's master oil and hazardous substance discharge and prevention contingency plan required by AS 46.04.-200; and

(B) a regional master oil and hazardous substance discharge and prevention contingency plan required by AS 46.04.-210; and

(6) restore the environment by addressing the effects of an oil or hazardous substance release.

* Sec. 14. AS 46.08.070(c) is amended to read:

(c) The department shall [MAY] reimburse a municipality or village for actual expenses [, OTHER THAN NORMAL OPERATING EXPENSES,] incurred in the abatement of a release or threatened release and may advance money to a municipality or village to carry out an emergency first response to a release or threatened release of oil or a hazardous substance if

(1) the municipality or village has entered into an agreement with the commissioner under AS 46.04.020(e) or AS 46.09.020(d); and

(2) the commissioner determines that

(A) the expenses to be reimbursed were for a necessary emergency first response to a release or threatened release that, at the time of the release or threatened release, posed an imminent and substantial threat to the public health or welfare, or to the environment;

(B) the municipality or village has demonstrated a need for financial assistance, and the money to be advanced is necessary to enable the municipality or village to carry out an emergency first response to a release or threatened release that, at the time of the release or threatened release, poses an imminent and substantial threat to the public health or welfare, or to the environment; and

(C) containment and cleanup efforts paid for in whole

or in part by a reimbursement or an advance made under this section were consistent with the regional master plan for the region in which the municipality or village is located if a plan has been prepared by the department under AS 46.04.210.

* Sec. 15. AS 46.08.070 is amended by adding a new subsection to read:

(d) Notwithstanding (c) of this section, the commissioner may recover from a municipality or village amounts advanced or reimbursed under this section if the commissioner determines that the municipality or village is responsible for the violation that caused the oil or hazardous substance release requiring containment and cleanup assistance.

* Sec. 16. AS 46.08.900(3) is amended to read:

(3) "containment and cleanup" includes the direct and indirect efforts associated with the prevention, abatement, containment, or removal of oil or a hazardous substance, and the restoration of the environment; when applied to expenses, the term includes the additional costs of providing a reasonable and appropriate function or service incurred in response to the discharge of the oil or hazardous substance, including [, AND INCIDENTAL] administrative expenses for the incremental costs of providing the function or service;

* Sec. 17. AS 46.08.900 is amended by adding new paragraphs to read:

(11) "service" means a function performed or service provided by the state, a municipality, or a village, including functions not previously performed and services not previously provided;

(12) "village" means a community with a residential population of 25 or more not incorporated as a municipality under state law in the unorganized borough or within a borough if the relevant power, function, or service is not exercised or provided by the borough on an areawide or nonareawide basis at the time the grant application or

request for reimbursement is submitted.

* Sec. 18. AS 46.09.060(b) is amended to read:

(b) Authority to contain, clean up, or prevent a release or threatened release of oil or of a hazardous substance, and to exercise other powers necessary to implement this chapter, AS 46.04, and AS 46.08, are granted to municipalities that do not otherwise have that authority. Except as provided in (a) of this section, a municipality may exercise its police power within the area of the municipality.

* Sec. 19. AS 46.09.900(2) is amended to read:

(2) "containment and cleanup" includes the direct and indirect efforts associated with the prevention, abatement, containment, or removal of a hazardous substance, and the restoration of the environment; when applied to expenses, the term includes the additional costs of providing a reasonable and appropriate function or service incurred in response to the discharge of the hazardous substance, including [, AND INCIDENTAL] administrative expenses for the incremental costs of providing the function or service;

* Sec. 20. AS 46.09.900 is amended by adding a new paragraph to read:

(8) "service" means a function performed or service provided by the state, including functions not previously performed and services not previously provided by the state.

* Sec. 21. Sections 7 and 9 of this Act are retroactive to March 24, 1989.

* Sec. 22. This Act takes effect immediately under AS 01.10.070(c).



Alaska State Legislature

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SPONSOR STATEMENT

CSSSSB 359 (Finance), Municipal Impact Legislation

This legislation was drafted in response to the concerns expressed by the "oiled mayors" of the communities affected by the March 24 Exxon Valdez oil spill. Funds were provided by the State Department of Environmental Conservation to the communities for their emergency first response expenses, such as the purchase of boom material, etc.

However, these communities also experienced far-ranging social and economic impacts as a result of the spill; there was an increased need for health services, an increase in public safety services, public utility services, housing services and an increased usage of public facilities, such as harbors. Communities that rely on subsistence foods found themselves unable to harvest the fish and game because of the danger of toxicity.

These increased services placed an incredible burden on the communities, and there was no state fund or mechanism in place to assist the communities with the costs of these additional and incremental services which had been incurred. Additionally, there is also going to be a loss of revenue, such as that generated by the raw fish tax, inasmuch as so much fishing time was lost. True, Exxon did reimburse the communities for some of their costs but not all of the costs were covered and the need still exists.

Of major consideration is the question, "What if it had not been Exxon?" What if the spill had been caused by a company with far fewer resources? What if there had been no claims process in place?

The Oil Spill Commission recognized this "gap" and addressed the need for local service impact funding in Recommendations 53 and 54 of the Commission Report; specifically, the Commission recommended that a separate fund be created to help local governments with the unreimbursable costs caused by an oil or hazardous substance release.

CSSSSB 359 (Finance) addresses the above concerns and needs by:

- 1) broadening the powers of municipalities and villages under AS 29 and under AS 46 to enable them to more effectively deal with the release or threatened release of oil or a hazardous substance;
- 2) Establishes a system of municipal grants under the Department

of Community and Regional Affairs which are to be triggered by a declaration of a disaster emergency by the Governor. The legislation establishes criteria for evaluating whether a grant is to be made to a municipality or village. These grants are not for emergency first response but rather for the additional and incremental costs of functions and services which arise out of the release of oil or a hazardous substance;

From the \$50 million fund which was established last year from the \$.05 per barrel surcharge (part of the 470 Fund), up to \$10 million would be available for these municipal impact grants.

3) Under Title 46, the legislation authorizes the Department of Environmental Conservation to "advance" money to a municipality or village for emergency first response. This is in addition to the Department's existing authorization to reimburse a municipality for these same expenditures.

The EPA has no significant presence in Alaska capable of responding to a major spill on the uplands, notwithstanding that the response planning assumes the EPA will be in charge. In Alaska, this responsibility has been transferred by contract to the Bureau of Land Management.

A declaration of emergency should trigger the ability of the governor or other appropriate officials to release funds collected from state oil revenues to cover all impact costs, including economic maintenance programs and local impacts which become an extra burden on local services, whether provided by state or local government.

Indirect government service costs can be as important as direct spill expenditures in meeting a spill emergency. Local governments in particular were hard hit by lack of funding for increased burdens which hit everything from phone service to mental health during the crisis following the *Exxon Valdez* spill.

Exxon released some funds to communities for service needs, which it was not obliged to do. But the availability of such funds should not depend on the policy of the spiller.

As a prevention incentive, existing regulations should be broadened to insure that in future spills the state can recapture all expenses directly or indirectly incurred by the state, its subdivisions and private parties to whom the state owes reimbursement or who have benefited under the state's oil spill disaster economic-maintenance program.

Disagreement on reimbursable costs that resulted in an economic loss to the state resulted in the cancellation of a contract by which, on the pipeline route, DEC exercised EPA authority over spills, all to the detriment of environmental protection.

Reimbursability became a criteria for state response in the *Exxon Valdez* spill, to the detriment of the environment and people injured by the spill.

A fund should be created in state government to help local governments cover public spill costs caused by oil and hazardous substance releases that cannot be charged back to responsible parties.

Recommendation 53
Local service impact funding

Recommendation 54
Full-cost reimbursement



Alaska State Legislature

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SPONSOR STATEMENT CSSSSB 359 (Oil and Gas)

This legislation was drafted in response to the concerns expressed by the "oiled mayors" of the communities affected by the March 24 Exxon Valdez oil spill. These communities experienced far-ranging social and economic impacts as a result of the spill. While Exxon did provide the communities with some assistance, it was not sufficient; in addition, there was no state funding mechanism earmarked specifically for the costs of additional and incremental services which the local communities incurred.

The Oil Spill Commission recognized this "gap" and addressed the need for local service impact funding in Recommendation 53 and 54 of the Commission Report. These recommendations are included in the committee packet.

CSSSSB 359 (Oil and Gas) addresses the above concerns and needs by:

- 1) Broadening the powers of municipalities and villages under AS 29 and under AS 46 to enable them to more effectively deal with the release or threatened release of oil or a hazardous substance;
- 2) Establishes a system of municipal grants under the Department of Community and Regional Affairs which are to be triggered by a declaration of a disaster emergency by the Governor. The legislation establishes criteria for evaluating whether a grant is to be made to a municipality or village. THESE GRANTS ARE NOT FOR EMERGENCY FIRST RESPONSE (which is covered under Title 46) BUT RATHER FOR THE ADDITIONAL AND INCREMENTAL COSTS OF FUNCTIONS AND SERVICES WHICH ARISE OUT OF THE RELEASE OF OIL OR A HAZARDOUS SUBSTANCE;
- 3) Up to \$10 million of the oil and hazardous release response fund (the "470" Fund) may be expended by the Department of Community and Regional Affairs for these municipal impact grants.
- 4) Under Title 46, the legislation authorizes the Department of Environmental Conservation to "advance" money to a municipality or village for emergency first response. This is in addition to the Department's existing authorization to reimburse a municipality for these same expenditures.

STATE OF ALASKA
THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 8, 1990

SUBJECT: CSSB 359 (Oil and Gas) -- sectional analysis

TO: Senator Mike Szymanski
ATTN: Paula Terrel

FROM: Jack Chenoweth
Legislative Counsel 

The following summarizes the provisions of the bill adopted by and referred from the Special Oil & Gas Committee yesterday. The explanation discusses sections as they relate to one another, not in bill order.

The committee's deliberations culminated with decisions to (1) eliminate separate funds as sources of assistance to municipalities, rolling together all assistance from the existing oil and hazardous substance release response fund (AS 46.08.040) without amending the trigger mechanisms in the existing surcharge; (2) condition payments from the impact assistance fund to declared disaster emergencies; (3) substitute cash advances to municipalities and villages to support emergency first response initiatives, an approach seen as less cumbersome than the more formal grant submission and approval process originally contemplated; (4) tighten the relationship between cash available and performance under regional master plans prepared by the Department of Environmental Conservation; and (5) make a series of related changes.

STATE FINANCIAL ASSISTANCE:

Bill section 5 establishes an oil and hazardous substance municipal impact assistance program in a manner that differs from the form appearing in earlier versions of the bill. While the statement of policy and purpose [AS 29.60.500] remains substantially as first drafted, and the version retains the general provision that assistance is to be provided for municipalities and villages affected by a release that "demonstrate [to the Department of Community and

Regional Affairs] extraordinary expenditures that are beyond the reasonable capability of the municipality or village to meet from . . . current revenue sources," provision of impact assistance grants [AS 29.60.510] is more narrowly crafted than in earlier versions: impact assistance is limited to not more than \$10 million of the unrestricted balance of the oil and hazardous substance release response fund, and is available only when the governor has first declared a disaster emergency under AS 26.23. Impact assistance is available only for the functions, services, and purposes enumerated in AS 29.60.520.

Proposed AS 29.60.530 sets out criteria by which the department is to evaluate requests for assistance; the draft makes clear that the department need not accept a request as submitted, but may reduce or eliminate elements of the application. The section also directs the department to adopt regulations by which to rank applications when amounts of impact assistance requested exceed amounts available to the department from the fund.

"Boilerplate" provisions appearing as AS 29.60.540 ("limitations on grant uses"), 29.60.550 ("records"), 29.60.560 (annual report), and 29.60.580 (adoption of implementing regulations) are carried forward from earlier versions of the measure. AS 29.60.570 separately requires the commissioner of community and regional affairs to complete an impact assessment whenever the governor issues a disaster emergency declaration based on a discharge of oil or a hazardous substance.

The Senate Oil and Gas Committee was concerned that a municipality or village not benefit from an impact assistance grant if the discharge is eventually shown to be the recipient's responsibility. Hence, proposed AS 29.60.590 authorizes a recovery of grant money paid under AS 29.60.500 - 29.60.599 if the commissioner determines that the municipality or village receiving the grant is responsible for the underlying spill.

Finally, AS 29.60.599 sets out definitions of terms used in the establishment of this grant process.

*

The oil and hazardous substance release response mechanism provides, as an alternative source of assistance--on an "emergency first response basis"--money payable either as

Senator Mike Szymanski
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reimbursement or as a cash advance to municipalities and villages under AS 46.08.070(c), amended by bill section 14. The amendments made in the bill section also require that, to trigger payment of a reimbursement or an advance, there be in place an agreement between the commissioner and the recipient that indicates how an emergency first response is to be carried out and compel the recipient to perform in accordance with pertinent provisions of a regional master plan.

A related provision, added by bill section 15, permits the commissioner to recover amounts paid as advancements or reimbursements if the commissioner subsequently determines that the recipient municipality or village is responsible for the underlying spill.

MUNICIPAL EXTRA-TERRITORIAL AUTHORITY:

In conjunction with containment and cleanup, as with the sponsor substitute, bill sections 1 - 4 extend the authority of municipalities to exercise containment and clean-up authority, but require that exercise of that authority must be consistent with directives in regional master plans if those plans have been prepared and are in place.

OTHER CHANGES:

Amendments to AS 46.03 are set out in bill sections 6 - 9.

Earlier, I had noted the addition by the Special Oil and Gas Committee of provisions allowing recovery of amounts paid out to municipalities and villages that are later determined to have been responsible for the underlying spill. In conjunction with those changes, and because of questions raised regarding the specific authority of the state to recover amounts expended in this area, the amendment made by bill section 6 is intended to make clear that a person who violates AS 46.03 in causing a spill is liable to the state for those amounts expended.

Bill section 7 amends the strict liability section, AS 46.-03.822, to clarify the expenditures and the parties that are intended to be covered by this section.

Bill section 8 adds "a village" to the list of entities who, under AS 46.03.822(h), are not generally liable for containment and clean-up actions taken unless done as a result of gross negligence or intentional misconduct.

Senator Mike Szymanski
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Bill section 9 provides definitions for the terms "service" and "village" that are introduced into amendments made to AS 46.03 by bill sections 6 - 8.

*

Amendments to AS 46.04 are made in bill sections 10 - 12.

Bill section 10 directs that, in fulfilling responsibilities under AS 46.04.020(e), relating to preparation of memoranda of understanding and cooperative agreements, and obligations incurred under those documents, the Department of Environmental Conservation shall first "consult with the governing bodies of municipalities and villages."

Bill section 11 amends the term "containment and cleanup" applicable to the chapter to clarify the kinds of qualifying expenses relating to containment and cleanup within the phrase.

Bill section 12 provides definitions for the terms "service" and "village" that are introduced in amendments made to AS 46.04 by bill sections 10 and 11.

*

Amendments to AS 46.08 are made in bill sections 13 - 17.

The additional language inserted in AS 46.08.040 by bill section 13 authorizes the commissioner of community and regional affairs to draw from the oil and hazardous release response fund to make grants under the impact assistance program (AS 29.60.500 - 29.60.599) and for completing impact assessments required by AS 29.60.570. The amend to paragraph (4) clarifies that state impact assistance payable to villages is allowable as recoverable cost for which the balance of the fund may be used by the commissioner of environmental conservation.

Bill sections 14 and 15 have been previously discussed.

The changes made by bill sections 16 and 17 parallel those made to AS 46.04 by bill sections 11 and 12 and are included for substantially similar reasons.

*

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Amendments to AS 46.09 are made in bill sections 18 - 20.

The addition of "AS 46.04" as a reference, the amendment made by bill section 18, extends the authority of a municipality to act under all pertinent environmental-related chapters within AS 46 that are exercisable within the municipality's boundaries.

The changes made by bill sections 19 and 20 parallel those made to AS 46.04 by bill sections 11 and 12 and are included for substantially similar reasons.

*

The measure is given an immediate effective date by section 21, its last section.

JC:pl
WKP3/029

Alaska State Legislature

1111 C Street, Suite 150
Anchorage, Alaska 99503
Phone: 238



During Session:
P.O. Box V
Juneau, Alaska 99811
907/465-4993

Senator Drue Pearce
District G

March 7, 1990

Senator Bettye Fahrenkamp, Chair
Senate Resources Committee
Capitol, Room 125
Juneau, Alaska

Dear Senator Fahrenkamp:

The Senate Special Committee on Oil and Gas has just passed out CS for Sponsor Substitute for Senate Bill 359. This legislation proposes a reasonable system which will allow municipalities and village councils to request and obtain state financial assistance from the "470 Fund" to mitigate social and economic impacts resulting from releases of oil or hazardous substances. The bill also would modify existing law to clarify the scope of liability under "strict liability" provisions contained in Title 46 and makes other changes designed to enhance a community's ability to deal with spills. While the Committee has spent many hours on this legislation and is generally satisfied with the final product, there are several issues I'd like to bring to your attention which may require further consideration:

1. **TRIGGER MECHANISM:** At the suggestion of the prime sponsor, Senator Szymanski, the Committee reviewed the question of whether to set up a mechanism to "trigger" the availability of state assistance. After considering several options, we decided a trigger mechanism was a good idea to promote stability but that we did not have to re-invent the wheel. Instead, the bill requires a declaration of a disaster emergency by the Governor under existing law before grant monies for municipal impact assistance under Section 5 of the bill may be expended. This often utilized system appears to work and should give the Administration the ability to respond quickly and appropriately in a variety of situations (see also Recommendation #53 from the Executive Summary of the Report of the Alaska Oil Spill Commission attached). Nevertheless, you should know that many of the

communities interested in this legislation do not agree with our decision and are concerned that this approach may be unnecessarily burdensome. Please note that we did not adopt a similar trigger system for emergency first response assistance.

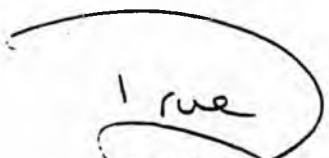
2. RETROACTIVITY. We were asked to make retroactive a change to the "strict liability" provisions of existing law which clarifies that "spillers" are liable for certain additional service costs incurred by the state, municipalities and village councils. The Committee considered and unanimously rejected this request. The Committee also intended to preclude use of state impact assistance for prior incidents.

3. LIMITS. The Committee has imposed a limit of \$10 million per declaration of disaster emergency for municipal impact assistance grants available through CRA under Section 5 of the bill but has not set a limit on the amount of "emergency first response" funds (cash advances and reimbursements) available through DEC under later sections of the bill. Due to time constraints, the latter provision was not fully evaluated by the Committee and probably requires further discussion along with the question of whether the \$10 million municipal impact assistance allocation should be modified to deal with situations where there isn't enough "470 fund" money to go around.

4. OTHER. There are at least two technical issues that were not settled for one reason or another: a) the question of whether to use the term "village" or "village council" is unresolved because we have received conflicting advice from the Administration; and b) other provisions in the bill may have to be modified to accommodate structural changes concerning "lead agency" and related matters that will be handled in separate legislation. Due to the complexity of the bill and the large number of amendments to the Sponsor Substitute, there also may be additional minor technical changes warranted although we tried our best to iron these out.

Thanks, Bettye. If you have any questions please let me know.

Sincerely,



Drue Pearce

DP:DR

SPILL

THE EFFECTS OF OIL
CONTAMINATION AND
RECOMMENDATIONS FOR SAFE WORKING PRACTICES



File of

The EPA has no significant presence in Alaska capable of responding to a major spill on the uplands, notwithstanding that the response planning assumes the EPA will be in charge. In Alaska, this responsibility has been transferred by contract to the Bureau of Land Management.

A declaration of emergency should trigger the ability of the governor or other appropriate officials to release funds collected from state oil revenues to cover all impact costs, including economic maintenance programs and local impacts which become an extra burden on local services, whether provided by state or local government.

Indirect government service costs can be as important as direct spill expenditures in meeting a spill emergency. Local governments in particular were hard hit by lack of funding for increased burdens which hit everything from phone service to mental health during the crisis following the *Exxon Valdez* spill.

Exxon released some funds to communities for service needs, which it was not obliged to do. But the availability of such funds should not depend on the policy of the spiller.

As a prevention incentive, existing regulations should be broadened to insure that in future spills the state can recapture all expenses directly or indirectly incurred by the state, its subdivisions and private parties to whom the state owes reimbursement or who have benefited under the state's oil spill disaster economic-maintenance program.

Disagreement on reimbursable costs that resulted in an economic loss to the state resulted in the cancellation of a contract by which, on the pipeline route, DEC exercised EPA authority over spills, all to the detriment of environmental protection.

Reimbursability became a criteria for state response in the *Exxon Valdez* spill, to the detriment of the environment and people injured by the spill.

A fund should be created in state government to help local governments cover public spill costs caused by oil and hazardous substance releases that cannot be charged back to responsible parties.

Recommendation 53
Local service impact funding

Recommendation 54
Full-cost reimbursement

EM
Senator Bettye M. Fahrenkamp

FROM: Matthew D. Jamin, Attorney to Oiled Mayors

DATE: March 8, 1990

RE: Requested Modifications to § 5 of CSSSSB 359

The Oiled Mayors' request that your committee consider an amendment to CSSSSB 359 to make its section 5, which modifies AS 46.03.822, retroactive to the date of the Exxon Valdez Oil Spill, March 24, 1989, and to remove the language "necessary and appropriate" from the section.

The request for retroactivity is completely consistent with what was done last year in HB 68, when the legislature made some important and retroactive modifications to AS 46.03.822. Among the changes made last year was a clarification that the damages which are recoverable under the statute include:

"damage to the natural resources of the state or a municipality, and for the costs of response, containment, removal, or remedial action incurred by the state or municipality, resulting from an unpermitted release of a hazardous substance or, with respect to response costs ..."

Section 5 of CSSSSB 359 seeks further clarification of the same statute by clarifying that damages also include the extra infrastructure costs incurred by the state, municipalities, and villages resulting from a spill. Just as the legislature did in making the amendment to AS 46.03.822 retroactive last year, it should do so again this year.

Questions have been raised about whether the enactment of such legislation retroactively might contravene any constitutional provisions. The answer is no. Concisely, the Ex Post Facto clause does not apply since changes to criminal laws are not envisioned. The Due Process Clause is not contravened because there is a rational legislative purpose -- clarifying what damages are included -- in the law.

We are prepared to provide you with extensive citation of case authority on these issues should you wish it. I know that our position is supported by the Department of Law. Please let me know if you need additional information.

On our second issue, we feel that the addition of the phrase "necessary and appropriate" which was made by the Oil and Gas Committee Substitute is unnecessary. We seek a statute that clarifies the statute, not one that creates additional language about which lawyers may bicker in courts. The intent is to clarify that increased infrastructure costs are covered; it should be left to the courts to determine if they result from a spill.

We look forward to working closely with you over the next few weeks. Thank you.

TESTIMONY OF OILED MAYORS BEFORE THE SENATE OIL AND GAS COMMITTEE
ON SSSB 359.

FEBRUARY 1, 1990

MAYOR ROBERT BRODIE: GOOD AFTERNOON SENATOR PEARCE AND MEMBERS OF THE COMMITTEE.

THANK YOU FOR THE OPPORTUNITY TO BE HERE TODAY TO SPEAK WITH YOU ABOUT OUR LEGISLATIVE CONCERNS. I AM THE MAYOR OF THE CITY OF KODIAK. WITH ME TODAY ARE SEVERAL MEMBERS OF THE ALASKA CONFERENCE OF MAYORS, AND ITS OILED MAYORS SUBCOMMITTEE. LET ME FIRST INTRODUCE MAYOR VAN BROCKLIN FROM CORDOVA IN PRINCE WILLIAM SOUND, AND MAYOR DON GILLMAN, FROM KENAI PENINSULA BOROUGH. WE ALSO HAVE AVAILABLE MEAD TREADWELL WHO IS OIL SPILL COORDINATOR FOR THE CITY OF CORDOVA, AND MATT JAMIN, AN ATTORNEY WORKING WITH THE OILED MAYORS TO ANSWER TECHNICAL QUESTIONS YOU MAY HAVE ABOUT SB 359, AND OUR POSITION ON IT.

TO UNDERSTAND OUR POSITION, IT IS NECESSARY TO GIVE YOU A QUICK SYNOPSIS OF OUR PROBLEMS. THE OILED MAYORS HAVE BEEN MEETING SINCE ABOUT ONE MONTH AFTER THE EXXON VALDEZ OIL SPILL LAST MARCH. THE PROBLEMS WE HAVE FACED HAVE BEEN COMMON; SO TOO HAVE BEEN OUR FRUSTRATIONS. IF MY TESTIMONY OCCASIONALLY SEEMS HARSH, I DO NOT DO SO INTENTIONALLY. WE ARE FRUSTRATED; OUR CITIZENS ARE FRUSTRATED.

AS TO EXXON, WE WERE FIRST PRESENTED WITH A CORPORATE ACKNOWLEDGMENT OF ITS RESPONSIBILITY FOR THE CLEANUP. WE WERE PERHAPS TOO QUICK TO TRUST THAT PROMISE, FOR TOO SOON IT WAS BROKEN. WE LEARNED ALMOST IMMEDIATELY THAT EXXON WAS MORE INTERESTED IN THROWING MONEY AT THE SPILL FOR THE BENEFICIAL

EFFECTS OF PUBLICITY THAN IT WAS TO REALLY CLEAN UP THE ENVIRONMENT AND DEAL WITH THE ECONOMIC, SOCIAL AND PSYCHOLOGICAL EFFECTS OF THE SPILL WE EXPERIENCED.

WE HAD FRUSTRATIONS AS WELL WITH THE STATE. THE LEGISLATURE AUTHORIZED \$35,700,000 TO DEAL WITH THE SPILL, BUT NONE WAS EARMARKED FOR MUNICIPALITIES. WE HAVE TRIED TO GET MONEY RELEASED THROUGH THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS AND THROUGH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, BUT IT HAS BEEN A FIGHT AT EVERY JUNCTURE. WE DO NOT SAY THERE HAS BEEN BAD FAITH FROM THE STATE, BUT WE NEED A REGULATORY STRUCTURE IN PLACE TO DEAL WITH DISTRIBUTION OF FUNDS TO US IN A RESPONSIBLE AND RESPONSIVE MANNER.

THE COSTS WE HAVE SUSTAINED, AND THE EFFECTS ON OUR MUNICIPALITIES ARE REAL. FOR EXAMPLE, CORDOVA SPENT \$200,000 ON BOOM WITHOUT ANY IDEA WHERE THE MONEY WOULD COME TO PAY FOR IT. WE IN KODIAK EXPERIENCED A 600 % INCREASE IN MENTAL HEALTH SERVICE DEMAND. THESE ARE JUST REPRESENTATIVE. WE HAD SHORTAGES IN HOUSING, INADEQUATE DAY CARE, AND A FULL RANGE OF NEW INFRASTRUCTURE SERVICES WE HAD TO PROVIDE. PEOPLE AND VILLAGES WHOSE LIFE DEPENDS ON SUBSISTENCE AND ITS RELATED LIFESTYLE SAW WHAT CHIEF MEGANICK HAS CALLED THE DEATH OF THE WATER.

ALMOST ALL OF US EXPERIENCED DECREASES IN OUR REVENUES. BY WAY OF EXAMPLE, OUR COMMUNITIES DEPEND ON RAW FISH TAX FOR FROM 25% TO 90 % OF THEIR REVENUES. CLOSED AND TRUNCATED SEASONS HAS MEANT WE CANNOT EXPECT THOSE REVENUES TO BE DISTRIBUTED THIS YEAR BASED ON LAST YEAR'S FISH REVENUES.

THE BUSINESSES OF OUR CITIZENS -- THE BASIS FOR OUR MUNICIPAL

ECONOMIES -- WERE OFTEN DEVASTATED. FISHERMEN LOST ENTIRE SEASONS, BUSINESSES LOST NORMAL REVENUES, PROCESSORS HAD NO FISH TO PROCESS. THE FALLOUT THROUGHOUT OUR COMMUNITIES WAS EXTREME. YOU MAY HEAR THAT THERE WERE "SPILLIONAIRES" WHO MADE THE BIG VECO MONEY AND THE LIKE, AND THERE WERE SOME, BUT EVEN THAT APPARENT BENEFIT WAS OFTEN NEGATIVE: IT MEANT SIGNIFICANT DISPLACEMENTS WITHIN OUR ECONOMIES. WE DO NOT YET KNOW HOW THE REST OF THE WORLD NOW PERCEIVES THE QUALITY OF ALASKA FISH PRODUCTS ON WHICH WE BASE OUR LIVELIHOODS. WE DO KNOW ALREADY THAT THE FISHING WE WERE ABLE TO DO LAST YEAR -- BECAUSE IT WAS OFTEN CLOSER TO THE STREAMS WHERE THEY SPAWN -- LED TO LOWER QUALITY FISH, AND THAT MEANS LOWER PRICES. THOSE LOWER PRICES AFFECT OUR ECONOMIES AS EVERY LEVEL.

EXXON TOLD US THEY HAD NO RESPONSIBILITY FOR THOSE EFFECTS OF THE SPILL, AND REFUSED TO HONOR THEIR COMMITMENT TO "MAKE US WHOLE." THOUGH WE ARE UNABLE EVEN NOW TO QUANTIFY THE LOSSES WE HAVE SUSTAINED BECAUSE THE FALLOUT IS STILL OCCURRING, WE CAN INFORM YOU THAT WE EXPECT LONG RANGE EFFECTS ON OUR INFRASTRUCTURES AS THEY ATTEMPT TO DEAL WITH THE EFFECTS OF THE SPILL, AND THE EFFECTS OF THE CLEANUP.

UNCERTAINTY WAS AND HAS BEEN THE NORM; TURMOIL WAS AND HAS BEEN THE NORM. OUR PEOPLE ASK: "WHERE IS MY NEXT DOLLAR COMING FROM? CAN I MAKE MY BOAT PAYMENT? WILL I BE ABLE TO PAY THE LIGHT BILL? WILL THE FISHERY BE CLOSED FOR ONE YEAR OR FOR FIVE YEARS?" ANSWERS WERE NOT CLEAR, AND ARE NOT CLEAR TO THIS DAY.

SO WE COME TO YOU FOR HELP. BEFORE YOU TODAY IS SENATE BILL 359 WHICH IS ONE STEP TOWARD THE GOAL OF RECOGNIZING THE EXTRA -- AND UNFUNDED -- COSTS THAT WE HAVE INCURRED AS CITIES AND TOWNS.

LET'S LOOK AT HOW IT SOLVES SOME OF THE PROBLEMS WE HAVE EXPERIENCED.

FIRST, THE BILL WOULD PUT INTO PLACE A SYSTEM WHEREBY A MUNICIPALITY IN AN EMERGENCY WOULD HAVE THE FUNDS AVAILABLE TO MEET THE CHALLENGES WE HAVE EXPERIENCED. IT CREATES A FUND OF \$25,000,000 FROM THE NICKEL A BARREL SURCHARGE TO DEAL WITH THE SORT OF MUNICIPAL IMPACTS WE HAVE SUSTAINED, AND I HAVE DISCUSSED.

SECOND, IT CLARIFIES THAT ALL KINDS OF LOCAL GOVERNMENTS HAVE THE FULL RANGE OF POWERS NEEDED TO ADDRESS A DISCHARGE OF HAZARDOUS SUBSTANCE SUCH AS THAT WE HAVE ENCOUNTERED, AND THAT THEY MAY DO IT BOTH WITHIN AND OUTSIDE OF THEIR BOUNDARIES.

THIRD, IT CLARIFIES THE STRICT LIABILITY SECTION OF TITLE 46 TO MAKE IT CLEAR THAT "ALL ECONOMIC DAMAGE" INCLUDES THE FULL RANGE OF COSTS WE HAVE SUSTAINED.

FOURTH, IT PROVIDES A STRUCTURE FOR QUICK ACCESS BY COMMUNITIES TO THE STATE FUND CREATED LAST YEAR FOR "FIRST RESPONSE" TO OIL AND OTHER HAZARDOUS SUBSTANCE SPILLS.

WE WANT YOU TO KNOW THAT WE HAVE ATTEMPTED TO WORK CLOSELY WITH OTHER GROUPS, NOTABLY THE GOVERNOR'S OIL SPILL COMMISSION AND THE ALASKA CONFERENCE OF MAYORS WHO SHARE OUR CONCERNS THROUGHOUT THE STATE ON THESE PROBLEMS.

WE'D LIKE TO QUOTE FROM THE SUMMARY OF THE RECOMMENDATIONS FROM THE OIL SPILL COMMISSION LAST MONTH. RECOMMENDATION 53, RELATING TO LOCAL SERVICE IMPACT FUNDING PROVIDES AS FOLLOWS:

"A DECLARATION OF EMERGENCY SHOULD TRIGGER THE ABILITY OF THE GOVERNOR OR OTHER APPROPRIATE OFFICIALS TO RELEASE FUNDS COLLECTED FROM STATE OIL REVENUES TO COVER ALL IMPACT COSTS,

INCLUDING ECONOMIC MAINTENANCE PROGRAMS AND LOCAL IMPACTS WHICH BECOME AN EXTRA BURDEN ON LOCAL SERVICES, WHETHER PROVIDED BY STATE OR LOCAL GOVERNMENT."

THE COMMISSION WENT ON TO EXPLAIN THE REASONS FOR ITS RECOMMENDATIONS, WHICH WE POINT OUT OVERLAP ALMOST COMPLETELY WITH BILL BEFORE THE COMMITTEE TODAY. THE COMMISSION SAID:

"INDIRECT GOVERNMENT SERVICE COSTS CAN BE AS IMPORTANT AS DIRECT SPILL EXPENDITURES IN MEETING A SPILL EMERGENCY. LOCAL GOVERNMENTS IN PARTICULAR WERE HARD HIT BY LACK OF FUNDING FOR INCREASED BURDENS WHICH HIT EVERYTHING FROM PHONE SERVICE TO MENTAL HEALTH DURING THE CRISIS FOLLOWING THE EXXON VALDEZ SPILL. "

WE'VE ATTACHED AS PART OF YOUR PACKET THE RESOLUTION PASSED BY THE ALASKA CONFERENCE OF MAYORS SUPPORTING OUR POSITION. ALL REALIZE THAT "SIMILAR DISASTERS COULD OCCUR BOTH ON LAND AND AT SEA IN OTHER PARTS OF THE STATE WITH SIMILAR EFFECTS."

WE DO HAVE SOME VERY LIMITED, BUT NONETHELESS IMPORTANT MODIFICATIONS, TO THE SPONSOR SUBSTITUTE WE WANT YOU TO CONSIDER AS A COMMITTEE TODAY.

FIRST, IT IS OUR PREFERENCE THAT YOU MAKE SECTIONS 11 THROUGH 13 RETROACTIVE TO THE DATE OF THE EXXON VALDEZ SPILL. THESE CLARIFY THE REMEDY THAT IS AVAILABLE TO LOCAL GOVERNMENTS, AND ARE CONSISTENT WITH YOUR INTENT LAST YEAR: TO PERMIT LOCAL GOVERNMENTS TO BE ABLE TO RECOVER THE FULL COST OF A SPILL FROM THE TORT FEASOR.

SECOND, WE THINK THAT THE LIST OF "SERVICES AND FUNCTIONS" WHICH CAN BE COMPENSABLE UNDER THE NEW FUND SHOULD INCLUDE THE COST OF LEASING HARBOR AND OTHER PUBLIC FACILITIES. WE DON'T WANT TO

USE THE FUND FOR CAPITAL CONSTRUCTION, BUT THOSE HARBOR AND FACILITIES COSTS CAN BE AN IMPORTANT PART OF OUR INCREMENTAL RESPONSE TO A SPILL.

THIRD, WE THINK THE WORDS "INCLUDING THOSE NOT USUALLY PERFORMED" SHOULD BE INCLUDED TO DESCRIBE THOSE SERVICES THAT ARE COMPENSABLE. LOCAL GOVERNMENTS MAY NOT HAVE EXERCISED A POWER PREVIOUS TO A TOXIC SPILL, BUT IT MAY BE ABSOLUTELY NECESSARY TO DEAL WITH ITS EFFECTS.

WE WANT TO EMPHASIZE THAT THOUGH WE HAVE THESE MINOR SUGGESTIONS, WE ARE VERY SUPPORTIVE OF THE CURRENT BILL, AND HOPE TO WORK WITH YOU, SENATOR PEARCE, AND ALL THE COMMITTEE MEMBERS, IN ACHIEVING ITS PASSAGE. THANK YOU FOR THE OPPORTUNITY TO SPEAK WITH YOU TODAY. ARE THERE ANY QUESTIONS YOU MAY HAVE FOR OUR CONTINGENT?

**ALASKA MUNICIPAL LEAGUE
BOARD OF DIRECTORS**

**A RESOLUTION RELATING TO THE NEED FOR ADDITIONAL
LEGISLATION ON THE EFFECTS OF DISCHARGES OF
HAZARDOUS SUBSTANCES ON LOCAL GOVERNMENT**

WHEREAS, the Alaska Municipal League Board of Directors is aware of the devastating effects of the *Exxon Valdez* Oil Spill on the communities of Prince William Sound, the Kenai Peninsula, the Kodiak Island Archipelago, and the Alaska Peninsula, and

WHEREAS, similar disasters could occur both on land and at sea in other parts of the state with similar effects, and


WHEREAS, legislation is being considered during the 1990 session of the Alaska Legislature to deal with some of the problems which the experience of local governments affected by the *Exxon Valdez* Oil Spill has demonstrated arise in such situations,

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League Board of Directors supports the immediate enactment of legislation with the following goals:

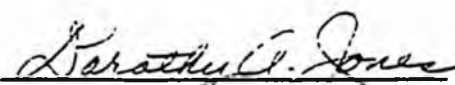
- (1) extend to all communities in the state broad powers, within and outside of their boundaries, to cleanup and otherwise mitigate the effects of a hazardous substance discharge;
- (2) increase the cap on the oil and gas "properties production tax" to \$75,000,000 to create a \$25,000,000 fund to be administered by the Department of Community and Regional Affairs and distributed to local governments for incremental impacts related to such discharges, such as increased mental health services, or increased police protection services;
- (3) clarify the state hazardous substance strict liability statutes to make sure the full range of municipal damages can be addressed;
- (4) provide a structure for quick access by the communities to state money available for response to the discharges.

Adopted this 1st day of February 1990.

ATTEST:



Scott A. Burgess
Executive Director



Dorothy A. Jones, President

OIL SPILL GRANT SUMMARY

Page Four

COMMUNITY/PROJECT	PROJECT COST	DEC Clean-Up	Dept. of HHS	DCRA Project	DCRA Funded Projects	Referred Projects*	Second Round Consideration Projects
CITY OF TAMPA:							
1. VISO HOUSING	53,625			53,625	53,625		
2. CHILD ACTIVITY CTR	87,240		87,240			87,240	
TOTAL	140,865		87,240	53,625	53,625	87,240	
CITY OF SEBRING:							
1. Oil Spill Coord. Prog.	89,811			89,811			89,811
2. Reimbursements	78,945			78,945			78,945
3. Comm. Liter. Prog.	24,621			24,621			24,621
TOTAL	193,377			193,377			193,377
GRAND-TOTAL:	11,597,236	6,009,426	1,079,092	4,508,718	795,025	7,088,518	3,713,693
CITY OF HOMER - PROJECTS NOT ELIGIBLE FOR CURRENT FUNDING CYCLE DUE TO LATE SUBMISSION							
1. Main Duct Repair	50,000			50,000			50,000
2. User Fee Credits	136,600			136,600			136,600
3. Homer Public Safety	41,000			41,000			41,000
4. Alcohol/Drug Abuse	24,200		24,200			24,200	
5. Comm. Mental Health	53,720		53,720			53,720	
6. Staff Augmentation	16,000			16,000			16,000
7. Port Harbor Impact	30,300			30,300			30,300
8. Revenue Replacement	281,600			281,600			281,600
TOTAL	633,420		77,920	555,500		77,920	555,500
GRAND-TOTAL OF ALL PROJECTS SUBMITTED UNDER THE OIL SPILL ASSISTANCE GRANT PROGRAM							
	12,230,656	6,009,426	1,157,012	5,064,218	795,025	7,166,438	4,269,193

* The column, "Referred Projects", refers to potential funding through DEC and HHS.

OIL SPILL GRANT SUMMARY

<u>COMMUNITY/TOWN</u>	<u>PROJECT COST</u>	<u>DEC Clean-Up</u>	<u>Dept. of IMIS</u>	<u>DCJA Project</u>	<u>DCRA Funded Projects</u>	<u>Referred Projects*</u>	<u>Second Round Consideration Projects</u>
<u>CITY OF WILMINGTON</u>							
1. Public Safety	42,000			42,000	25,000		17,000
2. Public Health Service	38,000		18,000			18,000	
3. Police Vehicle	18,000			18,000			18,000
4. Clinic	17,000		17,000			17,000	
5. EMT Training	4,000		4,000			4,000	
6. City Shop Fees	2,000			2,000			2,000
7. Garbage Disposal	3,375			3,375			3,375
8. Lost Market Revenues	5,385			5,385			5,385
TOTAL.	129,760		59,000	70,760	25,000	59,000	45,760
<u>COMMUNITY OF FORT GREEN</u>							
1. Gov't Coordination	\$103,600			\$103,600			103,600
2. Mental Health Prgrm	74,304		\$74,304			74,304	
3. VSO Trainee	16,680			16,680			16,680
4. Septic System Maint.	70,000			70,000			70,000
5. Runway Resurface	200,000			200,000			200,000
6. Recreation Fac.	100,000			100,000			100,000
TOTAL.	564,584		74,304	490,280		74,304	490,280
<u>CITY OF OXFORD</u>							
1. Oil Spill Office	\$284,250			\$284,250			284,250
2. Child Care Facility	16,936		\$16,936			16,936	
3. Mental Health Prgrm	45,750		45,750			45,750	
4. Eyak Bldg. Expansion	26,500			26,500			26,500
5. Heritage Celebration	10,000			10,000			10,000
TOTAL.	383,436		62,686	320,750		62,686	320,750

OIL SPIGIL GRANT SUMMARY - ROUND #1 - APPLICATION DEADLINE SEPTEMBER 15, 1989

COMMUNITY/PROJECT	PROJECT COST	DEC Clean-Up	Dept. of HHS	DCRA Project	DCRA Funded Projects	Referred Projects*	Second Round Consideration Projects
CITY OF KODIAK							
1. Spill Admin Costs	52,055			52,055			52,055
2. Oiled Mayors Travel	30,000			30,000	30,000		
3. Oiled Mayors Admin.	25,000			25,000	25,000		
4. Socio/Econ. Study	600,000			600,000	600,000		
TOTAL	707,055			707,055	655,000		52,055
ISLAND PROJECTS							
1. Mental Health	260,000		260,000			260,000	
2. Drug/Alcohol Program	45,942		45,942			45,942	
3. Batters Program	38,648		38,648			38,648	
4. Village Alcohol Program	75,266		75,266			75,266	
5. Admin. Support	13,257	\$11,257				13,257	
6. Admin./Communication	155,150			\$155,150			155,150
7. Oil Cleanup Program	4,433,289	4,433,289				4,433,289	
8. Bounty Bag Program	1,231,000	1,231,000				1,231,000	
9. Geo-Textile Program	310,280	310,280				310,280	
10. Re-appraisal Impact	25,000			25,000			25,000
TOTAL	6,587,832	5,987,826	419,856	180,150		6,407,682	180,150
CITY OF LAISHANAY							
1. Mini-Hydro project	141,517			141,517			141,517
TOTAL	141,517			141,517			141,517
CITY OF OUZIBAKE							
1. Subsistence Foods	61,400			61,400	61,400		
TOTAL	61,400			61,400	61,400		

OIL SPILL GRANT SUMMARY

COMMUNITY/PROJECT	PROJECT COST	DEP Clean-Up	Dept. of HHS	DCRA Project	DCRA Funded Projects	Referred Projects*	Second Round Consideration Projects
<u>CITY OF VALDIZ</u>							
1. Land Fill	500,000			500,000			500,000
2. Impact Film	35,848			35,848			35,848
3. Police Staffing	45,336			45,116			45,336
4. Counseling Staff	90,000		90,000			90,000	
5. Animal Incinerator	12,773			12,773			12,773
6. Tourism Marketing	79,000			79,000			79,000
7. Police Computer	23,311			23,311			23,311
8. Press Program	35,000			35,000			35,000
9. Socio-Econ. Study	245,000			245,000			
10. Civic Center Staff	10,014			10,014			10,014
11. Airport Carpeting	34,375			34,375			34,375
TOTAL	1,110,657		90,000	1,020,657		90,000	1,020,657
<u>CITY OF SEWARD</u>							
1. Police Impact	134,387			134,387			134,387
2. Mental Health Staff	105,421		105,421			105,421	
3. Law Tele. System	7,085		7,085			7,085	
4. Vessel Motor Replcm.	13,000			13,000			13,000
5. Media Marketing	100,000			100,000			100,000
6. Native Hlth. Prgrm.	178,500		178,500			178,500	
TOTAL	530,393		291,006	247,387		291,006	247,387
<u>COMMUNITY OF CHEYENNE</u>							
1. Shoreline Cleanup	21,600	21,600				21,600	
2. Solid Waste Site	230,000			230,000			230,000
3. School Addition	750,000			750,000			750,000
TOTAL	1,001,600	21,600		980,000		21,600	980,000
<u>CITY OF RENO</u>							
1. Tax Revenue Loss	41,760			41,760			41,760
TOTAL	41,760			41,760			41,760

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 19, 1990

Hon. John Binkley
Hon. Rick Uehling, Co-Chairs
Senate Finance Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

APR 19 1990

Re: CSSSSB 359(O&G) -- Municipal
Assistance/Oil Spill Fund

Dear Senators Binkley & Uehling:

The Department of Law has two concerns with respect to CSSSSB 359(O&G), currently in the Senate Finance Committee.

First, we are concerned with the way the term "villages" is defined and used in the bill. With respect to villages, the bill is basically divided into two parts. The first part would create a grant program for villages to pay for certain expenses incurred as the result of a release of oil or hazardous substance. (Sections 1-5.) Funding would be provided from the \$.05 per barrel conservation surcharge on oil (AS 43.55.210), through the oil and hazardous release response fund (AS 46.08.010). (Section 5.) In addition, the commissioner of DEC would be authorized to use money from the oil and hazardous release response fund to pay for other impacts to a village because of a release of oil or hazardous substance. (Sections 13-14.) Our concerns about the treatment of villages do not involve these sections.

However, in another part of the bill, villages are included, along with the state and municipalities, as entities that would be entitled to recover for natural resource damage, damages to persons and property, whether private or public, and certain other costs typically recoverable only by governments; villages would also be entitled to the same defenses from liability as the state or a municipality. (Sections 7-9.) To the extent that these sections are designed to enhance the ability of communities on a local level, however organized, to deal on several levels with the complex impacts of a release of oil or hazardous substance, we see no problems. We are concerned, though, that these sections could be interpreted as state recognition that certain "villages" have governmental powers, authority over public land, and authority to

SB 359

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

1st NATIONAL CENTER
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

Hon. Johne Binkley
Hon. Rick Uehling, Co-Chairs
Senate Finance Committee

April 19, 1990
Page 2

exercise what normally are governmental functions. Furthermore, the reference to "natural resource damage" may lead to conflicts over who has a "trust" responsibility for state-owned land and resources that are used by village members. For example, who would be the trustee and have a right to recover for damages to tidelands, which are state-owned, if used by villagers for subsistence?

We suggest that the committee clarify, through either a letter of intent or a modification of proposed AS 46.03.822(a) in Section 7 of the bill, that the purpose behind these sections is not to recognize governmental powers or authority over public lands for villages, either directly or indirectly, on the basis of their status as an Indian Reorganization Act council or traditional Indian council. We would also suggest that proposed AS 46.03.822(a) be further amended to clarify that a village can recover only for damages sustained to resources owned by the village. The committee may also wish to consider redefining village for purposes of the bill; one possibility would be to define village as "an unincorporated community with a residential population of 25 or more which is a social unit." See, e.g., 19 AAC 60.900(2).

Our second concern relates to proposed AS 29.60.570(a) in Section 5 of the bill, which would mandate that the commissioner of community and regional affairs must perform impact assessment work once a disaster emergency has been declared by the governor as the result of a release of oil or hazardous substance. Last year, after the Exxon Valdez spill, several agencies including DCRA proposed to perform impact assessment. It was decided, however, that in the best interests of the state and so as not to compromise our litigation strategy, all socio-economic impact assessment performed by the state would be under the direction of the Department of Law. It is dangerous, from a litigation perspective, to mandate otherwise. First, the work of DCRA would be duplicative and therefore probably not recoverable in any subsequent litigation. Second, the DCRA studies would necessarily be public information, available to the opposition party in the litigation. Finally, multiple studies along these lines would inevitably lead to conflicting results, which obviously would be damaging to the state's litigation efforts.

It was for these reasons that after the Exxon Valdez spill, the state strongly encouraged the municipalities to perform their own impact assessment studies, funded with state grant money. Should the legislature wish to authorize or mandate the funding by the state of such studies, we recommend that DCRA be given the option of having the studies performed under the direction of the

Hon. John Binkley
Hon. Rick Uehling, Co-Chairs
Senate Finance Committee

April 19, 1990
Page 3

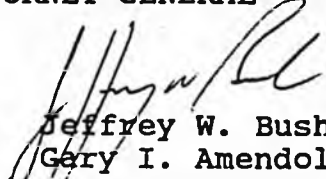
local governments; this would eliminate the potential problems in litigation situations if the state performed the studies itself. We therefore encourage the bill to be amended accordingly.

We hope these suggestions are helpful.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By:


Jeffrey W. Bush and
Gary I. Amendola
Assistant Attorneys General

JWB:GIA:jf

cc: Hon. Eileen MacLean, Chair
House Community & Regional Affairs Committee

Municipality of Anchorage



P.O. BOX 196650
ANCHORAGE, ALASKA 99519-6650
(907) 343-4433
TOM FINK,
MAYOR

OFFICE OF THE MUNICIPAL MANAGER

April 6, 1990

Senator Drue Pearce
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Re: SB 359, an act relating to matters of environmental conservation, to state assistance to municipalities and village councils for expenses relating to abatement of environmental degradation, etc.

Dear Senator Pearce:

The Municipality of Anchorage has reviewed SB 359 and supports the intent of the bill. However, Sec. 29.60.530 needs clarification. This section currently reads, "Sec 29.60.530. ADMINISTRATION OF THE FUND. (a) The commissioner may use money from the fund to make grants to a municipality or village council affected by a release of oil or hazardous substance and demonstrating extraordinary expenditures that are beyond the reasonable capability of the municipality or village council to meet from the municipality's or council's current revenue sources."


Per this section, what criteria will be used to determine whether or not an expenditure is beyond the reasonable capability of the municipality or village council? Also, are municipally owned and operated utilities included in this bill?

In our opinion, a dollar amount per incident needs to be established. Also, the grants should include funds for reimbursement of expenses incurred prior to the application for or the actual receipt of a grant. An easy method for expeditious grant approval would be to have the Department of Environmental Conservation (DEC) evaluate the spill and conclude whether the remediation cost would exceed the base amount as established.

The Municipality of Anchorage supports the bill if the section is clarified and larger municipalities are not excluded from grant eligibility.

If you have any questions, please contact Ken Lythgoe, Director of Property & Facility Management at 786-8114.

Sincerely,


Larry D. Crawford
Municipal Manager

0178A

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to municipal assistance: oil spill response fund.
Sponsor: Szymanski
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact anticipated in FY 90.

* See attached analysis.

Prepared by: JIM Plasman Phone: 465-4750
Division: Municipal & Regional Assistance Date: _____

Approved by Commissioner: [Signature] Date: 7-1-90
Agency: Community & Regional Affairs

Distribution (by preparer):

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

Position Title Local Government Specialist IV		No. of Positions 1	Range/Step 19 A	Barg. Unit XE
Time Status Temporary	Staff Months 12	Location Juneau		Election District
Justification				
Type of Expenditure			Amount	
1	2	3		
Salary	40.2			
Benefits	13.5			
Premium Pay				
Other				
Total Personal Services		53.7		
Travel		10.0		
Contractual		3.0		
Commodities				
Equipment				
Other				
Total Cost		66.7		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	66.7		
I-A Receipts	1006			
CIP Receipts	1051			
Other				

This position will be needed to provide technical assistance to local government administrators in determining the extent of local impacts, developing and implementing strategies for community recovery, and applying for the grant monies to carry out these strategies. This position would be temporary and may not be needed for the full 12 months reflected, depending upon community progress. The funding source would be a percent of the total funds available.

2074

**Request For
New Position**

Agency Community & Regional Affairs
 BRU Local Government Assistance
 Component Training & Development

FY 91

Page 2 of 4
 Revised Date

Position Title Grant Administrator II		No. of Positions 1	Range/Step 17A	Barg. Unit GGU
Time Status Temporary	Staff Months 12 Months	Location Anchorage/Juneau		Election District
Justification				
During the recent oil spill, DCRA administered an oil spill grant program of \$1,160,000. Based on experience with this program, one temporary position to prepare grant/contractual documents will be needed during program activity. This position would be responsible for developing the agreement, reviewing payment requests, monitoring the project until completion, then finally closing out the grant. This position is budgeted here at salary for 12 months funded from the amount designated in the bill. Actual staff months worked depends on extent of disaster.				
Type of Expenditure		Amount		
1	2	3		
Salary	35.0			
Benefits	12.2			
Premium Pay				
Other				
Total Personal Services		47.2		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		47.2		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1006			
CIP Receipts	1061			
Other		47.2		

**Request For
New Position**

Agency Department of Community & Regional Affairs
 BRU Admin & Support
 Component Admin Services

Page 3 of 4
 Revised Date

FY 91

4203

J
4
6
7

Position Title Accountant II		No. of Positions 1	Range/Step 16A	Barg. Unit GGU
Time Status Temp	Staff Months 12 Months	Location Juneau		Election District
Justification				
<p>An Accountant II will be needed to respond to the increased activity that would be generated by a program of this size. Staff in the fiscal section of DCRA are presently working to capacity due to addition of new and expanded programs in recent years. This position would be temporary during the time of highest fiscal activity. The position is described as 12 months but may be of shorter duration.</p> <p>This position would have fiscal oversight of all billings, entries on the state accounting systems and report preparation for management.</p> <p>Funding source would be part of a percent of total funds available.</p>				
Type of Expenditure		Amount		
1	2	3		
Salary	32.4			
Benefits	11.9			
Premium Pay				
Other				
Total Personal Services		44.3		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		44.3		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1006			
CIP Receipts	1061			
Other		44.3		

**Request For
New Position**

Agency Department of Community & Regional Affairs
 BRU Admin & Support
 Component Admin Services

Page 4 of 4
 Revised Date

FY 91

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Concerning Municipal
 assistance/oil spill fund
 Sponsor: Senator Szymanski
 Requestor: Senate Oil & Gas Committee

Agency Affected: Environmental Conservation
 BRU: Environmental Quality
 Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	144.0	144.0	144.0	144.0	144.0	144.0
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	95.5	95.5	95.5	95.5	95.5	95.5
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	15.0	15.0	15.0	15.0	15.0	15.0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	267.5	267.5	267.5	267.5	267.5	267.5

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

GENERAL FUND	267.5	267.5	267.5	267.5	267.5	267.5
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	267.5	267.5	267.5	267.5	267.5	267.5

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The impact for Fy 90 is unclear and would depend on when the legislation is effective and what portions needed to be enacted immediately. Further analysis is attached.

Prepared by: Lynn Kent Phone: 465-2630
 Division: Environmental Quality Date: 1/26/90

Approved by Commissioner: [Signature] Date: 1/31/90
 Agency: Environmental Conservation

Distribution (by preparer):

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

Sections 1-12

Sections 1-12 will not require additional resources for the Department of Environmental Conservation.

Section 14 and 19

Section 14 does not substantially add additional authority for the Department to enter into agreements with local governments. This section would increase the emphasis on local agreements. To expedite the development of these agreements, the Department would enter into agreements with many municipalities and village councils. Two additional FTE (\$153.4) will be necessary to develop, maintain, execute, and account for the agreements. The department does not support a mandated 48 hour deadline for review of agreements in catastrophic events, but would intend to establish agreements in advance.

The Department will require one clerk typist (\$42.6) to support the additional staff.

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist III	57.7	5.0	8.0	1.0	5.0	\$76.7
Ecologist III	57.7	5.0	8.0	1.0	5.0	\$76.7
Clerk Typist III	28.6		8.0	1.0	5.0	\$42.6
TOTALS	144.0	10.0	24.0	3.0	15.0	\$196.0

Section 15

Section 15 of the bill requires that the Department carry out a public review process of all contingency plans. There are approximately 270 contingency plans that must be reviewed by the Department a minimum of every three years. This equates to about 90 full contingency plan reviews annually.

In order to provide for a public review process for all contingency plans -- as opposed to only the major plans -- contractual funding in the amount of \$71.5 will be required for copying, advertising, mailing, and public meeting rooms.

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
(Contractual)			71.5			\$71.5
TOTALS			71.5			\$71.5

2084

Position Title Ecologist III			No. of Positions 2	Range/Step 20A	Barg. Unit GGU	
Time Status PFT	Staff Months 12		Location Juneau	Election District 04		
Types of Expenditures			Justification			
			<p>The department currently has authority to enter into negotiations for memoranda of understanding or cooperative agreements with various agencies and persons to facilitate oil discharge responses, provide for review of oil discharge contingency plans and inspect oil terminal facilities. This legislation adds that we must enter into agreements with municipalities and village councils as well. In order to develop, maintain, execute and account for the many additional agreements that this will entail, these two new positions will be needed to handle the extra workload.</p>			
1		2				3
Salary		86.2				
Benefits		29.2				
Pension Pay						
Other						
Total Personal Services						115.4
Travel						10.0
Contractual						16.0
Commodities						2.0
Equipment						10.0
Other						
Total Cost						153.4
Funding Source for Total Cost						
Federal Receipts 1602						
G. F. Match 1003						
General Fund 1004			153.4			
GF Program Receipts 1005						
Other						

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**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Oil and Hazardous Substance Spill
Response

Page 3 of 4
 Revised Date

FY 91

Position Title Clerk Typist III			No. of Positions 1	Range/Step 8A	Barg. Unit GGU	
Time Status PFT	Staff Months 12		Location Juneau		Election District 04	
Type of Expenditure			Justification			
			To carry out the requirements of this legislation, it will take two new positions. This position would provide support to the additional staff.			
1		2				3
Salary		19.6				
Benefits		9.0				
Premiums Pay						
Other						
Total Personal Services						28.6 \$
Travel						0
Contractual						8.0
Commodities						1.0
Equipment						5.0
Other						
Total Cost						42.6 \$
Funding Source for Total Cost						
Federal Receipts 1002						
G. F. Match 1003						
General Fund 1004			42.6			
GF Program Receipts 1005						
Other						

4074

**Request For
New Position**

Agency Department of Environmental Conservation
 BRU Environmental Quality
 Component Oil and Hazardous Substance Spill

Page 4 of 4
 Revised Date

FY 91

Response

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 359 (Oil & Gas) ^{3/14/90} (S. 62) 1-11

PUBLISH DATE: 3/7/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Concerning Municipal assistance/oil spill fund
Sponsor: Senator Szymanski
Requestor: Senate Oil & Gas Committee

Agency Affected: Environ. Conservation
BRU: Environmental Quality

Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	144.0	144.0	144.0	144.0	144.0	144.0
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	24.0	24.0	24.0	24.0	24.0	24.0
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	15.0	15.0	15.0	15.0	15.0	15.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	196.0	196.0	196.0	196.0	196.0	196.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	196.0	196.0	196.0	196.0	196.0	196.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	196.0	196.0	196.0	196.0	196.0	196.0

POSITIONS:

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

The impact for FY 90 is unclear and would depend on when the legislation is effective and what portions needed to be enacted immediately. Further analysis is attached.

Prepared by: Lynn Kent

Division: Environmental Quality

Phone: 465-2630

Date: 3/7/90

Approved by Commissioner: A. D. Kelly

Agency: Environmental Conservation

Date: 3/7/90

Distribution (by preparer) :

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

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ANALYSIS FOR CSSB 359 (O & G) FISCAL NOTE

Section 1 - 4

Sections 1 - 4 provide that municipalities exercising extra-territorial jurisdiction be consistent in their actions and ordinances with regional contingency plans for response. This ensures a coordinated effort. To accomplish, the Department will work with communities on development of any ordinances and will review those that are adopted.

Section 5

Section 5 establishes authority in the Department of Community and Regional Affairs for community assistance grants for secondary social and economic assistance. These grants are funded from the existing Oil and Hazardous Substance Release Response Fund. Up to \$10 million from the Fund may be used for these grants. While there is no direct financial impact on the department's budget from this provision, it reduces the amount available for emergency first response, by either the state or communities, by up to \$10 million.

Section 10

Section 10 requires the department to consult with municipalities in developing agreements with federal agencies on response mechanisms and related topics. This will pose an increased workload upon the department.

Section 13

Section 13 authorizes the Commissioner of Community and Regional Affairs to spend an undefined amount of the Response Fund for "impact assessments." This will also reduce the amount available for emergency first response by the amount devoted to this task.

Section 14

Authorizes the Department to advance funds to communities for emergency first response, as provided in an agreement with the department. It also adds villages to the list of entities that may sign agreements for emergency first response with the department. This will increase the number of parties that may request agreements.

The following positions are needed to carry out these efforts.

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist III	57.7	5.0	8.0	1.0	5.0	\$76.7
Ecologist III	57.7	5.0	8.0	1.0	5.0	\$76.7
Clerk Typist III	28.6		8.0	1.0	5.0	\$42.6
TOTALS	144.0	10.0	24.0	3.0	15.0	\$196.0

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Municipal Oil Spill Fund
Sponsor: Szymanski
Requestor: _____

Agency Affected: Department of Revenue
BRU: Oil & Gas Audit Division
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	.3600	21400	See Analysis			

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page for analysis.

Prepared By: Charles L. Logsdon
Division: Oil & Gas Audit Division

Phone: 277-5627
Date: January 31, 1990

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 2/1/1990

Distribution (by preparer):

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

SS SB 359
Fiscal Note Analysis

The bill creates a municipal oil spill fund and raises the cap under which the \$.05/bbl oil surcharge is levied from \$50 million to \$75 million. The revenues shown on the fiscal note of \$3.6 million and \$21.4 million reflect the additional collections attributed to raising the cap. The cap is based on the difference between the amount collected to date under this surcharge and the amount expended from the Oil and Hazardous Release Fund. Collections of the surcharge through December amounted to \$11 million. The balance in the hazardous spill fund was \$32 million effective January 1990. (FY 90 collections were for 11 months of the year.)

The surcharge is directly dependent on oil production. The maximum amount of revenue that could be collected from a \$.05/bbl surcharge, assuming the Department of Revenue Mid Scenario production estimates, is as follows:

TOTAL MAXIMUM REVENUE FROM A \$.05/BARREL SURCHARGE

Fiscal Year	Production * (MM bbl/day)	Revenue (MM \$)	Cumulative Revenue
1990	1.816	26.6	26.6
1991	1.691	27.0	53.6
1992	1.567	25.0	78.6
1993	1.504	24.0	102.6
1994	1.468	23.4	126.1
1995	1.350	21.5	147.6
1996	1.189	19.0	166.6
1997	1.032	16.5	183.1
1998	0.920	14.7	197.8
1999	0.800	12.8	210.6
2000	0.683	10.9	221.5

The table indicates that the surcharge will collect \$75 million by late FY 92.

* Excludes NGLs.



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4978

Interim:
3111 C Streer, Suite 510
Anchorage, Alaska 99503
(907) 561-7617
or
165 E. Parks Highway
Wasilla, Alaska 99687
(907) 376-6453

SECTIONAL ANALYSIS

House CS for CSSSSB 359 (Resources)

(For purposes of simplicity, reference in made to this bill as the oil spill municipal impact legislation)

SECTIONS 1 - 4

These sections extend the authority of municipalities to exercise containment and clean-up authority. The municipalities may thus enforce ordinances relating to containment and clean-up to be exercised outside their boundaries. Requires that the exercise of this authority must be consistent with directives in regional master plans if these plans have been prepared and are in place.

SECTION 5

Establishes an oil and hazardous substance municipal impact assistance program. Sets out a statement of purpose and policy. Provides that assistance is to be provided for municipalities and villages affected by a release of oil or hazardous substances that "demonstrate [to the Department of Community and Regional Affairs] extraordinary expenditures that are beyond the reasonable capability of the municipality or village to meet from the municipality's or village's current revenue sources..

Sec. 29.60.510 provides that impact assistance is limited to not more than \$10 million of the unrestricted balance of the oil and hazardous substance release response fund, and is available only when the governor has first declared a disaster emergency under AS 26.23. For each declaration of a disaster emergency, the Commissioner of C & R A must consult with the Commissioner of Environmental Conservation as to the amount of money in the 470 Fund which may be available for these grants; this provision was added in the House Resources Committee to insure that

*Pulled from HFC files.
HFC waived the bill.*

Senate District E

the fund was not depleted and thus unable to meet emergency first response needs. Impact assistance is available only for the functions, services, and purposes enumerated in AS 29.60.520.

Proposed AS 29.60.530 sets out criteria by which the Department of Community and Regional Affairs is to evaluate requests for assistance; the legislation makes clear that the Department need not accept a request as submitted but may reduce or eliminate elements of the application. The section also directs the department to adopt regulations by which to rank applications when amounts of impact assistance requested exceed amounts available to the department from the fund.

"Boilerplate" provisions appear in AS 29.60.540 ("limitations on grant uses"), AS 29.60.550("records"), AS 29.60.560(annual report), and AS 29.60.580 (adoption of implementing regulations). AS 29.60.570 separately requires the Commissioner of Community and Regional Affairs to complete an impact assessment whenever the governor issues a disaster emergency declaration based on a discharge of oil or a hazardous substance. This assessment may be accomplished by contracting with a municipality or other entity for the assessment, or by making a grant to a municipality or other entity; however, only ONE assessment may be completed for each declaration of a disaster emergency.

This impact assessment will be funded from the municipal impact grant fund.

AS 29.60.590 authorizes recovery of grant money paid under AS 29.60.500-AS 29.60.599 if the commissioner determines that the municipality or village receiving the grant is responsible for the underlying spill. This was added by the Senate Oil and Gas Committee to address the committee's concern that a municipality or village not benefit from an impact assistance grant if the discharge is eventually shown to be the recipient's responsibility.

AS 29.60.599 sets out definitions of terms used in the establishment of this grant process.

SECTION 6

The amendment made by this section is intended to make clear that a

person who violates AS 46.03 in causing a spill is liable to the state for those amounts expended. This was included because of questions raised regarding the specific authority of the state to recover amounts expended in this area.

SECTION 7

Amends the strict liability section, AS 46.03.822, to clarify the expenditures and the parties that are intended to be covered by this section. Clarifies that "damages" includes the "additional costs of a function or service, including administrative expenses for the incremental costs of providing the function or service, that are incurred by the state, a municipality or a village with regard to the release of oil or a hazardous substance.

SECTION 8

Adds "village" to the list of entities who, under AS 46.03.822(h), are not generally liable for containment and clean-up actions taken unless done as a result of gross negligence or intentional misconduct.

SECTION 9

Provides definitions for the terms "service" and "village" that are introduced into amendments made to AS 46.03 by Bill Sections 6-8.

SECTIONS 10 - 12 make amendments to AS 46.04.

SECTION 10

Directs that, in fulfilling responsibilities under AS 46.04.020(e), relating to preparation of memoranda of understanding and cooperative agreements, and obligations incurred under those documents, the Department of Environmental Conservation shall first "consult with the governing bodies of municipalities and villages."

SECTION 11

Amends the term "containment and cleanup" applicable to the chapter to

clarify the kinds of qualifying expenses relating to containment and cleanup within the phrase.

SECTION 12

Provides definitions for the terms "service" and "village" that are introduced in amendments made to AS 46.04 by bill sections 10 and 11.

SECTIONS 13 - 17 make amendments to AS 46.08.

SECTION 13

The additional language inserted in AS 46.08.040 by this section authorizes the Commissioner of Community and Regional Affairs to draw from the oil and hazardous release response fund to make grants under the impact assistance program (AS 29.60.500-AS 29.60.599) and for completing impact assessments required by AS 29.60.570. The amendment to paragraph (4) clarifies that state impact assistance payable to villages is allowable as recoverable cost for which the balance of the fund may be used by the commissioner of Environmental Conservation.

SECTION 14

Under AS 46.08.070(c), provides for a system of cash advances to municipalities and villages to support emergency first response initiatives. This was to enable the communities to have funding readily available for emergency first response expenditures.

SECTION 15

Parallels provisions in AS 29.60.590 in Section 5. Authorizes the recovery of the advancements or reimbursement if the Commissioner determines that the municipality or village receiving the funds is responsible for the spill.

SECTION 16 and SECTION 17 parallel those changes made to AS 46.04 by bill SECTIONS 11 and 12 and are included for substantially similar reasons.

SECTIONS 18 - 20 make amendments to AS 46.09.

SECTION 18

The amendment extends the authority of a municipality to act under all pertinent environmental-related chapters within AS 46 that are exercisable within the municipality's boundaries.

SECTION 19 and SECTION 20 parallel those made to AS 46.04 by bill Sections 11 and 12 and are included for substantially similar reasons.

SECTION 21.

Makes Sections 7 and 9, the strict liability provisions retroactive to March 24, 1989.

SECTION 22

All other sections are given an immediate effective date.

S B

3 6 4

SENATE FINANCE COMMITTEE REPORT

DATE: 3/1/90

FURTHER:

DATE TURNED INTO OFFICE: 3/21/90

The Finance Committee considered SB 364

Relating to inspection of slaughtered reindeer.

and recommended:

- replace with _____ CS SB 364 (Finance) same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- Finance letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

ATTACHES NEW FISCAL NOTE(S):

- fiscal note(s) Dept/Date: _____
- zero fiscal note(s) DEC 2/27/90

APPROVES PREVIOUS:

- fiscal note(s) Dept/Date: _____
- zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

Joe Dunca

Paul Gulke

Paul Gulke

Paul Gulke

OTHER RECOMMENDATIONS:

1. Joe Dunca DO PASS 2. Paul Gulke (DO PASS)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Act relating to inspection
of slaughtered reindeer
Sponsor: Senator Kerttula
Requestor: Senate Finance

Agency Affected: Environmental Conservation
BRU: Environmental Health
Components: Animal Health/Dairy

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	63.3	63.3	63.3	63.3	63.3	63.3
TRAVEL	15.0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	20.0	20.0	20.0	20.0	20.0	20.0
SUPPLIES	8.0	8.0	8.0	8.0	8.0	8.0
EQUIPMENT	3.0	3.0	3.0	3.0	3.0	3.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	109.3	109.3	109.3	109.3	109.3	109.3

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	109.3	109.3	109.3	109.3	109.3	109.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attachment

Prepared by: *John Binkley*
Division: Senator John Binkley, Co-chairman
Senate Finance Committee

Phone: 465-4985
Date: March 27, 1990

Approved by Commissioner: _____ Date: _____
Agency: _____

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

Adopted by SFC
3-27-90

page _____ of _____

To accompany CSSB 364 (Fin)

ATTACHMENT

ANALYSIS:

The funding necessary to implement this legislation is contained in an Increment Request in the Environmental Health BRU, Animal Health/Dairy Industry Component.

Without the resources identified in this increment, it will be impossible to implement a field-kill inspection program that satisfies federal requirements, and allow the use of reindeer in state and federally inspected meat products.

INCREMENT / DECREMENT DESCRIPTION (Limit to 98 characters)

Reindeer Inspection Increase

AGENCY CONTACT / PHONE NUMBER:

Douglas C. Donegan - 465-2609

DESCRIBE WHY THIS INCREMENT / DECREMENT IS NEEDED AND WHAT IT PURCHASES:

The raising of reindeer in Alaska shows potential as a promising industry in the rural portions of the state. Traditional reindeer herders are now looking at selling more of their product in lucrative markets. In Mckoryuk there is currently a surplus of thousands of animals which could be eligible for these markets.

Access to some markets is limited by federal inspection requirements. No federal funding is provided for reindeer inspection, but reindeer must be slaughtered and packed to federal specifications to be used with beef and pork in items such as reindeer sausage.

DEC has developed a field kill inspection program acceptable to meet federal requirements. This program allows the slaughter of animals in the field and transportation to approved processing facilities for cutting and packing.

DEC's ability to provide this service is extremely limited since we have only one State Veterinarian.

The increment would enable the state to provide reindeer inspection services in several areas of the state, including: Nome, Mckoryuk and Palmer.

Funding of this increment would remove a frustrating roadblock to an industry which has proven enormously successful in the Soviet Union. The conditions in Alaska are ideal and the industry could provide an additional source of income to rural residents in a manner non-disruptive to traditional lifestyles.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services	63.3	63.3
200	Travel	15.0	15.0
300	Contractual Services	20.0	20.0
400	Supplies	8.0	8.0
500	Equipment	3.0	3.0
600	Land, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		109.3	109.3
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	109.3	109.3
1005	Program Receipts/GF		
1007	I-A Receipts		
POSITION INFORMATION	PFT	1.0	1
	PPT		
	Non Permanent		
	Staff Months	12.0	12

Enhance Existing Service Compared to FY 90

New Service Compared to FY 90

Continuation of FY 90 Service Level

Formula Program

New Facility Operations

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Page/Line _____

**INCREMENT/
DECREMENT**

C5 REQUEST

Agency Priority 13 of 13

AGENCY Department of Environmental Conservation

BRU Environmental Health

COMPONENT Animal Health/Dairy

PROJECT 150

FY 91

4013

00361

Page 1 of 1

Revised Date: 11/1/89

140 SFC 3-21-90

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 364 (Res)
PUBL/SH DATE: 3/1/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An act relating to inspection
of slaughtered reindeer."
Sponsor: KERTTULA
Requestor: KERTTULA

Agency Affected: ENVIRONMENTAL CONSERVATION
BRU: ENVIRONMENTAL HEALTH

Components: ANIMAL HEALTH/DAIRY

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
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)

SEE ATTACHMENT.

Prepared by: DOUGLAS C. DONEGAN Phone: 465-2609
Division: ENVIRONMENTAL HEALTH Date: FEBRUARY 26, 1990

Approved by Commissioner: DENNIS D. KELSO Date: 2/27/90
Agency: ENVIRONMENTAL CONSERVATION

Distribution (by preparer):

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

Changes in CSSB 364 (Fin)
have no fiscal impact.
This fiscal note is
appropriate. 3/21/90

ATTACHMENT

ANALYSIS:

The funding necessary to implement this legislation is contained in an Increment Request in the Environmental Health BRU, Animal Health/Dairy Industry Component.

Without the resources identified in this increment, it will be impossible to implement a field-kill inspection program that satisfies federal requirements, and allow the use of reindeer in state and federally inspected meat products.



Official Business

Alaska State Legislature

SENATE

Committee on Finance

3/21/90
ADOPTED
SFC

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

Senate Bill 364 (Finance)

Letter of Intent

It is the intent of the Senate that this bill not restrict the efforts of Alaskan reindeer herders in their marketing of fresh reindeer meat to other Alaskan communities and businesses.

Original sponsor(s): SEN. KERTTULA, Sturgulewski, Szymanski, Adams, Fahrenkamp

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 364 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to inspection of slaughtered reindeer; and providing for an effective date."

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

* Section 1. AS 03.05.020(a) is amended to read:

(a) The commissioner shall

(1) require routine inspection of food animals, fish, poultry, and derivative food products, to protect the public against fraud, disease, and spoilage, and in this connection adopt uniform regulations establishing standards of identity and composition of these food products and minimum standards of sanitation and handling methods as to all phases of slaughtering, processing, storing, transporting, displaying, and selling of these food products;

(2) issue orders or cause the orders to be issued by an authorized veterinarian prohibiting transportation and sale of food products intended for human consumption that [WHICH] do not meet the minimum requirements established under (1) of this subsection, and limiting their use and disposal in conformity with protection of the public;

(3) adopt a schedule of fees or charges, and credit provisions, for services rendered by state veterinarians to farmers and others at their request in caring for livestock and poultry, and all the fees shall be transmitted to the commissioner for deposit in the state treasury;

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(4) designate points of entry for admission of livestock or poultry into the state, and arrange inspection at those points with or without collaboration and assistance of the federal government, and bar entry of stock or poultry not shipped under a valid permit or not free from contagious or infectious disease;

(5) adopt, repeal, and amend regulations consistent with existing law for

(A) the labeling and grading of milk and milk products and standards of cleanliness and sanitation, to at least the minimum of current recommendations of the United States Public Health Service, for the operation of dairies selling, or offering for sale, milk or milk products;

(B) the production and sale of ice cream and allied frozen desserts;

(C) the production and sale of imitation milk and imitation milk products;

(6) establish a field-kill inspection program for reindeer that is available at state expense and provides for voluntary participation on the part of reindeer herders and processors who wish to have the inspected reindeer used in federally inspected meat products.

* Sec. 2. This Act takes effect July 1, 1990.

Alaska State Legislature

REPRESENTATIVE
RICHARD FOSTER
BOX 1028
NOME, ALASKA 99762
PO BOX V
JUNEAU, AK 99811
9071465-3789



115 990



House of Representatives

11 March, 1990

Ms. Rose Atuk - Fosdick
Executive Director
Northwest Reindeer Herder's Association
POB 948
Nome, AK. 99762

RE: Pending Legislation and Budgetary Issues Relating
to the Reindeer Industry.

Greetings Rose and Association Board Members:

Please accept my best wishes to you all and I trust your annual meeting is productive and enjoyable. I regret not being able to attend but it just is not possible. Nonetheless, allow me to update you all on the issues relating to your industry before us here in Juneau.

Beginning last year, staff in my office have been working with your members and officials within the Department of Environmental Conservation (DEC), in conjunction with officials of the US Department of Agriculture, to establish the basic requirements for an inspected meat policy so as to allow reindeer meat to be included in USDA inspected products. Over the summer, a consensus was agreed upon which we are monitoring now in the legislature. The consensus revolves around the establishment of an additional veterinarian position within the DEC for reindeer slaughter and packing inspections that will comply with the USDA requirements. In addition, Senator Kerttula has introduced legislation that enables and instructs the Commissioner of DEC to undertake this responsibility, as well as mandating that this program will be borne by the state. Please keep this point in mind: the inspection program is voluntary in nature, only required if a herder wishes to supply product to a packing plant that wishes to include the meat in a USDA inspected product. In other words, if a herder only sells his product across the counter as reindeer meat,


there is no inspection required. If another herder wishes to sell front quarters to be used in reindeer sausage, along with beef and pork, his product, from the time of slaughter until packing, must comply with inspection guidelines.

Regarding inspection guidelines, it is the consensus of the department that it would be best if guidelines are drawn up after the new veterinarian is hired. At that point, he/she would meet with the industry members and discuss, draft, listen for public comment, and finally adopt regulations that would be in compliance with USDA requirements. It is my hope that your group be fully involved in this process and insure that final regulations are such that you are not negatively impacted and in fact have agreed upon.

So far, both Senator Kerttula's bill, CSSB 364 (Resources), and the budget increment request, have had favorable hearings. I will keep you advised as the process continues. In the event there are further concerns, please feel free to call the office.

That's all I have now, again, best regards and if there is anything I can do, please let me know.

Sincerely,


Richard Foster

Encl: 3

cc: Sen. Kerttula
Mr. Doug Donegan, DEC

POSITION PAPER
CSSB 364

Title

An Act relating to inspection of slaughtered reindeer.

Effect of the Bill

This bill requires the Department to establish a field-kill inspection program for reindeer. The inspection program will be voluntary and meet the requirements of the United States Department of Agriculture (USDA) so that inspected reindeer qualifies for use in USDA meat products.

Department Position

The Department supports the passage of CSSB 364. The USDA requires that reindeer meet certain federal inspection requirements for use in other meat products such as reindeer sausage. The inspection of reindeer is a state responsibility. Because of the lack of an acceptable field-kill inspection program, Alaskan herders have been frustrated in their attempts to supply these existing markets and expand the sales of their product. Lack of inspection is a bottleneck to the development of an industry which may have great potential for rural Alaskans. We have attached a memorandum from the state veterinarian on the bill.

We have attached a memorandum from the State Veterinarian on the bill.

Fiscal Effect

The Governor's FY 90 operating budget request contains an increment that would fully fund the program in this legislation. A copy of the increment has been attached to the fiscal note submitted by the Department on this bill.

MEMORANDUM

State of Alaska

TO: Dennis Kelso
Commissioner
Dept. Env. Conservation
Juneau

DATE: February 27, 1990

FILE NO:

TELEPHONE NO: 745-3236

THRU: Doug Donegan
Director
Environmental Health
ADEC, DEH, Juneau

SUBJECT: Senate Bill 364 --
Field Kill Reindeer

FROM: Bert A. Gore, D.V.M. *BA*
State Veterinarian
ADEC, DEH, Palmer

I have reviewed Senate Bill 364 establishing a field kill inspection program for reindeer. I believe that with proper funding it will provide a mechanism for reindeer slaughtered in the field to move into state or federal meat plants and bear a mark of inspection. Without adoption of this bill the reindeer industry will stagnate until slaughterhouses and roads are built across the Seward Peninsula.

hd



Alaska State Legislature

SENATE


Official Business

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

M E M O R A N D U M

MAR 9 1990

TO: Senator Uehling, Co-Chairman
Senate Finance Committee

FROM: Senator Kerttula 

SUBJ: Senate Bill 364--
Relating to the
Inspection of
Slaughtered Reindeer

DATE: March 6, 1990

I would appreciate your scheduling Senate Bill 364, relating to the state inspection of slaughtered reindeer at your earliest convenience.

Senate Bill 364 would allow the state to inspect reindeer meat for use in meat products like sausage. This inspection is mandated by the federal government, but the federal government provides no funding for the inspection. Senate Bill 364 would provide the reindeer herders with greater economic opportunity and the Alaska meat-processing industry with national and international markets.

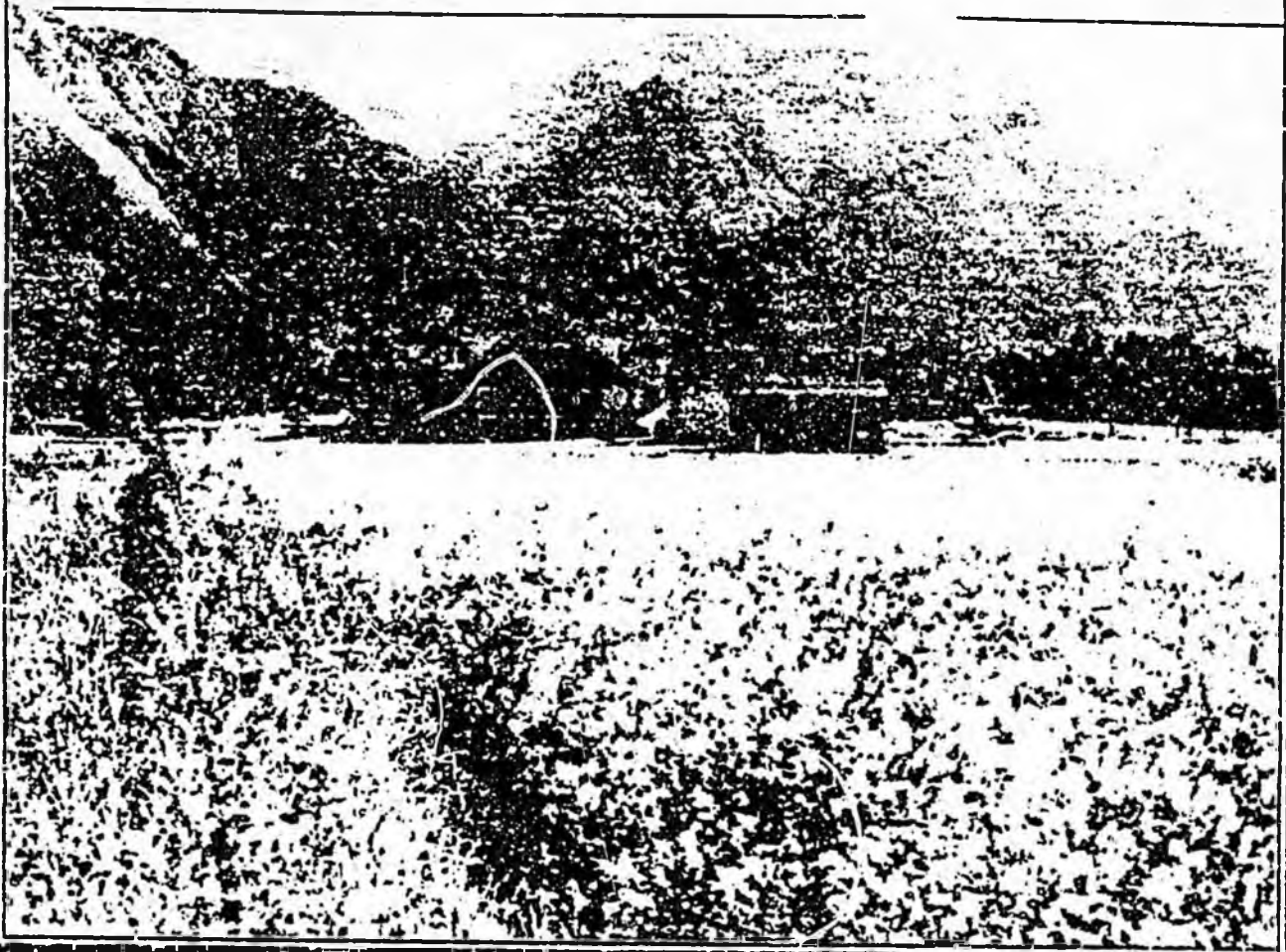
With the passage of this legislation, the reindeer industry is put in a position of potential for phenomenal growth, through meat, blood, hide and horn sales. While there are current markets for reindeer products, these markets are in their infancy. Meat inspection is the key to further developing these markets.

Senate Bill 364 has a "0" fiscal note, the costs of reindeer inspection will be supported by an increment in the Governor's Operating Budget. I have attached reports on the reindeer industry, including the marketing of reindeer, in Alaska for your information.

I appreciate your consideration of my request.

JK:kh

An Economic Assessment of Alaskan Agriculture



Department of Commerce
and Economic Development
Division of Finance and Economics
for
The Alaska Agricultural Action Council

December 1983

Potential For a Reindeer Industry in Alaska

by Edward L. Arobio*

Summary

The reindeer industry in Alaska is generally confined on or adjacent to the Seward Peninsula. Current estimates of the reindeer population on the Peninsula are between 20,000 and 27,000 head.

Reindeer graze on lands managed by the State of Alaska, the Bureau of Land Management, and the National Park Service. Annual permits are required from these agencies to graze reindeer.

Reindeer herding in Alaska is for most herders a part-time activity. Herds are extensively managed, graze over a wide area, and during much of the year, are left untended.

Products from reindeer herds include meat and antlers. Most meat is marketed in the local towns and villages of northwest Alaska. Antlers are harvested for foreign markets with the major markets in Korea, Taiwan, China, and Japan.

Range suitable for reindeer grazing in Alaska has been estimated at about 110 million acres. This area is along the coast from southwestern Alaska to the North Slope. However, institutional constraints probably limit reindeer herding in Alaska under extensive grazing operations to the Seward Peninsula and some coastal islands.

The Seward Peninsula can support additional numbers of reindeer when considering the availability of forage. Potentially, 50,000 to 75,000 head could graze the areas now under permit. Output from herds can increase through either additional herd numbers, more intensive management of herds, or both. Potential meat production resulting from increased numbers of animals and more intensive management have been estimated at between 475,000 and 800,000 pounds annually.

Markets exist in Alaska for additional outputs of meat. Markets for increased output of antlers may not exist without a decrease in prices received by herders for this product.

*Agricultural Economist, Alaska Agricultural Action Council/
Department of Commerce and Economic Development

Introduction

The reindeer industry in Alaska is generally confined on or adjacent to the Seward Peninsula. Current estimates of the reindeer population on the Peninsula are between 20,000 and 27,000 head. ^{8/3/} Grazing permits in this area are held by one Native regional corporation, one Native village corporation, and twelve individuals.*/ Additional herds in Alaska are located at the villages of Stebbins and Shaktolick, and on Nunivak, St. Lawrence, Hagemeister and Umnak Islands.

Herd Management

For the most part, reindeer graze on lands managed by the State of Alaska, the Bureau of Land Management, and the National Park Service. Annual permits are required from these agencies to graze reindeer. Only limited grazing now takes place on Native owned land. However, as the ownership of more lands is transferred to Native village corporations and Native regional corporations as a result of ANCSA, agreements will be needed between herders and these corporations if current grazing operations are to remain unchanged.

Reindeer herding in Alaska is for most herders a part-time activity. They view the herding of reindeer as only one of many annual activities. Herds are extensively managed, graze over wide areas, and during much of the year are left untended.

Products from reindeer herds include meat and antlers. Production figures for meat have not been available since 1977. During the period 1968-1977, data are available for eight of ten years.^{5/} Average production during this period was 246,000 pounds of carcass meat per year with an average value at \$150,000. In recent years, annual production has probably maintained at least this level and may have expanded somewhat, due primarily to development of the NANA Corporation herd. This herd is the largest and most intensively managed herd on the Peninsula.

Currently, the more valuable reindeer product on a per pound basis is velvet (wet) antlers. These antlers are removed during handlings that take place from the middle of June to the middle of July. Again, data on the quantity of production has not been available since 1977. At that time approximately 15,000 pounds were harvested.^{5/} In that year, herders received between \$8 and \$23 per pound for wet antlers. In more recent years, herders have been received from \$30 to \$40 per pound. Based on 15,000 pounds of annual production, the value of the antlers would range between \$450,000 and \$600,000.

*/The herding of reindeer in Alaska is limited to Native peoples of the State.

Information on the returns to reindeer herd operations are limited. However, a recently published article estimated costs and returns for three herd sizes^{6/} (Table 1). These were based on herds that were managed on a part-time basis.

Table 1. Annual Cost of Production and Returns for Extensively Managed Alaskan Reindeer Herds, 1977.

Item	Size of Operation		
	1,000	2,000	3,000
Investment	\$105,000	\$205,000	\$305,000
Cash Revenues	24,300	48,640	70,700
Cash Expenses	20,900	31,600	41,600
Depreciation	500	500	500
Interest on Capital at 6%	6,300	10,300	18,300
Return to Owner Labor and Management	<\$3,400>	\$4,240	\$12,560

Source: Thomas, W.C., E.L. Arobio, L.L. Naylor, and R.O. Stern. 1983. An Alternative Management System for Alaska Reindeer Herds. Agricultural Systems 11: 1-6.

Marketing

Because of the limited production of meat from Alaskan herds, most meat is marketed in the local towns and villages of northwest Alaska. Meat marketing has traditionally been done by the individual herd owner. The reindeer are normally slaughtered in the field and field dressed. The meat then moves to the villages and can be distributed as wage-meat payments, direct sales to village residents, or sales to village stores. Larger herd owners also make sales to stores in Nome and Kotzebue. Small quantities occasionally do move to Anchorage or Fairbanks and at times have gone to the "Lower 48".

Antlers are harvested for foreign markets. The normal procedure is for herders to sell the harvested antler on a wet basis to buyers just after harvesting. The buyers will then dry and process the antlers and export the product for use in oriental medicines. Contrary to popular belief, deer antlers, including reindeer antlers, are not used as aphrodisiacs but as medicines. The major markets for antlers are located in Korea, Taiwan, China, and Japan.

While it is likely that meat production can be expanded without the price to the producer suffering, the situation is different for antlers. Reindeer antler is only one of several types of deer antlers that are used in Oriental medicines. Reindeer antlers, because their use only began in the early 1960s, have a limited history and are not considered by buyers to be the best antler. In addition, reindeer antlers suffer from intense competition from other countries.

The leading antler exporting country in the world is New Zealand. Most of the antler coming from New Zealand is harvested from Red Deer. The antler from Red Deer is considered superior to reindeer antler. Deer in New Zealand are raised in a controlled situation and instead of grazing freely on an open range, they graze in fenced pastures, free from predators. By the mid 1980s, deer herds in New Zealand may total 500,000 head.^{4/}

It has been estimated that Alaska has less than one percent of the possible worldwide production of deer antlers.^{4/} For this reason and because reindeer antler is considered inferior to other types, the price for reindeer antlers received by Alaskan herders may suffer a long-term decline if antler production from Alaskan herds is expanded significantly.^{7/} Long-term growth in output from Alaskan herds will have to be based on meat production.

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ESKIMOS, REINDEER AND LAND

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Bulletin 59

December, 1980

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CHAPTER VII

MARKETING OF REINDEER PRODUCTS

This chapter is concerned with the marketing of reindeer products. Topics to be discussed include the marketing of reindeer meat, the marketing of velvet antler, and the combined value of all reindeer products sold or used in the home by herd owners. In our discussion of reindeer meat marketing, we will consider the time of year and methods by which reindeer are slaughtered and meat distributed, the quantity and value of the reindeer meat produced in Alaska and the Seward Peninsula from 1960 to 1977; the prices received by herd owners for carcass reindeer meat, and the protein-contribution of reindeer meat to residents of northwest Alaska. The analysis of velvet-antler marketing will focus on antler-harvesting procedures, a summary of prices received by herd owners for this product over the last several years, and the quantity and value of velvet-antler production in Alaska for the years 1975-1977. The last major topic, value of reindeer products, describes the quantity and value of all reindeer products produced from all Alaska reindeer herds between 1972 and 1977 and gives the quantity and value of reindeer product sales from the Seward Peninsula for 1975-1977.

Marketing of Reindeer Meat

Through 1977, the main product from Alaska reindeer herds in terms of quantity and value of production was carcass reindeer meat. In 1977, Alaska reindeer herd owners produced 312,000 pounds of dressed reindeer meat and sold 256,000 pounds (Alaska Crop and Livestock Reporting Service, 1978). The remaining 56,000 pounds were used by herd owners in the home and as payment for labor used during normal herd operations. The main source of carcass reindeer meat is steers, although some bulls, cows, and calves are included in any year's total production. The bulk of the slaughtering activity occurs in October through February. A variable number of reindeer can be slaughtered throughout the year, however. Although a reindeer carcass can weight 150 pounds and more, the total recent production figures for Alaska indicate an average of approximately 120 pounds per carcass. (This average weight is based on field observation, individual herd records, and the U.S. Department of the Interior, BIA, Annual Land Operation Reports 1960-1971.)