

**ALASKA LEGISLATURE**

**1103**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

**1993-1994**

177



## Alaska Permanent Fund Corporation

### FINANCIAL PROJECTIONS (in millions)

as of December 31, 1992

GROWTH OF FUND PRINCIPAL						
FY	FY Begin Balance	Appropriations	Dedicated State Revenues*	Inflation-Proofing	FY End Balance	Inflation-Proofing Shortfall
78	0		54		54	
79	54		84		139	
80	139		344		483	
81	483	900	385		1,769	
82	1,769	800	400		2,969	
83	2,969	400	421	231	4,021	
84	4,021	300	366	151	4,838	
85	4,838	300	368	235	5,741	
86	5,741		323	216	6,281	
87	6,281	1,264 **	170	148	7,864	
88	7,864		418	303	8,585	
89	8,585		228	360	9,173	
90	9,173		267	454	9,894	
91	9,894		435	559	10,888	
92	10,888		338	477	11,703	
93	11,703		256	360	12,319	
94	12,319		241	565	13,125	
95	13,125		249	602	13,976	
96	13,976		255	640	14,872	
97	14,872		248	680	15,800	
98	15,800		235	962	16,997	
99	16,997		209	1,032	18,239	
0	18,239		189	1,106	19,534	
1	19,534		172	1,182	20,887	
2	20,887		158	1,263	22,308	
3	22,308		143	1,347	23,798	
4	23,798		129	1,327	25,255	108
5	25,255		115	1,259	26,629	263
6	26,629		102	1,325	28,056	279
7	28,056		79	1,393	29,528	295
8	29,528		25	1,462	31,014	312
9	31,014		25	1,532	32,571	330
10	32,571		22	1,607	34,200	349
<b>Cumulative Totals Projected</b>						
<b>For FY 1993 - 2010:</b>						
			2,852	19,645		1,936

USE OF FUND INCOME						
Net Income	Distributions			Reserves		FY
	Dividends	Inflation-Proofing	General Fund	Add (Delete)	FY End Balance	
2					1	78
8					7	79
32	12				12	80
150	28				59	81
368	71				185	82
471	102	231	110		110	83
530	175	151			203	84
658	217	235			206	85
1,021	303	216			501	86
1,069	391	148			529	87
789	421	303			62	88
868	460	360	4		44	89
916	487	454	4	(30)	605	90
1,030	489	559	4	(24)	581	91
1,036	488	477	5	64	645	92
1,069	517	360	3	190	835	93
1,121	543	565		12	847	94
1,190	572	602		16	864	95
1,264	596	640		27	890	96
1,341	628	680		32	923	97
1,587	683	962		(58)	865	98
1,693	743	1,032		(82)	783	99
1,802	807	1,106		(111)	672	0
1,912	875	1,182		(145)	526	1
2,026	947	1,263		(184)	342	2
2,141	1,005	1,347		(211)	131	3
2,261	1,065	1,327		(131)		4
2,386	1,126	1,259				5
2,514	1,189	1,325				6
2,648	1,255	1,393				7
2,784	1,322	1,462				8
2,924	1,392	1,532				9
3,071	1,464	1,607				10
35,733	16,730	19,645	3			

#### REALIZED RATE OF RETURN ASSUMPTIONS:

	Nominal	Inflation	Real
FY 93:	8.33%	3.01%	5.32%
FY 94 - 97: ***	8.10%	4.50%	3.60%
FY 98 - 2010:	9.00%	6.00%	3.00%

\* Department of Revenue Fall 1992 Low-Case Revenue Forecast.

\*\* Earnings reserve appropriated to Fund principal by the Legislature July 1, 1987.

\*\*\* Based on capital market assumptions adopted by the Trustees in March 1992.

STATUS QUO

2/3



## Alaska Permanent Fund Corporation

### FINANCIAL PROJECTIONS (in millions)

as of December 31, 1992

GROWTH OF FUND PRINCIPAL						USE OF FUND INCOME							
FY	FY Begin Balance	Appropriations	Dedicated State Revenues*	Inflation-Proofing	FY End Balance	inflation-Proofing Shortfall	Net Income	Distributions			Reserves		FY
								Dividends	Inflation-Proofing	General Fund	Add (Delete)	FY End Balance	
78	0		54		54		2			1			78
79	54		84		139		8			7			79
80	139		344		483		32	12		12			80
81	483		385		1,769		150	28		28	59	59	81
82	1,769	800	400		2,969		368	71		71	185	244	82
83	2,969	400	421	231	4,021		471	108	231	110	110	354	83
84	4,021	300	366	151	4,838		530	175	151		203	557	84
85	4,838	300	368	235	5,741		658	217	235		206	763	85
86	5,741		323	216	6,281		1,021	303	216		501	1,264 **	86
87	6,281	1,264 **	170	148	7,864		1,069	391	148		529	529	87
88	7,864		418	303	8,585		789	424	303		62	591	88
89	8,585		228	360	9,173		868	460	360	4	44	635	89
90	9,173		267	454	9,894		916	487	454	4	(30)	605	90
91	9,894		435	559	10,888		1,030	489	559	4	(24)	581	91
92	10,888		338	477	11,703		1,036	488	477	5	64	645	92
93	11,703		256	360	12,319		1,069	517	360	3	190	835	93
94	12,319	600	241	592	13,752		1,121	543	592		(615)	220	94
95	13,752		249	630	14,631		1,160	572	630		(12)	209	95
96	14,631		235	670	15,556		1,264	596	670		(3)	206	96
97	15,556		248	711	16,515		1,341	628	711		2	207	97
98	16,515		235	1,005	17,756		1,587	683	1,005		(101)	106	98
99	17,756		209	1,057	19,022	21	1,693	743	1,057		(106)		99
0	19,022		189	984	20,205	158	1,802	807	994				0
1	20,205		172	1,037	21,414	186	1,912	875	1,037				1
2	21,414		158	1,079	22,650	216	2,026	947	1,079				2
3	22,650		143	1,136	23,929	232	2,141	1,005	1,136				3
4	23,929		129	1,186	25,255	247	2,261	1,065	1,186				4
5	25,255		115	1,259	26,629	263	2,386	1,126	1,259				5
6	26,629		102	1,325	28,056	278	2,514	1,189	1,325				6
7	28,056		79	1,393	29,528	295	2,648	1,255	1,393				7
8	29,528		25	1,462	31,014	312	2,784	1,322	1,462				8
9	31,014		25	1,532	32,571	330	2,924	1,392	1,532				9
10	32,571		22	1,607	34,200	349	3,071	1,464	1,607				10
<b>Cumulative Totals Projected</b>							<b>35,733</b>	<b>16,730</b>	<b>19,045</b>	<b>3</b>			
<b>For FY 1993 - 2010:</b>													

#### REALIZED RATE OF RETURN ASSUMPTIONS:

	Nominal	Inflation	Real
FY 93:	8.33%	3.01%	5.32%
FY 94 - 97: ***	8.10%	4.50%	3.60%
FY 98 - 2010:	9.00%	6.00%	3.00%

\* Department of Revenue Fall 1992 Low-Case Revenue Forecast.

\*\* Earnings reserve appropriated to Fund principal by the Legislature July 1, 1987.

\*\*\* Based on capital market assumptions adopted by the Trustees in March 1992.

**SB 29: APPROPRIATES \$600 MILLION FROM THE EARNINGS RESERVE ACCOUNT TO PERMANENT FUND PRINCIPAL ON JULY 1, 1993**

3/3

219194  
(S) FIN

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB29

Revision Date:  
Title: Relating to the location of the legislature

Department Affected: University of Alaska  
BRU: All  
Component:

Sponsor: Phillips  
Requestor: Gov. Office

COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FD SOURCE						
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FUNDING: (Thousands of Dollars)

1002 FEDERAL FUNDS						
1003 GF MATCH						
1004 GENERAL FUND						
1006 GF/MHTIA						
OTHER						
TOTAL FUNDING	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Wendy Matheny, Budget Analyst Phone: 463-3068  
 Division: Statewide Budget Office Date: \_\_\_\_\_  
 Approved by: Alison Elgee, Associate Director *Alison Elgee*  
 Agency: Statewide Budget Office Date: 1/12/94

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**SB**

**30**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: February 17, 1993

FURTHER REFERRALS:

Date of Committee Action: 2/26/93

The FINANCE Committee considered:

SB 30

SENATE BILL NO. 30

EXTEND ALASKA MINERALS COMM; AGENCY REPORT

"An Act extending the termination date of the Alaska Minerals Commission."

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) DCED 2/10/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Ed Maclean</i> Maclean	✓	<i>Kay Brown</i> Brown		✓	
<i>Ronald Larson</i> Larson	✓	<i>Mike Navarre</i> Navarre		✓	
<i>Richard Foster</i> Foster	✓				
<i>Therriault</i> Therriault	✓				

*Ronald Larson* *Ed Maclean*  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 2

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: SB 30

(S) Publish Date: 2-10-93

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

Title: Extending Termination Date of the Alaska Minerals Commission

Department Affected: Commerce and Economic Development

BRU: Economic Development

Component: \_\_\_\_\_

Sponsor: Senators Sharp, Miller and Frank

Requestor: Senators Sharp and Frank

COMPONENT SERIAL NO. \_\_\_\_\_

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING:

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	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	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
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

Estimate of current year (FY93) impact: None - already funded.

ANALYSIS: (Attach a separate page if necessary.) Commission annual budget is \$20,400, sourced from Governor's budget.

Prepared by: Albert H. Clough, Mining Specialist

Phone: 465-5463

Division: Economic Development

Date: February 2, 1993

Approved by Commissioner: Paul Fuhs

Agency: Commerce and Economic Development

Date: February 2, 1993

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## SPONSOR STATEMENT

SB-30

Senator Bert Sharp

Purpose: Extend the Alaska Minerals Commission to 1999

The Alaska Minerals Commission is comprised of some of the best mining and resource persons in Alaska. They are extremely dedicated and the Commission has served as an advocate of mineral development and multi use of our state lands.

The Alaska Minerals Commission was created to make recommendations to the Governor and Legislature on ways to mitigate any constraints, including governmental constraints, on development of minerals, including coal, in the state.

Commission members are appointed by the Governor, the President of the Senate, and the Speaker of the House. The current members include representatives of the placer, hard rock and coal mining industries and come from all areas of the state.

I urge your favorable vote on this legislation. Thank you.

Back-up

SB 30: "Extending the termination date of the Minerals Commission."

The Alaska Minerals Commission is charged with identifying constraints to Alaskan mineral development and recommending ways to mitigate these constraints. The commission's findings and recommendations are reported to the Governor and Legislature on an annual basis. Commission efforts complement ongoing programs in the Department of Commerce and Economic Development which encourage and facilitate mineral resource, transportation, and access developments in Alaska.

The department views the Alaska Minerals Commission as an extremely cost effective vehicle to get quality expert assistance to further mineral developments throughout Alaska. Therefore, we fully support SB 30 and the continuation of the commission.

  
\_\_\_\_\_  
Paul Fuhs, Commissioner

Date: 1-29-93

# ALASKA MINERALS COMMISSION

January 1993

Chair  
Earl Beistline  
Mining Consultant  
PO Box 80148  
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Vice Chair  
G.G. (Jerry) Booth, President  
North Pacific Mining Corporation  
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Del Ackels, Owner-Operator  
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Karl Hanneman, President  
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Fax: 463-3433

John Schnabel  
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Charles B. Green  
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Fax: 451-6543

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## FOREWORD

The Alaska Minerals Commission was created by the 14th Legislature and signed into law on June 6, 1986. The enabling legislation instructs the Commission to make recommendations to the Governor and Legislature on ways to mitigate the constraints, including governmental constraints, on the development of minerals, including coal, in the state. The Commission's Statement of Purpose can be found in Appendix A.

The Commission presented its initial report to the Governor and the Legislature in January 1987, presented an interim report in January 1988, and was charged with making a final report to the first session of the 16th Legislature in January 1989 after which the Commission was to expire. However, during the second session of the 15th Legislature, legislation was enacted extending the Commission's charter through January 1994. Reports were issued in 1990, 1991, and 1992, and will be issued annually through 1994.

Commission members are appointed by the Governor, the President of the Senate, and the Speaker of the House. The current members include representatives of the placer, hard rock, and coal mining industries and come from diverse areas of the state. Administrative and staff support to the Commission is provided by the Division of Economic Development, Department of Commerce and Economic Development.

During 1992, the Commission held meetings in Juneau, Fairbanks and Anchorage, including a meeting with the Lt. Governor and Commissioners of several Departments. The recommendations in this report are the result of input at these meetings. All Commission meetings are open to the public, and members encourage comments from all interested parties at any time.

Following the list of recommendations in the executive summary, the report contains background information or findings on each issue, followed by the related recommendation. These have been grouped into a Part A which deals with issues that are mainly state issues, and a Part B which are federal issues which affect the state and can be influenced by state participation. Legislation referenced in the report is contained in the appendices.

On behalf of the members of the Commission, I would like to express our appreciation to those members of the public, to the Alaska Miners Association, the Resource Development Council, and to the many government agencies and private organizations that contributed to the preparation of the report. We especially wish to thank Acting Commissioner Paul Fuhs of the Department of Commerce and Economic Development and, Diane Mayer, Dick Swainbank, Al Clough and Nancy Long of the Division of Economic Development who have provided excellent administrative and professional support to the Commission.

We sincerely regret the passing of former Commission member Frederick O. Eastaugh during 1992, and will miss the benefits of his insights and institutional memory. We also welcome John Schnabel who was appointed by the Speaker of the House to replace Fred as a member of the Commission.

Earl H. Beistline  
Chairman

# ALASKA MINERALS COMMISSION 1993 Report to the Governor and Alaska State Legislature

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## EXECUTIVE SUMMARY

Despite the downturn in metal prices, the Alaska mineral industry remained healthy in 1992. The industry value for the year is expected to be similar to 1991 levels of \$612 million; providing over 3,600 direct jobs to the state. Alaska has several world-class mines and advanced exploration projects, however the state needs to address its competitiveness if it is to continue to attract capital investment in its mineral resources.

Exploration is the forerunner to development and production. Worldwide about \$2 to \$2.5 billion is spent on exploration, increasingly in countries which offer incentives such as detailed geologic and geophysical maps, tax and royalty considerations, and simplified permitting.

Many of the issues in this year's report suggest ways that Alaska can increase its share of the global exploration capital.

## RECOMMENDATIONS

### PART A: ISSUES REQUIRING STATE ACTION

#### INCENTIVES

1. The Governor and Legislature should create economic incentives that will provide financial encouragement and help offset some of the real and perceived problems facing exploration and development in Alaska. Possible incentives that should be considered include credits for expenditures on exploration drilling and geophysics that can be deducted from claim rents, the mining license tax, production royalties, and income taxes.

#### GEOPHYSICAL & GEOLOGIC MAPPING

- 2a. The Governor and Legislature should invest \$50 million over the next 8 - 10 years in airborne geophysical mapping, along with geological and geochemical surveys of known and potentially mineralized lands of state interest, and the timely publication of the resulting data.
- b. The Governor should work with the Congressional Delegation to secure full funding for the National Geologic Mapping Act of 1992.

#### MENTAL HEALTH LANDS

3. The Governor and the Legislature should amend Chapter 66 to expedite final resolution of the Mental Health Trust Land lawsuit so the State of Alaska's lands will have an important impediment removed.

#### WATER QUALITY

4. The Governor should direct the Department of Environmental Conservation (DEC) to take a strong stand against the water quality standards being promoted by the U.S. Environmental Protection Agency (EPA) and should direct the DEC to require that all regulations adopted for Alaska are based on valid scientific principles and data which allow for Alaskan conditions.

5. The Governor should direct the DEC to implement a policy that allows mixing zones for placer mining discharge to extend downstream to the point of the next nearest water supply or water recreational use.
6. The Governor should ensure that any waterbody listings developed pursuant to Section 303(d) are justified. The DEC and the Department of Natural Resources should be directed to ensure that the Total Maximum Daily Load (TMDL) assessments are based on the data and not unduly influenced by EPA or environmental plaintiffs.

#### AIR QUALITY

7. The Legislature should enact a State air quality statute that will not impose additional regulatory burdens, and will be as close as possible to Federal clean air standards.

#### ACCESS

- 8a. The state should aggressively assert all identified RS2477 Rights-of-Way.
- b. The state should assert an access route pursuant to Title XI of the Alaska National Interest Lands Conservation Act to test the process and develop precedent-setting guidelines.

#### STATE LAND SELECTIONS

9. The Governor should direct the Selection Steering Committee to select lands with development potential for minerals, fossil fuels, transportation and infrastructure, even if some of the parcels are restricted and remote from contiguous state lands.

#### STATE MINERAL POLICIES

- 10a. The Governor should establish, consistent with Section 1 of Article 8 of the State Constitution, that mineral development is in the public interest of the State and should be recognized in State land management plans.
- b. The Governor should direct that all agencies which take actions that impact the availability of mineral lands should report those actions to the Commissioner of the Department of Natural Resources by October of each year as proposed in Senate Bill 126 during the 17th Legislature. [Appendix B of this report.]

#### STATE LAND WITHDRAWALS AND MANAGEMENT

11. The Legislature should amend AS 38.05.300(a) as follows:

“(a)...uses are compatible. An area of state land, water, or land and water may not, except by act of the state legislature, be closed to mineral location or mineral leasing [multiple use] if the area involved contains more than 640 acres. This limit does not apply where mineral closures are made for land disposal or infrastructure to include but not limited to airports, ports, roads, railroads, pipelines, and powerlines.” (Underline indicates new language, with deletions in brackets.)

## STATE REGULATORY REFORM

12. The Legislature should require agencies proposing regulations to describe the probable effects of the proposed regulations including the economic impacts, and the short and long-term costs and benefits.
13. The Governor should designate and fund the Department of Natural Resources (DNR) as the lead agency in all regulatory matters concerning mining, and should direct other agencies with regulatory authority over mining, such as the Departments of Fish and Game and Environmental Conservation, to coordinate their regulatory programs through DNR.
14. The Governor should direct the Commissioner of the Department of Natural Resources to take the necessary steps to allow Miscellaneous Land Use Permits to be issued for periods of up to 5 years.
15. The Governor should direct the Commissioner of the Department of Natural Resources to revise regulations governing offshore prospecting permits such that they not be required to be subject to best interest findings, being exempted in a manner similar to leases of land for onshore fishery sites, mineral claims, or upland mining leases. A.S.38.05.035(e) should be changed by adding "(6) an offshore prospecting permit or lease issued under A.S.38.05.250."
16. The Legislature should enact legislation creating an automatic extension of permits foreshortened by court proceedings.

## CITIZEN'S ADVISORY COMMISSION ON FEDERAL AREAS

17. The Governor and Legislature should provide expanded budgetary and programmatic support to the Citizens Advisory Commission on Federal Areas.

## COASTAL ZONE MANAGEMENT

- 18a. The Legislature should amend AS 46.40.100 (b) to allow coastal zone applicants to petition for hearings.
- b. The Governor should set up a task force to evaluate all district plans to ensure that the "uses of state concern" have been incorporated in district plans, recognizing resource development as an acceptable land use option.
- c. The Governor should identify the roles and scope of authority of the coastal resource management boards and determine if periodic reviews of existing district plans should be legislatively mandated.

## COAL ISSUES

19. The Governor should direct the Department of Natural Resources to create an advisory board consisting of coal industry representatives, Division of Mining personnel involved in permitting coal mining activities, and representatives of the office of Surface Mining-Reclamation and Enforcement group. This board shall meet periodically to review the Alaska Surface Coal Mining Control and Reclamation program and make changes needed to account for Alaska's diverse conditions and for changing technologies.

## **EDUCATION AND RESEARCH**

20. The Governor and the Legislature should continue to support the Department of Education for its partial funding of a Minerals Specialist at the present or an increased level, commensurate with increased contributions from the industry-supported Alaska Mineral and Energy Resource Education Fund (AMEREF).

## **USER FEES**

21. The Governor and the Legislature should establish policy guidelines for the implementation of user fees and should establish a procedure requiring legislative and public review of all proposed user fees.

## **PART B: FEDERAL ISSUES OF STATE CONCERN**

### **MINING LAW OF 1872**

22. The Governor and the Legislature should continue to support the Alaska Congressional Delegation in upholding the existing Mining Law of 1872.

### **WETLANDS**

23. The Governor should continue to seek exemption from strict implementation of a national "no net loss" policy for Alaska.

### **ANILCA PROVISIONS**

24. The Governor and Legislature, through the Attorney General's office, the State's Washington office and the Congressional Delegation, should insist that the federal administration:
  - a. provide access across Conservation System Units (CSU) as required by Title XI of the Alaska National Interest lands Conservation Act (ANILCA).
  - b. prohibit the creation of additional CSU lands in Alaska as required by Sections 101d and 1326b of ANILCA, and
  - c. exchange mineralized areas from existing CSU under the authority of Sections 103b and 1302h of ANILCA.

### **FEDERAL LAND MANAGEMENT PLANNING**

25. The Governor and Legislature, through the State's Washington office and the Congressional Delegation, should introduce and support implementation of "zero based land planning" in which the agencies plan for the entire land base available BEFORE restrictive land use designations are in place, not the land base available AFTER restrictive land use designations have been enacted.

## **BERINGIAN HERITAGE INTERNATIONAL PARK**

26. The Governor and the Legislature, through the Congressional Delegation, the State's Washington Office, and by letter to the Secretary of the Interior, should oppose the creation of the Beringian Heritage International Park, the World Heritage Site designation and the Beringia International Marine Biosphere Reserve.

## **U.S. - CANADA ACCESS AGREEMENTS**

27. The Governor should review the 1825 Treaty between Russia and Great Britain and support the provisions in Article VI of the Treaty, and all other agreements, protocols and understandings between the two countries to enhance the use of Alaskan towns as supply and transportation centers.

## FINDINGS AND RECOMMENDATIONS

### PART A: ISSUES REQUIRING STATE ACTION

#### INCENTIVES

**FINDING:** The Alaskan minerals industry is in competition with a global market for mineral exploration and development dollars. Although Alaska is blessed with an abundance of geologically favorable terrain, it has suffered because of its remoteness, the lack of transportation infrastructure and seasonal constraints. Equally important is the industry's perception that State and Federal agencies are not supportive of mineral development in Alaska.

Throughout the world there are countries actively seeking exploration and development investment by providing economic incentives for resource industries. Incentive programs have been successful in Chile and Mexico where privatization and tax incentives have revitalized their mining industries. Appropriate incentives could be especially effective in drawing industry attention to Alaska because many companies currently consider the "lower 48" to be over-explored and are looking elsewhere for new exploration opportunities.

#### THE COMMISSION RECOMMENDS THAT:

1. *The Governor and Legislature should create economic incentives that will provide financial encouragement and help offset some of the real and perceived problems facing exploration and development in Alaska. Possible incentives that should be considered include credits for expenditures on exploration drilling and geophysics that can be deducted from claim rents, the mining license tax, production royalties, and income taxes.*

#### GEOPHYSICAL & GEOLOGIC MAPPING

**FINDING:** Many major mines were first discovered by individuals or small exploration companies. These groups, and even major mining companies, cannot afford the expensive regional airborne geophysical surveys needed to discover ore deposits which have no surficial expression, and are often referred to as "blind" deposits. For every ore body exposed at the surface, there are many more covered by vegetation, soil, or hundreds of feet of rock.

Many countries such as Mexico and Russia consider acquisition of this basic data a necessary and proper function of government, recognizing that investment in detailed regional airborne geophysical surveys, and geochemical and geologic mapping is repaid many-fold by revenues and jobs from producing mines. For example, the Red Dog Mine is expected to inject \$5 billion into the State over the life of the mine.

Exploration capital is the seed for future mineral development, and it is attracted to those areas with the most geologic data because of the greater chance for successful programs.

In a few years, if the National Geologic Mapping Act of 1992 is fully funded, federal matching funds may become available for at least the geologic mapping portion of a proposed Alaskan program.

#### THE COMMISSION RECOMMENDS THAT:

- 2a. *The Governor and Legislature should invest \$50 million over the next 8 - 10 years in airborne geophysical mapping, along with geological and geochemical surveys of known and potentially mineralized lands of state interest, and the timely publication of the resulting data.*
- b. *The Governor should work with the Congressional Delegation to secure full funding for the National Geologic Mapping Act of 1992.*

## MENTAL HEALTH LANDS

**FINDING:** In 1956, federal legislation created a Mental Health Trust in Alaska. One million acres of Alaska lands were deeded to the State. Revenues from those lands were first to be applied toward providing mental health services for Alaska residents, while any remaining revenues could be used for other purposes.

In May of 1991 the Alaska State Legislature passed a new mental health statute, SLA Chapter 66, which was intended to resolve litigation over the handling of the Mental Health Trust Lands after Statehood. A settlement agreement between the State and the settling plaintiffs to implement Chapter 66 is pending before the Superior Court of Judge Mary Greene.

The implementation of the settlement agreement has expanded the scope of the problem such that the Alaska Department of Natural Resources is currently restricted from taking routine management actions, including the issuance of permits and transfers of title, not only on Mental Health Lands, but also on additional millions of acres of state land. This gridlock has resulted in extreme hardships for innocent third parties, including mining companies, businesses and individuals. It would be in the best interest of the state and all its residents to resolve the lawsuit as quickly as possible.

### THE COMMISSION RECOMMENDS THAT:

- 3. The Governor and the Legislature should amend Chapter 66 to expedite final resolution of the Mental Health Trust Lands lawsuit so the State of Alaska's lands will have an important impediment removed.*

## WATER QUALITY

**FINDING:** During July of 1992, the Department of Environmental Conservation (DEC) issued a Public Review Draft containing some significant proposed revisions to state water quality regulations. As outlined in the issue papers and fact sheets accompanying the draft, DEC attempted to base these changes on scientific evaluation of the standards based on local experience and conditions. Several of the proposed regulations, including provisions related to natural characteristics of water, arsenic, groundwater, and mixing zones, are crucial to the future viability of the mining industry in Alaska. The Environmental Protection Agency (EPA) has indicated that it disagrees with some of the proposed changes, and has advised DEC that other data, some without scientific support or local input, should be used to justify much more stringent standards than proposed by DEC in July.

### THE COMMISSION RECOMMENDS THAT:

- 4. The Governor should direct the Department of Environmental Conservation (DEC) to take a strong stand against the water quality standards being promoted by the Environmental Protection Agency (EPA) and should direct the DEC to require that all regulations adopted for Alaska are based on valid scientific principles and data which allow for Alaskan conditions.*

**FINDING:** The mixing zone concept has long been identified as one of the few regulatory tools available that could allow placer miners utilizing the best of current technology a means to operate legally, while still protecting downstream uses. In the July 1992 Public Review Draft, DEC made several proposed changes to the mixing zone regulations. Unfortunately, the DEC has still not realized that the key element toward utilizing the maximum flexibility allowed under the Clean Water Act is to extend the mixing zone downstream to the point of the next use, while at the same time ensuring that the water quality standards for that next use, at the point of use, shall be met.

**THE COMMISSION RECOMMENDS THAT:**

- 5. The Governor should direct the DEC to implement a policy that allows mixing zones for placer mining discharge to extend downstream to the point of the nearest water supply or water recreation use.*

**FINDING:** Section 303(d) of the Clean Water Act (CWA) directs the State and the EPA to develop a list of waterbodies that will not meet water quality standards even after all individual sources are in compliance with NPDES permits. Total Maximum Daily Load (TMDL) assessments must be completed for these waterbodies and wasteload allocations made. During 1992, data to support a TMDL assessment was collected on the upper reaches of Birch Creek. This data shows that during normal flows, Birch Creek was in compliance with the 5 NTU (Nephelometric Turbidity Units) standard much of the time. However, with the meager budget allocated to data collection and the large drainage being sampled with many unidentified or unquantifiable sources, extreme prudence will be required to make an accurate assessment that is based on data and not preconceived notions.

**THE COMMISSION RECOMMENDS THAT:**

- 6. The Governor should ensure that any waterbody listings developed pursuant to Section 303(d) are justified. The Department of Environmental Conservation and the Department of Natural Resources should be directed to ensure that the Total Maximum Daily Load (TMDL) assessments are based on data and not unduly influenced by the Environmental Protection Agency or environmental plaintiffs.*

**AIR QUALITY**

**FINDING:** As a federal requirement for the implementation of the Clean Air Act, the State is currently preparing legislation that would modify air quality statutes:

**THE COMMISSION RECOMMENDS THAT:**

- 7. The Legislature should enact a State air quality statute that will not impose additional regulatory burdens and will be as close as possible to federal clean air standards.*

**ACCESS**

**FINDING:** The State has identified hundreds of potential Revised Statute 2477 Rights-of-Way (RS2477), and is in the process of asserting title on a selected few. However, only the Bureau of Land Management (BLM) currently has a policy for accepting state nominations and assertions.

Proposed changes to the Federal Land Policy and Management Act of 1976 (FLPMA) will require all assertions to pre-1976 rights-of-way be made before January 1, 1994, less than one year away.

RS2477 access corridors may provide the only assured access across and within the vast interlocked system of Conservation Systems Units in Alaska, other than the untested Title XI access provided for by the 1980 Alaska National Interest Lands Conservation Act (ANILCA).

**THE COMMISSION RECOMMENDS THAT:**

- 8a. The state should aggressively assert all identified RS2477 Rights-of-Way.*
- b. The state should assert an access route pursuant to Title XI of the Alaska National Interest Lands Conservation Act to test the process and develop precedent-setting guidelines.*

**STATE LAND SELECTIONS**

**FINDING:** The State is preparing to submit to the Federal Bureau of Land Management (BLM) the final selections for its land entitlement. A Department Order, (101), dated December 13, 1991, from the Commissioner of the Department of Natural Resources provided background and guidelines for the selections, identifying high mineral value as one of the preferred criteria for land selection.

Because deposits such as Red Dog and Fort Knox can provide enormous economic benefits even though they may only occupy a few Townships, the state should consider selecting small or remote parcels with high mineral potential.

**THE COMMISSION RECOMMENDS THAT:**

- 9. The Governor should direct the Selection Steering Committee to select lands with development potential for minerals, fossil fuels, transportation and infrastructure, even if some of the parcels are restricted and remote from contiguous state lands.*

**STATE MINERAL POLICIES**

**FINDING:** In recent years, state policy decisions have subordinated the activities of the resource industries to aesthetic, recreational or wildlife concerns. Numerous agencies, whose actions can be detrimental to orderly mineral development, promulgate rules and regulations without coordination, resulting in overlapping and sometimes conflicting state policies.

**THE COMMISSION RECOMMENDS THAT:**

- 10a. The Governor should establish, consistent with Section 1 of Article 8 of the State Constitution, that mineral development is in the public interest of the State and should be recognized in State land management plans.*
- b. The Governor should direct that all agencies which take actions that impact the availability of mineral lands should report those actions to the Commissioner of the Department of Natural Resources by October of each year as proposed in Senate Bill 126 during the 17th Legislature. [Appendix B of this report.]*

**STATE LAND WITHDRAWALS AND MANAGEMENT**

**FINDING:** Presently, the Commissioner of the Department of Natural Resources, (DNR), may close land to mineral entry for almost any reason deemed appropriate. Mineral closures are often made as a part of area plans with little justification and no knowledge of the mineral resources in the lands closed. In many cases the closures have covered lands that were selected by the state for their mineral potential.

Statute already requires that only the Legislature can close an area of more than 640 acres to "multiple use". However, the DNR has argued that land is still open to "multiple use" if any two uses, such as wildlife habitat and recreation, are allowed. This abuse of the intent of the statute needs to be corrected.

While there is a legitimate need for the Commissioner of Natural Resources to be able to make discretionary mineral closures on small acreages to accommodate land disposals and infrastructure such as airports, ports, and roads, the closure of large acreages should be limited to the legislature. To accomplish this, amendments should be made to Title 38 of the Alaska Statutes which deals with Public Lands.

**THE COMMISSION RECOMMENDS THAT:**

*11. The Legislature should amend AS 38.05.300(a) as follows:*

*"(a)...uses are compatible. An area of state land, water, or land and water may not, except by act of the state legislature, be closed to mineral location or mineral leasing [multiple use] if the area involved contains more than 640 acres. This limit does not apply where mineral closures are made for land disposal or infrastructure to include but not limited to airports, ports, roads, railroads, pipelines, and powerlines." (Underline indicates new language, with deletions in brackets.)*

## STATE REGULATORY REFORM

**FINDING:** Alaska mineral producers often face higher costs due to a harsher climate, higher labor costs, higher capital costs for transportation and infrastructure, and other reasons. To remain competitive, unjustified or unnecessary indirect costs must not be allowed to price Alaska producers out of the market place. Estimating the costs of proposed regulations and comparing them to the expected benefits is a prudent function of responsible government.

**THE COMMISSION RECOMMENDS THAT:**

*12. The Legislature should require agencies proposing regulations to describe the probable effects of the proposed regulations including the economic impacts, and the short and long-term costs and benefits.*

**FINDING:** Presently, several state agencies claim management authority over state lands. The Administration has become a complex bureaucracy with multiple agencies vying for regulatory management of mineral development. The number of permits, the time required to secure permits, the number of agencies and the costs related to obtaining permits is becoming excessive.

**THE COMMISSION RECOMMENDS THAT:**

*13. The Governor should designate and fund the Department of Natural Resources (DNR) as the lead agency in all regulatory matters concerning mining, and should direct other agencies with regulatory authority over mining, such as the Departments of Fish and Game and Environmental Conservation, to coordinate their regulatory programs through DNR.*

**FINDING:** Authority for the issuance of Alaska Placer Mining Permits comes through the Miscellaneous Land Use Permit process. As the regulations are currently written, a permit under this section can be issued for only one year. Allowing longer permit periods would create a more stable environment for planning and financing mining projects while significantly reducing the workload of the Division of Mining.

**THE COMMISSION RECOMMENDS THAT:**

14. *The Governor should direct the Commissioner of the Department of Natural Resources to take the necessary steps to allow Miscellaneous Land Use Permits to be issued for periods of up to 5 years.*

**FINDING:** There is currently a requirement that a best interest finding be made before an offshore prospecting permit (OPP) can be issued by the DNR. The process of generating a best interest finding is being used to restrict DNR from normal issuance of OPPs.

**THE COMMISSION RECOMMENDS THAT:**

15. *The Governor should direct the Commissioner of the Department of Natural Resources to review regulations governing offshore prospecting permits such that they not be required to be subject to best interest findings, being exempted in a manner similar to leases of land for onshore fishery sites, mineral claims or upland mining leases. A.S.38.05.035(e) should be changed by adding "(6) an offshore prospecting permit or lease issued under A.S.38.05.250."*

**FINDING:** The usable term of a permit may be reduced or eliminated when a permittee is prohibited from operating under their permit due to third party litigation challenging the issuance, validity, completeness or other aspects of the permit. Though the litigation may not be successful, the permittee has still been damaged. Statutory action should be taken to remedy this situation.

**THE COMMISSION RECOMMENDS THAT:**

16. *The Legislature should enact legislation creating an automatic extension of permits foreshortened by court proceedings.*

**CITIZEN'S ADVISORY COMMISSION ON FEDERAL AREAS**

**FINDING:** The Citizens Advisory Commission on Federal Areas was established by the Alaska Legislature in 1981 shortly after the enactment of the Alaska National Interest Lands Conservation Act. The Commission is composed of 16 members, half of whom are appointed by the Governor and half by the Legislature, including four sitting legislators. The Commission analyzes federal legislation, regulations and management decisions, determines the impact of these actions on Alaska's citizens, and makes recommendations to both State and Federal agencies for corrective actions to problems identified.

Development of Federal lands and regulations for access across them is important to the State's economy. The Commission provides a valuable and cost-effective mechanism through which State concerns regarding management of all Federal lands can be expressed.

**THE COMMISSION RECOMMENDS THAT:**

17. *The Governor and Legislature should provide expanded budgetary and programmatic support to the Citizen's Advisory Commission on Federal Areas.*

**COASTAL ZONE MANAGEMENT**

**FINDING:** Alaska Statute, Sec. 46.40.100 (b) does not allow applicants to petition the Coastal Policy Council when relief is sought on decisions made by the coastal resource district or state agency. The State administration is evaluating the role and functions of the Coastal Policy Council in relation to the power it has over decisions

made by state agencies. Council implementation of AS 46.40.060, which requires screening of local district plans for arbitrary or unreasonable restriction or exclusion of "uses of state concern," has been inconsistently implemented, particularly with respect to large-scale industrial and commercial developments identified in AS 46.40.210 (6) (c). The role of the coastal resource service area boards is unclear, and the boards and district are not required to modernize district plans.

**THE COMMISSION RECOMMENDS THAT:**

- 18a. The Legislature should amend AS 46.40.100 (b) to allow coastal zone applicants to petition for hearings.*
- b. The Governor should set up a task force to evaluate all district plans to ensure that the "uses of state concern" have been incorporated in district plans, recognizing resource development as an acceptable land use option.*
- c. The Governor should identify the roles and scope of authority of the coastal resource management boards and determine if periodic reviews of existing district plans should be legislatively mandated.*

## COAL ISSUES

**FINDING:** The Alaska Surface Coal Mining Control and Reclamation program is constantly being reviewed for possible change in response to changes in the federal program. To ensure that these oversight reviews and any resulting changes to the State's program reflect Alaska's diverse conditions, there needs to be close communication and cooperation between Alaska's coal industry and State and federal agencies involved in program administration.

**THE COMMISSION RECOMMENDS THAT:**

- 19. The Governor should direct the Department of Natural Resources to create an advisory board consisting of coal industry representatives, Division of Mining personnel involved in permitting coal mining activities, and representatives of the office of Surface Mining-Reclamation and Enforcement group. This board shall meet periodically to review the Alaska Surface Coal Mining Control and Reclamation program and make changes needed to account for Alaska's diverse conditions and for changing technologies.*

## EDUCATION AND RESEARCH

**FINDING:** The "Alaska Resource Kit: Minerals," which is being used in the statewide public school system, is an excellent program for educating Alaska's students in the issues and fundamentals of resource development. The program is a cooperative effort between the Department of Education, which developed the curriculum and is responsible for its implementation, and the Alaska Mineral and Energy Resource Education Fund (AMEREF). AMEREF is an industry-supported organization which annually funds the production and replacement of the teaching materials, and which partially funds the salary of a Mineral Specialist in the Department of Education who is responsible for providing teacher training and for implementing the program into the school system. This program has proven to be a success and reflects the cooperation that has existed during the 10 years of the programs' existence.

**THE COMMISSION RECOMMENDS THAT:**

- 20. The Governor and the Legislature should continue to support the Department of Education for its partial funding of a Minerals Specialist at the present or an increased level, commensurate with increased contributions from the industry-supported Alaskan Mineral and Energy Resource Education Fund (AMEREF).*

## USER FEES

**FINDING:** Increased user fees have been suggested as a means of offsetting the cost of providing government service as the state faces declining revenues. However, allowing state agencies to unilaterally implement user fees could result in uncontrolled increases in the cost of basic services required by citizens and businesses, and allow state agencies to operate outside the legislature's budgetary process. Additionally, the implementation of user fees should carefully balance the need to generate revenues against the increased cost to citizens and businesses for necessary services and required permits.

In addition to these general concerns, the mineral industry is concerned about fee schedules and access restrictions for technical resource and land information from state databases. Onerous fees and restrictive use agreements for this information will discourage investment in mineral exploration and development.

**THE COMMISSION RECOMMENDS THAT:**

21. *The Governor and Legislature should establish policy guidelines for the implementation of user fees and should establish a procedure requiring legislative and public review of all proposed user fees.*

## PART B: FEDERAL ISSUES OF STATE CONCERN

### MINING LAW OF 1872

**FINDING:** The 1872 Mining Law was modified in 1992 in regard to patenting rules, and particularly in regard to a temporary annual rental fee of \$100 per claim. This fee, which has minor exemptions, will be onerous to the small company, and will result in the loss of many claims. It is expected that further assaults will be made on the integrity of the Law in 1993.

**THE COMMISSION RECOMMENDS THAT:**

22. *The Governor and Legislature should continue to support the Alaska Congressional Delegation in upholding the existing Mining Law of 1872.*

### WETLANDS

**FINDING:** An Administration proposal to exempt from wetlands regulations those states where less than 1% of the wetlands has been disturbed was published in the Federal Register on November 4, 1992.

**THE COMMISSION RECOMMENDS THAT:**

23. *The Governor should continue to seek exemption for Alaska from strict implementation of a national "no net loss" policy.*

## ANILCA PROVISIONS

**FINDING:** In order to assure passage of the Alaska National Interest Lands Conservation Act (ANILCA) in 1980, there were several sections included to protect pre-existing rights. Several provisions would allow mineral development on or near otherwise withdrawn land. Title XI addressed access across the Conservation System Units (CSU). Sections 101d and 1326b assured that no more land in Alaska would be considered for new CSU or similar designations. Sections 103b and 1302h provided mechanisms for the Secretary of the Interior to adjust the boundaries of CSU or to exchange lands within them to exclude mineralized areas.

### THE COMMISSION RECOMMENDS THAT:

24. *The Governor and Legislature, through the Attorney General's office, the State's Washington office and the Congressional Delegation, should insist that the federal administration;*
- a. *provide access across Conservation System Units (CSU) as required by Title XI of the Alaska National Interest lands Conservation Act (ANILCA).*
  - b. *prohibit the creation of additional CSU lands in Alaska as required by Sections 101d and 1326b of ANILCA, and*
  - c. *exchange mineralized areas from existing CSU under the authority of Sections 103b and 1302h of ANILCA.*

## FEDERAL LAND MANAGEMENT PLANNING

**FINDING:** During each cycle of federal land management planning, the acreage available for multiple use is incrementally reduced by the creation of wilderness or similarly restrictive land use designations. This one-way process continually removes public lands from multiple-use categories with no consideration for the cumulative impact on the availability and national need for natural resources.

### THE COMMISSION RECOMMENDS THAT:

25. *The Governor and Legislature, through the State's Washington office and the Congressional Delegation, should introduce and support implementation of 'zero based land planning' in which the agencies plan for the entire land base available BEFORE restrictive land use designations are in place, not the land base available AFTER restrictive land use designations have been enacted.*

## BERINGIAN HERITAGE INTERNATIONAL PARK

**FINDING:** A federal bill entitled "Beringian Heritage International Park Act of 1991," proposes a joint Russian and American park on both sides of the Bering Straits. The creation of an international park could negatively impact neighboring lands, access, and resource development in northwest Alaska. In addition to support of the International Park, the National Audubon Society recommends the creation of a "Beringia International Marine Biosphere Reserve" and a "World Heritage Site."

### THE COMMISSION RECOMMENDS THAT:

26. *The Governor and the Legislature, through the Congressional Delegation, the State's Washington Office, and by letter to the Secretary of the Interior, should oppose the creation of the Beringian Heritage International Park, the World Heritage Site designation and the Beringia International Marine Biosphere Reserve.*

## U.S. - CANADA ACCESS AGREEMENTS

**FINDING:** Mineral development on adjacent Canadian lands can have a very positive impact on those nearby Alaskan towns such as Skagway, Haines, Juneau and Wrangell which are used as supply and transportation bases.

In the 1825 agreement between Britain and Russia, the boundary between the Crown Lands, (Canada), and the Russian possession (Alaska) was drawn essentially as it is today, with the exception that the border should never exceed a distance of 10 marine leagues, (about 30 miles), from the coast. In the 1867 purchase agreement between the United States and Russia, all of the 1825 agreements between Russia and Great Britain were to be honored. Article VI of the 1825 agreement states,

"It is understood that the subjects of his Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall forever enjoy the right of navigating freely, and without any hinderance whatever, all the rivers and streams which in their course to the Pacific Ocean may cross the line of demarcation upon the line of coast described in Article III of the present Convention".

### THE COMMISSION RECOMMENDS THAT:

27. *The Governor should review the 1825 Treaty between Russia and Great Britain and support the provisions in Article VI of the Treaty, and all other agreements, protocols and understandings between the two countries to enhance the use of Alaskan towns as supply and transportation centers.*

## APPENDICES

A. **Alaska Minerals Commission Statement of Purpose and Statute Authorizing Commission**

B. **Legislation Referenced in This Report**

SB 126 - An Act relating to the Review and Reporting Requirement of Agencies of the State Relating to the State Mineral Policy; and Providing for an Effective Date.

## APPENDIX A

### ALASKA MINERALS COMMISSION STATEMENT OF PURPOSE AND STATUTE AUTHORIZING COMMISSION

The Alaska Minerals Commission was created by the 14th Legislature in Chapter 98 of the Session Laws of 1986 and was established to make recommendations to the Governor and to the Legislature on ways to mitigate constraints on the development of minerals in the State.

The minerals industry offers the greatest potential of any Alaska industry for expanding and diversifying the State's economic base; for increasing Statewide employment; and for generating new wealth to create businesses and provide revenues for State and local governments.

However, Alaska has a complex pattern of land ownership and management; has overlapping and uncertain regulatory requirements; has unique geographic, geologic and climatic conditions; and has an underdeveloped transportation system.

To attract the capital necessary for the exploration and development of new mines; to ensure that mines can be developed feasibly and in timely fashion; and to ensure that producing mines remain viable—constraints on the industry must be mitigated.

The Alaska Minerals Commission will prepare reports for the First and Second Sessions of the 15th Legislature, and the First Session of the 16th Legislature, recommending to the Governor and to the Legislature the adoption of legislation and the implementation of administrative policy that will best accomplish the statement of policy found in Article VIII, of the Constitution of Alaska:

“It is the policy of the State to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest.”

and the statement of policy found in the President's National Materials and Minerals Report to Congress of April 5, 1982:

“It is the policy of this administration to decrease America's mineral vulnerability by taking positive action that will promote our national security, help ensure a healthy and vigorous economy, create American jobs, and protect America's national resources and environment.”

The goals of the recommendations of the Alaska Minerals Commission are to assure that the Legislature and the State administration endorse and promote development of a viable mining industry in the State.

Chapter 98  
Session Laws of Alaska, 1986  
As Amended by  
Chapter 71  
Session Laws of Alaska, 1988

AN ACT

Relating to the Alaska Minerals Commission; and providing for an effective date.

Section 1. (a) The legislature finds that the minerals industries, including metallic minerals, industrial minerals, and hydrocarbons, have been traditionally and continue to be the major source of wealth and income in the state.

(b) The legislature further finds that there are major constraints on the continued development of a diverse mineral industry in the state, including the Environmental Protection Agency's effluent guidelines, state water quality standards and improperly classified streams and rivers, restriction on surface access, complex and numerous permitting requirements, and limited access to minerals through mineral closing orders and restrictions on multiple use through state and federal land use plans.

Section 2. ALASKA MINERALS COMMISSION ESTABLISHED. (a) The Alaska Minerals Commission is established in the Department of Commerce and Economic Development.

(b) The Commission is composed of 11 members. The Commission shall be composed of individuals who have at least five years' experience in the various aspects of the minerals industries in the state. The Governor shall appoint five members of the Commission, one of whom must reside in a rural community. The President of the Senate shall appoint three members of the Commission. The Speaker of the House of Representatives shall appoint three members of the Commission. Each member serves at the pleasure of the appointing authority.

(c) The Commission shall make recommendations to the Governor and to the Legislature on ways to mitigate the constraints, including governmental constraints, on development of minerals, including coal, in the State.

(d) The Commission shall report its recommendations each year to the Governor and the Legislature during the first 10 days of the regular session of the Legislature.

Sec. 3. This Act is repealed February 1, 1994.

Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c).

## **APPENDIX B**

### **LEGISLATION REFERENCED IN REPORT**

SB 126 An Act Relating to Review and Reporting Requirement of Agencies of the State Relating to the State Mineral Policy; and Providing for and Effective Date.

**CS FOR SENATE BILL NO. 126 (RESOURCES)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Offered: 4/14/92**  
**Referred: Finance**

**Sponsor(s): SENATORS FRANK, Sturgulewski, Pearce, Uehling, Jones**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the review and reporting requirements of agencies of the state relating  
 2 to the state mineral policy; and providing for an effective date."

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

4 \* **Section 1.** AS 44.99.110 is amended by adding new subsections to read:

5 (b) Each agency listed in (g) of this section shall review its statutory authority, its  
 6 administrative regulations, and its procedures applicable to mineral exploration and development  
 7 to determine whether there are deficiencies or inconsistencies that must be addressed in order to  
 8 comply with the policy established in (a) of this section.

9 (c) Each agency listed in (g) of this section shall forward to the commissioner of natural  
 10 resources on October 1 of each year its previously unreported

11 (1) ~~comments and recommendations on the resolution of the deficiencies and~~  
 12 ~~inconsistencies in its statutory authority, its administrative regulations, and its procedures~~  
 13 ~~applicable to mineral exploration and development;~~

14 (2) progress that it has made on the resolution of the deficiencies and

1 inconsistencies that were identified in earlier reports.

2 (d) Notwithstanding (c) of this section, every four years each agency listed in (g) of this  
3 section shall compile and forward to the commissioner of natural resources its unreported and  
4 previously reported comments and recommendations under (c)(1) of this section and progress  
5 under (c)(2) of this section.

6 (e) The commissioner shall assemble the comments, recommendations, and reports  
7 received under (c) or (d) of this section and forward them, unedited, to the governor and the  
8 legislature within the first 10 days of each regular session of the legislature.

9 (f) Each agency listed in (g) of this section shall work with mining interests, coastal  
10 resource service areas, the public, and other resource users to propose solutions to inconsistencies  
11 and deficiencies identified.

12 (g) The requirements of (b) - (f) of this section apply to

13 (1) the Department of Commerce and Economic Development;

14 (2) the Department of Environmental Conservation;

15 (3) the Department of Fish and Game;

16 (4) the Department of Natural Resources;

17 (5) the Department of Revenue;

18 (6) the office of management and budget;

19 (7) the Alaska Railroad Corporation;

20 (8) the University of Alaska; and

21 (9) any other agency of the state designated by the Alaska Minerals Commission

22 \* **Sec. 2. INITIAL REPORT.** In making the initial report required under AS 44.99.110, as amended  
23 by sec. 1, of this Act, the agencies listed in AS 44.99.110(g), as added by sec. 1 of this Act, shall report  
24 as required under AS 44.99.110(d), as added by sec. 1 of this Act.

25 \* **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

**SB**

**30**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 1/22/93

FURTHER:

DATE TURNED INTO OFFICE: 2-10-93

The Finance Committee considered **SENATE BILL NO. 30**

"An Act extending the termination date of the Alaska Minerals Commission."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal
<u>DOVED</u>	<u>2-2-93</u>	<u>0</u>	

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

**DO PASS:**

Tim Kelly  
Steve Ruzin  
Bob Sharp  
Alvin

**OTHER RECOMMENDATIONS:**

John No Rec

1. Mark Anaso  
 Co-Chair: Signature/Recommendation

2. True Peace - 10 Recs  
 Co-Chair: Signature/Recommendation

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

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

Title: Extending Termination Date of the Alaska Minerals Commission

Sponsor: Senators Sharp, Miller and Frank

Requestor: Senators Sharp and Frank

Department Affected: Commerce and Economic Development

BRU: Economic Development

Component: \_\_\_\_\_

COMPONENT SERIAL NO. \_\_\_\_\_

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING:

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	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	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
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

Estimate of current year (FY93) Impact: None - already funded.

ANALYSIS: (Attach a separate page if necessary.) Commission annual budget is \$20,400, sourced from Governor's budget.

Prepared by: Albert H. Clough, Mining Specialist  
Division: Economic Development

Phone: 465-5463  
Date: February 2, 1993

Approved by Commissioner: Paul Fuhs  
Agency: Commerce and Economic Development

Date: February 2, 1993

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## SPONSOR'S STATEMENT

Purpose: The Alaska Minerals Commission

The Alaska Minerals Commission is comprised of some of the best mining and resource persons in Alaska. They are extremely dedicated and the Commission has served as an advocate of mineral development and multi use of our state lands.

The Alaska Minerals Commission was created to make recommendations to the Governor and Legislature on ways to migrate the constraints, including governmental constraints, on development of minerals, including coal, in the state.

Commission members are appointed by the Governor, the President of the Senate, and the Speaker of the House. The current members include representatives of the placer, hard rock and coal mining industries and come from diverse areas of the state. Administrative and staff support to the Commission is provided by the Division of Business Development, Department of Commerce and Economic Development.

Back-up

**SB 30: "Extending the termination date of the Minerals Commission."**

The Alaska Minerals Commission is charged with identifying constraints to Alaskan mineral development and recommending ways to mitigate these constraints. The commission's findings and recommendations are reported to the Governor and Legislature on an annual basis. Commission efforts complement ongoing programs in the Department of Commerce and Economic Development which encourage and facilitate mineral resource, transportation, and access developments in Alaska.

The department views the Alaska Minerals Commission as an extremely cost effective vehicle to get quality expert assistance to further mineral developments throughout Alaska. Therefore, we fully support SB 30 and the continuation of the commission.

  
\_\_\_\_\_  
Paul Fuhs, Commissioner

Date: 1-29-93

**FISCAL NOTE**

**STATE OF ALASKA  
1993 LEGISLATIVE SESSION**

No. 1  
Bill Version: SB 30  
(S) Publish Date: 1-22-93

Revision Date: \_\_\_\_\_  
Title: Extending Termination Date of the Alaska Minerals Commission  
Sponsor: Senators Sharp, Miller and Frank  
Requestor: Senators Sharp and Frank

Department Affected: Commerce and Economic Development  
BRU: Economic Development  
Component: \_\_\_\_\_  
COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES:**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL	17.9	17.9	17.9	17.9	17.9	12.9
CONTRACTUAL	2.5	2.5	2.5	2.5	2.5	2.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>15.4</b>

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

**FUNDING:**

1002 Federal Receipts						
1003 GF Match						
1004 GF	20.4	20.4	20.4	20.4	20.4	15.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>15.4</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: None - already funded.

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Albert H. Clough, Mining Specialist  
Division: Economic Development

Phone: 465-5463  
Date: January 15, 1993

Approved by Commissioner: Paul Fuhs  
Agency: Commerce and Economic Development

*[Signature]*  
Date: January 15, 1993

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# ALASKA MINERS ASSOCIATION, INC.

501 West Northern Lights Boulevard, Suite 203, Anchorage, Alaska 99503 fax: (907) 278-7997 telephone: (907) 276-0347

January 13, 1993

Honorable Bert Sharp  
State Capitol Building  
Juneau, AK 99801

Dear Senator Sharp,

I am writing to express our support for extending the Alaska Minerals Commission. This Commission has now been in place for six years and during that period has provided a valuable new perspective on minerals issues.

The Minerals Commission has provided the Governor, Legislature and the general public with a clear annual report of the effects of statutes and regulations on the minerals industry of the state. It has identified areas where existing regulations and policies adversely affect the minerals industry. It has also suggested areas where and how changes should be made to keep Alaska competitive in the international minerals arena.

Many nations are encouraging and actively "courting" the mining industry to explore and develop minerals in their countries. These nations want jobs for their people and see that mining can provide a major stimulus to all sectors of their economies. The Alaska Minerals Commission has been able to assemble this type of information from throughout the international mining industry and apply it to our state.

Thank you for your interest in this important issue. If there is anything that I can do to assist you in this matter please contact me.

Sincerely,

Steven C. Borell, P.E.  
Executive Director



# Resource Development Council

for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035  
Phone 907/276-0700 Fax 276-3807

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Becky L. Gay

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Congressman Don Young

January 18, 1993

JAN 22 1993

Senator Bert M. Sharp

State Capitol Building

Juneau, AK 99801-1182 By Fax: 465-2070

*19 Jan '93*

Dear Senator Sharp:

The Resource Development Council would like to express its strong support for legislation that would allow the Alaska Minerals Commission to continue to exist. The Commission, which is one of the few advocacy entities in state government, has worked closely with the governor, legislature and mining industry to encourage responsible development of Alaska's mineral resources.

Over the past six years, the Commission has dedicated itself to balancing economic and environmental concerns. It has worked hard make sure that the mining industry in Alaska is not hamstrung by unreasonable law regulations and rules that could stifle development. It has also played a very useful and important role in offering incentives to develop Alaska's mineral resources.

RDC looks forward to continuing its partnership with the Commission as Alaska strives to expand its economic base through responsible resource development.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL  
for Alaska, Inc.

*Becky Gay*  
Becky Gay  
Executive Director

cc: Governor Hickel

Senator Rick Halford, President

Rep. Ramona Barnes, Speaker of the House

*John*

# SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

DATE: 1/11/93

FURTHER: FINANCE

Date of 5-Day Notice: 1-14-93  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1-20-93

RESOURCES Committee considered SENATE BILL NO. 30

"~~Amend~~ extending the termination date of the Alaska Minerals Commission."

and a majority of the committee recommends do pass

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )

attaches a amendment(s)

same title  
 new title  
 technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

*Enl attached*

### FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
Commerce	1-15-93		20.4

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

*John Frank*  
*George Price*  
*Paul R. Zahradoff Zmagg*  
*Al Adams Adams*  
*Loren D. Bluman Loren*  
*Mike Miller*

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Mike Miller Do Pass*  
 \_\_\_\_\_  
 Chair: Signature and Recommendation

**SB**

**33**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: March 14, 1994

FURTHER REFERRALS:

Date of Committee Action: 4/20/94

The FINANCE Committee considered:

CSSB 33(FIN)

CS FOR SENATE BILL NO. 33(FIN)

GRANTS FOR LOCAL EMERGENCY PLANNING

"An Act relating to emergency planning and response; transferring the Hazardous Substance Spill Technology Review Council to the Department of Environmental Conservation; transferring the Alaska State Emergency Response Commission, including its duty to designate local emergency planning districts and appoint local emergency planning committees, to the Department of Military and Veterans' Affairs; and eliminating a requirement that the state and regional oil discharge prevention and contingency plans be revised annually."

**RECOMMENDATIONS:**

be replaced with HCS CSSB 33 (Fin)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/DME)

3  fiscal impact (2) DEC

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<del>Richard Storey</del>	X	Eileen P. Macheen		✓	
<del>Terry Martin</del>	✓	Paul J. Larson		x	
<del>Bela Gross</del>	✓	Mark Hanley		x	
<del>Tau Brown</del>	-	Paul Parnell		x	
		Mike Navarre		✓	
		Therriault		x	

*Paul Hanley*      *EP Macheen*

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSSB33 (FIN)

Revision Date: \_\_\_\_\_ Dept. Affected: Environmental Conservation  
 Title: An Act relating to disaster emergency planning and BRU: Spill Prevention and Response  
response. Component: Government Preparedness and Response  
 Sponsor: Senator Leman  
 Requestor: Senator Leman COMPONENT SERIAL NO. 1923

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	(181.3)	0.0	0.0	0.0	0.0	0.0
TRAVEL	(24.4)	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	(135.2)	0.0	0.0	0.0	0.0	0.0
SUPPLIES	(4.0)	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	(1.8)	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(346.7)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other: 1052 Oil/Haz "470" Fund	(346.7)	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>(346.7)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY94) cost: \$ not applicable

POSITIONS

FULL-TIME	(3.0)	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)  
 See attached pages for analysis

Prepared by: Robert Poe, Director  
 Division: Information and Administrative Services  
 Approved by: John Sandor, Commissioner  
 Agency: Environmental Conservation

Phone: 465-5010  
 Date: 4/20/94  
 Date: 4/20/94

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## ATTACHMENT TO FISCAL NOTES TO CSSB 33 (STA)<sup>1</sup>

### DEPARTMENT OF ENVIRONMENTAL CONSERVATION Division of Spill Prevention and Response (SPAR)

By amending the Alaska Disaster Act, CSSB 33 (STA) will expand the responsibility of the State Emergency Response Commission (SERC), and Local Emergency Planning Committees (LEPC) to prepare plans for local and State government response to declared disasters or emergencies. Staff support for the SERC would be transferred from the Department of Environmental Conservation (DEC) to the Department of Military and Veterans Affairs (DMVA). CSSB 33 would additionally direct DMVA to provide financial assistance to LEPCs and require all State agencies to provide technical planning assistance to the LEPCs.

CSSB 33 would reduce DEC staff assistance to the SERC and administrative assistance to LEPC on behalf of the SERC. This workload reduction would also reduce the level of funding proposed for the State Emergency Response Commission project (PJ # 5503), and the Local Planning Project (PJ #5502) proposed in DEC's FY 95 budget under the Government Preparedness and Response Component. The following briefly describes the proposed FY 95 project tasks that DEC would no longer be required to perform under CSSB 33, the corresponding reduction in funding and staff positions budgeted for that work, and the associated work and resources retained by DEC.

#### **SERC Project**

DEC's FY 95 budget request includes \$105,800 and 1.1 FTE to provide staff support to the State Emergency Response Commission (SERC), public member travel costs, and SERC meeting expenses. Since CSSB 33 would eliminate DEC's staff responsibility for the SERC, DEC's FY 95 SERC project request would be eliminated.

#### **Local Planning Project**

DEC's FY 95 local planning project budget request includes \$807,900 and 4.9 FTE to provide technical and financial assistance to LEPCs established by the SERC for preparing plans in compliance with State and federal requirements. Of this request, \$100,000 is for LEPCs to develop plans, and \$140,900 with 1.9 FTE is for DEC to administer the funds awarded to LEPCs by the SERC, and to assist communities wishing to form LEPCs. Since CSSB 33 would eliminate DEC's administrative assistance to LEPCs on behalf of the SERC, DEC's FY 95 request would be reduced by \$240,900 and 1.9 FTE.

The remaining budget request for the local planning project (\$567,000 and 3.0 FTE) is for DEC to provide technical assistance to LEPCs and local governments in identifying local, State and federal response resources necessary to implement a local response plan. DEC also assists local communities in designing spill response drills to test local response readiness and provides communities with information regarding local oil and hazardous risks, and ways to prevent or reduce identified risks. CSSB 33 would not affect DEC's current responsibilities or budget request for this element of the local planning project.

---

<sup>1</sup>This fiscal note revises the fiscal note dated January 13, 1994 to reflect cuts by the House and the Senate to the Department's request for Local Emergency Planning Committee (LEPC) funding support in FY 95. This results in an overall reduction of 346.7 to the Department's FY 95 budget request under the Government Preparedness and Response Component which includes \$100,000 for LEPC funding.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSS833 (FIN)

Revision Date: \_\_\_\_\_ Dept. Affected: Environmental Conservation  
 Title: An Act relating to disaster emergency planning and BRU: Information and Administrative Services  
response. Component: Response Fund Administration  
 Sponsor: Senator Leman  
 Requestor: Senator Leman COMPONENT SERIAL NO. 1624

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	646.7	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>646.7</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other: 1052 Oil/Haz "470" Fund	646.7	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>646.7</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY94) cost: \$ not applicable

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)  
 See attached pages for analysis

Prepared by: Robert P. a. Director *Robert P. a.* Phone: 465-5010  
 Division: Information and Administrative Services  
 Approved by: John Sendor, Commissioner *John Sendor* Date: 4/20/94  
 Agency: Environmental Conservation *For* Date: 4/20/94

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ATTACHMENT TO FISCAL NOTES TO CSSB 33 (STA)

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Division of Information and Administrative Services  
Response Fund Administration

The Department has included requests for funding from the Response Fund for other agencies under the Response Fund Administration component of its FY 95 budget. This fiscal note reflects an increase in the Department's FY 95 funding request under the Response Fund Administration component to provide \$646,700 in funding to the Department of Military and Veterans Affairs for implementation of CSSB 33(FIN).

This fiscal note includes \$400,000 in funding for Local Emergency Planning Committees (LEPC), and would in effect restore the \$300,000 cut made by the House and Senate to the Department's FY 95 request for LEPC funding under the Government Preparedness and Response (GPRP) component.

Under a separate fiscal note, the Department's FY 95 budget under the GPRP component would be reduced by \$346,700 which includes \$100,000 in LEPC funding and \$246,000 for other operating expenses as described in the attachment to that document.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HCS CSS833 (FIN)

Revision Date:	<u>April 18, 1994</u>	Dept. Affected:	<u>Military and Veterans Affairs</u>
Title:	<u>An Act relating to emergency planning and response</u>	BRU:	<u>Disaster Planning and Control</u>
Sponsor:	<u>Senator Leman</u>	Component:	<u>Disaster Planning and Control</u>
Requestor:	<u>House Finance Committee</u>	COMPONENT SERIAL NO.:	<u>1808</u>

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	240.0					(111.8)
TRAVEL	85.3					
CONTRACTUAL	311.4					
SUPPLIES	10.0					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>646.7</b>					<b>(111.8)</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other: 1055 IA/470 Fund	646.7					(111.8)
<b>TOTAL</b>	<b>646.7</b>					<b>(111.8)</b>

Estimate of any current year (FY94) cost: \$ not applicable

**POSITIONS**

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME	5.0					(2.0)
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached pages for analysis

Prepared by: Jeff Morrison, Director  
 Division: Administrative Support Services Division  
 Approved by Commissioner: *Morrison for* Hugh L. Cox III  
 Agency: Military and Veterans Affairs

Phone: 465-4730  
 Date: April 18, 1994  
 Date: April 18, 1994

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ATTACHMENT TO FISCAL NOTE TO HCS CSSB 33 (FIN)  
 DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
 Division of Emergency Services  
 Disaster Planning and Control Component

**Fiscal Summary:** This fiscal note combines the following: 1) the transfer of three positions and funding (\$246.7) from DEC to provide support to the State Emergency Response Committee (SERC); 2) the transfer in of 400.0 from DEC to fund Local Emergency Planning Committee (LEPC) direct assistance. This totals a transfer of 646.7 from DEC. The funding being transferred from DEC comes from the Oil and Hazardous Substance Release Response Fund ("470 Fund"). The net result on this component of the fiscal actions required by this legislation is as follows:

Expenditure Account	SERC Support	LEPC Assistance	Total
Pers Svcs	128.2	111.8	240.0
Travel	85.3		85.3
Contractual	23.2	288.2	311.4
Supplies	10.0		10.0
<b>Total</b>	<b>246.7</b>	<b>400.0</b>	<b>646.7</b>
<b>Positions</b>	<b>3</b>	<b>2</b>	<b>5</b>

Please refer to the DEC fiscal notes for an explanation of the fiscal impact on DEC. There is a net zero effect on the 470 fund compared to the FY95 operating budget request. The following paragraphs explain in more detail each of the areas summarized above:

**SERC Support:** Three staff positions within DEC which provide support to the SERC will be transferred into this component. These positions are located in the Spill Prevention and Response BRU, Government Preparedness component. The DEC fiscal note identifies the separate projects in which these positions are budgeted (DEC uses project budgeting). The total amount of funds to be transferred from DEC for this function is \$246,700. The line-item breakout within the DMVA/DES budget has been adjusted in this fiscal note to show how the funds are projected to be needed.

The three transferred positions would continue to support the SERC through coordinating regularly scheduled meetings, implementing SERC decisions and directions, and staff review/ and preparation of agenda items. They would also work with the current DES staff to ensure integration of local (LEPC) plans with the state emergency operations plan. The remainder of the funding for SERC support is used for public members' travel, advertising, room rentals, and other meeting costs. Some of the funds transferred in for SERC support will also be used to support the two LEPC staff positions also created by this fiscal note (e.g. travel, communications).

The three transferred positions would be reclassified as needed in order to provide the best overall support to the SERC. The needed support can best be provided by a restructuring of the support staff to have one professional planner II (range 17, \$54,468), one administrative assistant III (range 14, \$45,241), and one clerk typist III (range 8, \$33,773). A 4% vacancy rate is built into the budgeted personal services costs of these positions for purposes of the fiscal note, for a total personal services budget of \$128,200.

**LEPC Assistance:** DMVA will assume responsibility for providing planning assistance to the LEPCs. This will be met by a combination of contracts with LEPCs and staff support to work directly with the LEPCs.

Contracts with LEPCs have been a major element of previous budget submissions from DEC. \$400,000 for LEPC contracts is currently included in the FY95 DEC budget (SPAR BRU, Government preparedness component). This money will be transferred to DMVA and administered by the Division of Emergency Services. Although the full amount of the money for LEPC support will be the same, the Division of Emergency Services will use a portion of it (\$111,800) to establish two new planner positions to work directly with LEPCs. This will reduce the amount available to contract with LEPCs from \$400,000 to \$288,200.

The LEPC contracts will be used by local groups to train community responders to respond to releases of hazardous substances and oil spills, and to provide for support of local planning efforts related to disaster emergencies, and oil and hazardous substance releases. The additional staff to be added to DES in this fiscal note will reduce the need for local entities to contract for planning services.

The direct staff support to LEPCs will be accomplished by the addition of two new planner positions: one range 17 planner II (\$54,468 annual salary cost), and one range 19 planner III (\$61,953 annual salary cost). A 4% vacancy rate is built into the budgeted personal services costs of these positions for purposes of the fiscal note, for a total personal services budget of \$111,800. The planners will work with LEPCs to perform on-site surveys to analyze local hazards and assess capabilities, write disaster response and mitigation plans, assist in local review, and promulgate the finished plans. The hazards included in the plans will include oil spills, hazardous substances, and all other types of natural and man-caused disasters. Travel and other support costs for the LEPC planners will be reallocated from the SERC support funds as needed.

With the staffing to be added by this fiscal note, combined with the technical staff currently in DEC and the current staff of DES, we project that the initial plans for the Local Emergency Planning Districts (LEPDs) established by the SERC will be completed by the end of FY99. The LEPDs will cover the entire State of Alaska. Developing the required plans will involve working closely with the political subdivisions of all sizes located throughout Alaska. There will be an ongoing need to periodically review and revise the plans, and to train and drill to test the adequacy of the plans. Annual local reviews are a federal requirement (SARA Title III).

It is likely that after the initial plans for the LEPDs are completed (FY99), the amount needed for state-provided planning support to LEPCs will decrease. DES staff will be reduced proportionately as the formalization of emergency planning capabilities is achieved in the anticipated 25-30 LEPCs by FY99. This fiscal note reflects that reduction by the elimination of two positions and 111.8 starting in FY 2000.

Back-up

SHORT SYNOPSIS  
CS SB 33(FIN)

March 11, 1994

\*The State Emergency Response Commission and the Local Emergency Response Committees move under the authority of the Department of Military and Veterans Affairs, Division of Emergency Services. (**Section 12 and Sec. 26.23.073**)

\*They are granted the authority to plan for all-hazards, beyond the oil and hazardous substance planning done currently: includes earthquakes, floods, etc.. (**Section 12: Sec. 26.23.071(e)(9)**)

\*Staff positions currently under DEC which support the SERC move to DMVA, so that the Fiscal note is neutral. (**Section 23: AS 46.08.040(a)(3)**)

\*Allows DEC to annually review and REVISE AS NECESSARY the State Master Plan and the regional contingency plans. Retains the parameters the Commissioner uses to determine if plans should be revised. Does not do away with public input. (**Sec19, Sec. 20**)

\*It's hidden in the legalese, but this bill coordinates all planning and gives the State Emergency Response Commission the ability to look at any disaster plan in the state to ensure that rural and urban Alaska are as prepared as possible at the local level and know where to turn when those sources are exhausted. (**Secs. 4, 6, 10, 11, Sec. 26.23.075, Sec. 19, and 25**)

\*Ensures cooperation among the State Emergency Response Commission, the Local Emergency Planning Committees and local governments by establishing clear lines of communication and expectations. (**Section 7, 9, Sec 26.23.071 (b)Sec. 26.23.073(d), (g)(4)(6)and(7), Sec. 19 AS 46.04.200 (c)(1)**).

\*To the extent that money is available allows Department of Military and Veterans Affairs to give grants (federal and state) to the Local Emergency Planning Committees. (**Sec.3 (AS 26.23.040(3)(12)**)

\*Much housekeeping of statutes dealing with the Division of Emergency Services, for example, we added a five-page amendment in finance to just delete reference in statute to 'DISASTER AGENCIES' which were supposed to be created by ADES, but never were created. (**Sections 1, 2, 3, 6, 7, 8, 9,13, 15**)

SPONSOR SECTIONAL ANALYSIS  
Senate Bill 33

FOR CS SB 33(FIN): 3/1/94 BY: Annette Kreitzer, Aide  
DISTRIBUTION: House Community & Regional Affairs Committee

Title:

Transfers SERC and its responsibilities from DEC to DMVA; transfers the Hazardous Substance Spill Technology Review Council to DEC; and it eliminates the annual revision requirement for the state and regional oil discharge prevention plans (annual REVIEW still necessary).

Sections 1, 2, 3(in part):

Amendment adopted in Senate Finance Committee: Amends DMVA statutes to delete reference to disaster agencies. This housekeeping measure appears throughout the bill in Sections 1, 2, 3, 6, 7, 8, 9, 13, and 15.

Section 3(in part):

\*Amends DES duties to include granting authority (to the extent that money is available) for:

1. Forming LEPCs,
2. Awarding federal Hazardous Materials Transportation Uniform Safety Act (HMTUSA) funds to LEPCs for developing and maintaining emergency plans,
3. Making funds available to comply with Community Right-to-Know criteria (including Tier II information); and
4. Awarding grants for training LEPCs, training and equipping emergency response organizations and for executing the plans developed by the LEPCs.

Sections 4, 10, and 11:

These sections result from repealing AS 26.23.215 which says that all related plans must mesh. New language is inserted in AS 26.23.040 to ensure cohesion in all plans prepared within the duties of ADES and in those plan's relationship to DEC's state and regional master plans. New language is inserted under AS 26.23.060 and AS 26.23.070 for the same purpose.

Section 5:

Adds response corps and depots into the explicit responsibilities of DMVA.

Section 6:

Finance Committee Amendment. Housekeeping amendment to make reference to the unified term: political subdivision, rather than a variety of other terms and removes reference to disaster

agencies.

Section 7:

Clarifies that each political subdivision has the responsibility for disaster preparedness and coordination of local response, and removes reference to disaster agencies.

Section 8:

Political subdivisions unable to plan for local disaster preparedness must designate a liaison to work with the state Division of Emergency Services in planning disaster response.

Section 9:

Clarifies that each political subdivision must have a plan prepared and maintained and that the plan is provided to all appropriate officials (including LEPC's, and all entities named in the plan).

Section 10, 11 and 4:

These sections result from repealing AS 26.23.215 which says that all related plans must mesh. New language is inserted in AS 26.23.040 to ensure cohesion in all plans prepared within the duties of ADES and in those plan's relationship to DEC's state and regional master plans. New language is inserted under AS 26.23.060 and AS 26.23.070 for the same purpose.

Section 12:

(a) \*Establishes the SERC under the Department of Military and Veterans' Affairs;

(b) \*Defines SERC membership, specifies 4 LEPC members to be on SERC, two from rural LEPC and two from urban LEPC; specifies two seats for political subdivisions (**Finance Committee Amendment on behalf of Municipalities of Anchorage and Fairbanks added in mayor, or person nominated by mayor or governing body**); leaves one unspecified public seat.

(c) \*Removes the requirement for the oil and hazardous substance response office (AS 46.08.100) to serve as staff for the commission. DMVA shall provide staff support. The proposed fiscal note shows three positions from DEC would transfer to DMVA/ADES, with DMVA/ADES asking for two additional planners.

(d) Keeps requirement that SERC is co-chaired by DMVA and DEC. Keeps the current staggered terms, per diem and travel.

(e) Commission duties -

(1) Meets SARA Title III requirement;

(2) \*References the ALL HAZARDS clause (8), maintains the SERC's responsibility for hazardous substance discharge and

prevention contingency state and regional master plans (46.04.200-210) and ALL plans prepared under AS 26.23.;

(3) SERC should consider incident command system, and integration of LEPC plan with related plans; removes SERC approval authority for these plans, retains review and recommendation authority. Local governments found the approval authority of the SERC to be a stumbling block. Emphasis is on planning at the local level, local governments have an approval process with public input. SERC approval/disapproval complicates that local planning and approval process.

(4) Designate LEPC boundaries; the SERC retains the ability to mandate boundaries IF political subdivisions CANNOT come to agreement on boundaries; removes previous requirement that the boundaries be based on DEC's oil and hazardous substance regions of which there are 10).

(5) Same as current law - SERC must create an LEPC for each LEPC (SARA Title II);

(6) Same as current law (wording comes from SARA Title III 11001(a);

(7) Same as current law.

(8) \*SERC presently does not review reports about responses, if it is to make appropriate recommendations, it should review how the plan worked in a disaster.

(9) \*Makes the SERC an ALL HAZARDS COMMISSION;

(10) Integration of federal planning with state plan.

(11) Same as current law; and

(12) Adopt regulations to carry out these duties.

**\*Sec. 26.27.073: EMERGENCY PLANNING DISTRICTS AND COMMITTEES**

(a) \*Commission sets boundaries of LEPCs; (current law). Intent is to make boroughs the LEPCs, but if the Commission wants to set boundaries other than borough lines, it must consult the local emergency response organizations and any governing body of political subdivisions in the proposed district.

(b) \*Creates one single LEPC out of what is left.

(c) \*If political subdivisions are combined into one LEPC, the Commission shall recommend the governor designate the area an interjurisdictional disaster planning and service area, also. This facilitates the all hazards planning concept. The LEPCs are only responsible for oil and hazardous substance planning, so although the LEPC could elect to also plan for other disasters/emergencies, it doesn't have to take on that burden. The coextensive interjurisdictional disaster planning and service area allows ADES to assist in disaster/emergency planning for the same area served by the LEPC. This should result in a ordered planning approach.

(d) \*SERC APPOINTS members of LEPCs. SERC SHALL follow recommendations of the political subdivision for the LEPC (**Finance Committee Amendment removed "governing body"**). In the case of an LEPC made up of several political subdivisions, the

SERC will consider the recommendations of each political subdivision to the extent that the political subdivisions are in agreement and the recommendations would constitute a legal committee. Also, the political subdivisions must devise a process of working together to coordinate their recommendations. IF the LEPD is not affiliated with a political subdivision, the SERC will consider recommendations of emergency response organizations in the district. For the single, rest-of-state LEPD, the SERC will strive for equitable geographic representation on the LEPC.

\*COMMITTEE MEMBERSHIP: 7 categories (Meets Sara Title III requirements) No state elected officials in Alaska may constitutionally hold a seat on an LEPC; added categories six and seven; **Finance Committee Amendment of 2/3/94 removes disaster agency.**

(e) Media position has been the most difficult to fill, this allows the LEPCs to continue operating.

(f) Allows for individual petitions to the SERC over membership (SAPA Title III).

(g) LEPCs shall -

(1). Same as current law.

(2). \*ADDS "public advertising of positions available on the committee".

(3). \*ADDS ... "in a manner that includes coordination with the political subdivisions covered by the plan", to ensure cooperation between the LEPCs and the local governments.

(4). \*REWRITTEN to reflect that evaluating the need for resources necessary to the plan doesn't necessarily mean ADDING resources - it could mean scaling down response if there aren't sufficient responders - but this is and should be a LOCAL decision to be made with all parties knowing the cost of the decision.

(5). Same as current law (delete [and])

(6). \*Allows LEPCs to not have to become all hazards, they can participate in community planning to the extent they are capable. **Finance Committee Amendment of 2/3/94 removes disaster agencies.**

(7). \*NEW LANGUAGE: puts in statute the cooperation between the LEPC and the political subdivision. Makes the LEPC an "advisory committee" to the benefit of the political subdivisions and the LEPCs.

(h) \*All agencies represented on the SERC shall provide technical assistance to LEPCs if requested by the LEPC. There is no additional funding for this section, but it is anticipated that the primary agencies requested to provide assistance would be DEC/DMVA-DES.

#### **Section 26.23.075: EMERGENCY PLANS**

Same as current law (46.13.090), except the cite for 42 U.S.C. 11002(a) is corrected from 42 U.S.C. 302(a); and in (3) the designation of emergency coordinator as required under 26.23.060(d) is added. 26.23.075(b) references the coordination of hazardous substance planning with disaster planning.

Section 26.23.077 PLAN REVIEW: INCIDENT COMMAND SYSTEMS.

(a) \*Reflects the change from a commission charged only with hazardous substance release planning to an ALL HAZARDS SERC. Current law (46.13.045) stipulates the commission reviews and exercises approval authority over plans for "hazardous substance discharge response". \*Changes SERC's authority to review and recommend instead of "approve".

(c) Changes ADES to DMVA, assures DMVA/DES role in a[n imminent or actual hazardous substance discharge] disaster or other emergency.

Section 13:

Removes reference to disaster agency.

Section 14:

AS 26.23.150 is amended to substitute environmental for [air].

Sections 15 and 16:

Removes reference to disaster agency.

AS 26.23.900 is amended to define the SERC, and hazardous substance in DMVA statutes.

Section 17:

AS 46.03.865(a) The incident command system no longer exists under 46.13.

Section 18:

AS 46.03.865(c) The incident command system no longer exists under 46.13.

Section 19:

AS 46.04.200 - (a) State Master Plan -Deletes the requirement to annually revise the master plan. Intent is to annually review and revise if necessary. In 46.04.200(F), ICS identifies other state agencies' responsibilities only if the release involves a declared disaster; removes requirement for DEC to designate in the state master plan where oil and hazardous substance emergency response depots and corps should be located.

(a)(5)(c)(1) \*ADDS LOCAL EMERGENCY PLANNING COMMITTEE officials to those the Commissioner will consult if plan is revised.

Section 20:

Criteria for deciding plan revision.

Section 21:

AS 46.04.210(a) is amended -Same changes to the Regional master plan - revise as necessary instead of revise annually.

Section 22:

AS 46.04.210(c)

\*ADDS NEW SECTION - giving the department latitude to group communities which likely would work together in responding to a discharge.

Section 23:

AS 46.08.040 - Amendment

2) \*Adds the costs incurred under current statutes for depots and corps set up by DEC in cooperation with DMVA.

3) \*Pay the expenses incurred by ADES for "SERC activities, including staff support, (**Finance Committee amendment added: when the activities and staff support relate to oil and hazardous substances**) and for the costs of being prepared for and responding to a request by the DEC for support in response and restoration activities; EXCEPT the costs of the response corps and emergency response depots".

Section 24:

AS 46.08.150

Deletes DEC's authority to enter into contractual agreements to establish depots and corps, notwithstanding AS 46.04.090 and 46.09.040.

Section 25:

AS 46.09.040

This parallels the language in AS 46.04.090 which calls for coordination with DMVA to avoid duplication of effort.

Sections 26 and 27:

AS 46.13.100-110

Refers to the Hazardous Substance Spill Technology Review Council and establishing it within DEC.

Section 28:

Repeal: 26.23.060(f) - Refers to disaster agencies.

Repeal: 26.23.190(b) - Emergency powers dealing with actual or imminent discharge of oil or hazardous substance is redundant to AS 26.23.040(d).

Repeal: 26.23.195(a) - Is redundant to language in AS 26.23.070(d), as added by SB 33. Is redundant to multiple portions of AS 26.23.040. (**Finance Committee amendment 2/3/94 repealed all of 26.23.195.**)

Repeal: 26.23.215 - Relationship to other planning statutes, relationship has been further defined in 26.23.040,

26.23.060 and 26.23.070.

Repeal: 46.08.110, 46.08.120, 46.08.190(1),(2) and (3):  
Deletes reference of response corps and depots and takes DES out  
of definitions section of DEC statutes.

Repeal: 46.13.010 - 46.13.090 - Repeals establishment of SERC  
and LEPCs under DEC.

Repeal: 46.13.120(6) -Repeals responsibility for the  
Hazardous Substance Technology Review Council to accept  
assignments from SERC.

Repeal: 46.13.900(1) - Removes SERC from definitions section  
of DEC statute.

**Section 29:**

**TRANSITION:**

Litigation, hearings, investigations and other proceedings  
pending under law may continue.

Outstanding contracts, liabilities, and obligations remain in  
effect.



Regional Citizens' Advisory Council / 750 W. 2nd Ave., Suite 100 / Anchorage, Alaska 99501-2168 / (907) 277-7222 / FAX (907) 277-4523

*"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."*

## **Overview of the CS for Senate Bill 33 (FIN), An Act Relating to Emergency Planning and Response**

Senate Bill 33, sponsored by Senator Lemman, was introduced February 24, 1993 as a mechanism for providing grants to facilitate the formation of Local Emergency Planning Committees (LEPC) and for LEPC local training and emergency plan development. Local Emergency Planning Committees were established under federal Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III), the Emergency Planning and Community Right-to-Know Act (CERCLA). This legislation was passed as a result of chemical releases throughout the world, most notably the Bhopal, India chemical release that killed thousands of people. In 1989, the Alaska Legislature adopted and expanded on the federal law when it enacted Alaska Statute 46.13. The primary focus of the state and federal legislation is planning for chemical hazardous substances, which include oil.

Additional work on Senate Bill 33 over the interim has resulted in a significantly expanded bill passed by the Senate State Affairs Committee on January 24, 1994.

The CS for Senate Bill 33 (FIN):

- 1) transfers the Hazardous Substance Spill Technology Review Council (HSSTRC) from the Alaska Department of Military and Veteran Affairs (DMVA) to the Alaska Department of Environmental Conservation (DEC);
- 2) transfers the State Emergency Response Commission (SERC), including its duties to designate local emergency planning districts, authorize local emergency planning committees, and appoint local emergency planning committee members, to the DMVA;
- 3) establishes the SERC as an "all-hazards" SERC with the authority to establish all-hazards response depots and corps;
- 4) eliminates the requirement that the state and regional master oil and hazardous substance discharge prevention and contingency plan be revised annually; and
- 5) removes the requirement for DEC to designate in the state master plan where oil and hazardous substance emergency response depots and corps should be located.

The following sections discuss in more detail the sections of the bill pertaining to oil and hazardous substance response depots and corps and state and regional master oil and hazardous substance discharge prevention and contingency planning requirements.

**Oil and Hazardous Substance Response Depots and Corps.** Section 3 (AS 26.23.045) authorizes the DMVA to establish and equip response corps and depots, and locate depots in areas identified in the state emergency plan developed under AS 26.23.040. Section 19 eliminates the requirement that DEC identify in the state master contingency plan locations for the oil and hazardous substance response depots and corps. However, AS 46.04.090 authorizing DEC to establish response depots and corps is not amended. Therefore, it is assumed that oil and hazardous substance response depots and corps will be developed in the areas designated by DMVA and be part of the all-hazards depots.

The CSSB 33 (FIN) does not clarify, and may further confuse the use of the Oil and Hazardous Substance Release Response Fund (OHSRRF) as a source of funding to purchase equipment for oil and hazardous substance depot equipment. Section 16 (AS 46.08.040(a)(3)) states that the DMVA costs of maintaining the response corps and emergency response depots under AS 26.23.045 can not be funded with the OHSRRF. However, in the same section SERC costs can be funded with OHSRRF despite the SERC being established as an all-hazards commission.

**State and Regional Master Planning.** The CSSB 33 (FIN) removes the requirement for annual revision of the state and regional master plans. It also 1) removes the requirement that incident command systems clarify and specify state agency responsibilities, other than DEC, if a spill does not involve a disaster declaration; 2) adds the requirement that LEPCs (in addition to local governments and the public) be consulted during plan revisions; 3) removes the requirement for SERC approval of plan revisions; and 4) as discussed above, removes the requirement that DEC designate locations of response depots in the state master plan.

The Regional Citizens' Advisory Council of Prince William Sound would like to emphasize the following points:

- That DEC should remain the lead agency on the development, review, and revisions of statewide master and regional oil and hazardous substance discharge prevention and contingency plans. While DMVA may be the lead agency on disaster planning, DEC clearly has the expertise on oil and hazardous substances.
- Rather than changing plan revision from annually to solely at commissioner discretion, revisions be at commissioner discretion or at least every three years---this is consistent with vessel and facility contingency plan revisions and ensures that plans will not become obsolete as state revenues decline.

- If the depots and corps program remains with DMVA and is expanded to all-hazards, there should continue to be a provision in the master plan for DEC to at least make recommendations to DMVA for locating oil and hazardous substance response depots since corps and depots activities will be coordinated with DMVA.
- RCAC is concerned that so little progress has been made to date by DMVA on the development of the response depots and corps and whether additional changes will further delay implementation of this program. (see attached DEC report on response depot and corps program) This also brings to question the appropriateness of moving another program that focuses on hazardous substances to DMVA, an agency without hazardous substance expertise. In the areas of the state where LEPCs are formed, they can also be the disaster emergency planning and response group without being transferred to DMVA.
- CSSB 33 (STA) allowed all SERC activities and support staff to be funded by the OHSRRF. Since the SERC is being changed to an all-hazards commission, this does not seem appropriate and was amended in the Senate Finance Committee. Given current debates regarding appropriate uses of the OHSRRF, only SERC activities related to oil and hazardous substances should be supported by the OHSRRF.
- The language in CSSB 33 (FIN) that does not allow the OHSRRF to be used to maintain all-hazards response corps and depots is clear and appropriate. It should also be clarified that purchasing of equipment for oil and hazardous substance response depots and corps are appropriate uses of the fund.



# SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2995

## SPONSOR STATEMENT

CSSB33(FIN): An Act relating to emergency planning and response; transferring the Hazardous Substance Spill Technology Review Council to the Department of Environmental Conservation; transferring the State Emergency Response Commission, including its duty to designate local emergency planning districts and appoint local emergency planning committees, to the Department of Military and Veterans' Affairs; and eliminating a requirement that the state and regional oil discharge prevention and contingency plans be revised annually."

## WHY SB 33?

SB 33 is introduced at the request of the departments of Environmental Conservation and Military and Veterans' Affairs. The intent of this legislation is to facilitate a better working relationship between the Local Emergency Planning Committees and local governments; to more efficiently accomplish the goals of emergency planning and planning for oil and hazardous substance discharges by reducing opportunities for duplication of effort at the state level; and to enhance the abilities of local communities to plan for disasters.

## HISTORY

The Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. ss 11001-11050 (1991) (Title III of the Superfund Amendments and Reauthorization Act of 1986), commonly known as SARA Title III, was passed largely in response to the chemical accident in 1984 at Bhopal, India.

SARA Title III has two distinct parts: an emergency planning mechanism and community right-to-know provisions. The emergency planning provisions require each state's governor to establish an emergency planning commission. The commission sets up emergency planning districts and appoints an emergency planning committee for each district. The committees are required to prepare emergency plans.

In 1990, the Legislature created the State Emergency Response Commission. The SERC has appointed to date 18 local emergency planning committees.

## WHERE WE ARE NOW

In 1990, SB 503 and HB 566 provided ample opportunity for the Legislature to discuss where the response corps and depots ought to be located, how the SERC should operate and where the Hazardous Substance Technology Review Council fit in to the statewide picture.

Moving the SERC and the LEPCs into DMVA/DES should not be construed as legislative pingpong. In the aftermath of a disaster there is always a debriefing - a session where the participants review how well the response system works and what could be done to make it work more efficiently.

Soon it will be five years since the Exxon Valdez oil spill. It's time to review the process and make adjustments for a more streamlined, more efficient planning and response system. The departments have reviewed their responsibilities and have made recommendations to improve the process, the State Emergency Response Commission has reviewed the process, the local emergency planning committees have reviewed the process as have local governments. They all feel improvements can be made to the system and that is why Senate Bill 33 is before you now. I appreciate the efforts of the volunteers at the local level and the local governments to plan for their fellow citizens. I want to make their jobs less difficult as I'm sure you do, too.

# SENATOR LOREN LEMAN

Northwest Anchorage

3111 "G" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

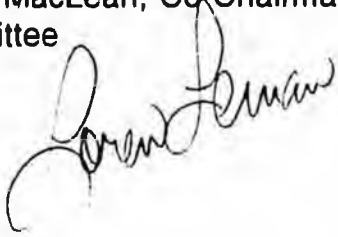
## MEMORANDUM

TO: Representative Ron Larson, Co-Chairman  
Representative Eileen MacLean, Co-Chairman  
House Finance Committee

FROM: Senator Loren Leman  
Sponsor SB 33

DATE: March 14, 1994

RE: Scheduling SB 33



\*\*\*\*\*

I respectfully request that you schedule SB 33 in the House Finance Committee at your earliest convenience.

SB 33 began as a one-page funding mechanism for the departments of Environmental Conservation and Military and Veteran's Affairs to extend grants to local emergency planning committees. As the departments reviewed their responsibilities with respect to planning for emergencies, the State Emergency Response Commission and the local emergency planning committees, a different bill emerged.

This bill has statewide support. The State Emergency Response Commission in its February 15 meeting voted to support the version the Senate passed February 28 (15 Y, 3N and 2A). The House Community and Regional Affairs Committee heard the bill and passed it from committee Thursday, March 10.

Attached are copies of:

SB 33, Sponsor Statement, Fiscal Notes, Position Papers, Short Synopsis of SB 33 and a Sectional Analysis.



# Alaska State Legislature

House of Representatives  
Community & Regional Affairs

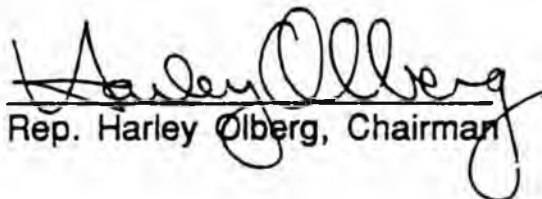
## LETTER OF INTENT

FOR CS FOR SENATE BILL NO. 33 (FIN)

"An Act relating to emergency planning and response; transferring the Hazardous Substance Spill Technology Review Council to the Department of Environmental Conservation; transferring the Alaska State Emergency Response Commission, including its duty to designate local emergency planning districts and appoint local emergency planning committees, to the Department of Military and Veterans' Affairs; and eliminating a requirement that the state and regional oil discharge prevention and contingency plans be revised annually."

March 11, 1994

The House Community and Regional Affairs Committee considered CS SB 33 (FIN) and recommends that the sponsor discuss with the Statewide LEPC Association and the Fire Chiefs the issue of a Fire Chief seat on the State Emergency Response Commission.

  
Rep. Harley Olberg, Chairman

AMENDMENT 2

Adopt  
Amended

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 33( ) 4/18/94 work draft:

14 plans ~~delete (S)~~

Page 7, line 15 after "chapter":

~~Delete "and the state and regional plans prepared under~~

~~AS 46.04:200-46.04.210"~~

Insert "~~and all emergency plans~~ prepared by state agencies under  
other authorities";

Page 12, line 16 after "~~regional~~": plans

~~Delete "and state emergency plans, including plans prepared under~~

~~this chapter and AS 46.04:200-46.04.210"~~

~~Insert "and all emergency plans~~ prepared by state agencies under  
other authorities"

Adopt

By: Therriault

AMENDMENT (

HCS Senate Bill 33( ) Work Draft: 8-LS0324\M 4/18/94

Page 17 line 23: Delete the word "and"

would read "...costs of being prepared for responding to a request..."

Justification: all state agencies that assist the Department of Environmental Conservation with spill response do so under their agencies' normal statutory responsibilities and authorities. They provide assistance within their normal operating budget. At the time of the incident, only overtime costs are eligible for the Response Fund, because use of the Response Fund for normal hours would supplement an agency's operating budget (double dipping).

All costs incurred by all agencies can be recovered from the responsible party under AS 48.08.040 (a) (5).

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 33(FIN)

Page 5, line 16:

Delete "a new subsection"

Insert "new subsections"

Page 5, after line 25:

Insert a new subsection to read:

"(h) Notwithstanding the definition of "political subdivision" in AS 26.23.900, this section does not empower a political subdivision to perform responsibilities that it is not otherwise empowered to perform. In this section, "political subdivision" includes only a political subdivision that is otherwise empowered to perform the responsibilities assigned under this section."

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 33(FIN)

Page 6, line 19:

Delete "nominated by the governing body or the mayor"

Insert "who, in the opinion of the governor, is otherwise appropriate"

Page 6, line 20, after "subdivision.":

Insert "The United States Department of Defense - Alaska Command, the United States Environmental Protection Agency, and the United States Coast Guard may each appoint a representative to serve on the commission in an ex-officio, nonvoting capacity."

Page 19, after line 26:

Insert a new subsection to read:

"(d) Notwithstanding any law to the contrary, the terms of the public members of the Alaska State Emergency Response Commission who hold office on the effective date of this Act are terminated on the effective date of this Act, subject to reappointment in a manner that complies with this Act."

A M E N D M E N T

OFFERED IN THE HOUSE  
TO: CSSB 33(FIN)

Page 14, lines 21 - 25:

Delete "[, THE DIVISION OF EMERGENCY SERVICES IN THE DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS, AND OTHER AGENCIES OF THE STATE; RESPONSIBILITIES ASSIGNED TO EACH AGENCY MUST BE CONSISTENT WITH ITS STATUTORY AUTHORITY]"

Insert ", the division of emergency services in the Department of Military and Veterans' Affairs, and other agencies of the state; responsibilities assigned to each agency must be consistent with its statutory authority"

Page 14, line 31, through page 15, line 4:

Delete "if the release involves a disaster declared by a state or local official. the duties of all appropriate state agencies [OTHER PARTIES IDENTIFIED BY THE COMMISSION AS HAVING AN INTEREST IN OR THE RESOURCES TO ASSIST IN THE CONTAINMENT AND CLEANUP OF AN OIL OR HAZARDOUS SUBSTANCE DISCHARGE]"

Insert "other parties identified by the commission as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance discharge"

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 33( ) 4/18/94 work draft:

Page 7, line 15 after "chapter":

Delete "and the state and regional plans prepared under

AS 46.04.200-46.04.210"

Insert "and all emergency plans prepared by state agencies under  
other authorities"

Page 12, line 16 after "regional":

Delete "and state emergency plans, including plans prepared under  
this chapter and AS 46.04.200 - 46.04.210"

Insert "and all emergency plans prepared by state agencies under  
other authorities"

amended by Maclean  
adopted



# Alaska State Legislature

House of Representatives  
Community & Regional Affairs

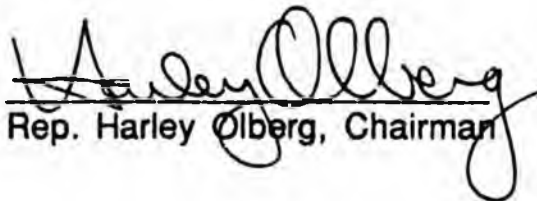
## LETTER OF INTENT

FOR CS FOR SENATE BILL NO. 33 (FIN)

"An Act relating to emergency planning and response; transferring the Hazardous Substance Spill Technology Review Council to the Department of Environmental Conservation; transferring the Alaska State Emergency Response Commission, including its duty to designate local emergency planning districts and appoint local emergency planning committees, to the Department of Military and Veterans' Affairs; and eliminating a requirement that the state and regional oil discharge prevention and contingency plans be revised annually."

March 11, 1994

The House Community and Regional Affairs Committee considered CS SB 33 (FIN) and recommends that the sponsor discuss with the Statewide LEPC Association and the Fire Chiefs the issue of a Fire Chief seat on the State Emergency Response Commission.

  
Rep. Harley Olberg, Chairman

8-LS0324M  
Lauterbach  
4/18/94

**HOUSE CS FOR CS FOR SENATE BILL NO. 33( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR LEMAN**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to emergency planning and response; transferring the Hazardous  
2 Substance Spill Technology Review Council to the Department of Environmental  
3 Conservation; transferring the Alaska State Emergency Response Commission,  
4 including its duty to designate local emergency planning districts and appoint local  
5 emergency planning committees, to the Department of Military and Veterans'  
6 Affairs; and eliminating a requirement that the state and regional oil discharge  
7 prevention and contingency plans be revised annually."

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

9 \* Section 1. AS 26.23.040(b) is amended to read:

10 (b) The Alaska division of emergency services shall play an integral part in  
11 the development and revision of local and interjurisdictional disaster plans prepared  
12 under AS 26.23.060. To this end, it may employ or otherwise secure the services of  
13 professional and technical personnel capable of providing expert assistance to political

1 subdivisions, their disaster agencies, and representatives of interjurisdictional disaster  
2 planning and service areas [DISASTER AGENCIES]. These personnel shall consult  
3 with political subdivisions and agencies on a regular basis and shall make field  
4 examinations of the areas, circumstances, and conditions to which particular local and  
5 interjurisdictional disaster plans are intended to apply and may suggest or require  
6 revisions.

7 \* Sec. 2. AS 26.23.040(c) is amended to read:

8 (c) In preparing and maintaining the state emergency plan, the Alaska division  
9 of emergency services shall seek the advice and assistance of local government,  
10 business, labor, industry, agriculture, civic and volunteer organizations and community  
11 leaders. In advising local and interjurisdictional disaster planners [AGENCIES], the  
12 office shall encourage them also to seek advice from these sources.

13 \* Sec. 3. AS 26.23.040(e) is amended to read:

14 (e) The Alaska division of emergency services shall

15 (1) determine requirements of the state and its political subdivisions for  
16 food, clothing, and other necessities in the event of a disaster emergency;

17 (2) procure and pre-position supplies, medicines, materials, and  
18 equipment;

19 (3) adopt standards and requirements for local and interjurisdictional  
20 disaster plans;

21 (4) periodically review local and interjurisdictional disaster plans;

22 (5) establish and operate, or assist political subdivisions, their disaster  
23 agencies, and representatives of interjurisdictional disaster planning and service  
24 areas [AGENCIES] to establish and operate, training programs;

25 (6) plan and make arrangements for the availability and use of any  
26 private facilities, services, and property and, if necessary and if in fact used, provide  
27 for payment for use under terms and conditions agreed upon by the parties;

28 (7) establish a register of persons with types of training and skills  
29 important in disaster prevention, preparedness, response, and recovery;

30 (8) prepare, for issuance by the governor, orders, proclamations, and  
31 regulations as necessary or appropriate in coping with disasters;

1 (9) cooperate with the federal government and any public or private  
2 agency or entity in achieving any purpose of this chapter and in implementing  
3 programs for disaster prevention, preparedness, response and recovery;

4 (10) develop and carry out procedures and policies to effectively  
5 employ disaster relief funds made available by the governor's authority or by special  
6 legislative action; these procedures shall include application and documentation by  
7 disaster victims or applicants, review, verification and funding approval, and  
8 processing of appeals;

9 (11) do other things necessary or proper for the implementation of this  
10 chapter;

11 (12) to the extent that money is available from an appropriation for  
12 the purposes of this paragraph.

13 (A) award grants for the purpose of forming local  
14 emergency planning committees under AS 26.23.073;

15 (B) in order to comply with 49 U.S.C. Appx. 1815(a)(3),  
16 make funds available to local emergency planning committees for  
17 developing and maintaining emergency plans under AS 26.23.073 and  
18 26.23.075;

19 (C) make funds available to local emergency planning  
20 committees to implement 42 U.S.C. 11022(e) and 42 U.S.C. 11044; and

21 (D) award grants for training local emergency planning  
22 committees and for training and equipping the emergency response  
23 organizations identified in the local plans that execute the plans developed  
24 by the committees under AS 26.23.073 and 26.23.075.

25 \* Sec. 4. AS 26.23.040 is amended by adding a new subsection to read:

26 (f) To the extent that the plan prepared under this section relates to action  
27 required to avert human injury or other damage from a release of a hazardous  
28 substance, the plan must be substantially equivalent in relevant respect to the local  
29 emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and  
30 regional master plans prepared by the Department of Environmental Conservation  
31 under AS 46.04.200 - 46.04.210. The plan must use an incident command system