

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1632 SCOMM 62: SENATE SPEC. COMM. ON OIL & GAS, 1989-1990

SCOMM

62:13

FISCAL NOTE

REQUEST:

Revision Date: April 24, 1989
Title: Oil & gas properties production/
permanent fund
Sponsor: Eliason, Jones, Adams
Requestor: Senate State Affairs

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

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	158,000	181,000	192,000	207,000	207,000

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: See attached page for analysis.

Prepared By: Roger Marks

Division: Dept. of Revenue, Oil & Gas Audit Division

Phone: 277-5627

Date: April 24, 1989

Approved by Commissioner: Hugh Malone

Agency: Department of Revenue

Date: 9/24/89

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

Fiscal Analysis of SB 284

This bill modifies the economic limit factor (ELF) formula used in computing the production (severance) tax on oil, and also increases the contribution of proceeds from royalties to the Permanent Fund. This fiscal note addresses the ELF aspect only.

The bill (1) introduces the rate of field production into the exponent of the current ELF formula; (2) repeals the so-called "rounding rule," the provision of current law which states that for any month during the first 10 years of commercial oil production for which the computed ELF of a lease or property exceeds 0.7 the ELF shall be considered to be one; and (3) fixes the production at the economic limit (PEL) at 300 barrels times the number of well days in the month.

This bill's provisions on ELF are identical to those in SCS CS HB 118 (Judiciary) except that this bill has an effective date of July 1, 1989. Both bills lack an explicit date of application, the date on which the legislation first begins applying to oil production. This date of application will determine how much revenue is raised for FY 89 and FY 90.

If the bill applies to oil produced after this date	Revenues Raised for FY 89	Revenues Raised for FY 90
12/31/88	64	171
01/31/89	50	171
02/28/89	37	171
03/31/89	24	171
04/30/89	12	171
05/31/89	0	171
06/30/89	0	158
07/31/89	0	145
08/31/89	0	132

This fiscal note assumes that the date of application is June 30, 1989. The severance tax is paid monthly for the prior month. (For example, the tax for production in April is due in May.) As written, this bill will thus only raise revenues for 11 months in FY 90.

This fiscal note was calculated using the oil price and production assumptions of the Department of Revenue's Spring 1989 Petroleum Production Revenue Forecast mid-case scenario. That forecast was predicated on Alaska North Slope crude prices at the U.S. Gulf of \$14.29 a barrel in FY 89 and \$16.41 a barrel in FY 90.

Additional revenues for future years in millions of dollars are as follows:

1995	194
1996	180
1997	165
1998	157
1999	148
2000	139
2001	129
2002	110
2003	86
2004	69
2005	45
2006	21
2007	4
2008	(3)
2009	0
2010	0



Alaska Permanent Fund Corporation

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M E M O R A N D U M

DATE: April 19, 1989

TO: Senator Dick Eliason

FROM: Jim Kelly *JK*
Research & Liaison Officer

SUBJECT: Analysis of Senate Bill No. 284

Attached are two financial projections and three charts prepared by the Alaska Permanent Fund Corporation at your request.

Financial Projection #1: This is the status quo case as of March 31, 1989. It provides the benchmark against which to compare and contrast any changes to current law.

Financial Projection #2: This projection depicts the impact of enactment of Senate Bill No. 284. It is the Corporation's understanding that this bill would increase from 25% to 43% the rate of contribution to the Permanent Fund of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments received by the state on or after July 1, 1989, from mineral leases issued on or before December 1, 1979.

In other words, the dedicated revenues which have been flowing to the Permanent Fund at the 25% contribution rate would be increased to the 43% level, and those revenues which have been flowing at the 50% contribution rate would continue unchanged.

Commentary on the Charts: In all cases, the Department of Revenue Spring 1989 low-case forecast is used.

Chart #3 compares the contribution of dedicated revenues to the Permanent Fund each year from 1990 - 2005 under both the status quo and SB 284.

Chart #4 again compares those contributions, but also depicts them in relation to the total amount of state oil revenues projected to be received each year from 1990 - 2005.

Chart #5 compares the cumulative total contributions under the status quo and SB 284 with the cumulative total state oil revenues projected to be received during that same period.

The following analysis concerns itself with certain impacts on the Permanent Fund (all figures except per capita dividends are in millions of dollars):

- 1) How would this proposal affect the growth of Fund principal?

Fund Principal Balance

	Status Quo	Projection #2
June 30, 1989:	9,135	9,135
June 30, 2000:	18,229	19,542
June 30, 2005:	23,390	25,214

- 2) How would it affect the level of Fund net income produced in the future?

Annual Net Income

	Status Quo	Projection #2
Fiscal 1989:	838	838
Fiscal 2000:	1,634	1,749
Fiscal 2005:	2,100	2,263

- 3) How would it affect total dividend distributions (in millions) and the amounts of annual per capita dividends?

Dividend Distributions

	Status Quo	Projection #2
June 30, 1989:	459	459
June 30, 2000:	772	821
June 30, 2005:	1,001	1,077

Per Capita Dividend Payments

	Status Quo	Projection #2
Calendar 1989:	\$ 840.00	\$ 840.00
Calendar 2000:	1,097.00	1,170.00
Calendar 2005:	1,294.00	1,397.00

- 4) How would it affect inflation-proofing transfers?

Inflation-Proofing Transfers

	Status Quo	Projection #2
June 30, 1989:	358	358
June 30, 2000:	862	928
June 30, 2005:	1,099	1,186

5) How would it affect amounts of dedicated state revenues?

Dedicated State Revenues

	Status Quo	Projection #2
June 30, 1989:	192	192
June 30, 2000:	67	114
June 30, 2005:	18	31

Compared to the status quo, the most noticeable effects of adoption of the changes depicted in this proposal would be as follows:

Fund principal would be \$1.3 billion larger in 2000 and \$1.8 billion larger in 2005.

Net income would be \$115 million larger in 2000 and \$163 million larger in 2005.

The dividend distribution would be \$49 million larger in 2000 and \$76 million larger in 2005.

Per capita dividends would be \$73 larger in 2000 and \$103 larger in 2005.

The inflation-proofing transfer would be \$66 million larger in 2000 and \$87 million larger in 2005.

The dedicated state revenues would be \$47 million larger in 2000 and \$13 million larger in 2005.

For Your Information: These projections are based on a certain set of basic assumptions; the numbers shown on these sheets would change if different assumptions were used. The assumptions used in the preparation of each projection are listed at the bottom of each projection sheet, and explained herein.

It is the Corporation's policy to use conservative assumptions wherever possible. Thus, the Fund's long-term rate of return is projected to average 3% per year after inflation; long-term inflation is projected to average 6% per year; and the assumptions for numbers of future dividend recipients and amounts of future

Senator Dick Eliason
April 21, 1989
Page 4

dedicated State oil revenues are taken from the Department of Revenue's most recent "low case" forecast.

PLEASE NOTE THAT THE CORPORATION NEITHER SUPPORTS NOR OPPOSES ANY PROPOSED CHANGES TO THE CURRENT USE OF FUND EARNINGS, EXCEPT AS THEY MAY RELATE TO THE PROPER EXERCISE OF THE TRUSTEES' FIDUCIARY RESPONSIBILITIES AS REQUIRED UNDER THE PRUDENT INVESTOR RULE.



Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS

(in millions)

as of March 31, 1989

PRINCIPAL

INCOME

FY	FY Begin Balance	Appropriations	Dedicated		FY End Balance	Inflation Proofing Shortfall	Distributions				Reserves		FY	
			State Revenues*	Inflation Proofing			Net Income	Per Capita Dividends*	Inflation Proofing	General Fund	Add (Delete)	FY End Balance		
78			54		54		2				1		78	
79	54		84		139		8				7		79	
80	139		344		483		32	12			12		80	
81	483	900	385		1,769		150	28			28	59	59	81
82	1,769	800	401		2,969		368	71	\$1,000.00		71	185	244	82
83	2,969	400	421	231	4,021		471	108	\$386.15	231	110	110	354	83
84	4,021	300	366	151	4,838		530	175	\$331.29	151		203	557	84
85	4,838	300	368	235	5,741		658	217	\$404.00	235		206	763	85
86	5,741		323	216	6,281		1,021	303	\$556.26	216		501	1,264	86
87	6,281	1,264	171	148	7,864		1,069	391	\$708.19	148		529	529	87
88	7,864		418	303	8,585		789	424	\$826.93	303		62	591	88
89	8,585		192	358	9,135		838	459	\$840.00	358		20	611	89
90	9,135		172	465	9,772		819	477	\$817.00	465		(123)	489	90
91	9,772		149	595	10,516		974	473	\$794.00	595		(94)	395	91
92	10,516		141	639	11,296		1,035	470	\$774.00	639		(75)	320	92
93	11,296		134	686	12,116		1,101	501	\$809.00	686		(85)	235	93
94	12,116		128	735	12,979		1,170	535	\$850.00	735		(100)	135	94
95	12,979		114	786	13,878		1,241	580	\$904.00	786		(124)	11	95
96	13,878		104	709	14,692	130	1,314	615	\$942.00	709		(11)		96
97	14,692		98	737	15,526	151	1,389	653	\$981.00	737				97
98	15,526		95	777	16,397	161	1,468	691	\$1,019.00	777				98
99	16,397		85	818	17,300	171	1,549	731	\$1,058.00	818				99
0	17,300		67	862	18,229	181	1,634	772	\$1,097.00	862				0
1	18,229		56	906	19,190	191	1,721	815	\$1,136.00	906				1
2	19,190		51	952	20,193	203	1,811	859	\$1,176.00	952				2
3	20,193		17	999	21,209	214	1,904	905	\$1,215.00	999				3
4	21,209		17	1,047	22,274	226	2,000	952	\$1,255.00	1,047				4
5	22,274		18	1,099	23,390	239	2,100	1,001	\$1,294.00	1,099				5
Cumulative Totals: 3,964							29,164	13,218	\$21,990.82	14,453	229			

ASSUMPTIONS: 4.08% Inflation Rate FY 89
9.21% Rate of Return FY 89

5.00% Inflation Rate FY 90
8.00% Rate of Return FY 90

* SOURCE: Dedicated Revenues and Population Projections From Alaska Department of Revenue Spring 1989 Low-Case Revenue Forecast Except 1989 Estimate of 530,000 Eligible PFD Applicants By DOR Permanent Fund Dividend Division

4/21/89
STATUS QUO

6.00% Inflation Rate FY 91-05
9.00% Rate of Return FY 91-05



Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS

(in millions)

as of March 31, 1989

PRINCIPAL

INCOME

FY	FY Begin Balance	Appropriations	Dedicated State Revenues*	Inflation Proofing	FY End Balance	Inflation Proofing Shortfall	Distributions				Reserves		FY
							Net Income	Dividends	Per Capita Dividends**	Inflation Proofing	General Fund	Add (Delete) Balance	
78			54		54		2				1		78
79	54		84		139		8				7		79
80	139		344		483		32	12			12		80
81	483	900	385		1,769		150	28			28	59	81
82	1,769	800	401		2,969		368	71	\$1,000.00		71	185	82
83	2,969	400	421	231	4,021		471	108	\$386.15	231	110	110	83
84	4,021	300	366	151	4,838		530	175	\$331.29	151		203	84
85	4,838	300	368	235	5,741		658	217	\$404.00	235		206	85
86	5,741		323	216	6,281		1,021	303	\$556.26	216		501	86
87	6,281	1,264	171	148	7,864		1,069	391	\$708.19	148		529	87
88	7,864		418	303	8,585		789	424	\$826.93	303		62	88
89	8,585		192	358	9,135		838	459	\$840.00	358		20	89
90	9,135		290	471	9,896		824	477	\$818.00	471		(124)	90
91	9,896		252	609	10,758		991	475	\$798.00	609		(93)	91
92	10,758		238	660	11,655		1,062	476	\$783.00	660		(73)	92
93	11,655		227	713	12,594		1,139	510	\$824.00	713		(83)	93
94	12,594		217	769	13,580		1,220	550	\$873.00	769		(99)	94
95	13,580		193	826	14,600		1,302	600	\$936.00	826		(124)	95
96	14,600		177	758	15,534	128	1,386	641	\$983.00	758		(14)	96
97	15,534		165	787	16,486	155	1,472	684	\$1,030.00	787			97
98	16,486		160	833	17,478	166	1,561	729	\$1,077.00	833			98
99	17,478		143	880	18,501	178	1,654	774	\$1,123.00	880			99
0	18,501		114	928	19,542	189	1,749	821	\$1,170.00	928			0
1	19,542		96	977	20,614	202	1,846	870	\$1,216.00	977			1
2	20,614		88	1,027	21,730	215	1,947	920	\$1,261.00	1,027			2
3	21,730		29	1,079	22,837	227	2,049	971	\$1,307.00	1,079			3
4	22,837		30	1,130	23,997	242	2,154	1,023	\$1,352.00	1,130			4
5	23,997		31	1,186	25,214	256	2,263	1,077	\$1,397.00	1,186			5
Cumulative Totals: 3,964							30,553	13,786	\$22,000.82	15,275	229		

ASSUMPTIONS: 4.08% Inflation Rate FY 89
9.21% Rate of Return FY 89

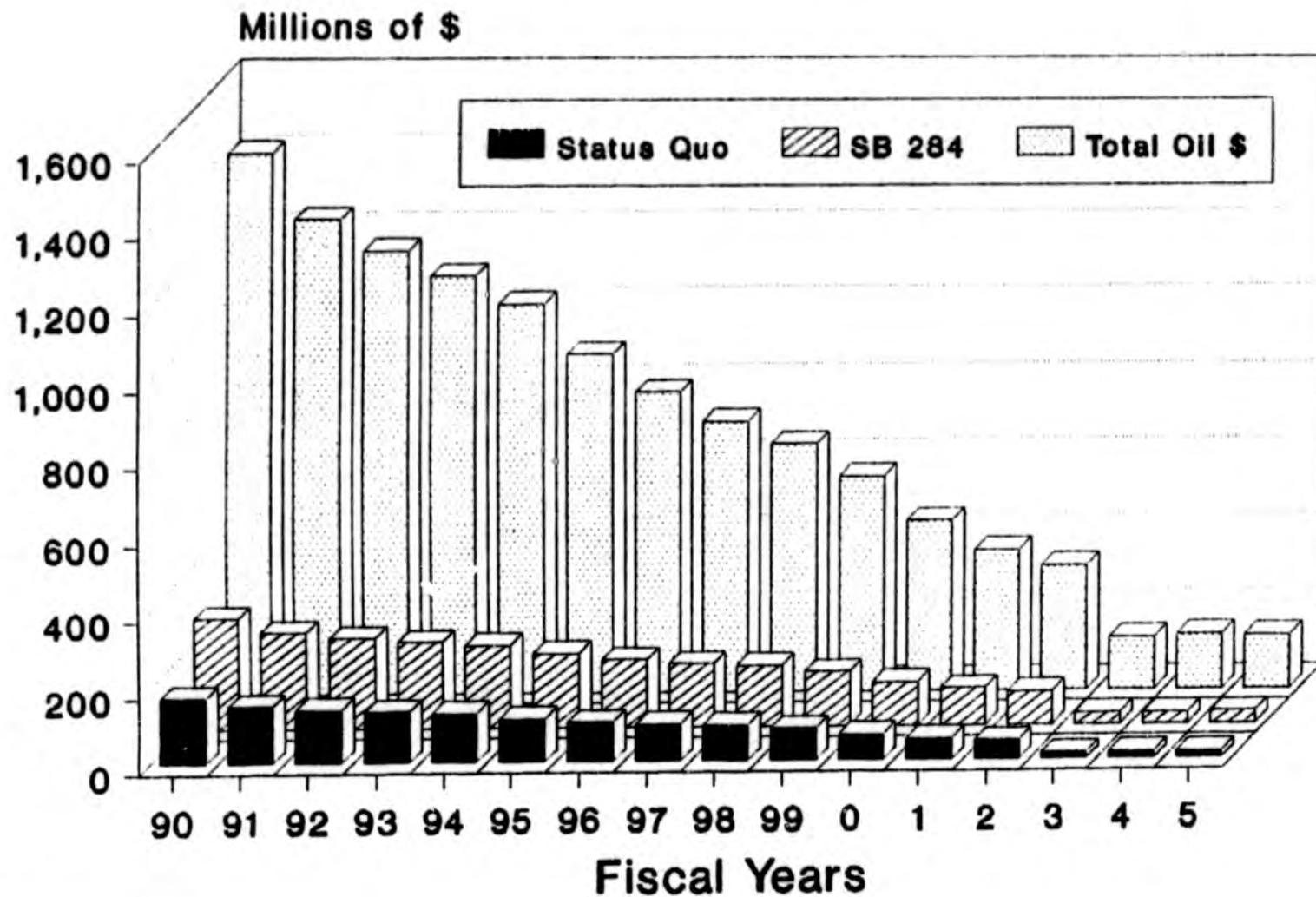
5.00% Inflation Rate FY 90
8.00% Rate of Return FY 90

4/21/89
SENATE BILL NO. 284

6.00% Inflation Rate FY 91-05
9.00% Rate of Return FY 91-05

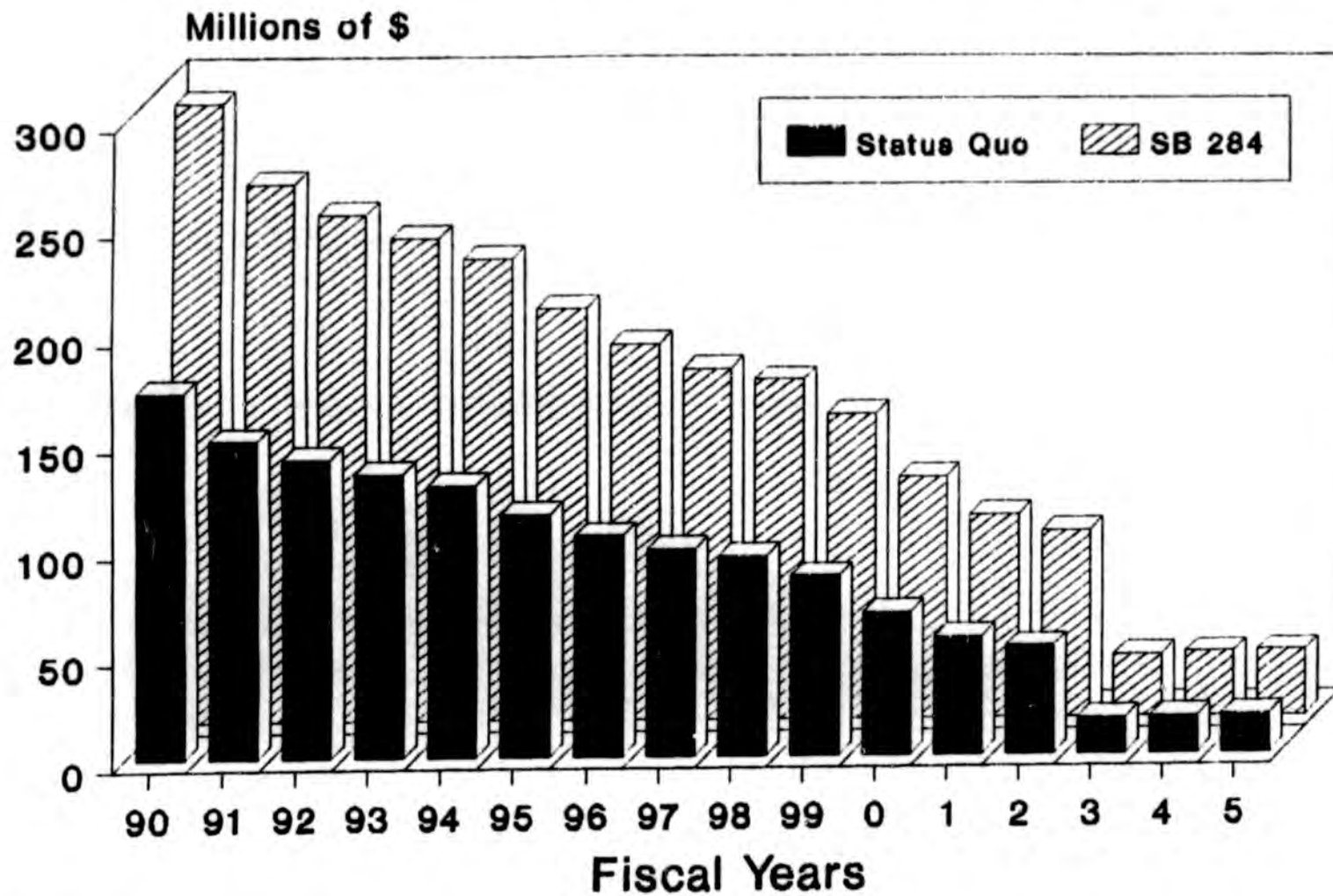
* SOURCE: Dedicated Revenues and Population Projections From Alaska Department of Revenue Spring 1989 Low-Case Revenue Forecast Except 1989 Estimate of 530,000 Eligible PFD Applicants By DOR Permanent Fund Dividend Division

DEDICATED OIL REVENUES TO FUND COMPARED TO TOTAL STATE OIL \$

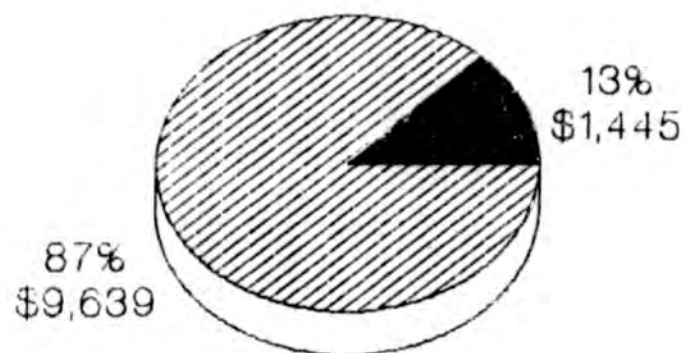


DEDICATED OIL REVENUES TO FUND

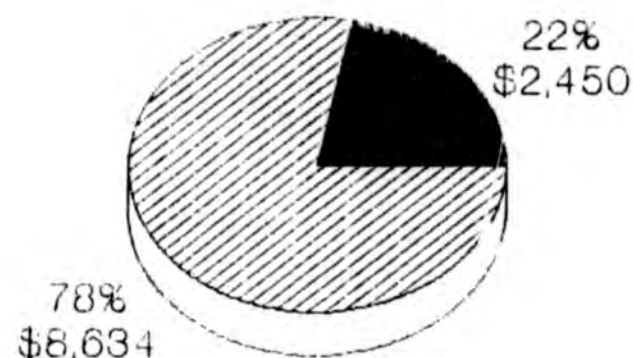
A Comparison of Status Quo and SB 284



DEDICATED OIL REVENUES TO FUND AS A % OF TOTAL STATE OIL \$ 1990 - 2005 (in millions)



Status Quo



SB 284

Total State Oil Revenues 1990-2005: \$11.1 Billion

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

April 24, 1989

SUBJECT: Sectional summary of SB 284
TO: Senator Dick Eliason
FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Section 1. Currently 25 percent of mineral related income from leases issued on or before December 1, 1979 goes to the principal of the permanent fund. This section changes that so, if payment is received on or after July 1, 1989, 43 percent goes to the principal of the permanent fund.

Section 2. Alters the economic limit factor used for calculating taxes on oil production.

Section 3. Deletes material currently in subsection (d) relating to establishing this production rate as a presumption that is rebuttable by the taxpayer at a formal hearing.

Section 4. Deletes additional material from the current economic limit factor statute.

Section 5. Establishes an effective date tied to the fiscal year.

TBC:kb
wkk4/041

Alaska State Legislature

Senate Advisory Council



PO Box V
State Capitol
Juneau, Alaska 99811
Phone (907) 465-3114

MEMORANDUM

TO: Senator Dick Eliason
Alaska State Senate

FROM: Sheila F. Helgath, PhD
Legislative Analyst

DATE: April 18, 1989

SUBJECT: Contributions to Permanent Fund and General Fund as a Result of
SB 284; Research Request #89-100049

Attached are three tables which show the additional amount of money the Permanent Fund and General Fund would receive if ELF were changed under SB 284 and the rate of royalty contributions were changed. The royalty rates has been calculated at 43%, 44%, and 45%.

If you have further questions please call.

attachments:

Table 1. The Effect of Changing the Portion of Royalty Contributions to the Permanent Fund Now Set at a 25 Percent Contribution Rate to 43% and ELF Under SB 284

(Millions Dollars/1)

Fiscal Year	ELF SB 284 (A)	PF @ 25% Current Contribution (B)	PF Royalty + ELF (A+B) (C)	Contribution to PF @ 43% (See Footnote/2) (D)	Amount of PF Contribution due to SB 284 (E)	Contribution to General Fund (C-D) (F)
1990	171	232	403	398	167	4
1991	181	230	411	395	165	16
1992	192	228	420	393	164	28
1993	207	229	436	394	165	42
1994	207	221	428	380	159	48
1995	194	204	398	351	147	47
1996	180	190	370	327	137	43
1997	165	179	344	308	129	36
1998	157	172	329	296	124	33
1999	148	157	305	270	113	35
2000	139	144	283	247	103	36
TOTAL	1,941	2,185	4,126	3,759	1,574	367

Source: Alaska Department of Revenue Forecasts for Spring 1989
Prepared by Senate Advisory Council April 18, 1989

/1 Rounding may cause some numbers not to total exactly.

/2 These amounts represent only that portion of the royalty contribution to the Permanent Fund that is currently contributed at a rate of 25%. The royalty rate for other contributions is 50%.

Table 2. The Effect of Changing the Portion of Royalty Contributions to the Permanent Fund Now Set at a 25 Percent Contribution Rate to 44% and ELF Under SB 284

(Millions Dollars/1)

Fiscal Year	ELF SB 284 (A)	PF @ 25% Current Contribution (B)	PF Royalty + ELF (A+B) (C)	Contribution to PF @ 44% (See Footnote/2) (D)	Amount of PF Contribution due to SB 284 (E)	Contribution to General Fund (C-D) (F)
1990	171	232	403	407	176	-5
1991	181	230	411	404	174	7
1992	192	228	420	402	173	19
1993	207	229	436	403	174	33
1994	207	221	428	389	168	39
1995	194	204	398	359	155	39
1996	180	190	370	335	145	35
1997	165	179	344	316	136	29
1998	157	172	329	302	131	26
1999	148	157	305	276	119	29
2000	139	144	283	253	109	30
TOTAL	1,941	2,185	4,126	3,846	1,661	280

Source: Alaska Department of Revenue Forecasts for Spring 1989
Prepared by Senate Advisory Council April 18, 1989

/1 Rounding may cause some numbers not to total exactly.

/2 These amounts represent only that portion of the royalty contribution to the Permanent Fund that is currently contributed at a rate of 25%. The royalty rate for other contributions is 50%.

Table 3. The Effect of Changing the Portion of Royalty Contributions to the Permanent Fund Now Set at a 25 Percent Contribution Rate to 45% and ELF Under SB 284

(Millions Dollars/1)

Fiscal Year	ELF SB 284 (A)	PF @ 25% Current Contribution (B)	PF Royalty + ELF (A+B) (C)	Contribution to PF @ 45% (See Footnote/2) (D)	Amount of PF Contribution due to SB 284 (E)	Contribution to General Fund (C-D) (F)
1990	171	232	403	417	185	-14
1991	181	230	411	413	184	-3
1992	192	228	420	411	183	9
1993	207	229	436	413	183	24
1994	207	221	428	398	177	30
1995	194	204	398	367	163	31
1996	180	190	370	342	152	28
1997	165	179	344	323	143	22
1998	157	172	329	309	137	20
1999	148	157	305	283	126	22
2000	139	144	283	259	115	24
TOTAL	1,941	2,185	4,126	3,934	1,748	193

Source: Alaska Department of Revenue Forecasts for Spring 1989

Prepared by Senate Advisory Council April 18, 1989

/1 Rounding may cause some numbers not to total exactly.

/2 These amounts represent only that portion of the royalty contribution to the Permanent Fund that is currently contributed at a rate of 25%. The royalty rate for other contributions is 50%.

	addit tax from HB 118	perm fund contr	royalties	percent
low case				
1990	124	166	650	44.62
1991	117	144	563	46.36
1992	131	135	530	50.19
1993	135	129	506	52.17
1994	132	123	484	52.69
1995	120	110	430	53.49
1996	112	100	392	54.08
1997	107	94	366	54.92
1998	104	91	354	55.08
1999	98	81	317	56.47
2000	86	64	249	60.24
2001	75	52	209	60.77
2002	68	48	192	60.42
2003	0	0	0	0
2004	0	0	0	0
2005	0	0	0	0
2006	0	0	0	0
2007	0	0	0	0
2008	0	0	0	0
2009	0	0	0	0
2010	0	0	0	0

Column on far right shows what the royalty contribution rate would have to be to have the additional contribution actually equal what ELF-revisions would generate each year.

	addit tax from HB 118	perm fund contr	royalties current LAW	percent
midcase				
1990	171	242	948	43.57
1991	101	241	940	44.89
1992	192	241	939	46.11
1993	207	244	947	47.62
1994	207	236	914	48.47
1995	194	218	844	48.82
1996	180	207	795	48.66
1997	165	200	758	48.15
1998	157	192	728	47.94
1999	148	177	669	48.58
2000	137	162	612	49.18
2001	129	145	564	48.58
2002	110	135	509	48.13
2003	86	119	449	45.61
2004	69	107	406	43.31
2005	45	90	343	39.31
2006	21	83	318	32.70
2007	4	78	298	27.51
2008	-3	73	281	24.91
2009	0	51	174	29.31
2010	0	97	300	32.31

Note that SB284 proposes 43% which is approximately what is required to match the FY90 ELF at the mid-case scenario. In most years 43% will be low and some ELF revenues would likely go to General Fund.

	addit tax from HB 118	perm fund contr	royalties	percent
high case				
1990	215	321	1251	42.85
1991	243	341	1330	43.91
1992	263	359	1386	44.88
1993	275	393	1490	44.83
1994	272	417	1573	43.80
1995	254	420	1578	42.71
1996	236	426	1595	41.50
1997	214	433	1615	40.06
1998	170	474	1742	36.97
1999	165	467	1685	37.51
2000	153	464	1663	37.10
2001	153	453	1615	37.52
2002	175	454	1613	39.00
2003	167	443	1570	38.85
2004	158	446	1580	38.23
2005	149	439	1551	37.91
2006	139	461	1635	36.70
2007	124	454	1610	36.02
2008	94	448	1591	34.07
2009	60	437	1565	31.74
2010	11	427	1517	29.72

Figures by Dept. of
Revenue using
Spring forecast

Article IX

Finance and Taxation

Section 6 - Public Purpose.

No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.

Section 7 - Dedicated Funds.

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in Section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska. [Amendment approved November 2, 1976 - Effective February 21, 1977]

Section 8 - State Debt.

No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective. [Amendment approved November 2, 1982 - Effective December 24, 1982]

Section 9 - Local Debts.

No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question.

Section 10 - Interim Borrowing.

The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year.

Back-up
for
SB 284

Article IX

Finance and Taxation

Section 11 - Exceptions.

The restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the State or a political subdivision, when the only security is the revenues of the enterprise or corporation. The restrictions do not apply to indebtedness to be paid from special assessments on the benefited property, nor do they apply to refunding indebtedness of the State or its political subdivisions.

Section 12 - Budget.

The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

Section 13 - Expenditures.

No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void.

Section 14 - Legislative Post-Audit.

The legislature shall appoint an auditor to serve at its pleasure. He shall be a certified public accountant. The auditor shall conduct post-audits as prescribed by law and shall report to the legislature and to the governor.

Section 15 - Alaska Permanent Fund.

At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law. [Amendment approved November 2, 1976 - Effective February 21, 1977]

SCOMM

62:14

Municipality of Anchorage



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

OFFICE OF THE MUNICIPAL MANAGER

April 6, 1990

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

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

Dear Senator Pearce:

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

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

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

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

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

Sincerely,


Larry D. Crawford
Municipal Manager

MAR 25 1990

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

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March 7, 1990

VIA FACSIMILE

Honorable Drue Pearce, Chair
Senate Special Committee
on Oil and Gas
Capitol Building
P.O. Box V
Juneau, AK 99811

Dear Chairwoman Pearce:

You have asked a question concerning SB 359 and the interaction between local spill response ordinances and regional contingency plans. In particular, you asked whether a regional oil discharge contingency plan developed pursuant to AS 46.04.210 would preempt a conflicting municipal oil spill response ordinance adopted pursuant to SB 359.

Our short answer is that a local ordinance which conflicts with the terms of a regional contingency plan would be preempted. However, local ordinances would not necessarily have to be consistent in that they could require more stringent actions or different actions and not necessarily be considered in conflict with the regional plan adopted by the Commissioner of Environmental Conservation. Our reasoning is set forth below.

1. Home Rule Municipalities

Under article X section 11 of the Alaska Constitution, a home rule borough or city "may exercise all legislative powers not prohibited by law or by charter." Article X section 1 of the Alaska Constitution mandates that "[a] liberal construction be given to the powers of local government units."

The Alaska Supreme Court has made clear on a number of occasions that:

a municipal ordinance of a home rule municipality is not necessarily invalid because it is inconsistent or in conflict with a state statute. The question of validity of the conflicting

Chairwoman Pearce

March 7, 1990
Page 2

ordinance rests on whether the exercise of authority has been prohibited to home rule municipalities. 'The prohibition must be by express terms or by implication such as where the statute and ordinance are so irreconcilable that one cannot be given its substantial effect if the other is to be accorded the weight of law.'

Area Dispatch, Inc. v. City of Anchorage, 544 P.2d 1024, 1025 (Alaska 1976) (quoting Jefferson v. State, 527 P.2d 37, 43 (Alaska 1974)).

There exists no express prohibition against a home rule municipality acting by ordinance to contain, clean up or prevent the release of oil or hazardous substances within its own borders.¹ Accordingly, unless state law and a municipal ordinance "are so irreconcilable that one cannot be given its substantial effect if the other is to be accorded the weight of law," then the ordinance is a valid exercise of a home rule power. Acevedo v. City of North Pole, 672 P.2d 130, 132 (Alaska 1982); Area Dispatch, Inc., supra.

AS 46.04.110 provides that "[i]f a conflict occurs between a provision of AS 46.04 or a "regulation, order, decision or other determination of the department" made under AS 46.04 and an municipal charter, ordinance or other action, the Department's action will prevail."² AS 46.04.210 directs the Commissioner of Environmental Conservation to prepare a regional master oil and hazardous substance discharge contingency plan for any region in which a person submits a contingency plan under AS 46.04.030. The plan must "clarify and specify the respective responsibilities" of agencies of the state, municipalities of the state, appropriate federal agencies and private parties. AS 46.04.210(b). The statute, however, does not expressly mandate that local response actions be consistent with the plan. The regional plan itself does not have the force of law since it is not a regulation or statute.

Assuming that a regional plan adopted by the Commissioner is a "decision or other determination of the department" under AS 46.04.210, local ordinances could not conflict with the plan.

¹ AS 29.10.200 does limit home rule municipalities powers by requiring compliance with the provisions in AS 29.35.500 -- 590 concerning hazardous chemicals, materials and wastes listed under federal regulations.

² 18 AAC 75.160 provides that the regulations implementing the oil and hazardous substance release statutes do "not preempt local or other governmental control as stringent or more stringent than the requirements of [that] chapter."

Chairwoman Pearce

March 7, 1990
Page 3

However, local ordinances would not necessarily have to be consistent in that they could require more stringent actions or different actions and not necessarily be considered in conflict with the plan.

Section 1 of SB 359 expands present law by allowing a municipality to enforce an oil or hazardous response ordinance outside of its boundaries. This is an additional grant of legislative power to both general law and home rule municipalities. Again, unless the statute granting this authority requires it to be exercised in a manner consistent with regional response plans, a home rule municipality would be free to impose inconsistent requirements as long as they were at least as stringent as the Department's requirements.

2. General Law Municipalities

A general law municipality may only exercise legislative powers conferred upon it by law. AS 29.04.020; AS 29.25.010. In construing general law municipalities' legislative authority, the Alaska Supreme Court has noted that

[m]erely because the state has enacted legislation concerning a particular subject does not mean that all municipal power to act on the subject is lost. We have consistently rejected application of any such concept in our cases dealing with home rule municipalities. We do so now with respect to general law municipalities because our constitution requires that their powers be liberally construed as well. We believe that the proper accommodation can be made between the state and general law municipalities by a rule, which determines preemption to exist, in the absence of an express legislative direction or a direct conflict with a statute, only where an ordinance substantially interferes with the effective functioning of a state statute or regulation or its underlying purpose.

Liberati v. Bristol Bay Borough, 584 P.2d 1115, 1122 (Alaska 1978).

Under section 1 of SB 359, a general law municipality could enforce an oil or hazardous response ordinance outside of its boundaries. Section 2 and 3 of SB 359 provide that second class boroughs and third class boroughs, respectively, may by ordinance exercise authority to contain, clean up, or prevent a release or threatened release of oil or a hazardous substance and exercise a power granted to a municipality under AS 46.04, AS 46.08 or AS 46.09.

Chairwoman Pearce

March 7, 1990

Page 4

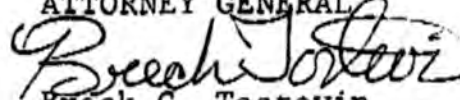
As discussed above in the context of charter municipalities, unless the statute granting this authority requires it to be exercised in a manner consistent with regional response plans, a general law municipality would, under AS 46.04.110, be free to impose inconsistent requirements as long as they did not conflict with the regional plan or AS 46.04 or a regulation adopted under that chapter.

In conclusion, if municipal oil or hazardous substance response ordinances are to be consistent with regional contingency plans under AS 46.04.210 then specific language should be included in SB 359 requiring consistency. Additionally, language might also be added to ensure that a regional contingency plan falls within the protections of AS 46.04.210 since it is arguably unclear whether a plan would be considered a "decision or other determination of the department." The committee also might consider clarifying the status of the state plan under AS 46.04.200 and regional plans under AS 46.04.210. For example, does the Commissioner's duty to clarify and specify the respective responsibilities of certain parties carry the authority of state law.

If you have any further questions, or if we can be of further assistance, please contact us.

Sincerely,

DOUGLAS B. BAILY
ATTORNEY GENERAL



Breck C. Tostevin
Assistant Attorney General

BCT:bi

cc: Jeff Bush

Master

Alaska State Legislature

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During Session:
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Senator Drue Pearce
District G

March 7, 1990

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

Dear Senator Fahrenkamp:

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

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

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

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

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

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

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

Sincerely,



Drue Pearce

DP:DR

SPILL

The Wreck of the *Exxon Valdez*

Implications for Safe Marine Transportation



State of Alaska



January 1990

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

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

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

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

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

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

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

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

Recommendation 53
Local service impact funding

Recommendation 54
Full-cost reimbursement

SECTIONAL ANALYSIS - SPONSOR SUBSTITUTE SENATE BILL 359

This legislation is based on proposals first offered by mayors of municipalities whose communities bore the brunt of the Exxon Valdez disaster. To a great extent, the document follows a suggested model prepared by Perkins Coie, an Anchorage-based law firm, to broaden the ability of municipalities and village councils to address and receive compensation for their efforts to contain and clean up spilled oil and hazardous substances. The earlier draft was then revised by eliminating selected elements in order to limit the sources from which municipalities and village councils may receive compensation.

This bill establishes a second fund, parallel to, but not duplicative of, the existing oil and hazardous release response fund. The principal distinction between the two funds is this: the existing fund is intended to be the principal source of money for expenditures incurred by any eligible party within the state directly for oil and hazardous substance discharge containment and clean up, and by the state (alone) for incremental and additional public services prompted by that containment and clean up; the new fund would serve as a source of assistance to municipalities and village councils (alone) for incremental and additional public services prompted by necessary containment and clean up. There would be no overlap.

MUNICIPAL EXTRA-JURISDICTIONAL AUTHORITY:

These changes, part of the Perkins Coie memo that resulted in an early draft, were sought by mayors and officials of municipalities who bore the burden of the Exxon Valdez spill and clean up.

Sections 1-3, amendments to various sections of AS 29.35, extend the authority of municipalities to exercise containment and clean up of spilled oil and hazardous substances if the spill occurs outside the municipal boundaries. The change made by Section 1 specifically prescribes how extrajurisdictional containment and clean up authority may be legally assumed by a municipality while the changes made by Sections 2 and 3 authorize the exercise of extrajurisdictional containment and cleanup authority for second and third class boroughs, respectively. (First class boroughs already enjoy general authority; home rule boroughs (e.g. North Slope Borough) and unified municipalities (e.g. Anchorage, Juneau,

Sitka) already enjoy that authority under existing law, so it is not necessary to amend the law in any way to authorize the municipalities of those classes to so act.)

STATE FINANCIAL ASSISTANCE TO MUNICIPALITIES FOR MUNICIPAL SERVICES.

SECTION 4 establishes a new "oil and hazardous substance municipal impact fund" and describes the manner of its administration. The fund is established in the Department of Community and Regional Affairs, and that department has principal responsibility for its administration.

There is a codified statement of policy and purpose (AS 29.60.500) underpinning the municipal impact assistance program. Sections establish the fund and spell out its general purpose ("to make grants under AS 29.60.530 for actual expenses incurred by municipalities and village councils" - AS 29.60.510) and authorize appropriations by the legislature to the fund (AS 29.60.520).

The principal provision applicable to the new "impact assistance fund" is AS 29.60.530. The legislation would permit the Commissioner of Community and Regional Affairs to make grants to a municipality or village council that is

...affected by release of oil or a hazardous substance and demonstrating extraordinary expenditures that are beyond the reasonable capability of the municipality or village council to meet from the municipality's or council's current revenue sources." (page 3, lines 17-21).

The municipal expenditures that may qualify for grant assistance are those affected by prevention, containment, and clean up efforts related to functions or services and incidental administrative costs related to these functions or services in eight general areas (pages 3-4).

Grant approval would be based on the determination by the commissioner by application of the three factors specifically identified in subsection (c) together with any "other criteria the department considers appropriate." (page 4, line 23). To better assure that the grants are used to offset extraordinary municipal initiatives in response to a spill emergency, the section includes language prohibiting the municipality receiving the grant from using the grant to reduce municipal tax rates or retire its bonded indebtedness (subsection d).

Subsection (e) authorizes the commissioner to prioritize or rank grant applications and specifies the ranking criteria.

The remainder of the new sections in Section 4 are intended to provide for smooth operation of the fund.

AS 29.60.540 establishes a record-keeping requirement.

AS 29.60.550 directs preparation and submission of an annual report.

AS 29.60.560 permits the commissioner to adopt necessary regulations.

AS 29.60.590 sets out pertinent definitions.

For the purposes of this Section, a village council may apply for a municipal impact fund grant, a) independently, if the community is part of the unorganized borough, or b) through the organized borough if the community is part of the organized borough and the borough exercises the function or service for which the grant application is submitted or c) independently even if the village is part of the organized borough, if the borough does not exercise the function or service for which the grant application is submitted.

FINANCING THE NEW MUNICIPAL IMPACT ASSISTANCE FUND.

SECTIONS 5-10 identify a source of money for the new fund. That source is the same nickel-per-barrel addition or surcharge to the state severance tax (technically, the oil and gas "properties production tax" as it applies only to produced oil) first imposed during the 1989 legislative session to support the oil and hazardous substance release response fund in AS 46. The proposed legislation contemplates that the proposed fund will have a normal operating balance of \$25 million available to assist municipalities.

SECTION 5, amending AS 43.55.220, authorizes use of revenue from the surcharge for appropriation into the municipal impact assistance fund.

SECTION 6 amends the mechanism applicable to trigger the off-again on-again feature of the nickel-per-barrel surcharge to make it applicable to expenditures from both the existing oil and hazardous substance release response fund and the proposed municipal impact fund.

SECTIONS 7 and 8 increase the benchmark figure applicable to the trigger mechanism from \$50 million to \$75 million.

SECTION 9 revises the mechanism so that, as a condition of surcharge imposition, the legislature must appropriate not only to restore the balance of the existing oil and hazardous substance release response fund to \$50 million, but also must restore the balance of the proposed municipal impact fund to \$25 million.

SECTION 10. The amendment proposed by this section, an uncodified provision, is intended to assure that, from the inception of the nickel-per-barrel surcharge, its collection is not to be suspended until a total of \$75 million is

received in order to meet the normal operating balances of the two funds -- \$50 million in the existing oil and hazardous substance release response fund and \$25 million in the proposed municipal impact fund.

The section also amends the existing statute to require the commissioner of administration to include the Commissioner of Community and Regional Affairs in its certification procedures.

OTHER TECHNICAL AND CORRECTIVE CHANGES.

The remaining bill sections make technical and corrective changes sought by mayors of municipalities and village council leaders who bore the brunt of the Exxon Valdez disaster and cleanup. Here, as noted earlier, there have been changes incorporated to assure that communities eligible for financial assistance under the municipal impact fund of AS 29.60 are not also eligible for assistance for those same expenditures from sources in AS 46.

SECTION 11, an amendment to AS 46.03.822(a) defines the scope of a person's liability under the "Strict Liability" provisions of that section. That liability is extended to "incremental costs of providing public services that are incurred by state or a municipality or a village council

SECTION 12, amends the strict liability provisions to protect a village council, as well as the state or a municipality from liability for costs or damages incurred in response to release or threatened release of a hazardous substance.

SECTION 13 limits the amount a municipality or a village council may recover under the strict liability statutes if it also receives impact grant funds.

SECTION 14 offers a new definition of those "public services".

SECTIONS 15-18 AS 46.04 generally addresses oil discharge and cleanup.

SECTION 15 AS 46.04.020(e) establishes a basis for agreements between parties to facilitate containment and cleanup. Amends the reimbursement agreement provision of AS 46.020(e), adds to the parties with whom the Department of Environmental Conservation may enter into cooperative agreements to include municipalities and village councils. (The change supports a compensation arrangement modified by amendments made in section 19, later in the bill)

SECTION 16 Oil discharge contingency plans are documents important to the protection of the environment. The amendment made by addition of subsection (h) directs the commissioner of

environmental conservation to consult with a larger number of groups and to disseminate the draft contingency plans to the public for review and comment.

SECTION 17 amends the definition of "containment and cleanup" applicable to AS 46.04 to add "discharged oil" as a legitimate object of containment and cleanup efforts. More significantly for our purposes, the amendment of the definition of the term incorporates reference to certain incremental and additional public services costs "incurred in response to the actual discharge of the oil or a pollutant" as an expense qualifying within the definition.

SECTION 18 sets out additional definitions for two terms, "public services" and "village council," that are added by the changes made to provisions of AS 46.04 in the bill. The definition of "public services" is limited to STATE public services; incremental municipal public services would be compensable under AS 29.60, the municipal impact assistance fund.

The definition of village council is consistent with the definitions in previous sections of the bill

SECTIONS 19-23 amend the scope of expenses incurred that are compensable from the oil and hazardous substance release response fund, the \$50 million dollar fund.

SECTION 19 amendments would 1) permit the money in the fund to be used for "assessments," including assessments of social and economic effects of a discharge or threatened discharge; 2) authorize compensation of costs incurred by a village council as a result of a discharge or threatened discharge; and 3) serve as a source of grants.

SECTION 20 incorporates amendments substituting mandated payment of compensation for actual abatement expenses incurred, whether by a municipality or by a village council under an oil spill cleanup agreement, and further broadens authorized payment by the state from the fund if the response of the municipality or village council was an "appropriate" response, not just a "necessary emergency first response" to a release or threatened release.

SECTION 21. The grant provision of this section is new. The section spells out, in much greater detail than in existing law, how municipalities and village councils may receive "grants...to enable [them] to carry out an emergency first response to a release or threatened release." The grants would be payable on application, based on short deadlines under regulations approved by the Commissioner of Environmental Conservation.

SECTIONS 21 and 22 make the same amendments to the definition of "containment and cleanup" and add definitions of "public

services" and "village council" to AS 46.08 that are described earlier with reference to the changes made to AS 46.04.

SECTION 23. AS 46.09 is a chapter that addresses release of hazardous substances. This section is a technical amendment to AS 46.09.060(b) which gives municipalities, for the purposes of environmental protection, the broadest possible authority under all pertinent environmental-related chapters of AS 46 exercisable within the municipality's boundaries. (This change complements the amendments proposed in SECTIONS 1-3 applicable to extra-jurisdictional authority outside the municipality's boundaries.)

SECTIONS 24 and 25 make the same amendment to the definition of "containment and cleanup" and add the definition of "public service" to AS 46.09 that are described earlier with reference to the changes made to AS 46.04 and AS 46.08.

SECTION 26 immediate effective date.

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

February 8, 1990

POSITION PAPER

RE: Sponsor Substitute for Senate Bill 359

SPONSOR: Senator Szymanski

Program Effects of Bill:

Sections 1 - 3 of the bill would expand municipal powers to respond to a release of oil or a hazardous substance by authorizing extraterritorial exercise of such powers and explicitly authorizing exercise of these powers by ordinance by second and third class boroughs. Section 4 establishes an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs to provide assistance to municipalities and village councils affected by a release and provides guidelines for the administration of the fund. As provided in Sections 5 - 10, the source of money for the fund is the five-cent-a-barrel surcharge which shall be deposited in the fund until the cumulative total of the balances in this fund and the oil and hazardous substance release fund amounts to \$75,000,000.

Sections 11 - 13 deal with liability issues. Sections 14, 18 and 23 add definitions for public services and village council. Section 15 adds municipalities and village councils to the list of entities with which DEC may enter into agreements when dealing with the discharge of oil. Section 16 provides for expanded public participation in the contingency planning process. Section 17 adds incremental costs of public services to containment and cleanup costs. Section 19 adds to purposes of the oil and hazardous material clean up fund social and economic assessments. Section 20 would require DEC to reimburse a municipality or village council for actual expenses associated with the abatement of a spill. Section 20 gives DEC the authority to make grants to municipalities and village councils to carry out emergency first response to a release. Section 21 and section 25 would include additional costs eligible as containment and cleanup costs. Section 26 adds a definition for public services.

Comments:

The administration recognizes the need for a mechanism to address municipal social and economic impacts resulting from the catastrophic release of oil and hazardous substances into the environment. Rather than create a new fund, as proposed in

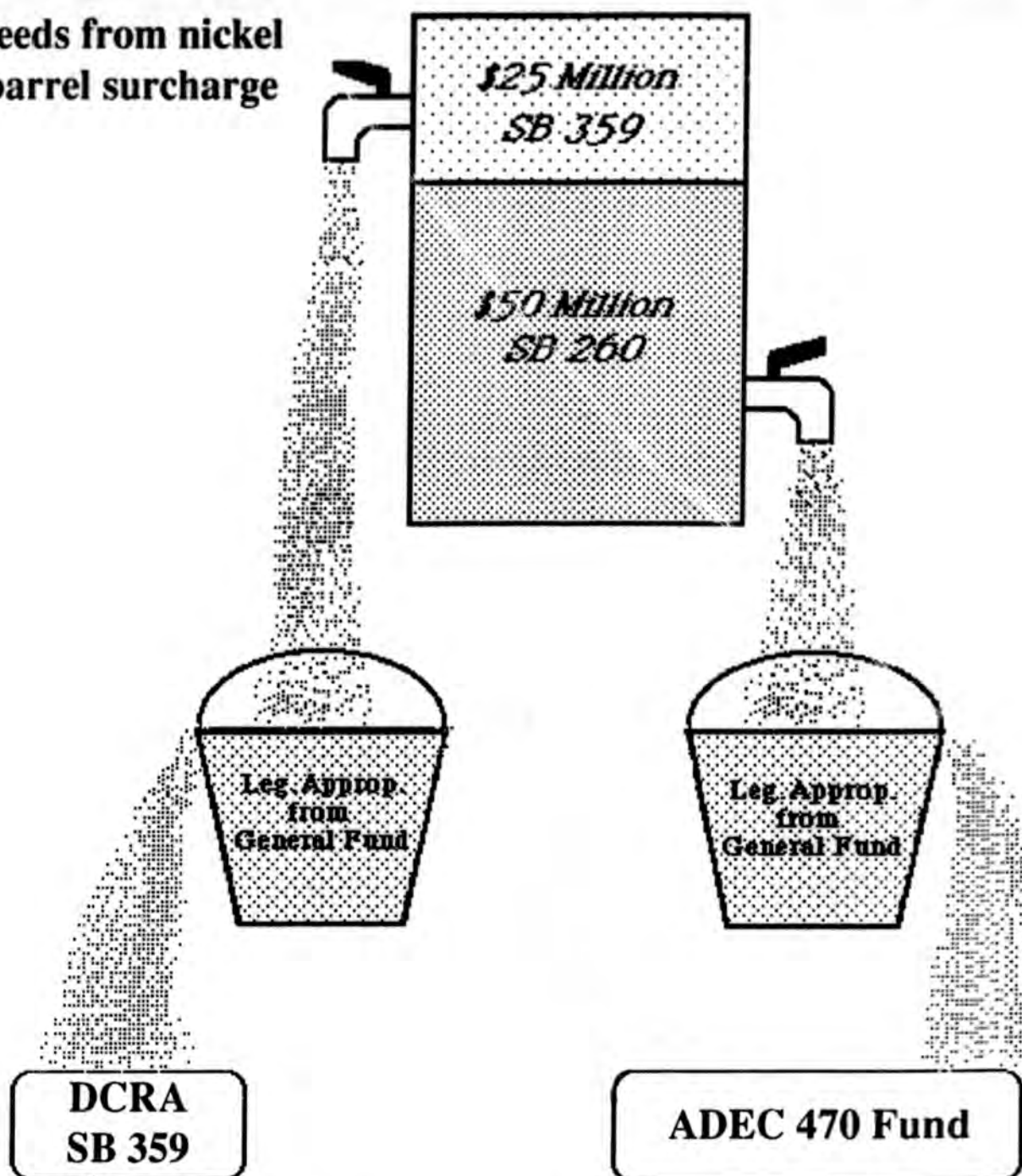
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Sponsor Substitute for Senate Bill 359
February 8, 1990
Page Two

this bill, however, the administration would prefer to see the utilization of existing structures. The most appropriate mechanism to address these impacts would be to amend the existing oil and hazardous substance release response fund statutes to address community needs. Under such a mechanism, ten percent of the fund balance, or as much as \$5 million, would be administratively transferred from the oil and hazardous substance release response fund to the Department of Community and Regional Affairs for distribution to respond to community social and economic impacts. At this time, the administration does not believe it is necessary to raise the existing \$50 million cap on the oil and hazardous substance release response fund.

John Bertram DC, CNA
For David G. Hoffman, Commissioner

**Proceeds from nickel
per barrel surcharge**



- * Social and economic impact assistance fund in DCRA
- * Grants to municipalities and village councils for costs of incremental and additional public services
- * Changes to Title 29 to broaden authority of municipalities and village councils to deal with oil and hazardous substance discharges
- * DCRA lead agency

CHANGES TO TITLE 46

- * 470 Fund may pay for social and economic impact assessment
- * Establishes grant program to communities for emergency first response
- * Expands powers of municipalities and village councils to deal with oil and hazardous substance discharges

- * Emergency first response cleanup, containment and abatement
- * Contingency plan
- * Reimbursement agreements with communities for emergency 1st response
- * Costs relating to response office, response depots, response corps (including administrative expenses)
- * Costs related to reimbursement actions
- * Matching funds for CERCLA
- * Need for State to seek recovery
- * No capital expenditures
- * ADEC lead agency

STATUS OF OIL SPILL RESPONSE FUND

February 1, 1990

FUND APPROPRIATIONS

Non Exxon Account Balance on 1/15/90	\$ 1,524.0
#48815 General Fund	32,000.0
#48715 General Fund	10,000.0
#48717 Program Receipts	10,000.0
#48701 Program Receipts	<u>20,000.0</u>
TOTAL	73,524.0

EXPENDITURES AND OBLIGATIONS

Exxon Spill Expenditures by DEC to 12/31/89	23,397.2
Exxon Spill Obligations by DEC to 12/31/89	<u>4,929.8</u>

SUBTOTAL 28,327.0

Exxon Spill Agency RSA's to 12/31/89	8,279.7
Exxon Spill Agency RSA's projected to 6/30/90	<u>2,202.8</u>

SUBTOTAL 10,482.5

Local Community Agreements to 5/31/90	8,203.0
DEC Exxon Spill Oversight and Monitoring to 6/30/90	19,248.8
261/264 Response Corps and Depots and Contingency Planning	4,371.8
Other Site Cleanup & Contracts & Spill Response Reserve	<u>2,890.9</u>
TOTAL	73,524.0

Note: Does not include direct expenditures by Exxon

EXXON VALDEZ OIL SPILL RESPONSE

On Scene Coordinators Office	554.5
Cleanup Monitoring	3,741.0
Waste Management & Disposal	694.9
Scientific Support	1,326.5
Treatment Technology Review	203.1
Documentation/Data Management	231.5
Logistical Support	12,820.2
Shoreline and Offshore Oil Tracking	2,633.8
Local Response Projects	610.5
Fish Inspection	530.2
Damage Assessment	<u>51.0</u>
TOTAL	23,397.2

ADEC REQUESTING RSA'S
VALDEZ OIL SPILL
ACTIVITY THROUGH 01/15/90

NUMBER	FY	SERVICING AGENCY	TOTAL	LIQUIDATION	BALANCE
1892050	89	LAW	50,900.00	-44,899.15	6,000.85
1892057	89	MARINE HIGHWAYS M/V AURORA	647,080.00	-487,559.35	159,520.65
1892058	89	MARINE HIGHWAYS M/V BARTLETT	122,700.00	-45,622.14	77,077.86
1892066	89	FISH AND GAME	1,379,100.00	00.00	1,379,100.00
1803003	90	ADMINISTRATION TELECOM.	3,000.00	-3,000.00	00.00
1803010	90	DNR	1,513,000.00	00.00	1,513,000.00
1803016	90	FISH AND GAME	2,446,500.00	00.00	2,446,500.00
1803020	90	ADMINISTRATION TELECOM.	450,000.00	00.00	450,000.00
1803021	90	ADMINISTRATION TELECOM.	1,198,000.00	00.00	1,198,000.00
1803025	90	ADMINISTRATION TELECOM.	9,000.00	-9,000.00	00.00
1803030	90	ADMINISTRATION OIL SPILL COMM.	490,000.00	-59,911.15	430,188.85
1803031	90	ADMINISTRATION TELECOM.	111,800.00	00.00	111,800.00
1803035	90	GOV. OFFICE ADMINISTRATION	185,200.00	-22,576.44	162,623.56
1803037*	90	ADMINISTRATION TELECOM	39,700.00	00.00	39,700.00
1803040	90	ADMINISTRATION GEN. SVC & SUPPLY	35,700.00	00.00	35,700.00
1803053	90	LABOR OCCUPATIONAL SAFETY	257,000.00	00.00	257,000.00
1803066	90	HEALTH AND SOCIAL SERVICES HUMAN SERVICES DEVELOPMENT	13,500.00	00.00	13,500.00
SUBTOTAL OTHER AGENCY:			8,952,180.00	-672,468.23	8,279,711.77

OIL & HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND

COMMUNITY RESPONSE

JANUARY 30, 1990 STATUS

I. INITIAL AGREEMENTS

- - signed in early April 1989

COMMUNITY	AGREEMENT \$	PAID OUT	BALANCE CARRIED FORWARD
Valdez	500,000	15,000	0
Cordova	500,000	205,618	0
Chignik	50,000	0	0
Kenai Pen. Bor.	500,000	0	500,000
Kodiak Is. Bor.	500,000	332,354	167,646
Homer	100,000	44,992	0
Whittier	50,000	0	0
Chenega	50,000	50,000	0
TOTAL	\$2,250,000	\$647,964	\$667,646

WHAT DID THE MONEY BUY?

Cordova - - booming and protective measures of hatchery

Chenega - - support services in the port and harbor area in support of defense of hatchery and in water oil recovery. (community building, laundry, bank of telephones, water & power, 24 hour dock attendant, storage of materials dropped on beach, fax & copying)

Kodiak Is. Bor. -- baseline sampling of subsistence beaches (350K)
-- clean up on Tugidak Island (100K)

Homer -- supported HARC volunteer cleanup at Mars Cove

II. LOCAL RESPONSE PROJECTS - WINTER PLAN TO ADDRESS LOCAL PRIORITY BEACHES

- beach cleanup using type A techniques
- safety, planning, and implementation
- coordination of community response activities
- administration and overhead

COMMUNITY	AGREEMENT \$
Kodiak Is Bor.	2,060,000
Kenai Pen. Bor.	1,831,000
Valdez	485,000
Cordova	1,209,382
Chenega	572,000
Tatitlek	172,000
Chignik	222,000
Whittier	336,000
TOTAL	\$6,887,382

NOTE: TOTAL TO BE SPENT BY COMMUNITIES OF 470 FUNDS = \$8,202,992 (both agreements)

OIL & HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND

COMMUNITY RESPONSE

JANUARY 30, 1990 STATUS

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- - signed in early April 1989

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Whittier	50,000	0	0
Chenega	50,000	50,000	0
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Chenega	572,000
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Chignik	222,000
Whittier	336,000
TOTAL	\$6,887,382

NOTE: TOTAL TO BE SPENT BY COMMUNITIES OF 470 FUNDS = \$8,202,992 (both agreements)

OIL SPILL GRANT SUMMARY

Page Three

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

OIL SPILL GRANT SUMMARY - ROUTE #1 - APPLICATION DEADLINE SEPTEMBER 15, 1989

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

OIL SPILL GRANT SUMMARY

Page Two

COMMUNITY/PROJECT	PROJECT COST	DEC Clean-Up	Dept. of HHS	DCRA Project	DCRA Funded Projects	Referred Projects*	Second Round Consideration Projects
CITY OF VALDEZ							
1. Land Fill	500,000			500,000			500,000
2. Impact Film	35,848			35,848			35,848
3. Police Staffing	45,336			45,336			45,336
4. Counseling Staff	90,000		90,000			90,000	
5. Animal Incinerator	12,773			12,773			12,773
6. Tourism Marketing	79,000			79,000			79,000
7. Police Computer	23,311			23,311			23,311
8. Press Program	35,000			35,000			35,000
9. Socio-Econ. Study	245,000			245,000			
10. Civic Center Staff	10,014			10,014			10,014
11. Airport Carpeting	34,375			34,375			34,375
TOTAL	1,110,657		90,000	1,020,657		90,000	1,020,657
CITY OF SEWARD							
1. Police Impact	134,387			134,387			134,387
2. Mental Health Staff	105,421		105,421			105,421	
3. New Tele. System	7,085		7,085			7,085	
4. Vessel Motor Replcmt.	13,000			13,000			13,000
5. Media Marketing	100,000			100,000			100,000
6. Native Hlth. Prgrm.	178,500		178,500			178,500	
TOTAL	538,393		291,006	247,387		291,006	247,387
COMMUNITY OF ONEDEGA							
1. Shoreline Cleanup	21,600	21,600				21,600	
2. Solid waste Site	230,000			230,000			230,000
3. School Addition	750,000			750,000			750,000
TOTAL	1,001,600	21,600		980,000		21,600	980,000
CITY OF KENAI							
1. Dock Revenue Loss	41,760			41,760			41,760
TOTAL	41,760			41,760			41,760

OIL SPILL GRANT SUMMARY

Page Four

COMMUNITY/PROJECT	PROJECT COST	DEC Clean-Up	Dept. of HHS	DCRA Project	DCRA Funded Projects	Referred Projects*	Second Round Consideration Projects
COMMUNITY OF TATITUEN							
1. VPSO HOUSING	53,625			53,625	53,625		
2. CHILD ACTIVITY CTR	82,240		82,240			82,240	
TOTAL	135,865		82,240	53,625	53,625	82,240	
CITY OF SELDOVIA							
1. Oil Spill Coord. Progm	89,811			89,811			89,811
2. Reimbursements	78,945			78,945			78,945
3. Counseling Progm	24,621			24,621			24,621
TOTAL	193,377			193,377			193,377
GRAND-TOTALS	11,597,236	6,009,426	1,079,092	4,508,718	795,025	7,088,518	3,713,693

PROJECTS NOT ELIGIBLE FOR CURRENT FUNDING CYCLE DUE TO LATE SUBMISSION

CITY OF HOMER							
1. Main Dock Repair	50,000			50,000			50,000
2. User Fee Credits	136,600			136,600			136,600
3. Homer Public Safety	41,000			41,000			41,000
4. Alcohol/Drug Abuse	24,200		24,200			24,200	
5. Comm. Mental Health	53,720		53,720			53,720	
6. Staff Augmentation	16,000			16,000			16,000
7. Port Harbor Impact	30,300			30,300			30,300
8. Revenue Replacement	281,600			281,600			281,600
TOTAL	633,420		77,920	555,500		77,920	555,500

GRAND-TOTAL OF ALL PROJECTS
SUBMITTED UNDER THE OIL SPILL

ASSISTANCE GRANT PROGRAM	12,230,656	6,009,426	1,157,012	5,064,218	795,025	7,166,438	4,269,193
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* The column, "Referred Projects", refers to potential funding through DEC and HHS.

FISCAL NOTE

REQUEST:

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

Agency Affected: Community & Regional Affairs
BRU: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact anticipated in FY 90.

* See attached analysis.

Prepared by: Jim Plasman
Division: Municipal & Regional Assistance

Phone: 465-4750
Date: _____

Approved by Commissioner: [Signature]
Agency: Community & Regional Affairs

Date: 2-1-90

Distribution (by preparer):

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

Position Title Local Government Specialist IV			No. of Positions 1	Range/Step 19 A	Barg. Unit XE
Time Status Temporary	Staff Months 12		Location Juneau		Election District
			Justification This position will be needed to provide technical assistance to local government administrators in determining the extent of local impacts, developing and implementing strategies for community recovery, and applying for the grant monies to carry out these strategies. This position would be temporary and may not be needed for the full 12 months reflected, depending upon community progress. The funding source would be a percent of the total funds available.		
Type of Expenditure		Amount			
1	2	3			
Salary	40.2				
Benefits	13.5				
Premium Pay					
Other					
Total Personal Services		53.7			
Travel		10.0			
Contractual		3.0			
Commodities					
Equipment					
Other					
Total Cost		66.7			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	66.7			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For
New Position**

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

Page 2 of 4
 Revised Date

FY 91

Position Title <u>Grant Administrator II</u>			No. of Positions <u>1</u>	Range/Step <u>17A</u>	Barg. Unit <u>GGU</u>
Time Status <u>Temporary</u>	Staff Months <u>12 Months</u>		Location <u>Anchorage/Juneau</u>		Election District
			Justification		
Type of Expenditure			Amount		
1		2	3		
Salary		35.0			
Benefits		12.2			
Premium Pay					
Other					
Total Personal Services			47.2		
Travel					
Contractual					
Commodities					
Equipment					
Other					
Total Cost			47.2		
Funding Source for Total Cost					
Federal Receipts		1002			
G. F. Match		1003			
General Fund		1004			
I-A Receipts		1006			
CIP Receipts		1061			
Other			47.2		

During the recent oil spill, DCRA administered an oil spill grant program of \$1,160,000. Based on experience with this program, one temporary position to prepare grant/contractual documents will be needed during program activity. This position would be responsible for developing the agreement, reviewing payment requests, monitoring the project until completion, then finally closing out the grant. This position is budgeted here at salary for 12 months funded from the amount designated in the bill. Actual staff months worked depends on extent of disaster.

Request For New Position

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

Page 3 of 4
 Revised Date

FY 91

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

**Request For
New Position**

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

Page 4 of 4
Revised Date

FY 91

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SS SB 359

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____

Title: Municipal Oil Spill Fund

Agency Affected: Department of Revenue

BRU: Oil & Gas Audit Division

Sponsor: Szymanski

Requestor: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page for analysis.

Prepared By: Charles L. Logsdon

Division: Oil & Gas Audit Division

Phone: 277-5627

Date: January 31, 1990

Approved by Commissioner: Hugh Malone

Agency: Department of Revenue

Date: 2/1/1990

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

SS SB 359
Fiscal Note Analysis

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

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

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

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

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

* Excludes NGLs.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Municipal Assistance: Oil
Response Fund _____
Sponsor: Szymanski
Requestor: Senate Oil & Gas

Agency Affected: Department of Revenue

BRU: Treasury

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: attach a separate page for analysis.

Fiscal year 1990 effect is zero.

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350

Date: February 1, 1990

Approved by Commissioner: [Signature]
Agency: Department of Revenue

Date: 2/1/90

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act concerning authority by
State and its municipalities related to *
Sponsor: Szymanski, Adams
Requestor: _____

Agency Affected: Administration
BRU: Central Administration
Administrative Services
Components: Municipal Grants

* environmental conservation

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

There currently exists a fund used in making grants to municipalities and village councils for those costs attributed to oil and hazardous substance release response. The fund is administered solely by the Department of Community and Regional Affairs. This bill would create an additional fund, the same in all respects except that its use would be for oil and hazardous substance municipal impact. The new fund would also be administered only by the Department of Community and Regional Affairs. There is not anticipated to be any involvement by the Department of

Administration Municipal Grants Program

Prepared by: Mike Maher

Phone: 465-2277

Division: Administrative Services

Date: 01/17/90

Approved by Commissioner: Frank S. Baxter

Date: 1/19/90

Agency: Department of Administration

Distribution (by preparer):

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

STATE OF ALASKA 1990 - 16TH LEGISLATURE
SECOND SESSION
FISCAL NOTE

Bill Number: Sponsor Substitute for Senate Bill 359

Title: "An Act relating to municipal assistance: oil spills"

While this bill will have a specific fiscal impact upon the department, the impact will occur only if the release of oil or other hazardous substance triggers the operation of the fund. Because of the conditional nature of this impact, no fiscal impact is indicated in a specific fiscal year. It would be the intention of the department to take funding for these positions from the fund itself once the fund became operational. The anticipated impact would include positions and funds to manage the operation of the grant program.

DCN

MEMORANDUM

State of Alaska

Department of Law

TO: Garrey Peska
Chief of Staff
Office of the Governor

DATE: September 12, 1989

FILE NO:

TEL. NO:

465-3600

SUBJECT:

Oil and Hazardous
Substance Response Fund

FROM:

Douglas K. Mertz *AKM*
Assistant Attorney General
Natural Resources Section-Juneau

You asked for our quick review of what we considered to be permissible expenditures under AS 46.08.005--46.08.900, the Oil and Hazardous Substance Release Fund.

The Fund was first established in 1980, as an appropriation line item to fund the Department of Environmental Conservation's new program on oil spills. The original appropriation merely noted "prevention & control/oil spills" as the purpose without elaboration. Since then the legislature has broadened the coverage of the Fund to include hazardous substances in addition to oil, and has set out in more detail the purposes of the Fund. (Section 1, ch. 59, SLA 1986). The Fund's statutory basis was amended as recently as last legislative session (sec. 2, ch. 113, SLA 1989).

AS 46.08.040 sets out four basic purposes:

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

2) establish and maintain the oil and hazardous substance response corps and response depots;

3) provide matching funds for federal oil spill cleanups under CERCLA (42 U.S.C. § 9601-9657); and

4) recover the cost to the state or municipalities of containment and cleanup.

This language is quite broad and authorizes a wide range of responses to spill-related problems. It is clear that any response involving "containment and cleanup" activities is permissible; in fact, AS 46.08.900(3) defines "containment and cleanup" to include "direct and indirect" efforts "associated with

the prevention, abatement, containment, or removal of oil or a hazardous substance, the restoration of the environment, and incidental administrative costs." This language can be read as covering virtually any response costs related to a spill, including both preventative work in advance of a spill and restoration work after it. The preventative aspect is confirmed by the second purpose listed, establishment and maintenance of the response corps and depots, whose sole purpose is to maintain readiness for a major spill. (Chapter 113, SLA 1989). We believe it would also include scientific assessment work, either for the purpose of improving cleanup, designing restoration work, or assisting in recoupment to the state of damages. Since cost recovery is specifically mentioned in purpose 4), we believe litigation efforts, including scientific assessments, can also be funded from this source.

We also believe that the reference to "other necessary action" also supports use of the fund for indirect purposes associated with spill response, but which are one step removed from actual containment or cleanup work at the site of the spill. For example, disposal of oily waste material left behind after cleanup would be eligible. Likewise, the logistical support necessary to combat a major spill would be eligible. The Fund's purposes probably also include any increased costs in management of fish and game or other natural resources as a result of the spill. In short, the Fund was, we believe, intended to be available for payment of virtually all costs that relate to and result from an oil or hazardous substance spill, with few exceptions.

One of the exceptions is explicit: the fund cannot be used for capital improvements (except for dikes and retaining walls) (AS 46.08.010(c); AS 46.08.900(1)). We also believe the funds may not be used for expenses of entities other than the state, except to the extent that the entity contracts with the state to work on behalf of the state, or to reimburse an emergency response by a municipality (AS 46.08.070(c)). (And the exception for joint federal/state efforts under CERCLA is explicit.) There is nothing in the law that prevents efforts of state departments other than ADEC from being eligible for use of the Fund, however. The commissioner of ADEC, as manager of the Fund, may utilize and pay for the services of any state agency that fits within the stated purposes.

We do have one caution, however. Certain response costs to a major spill may include attending to problems in the human environment, as opposed to the natural environment. There may be an increased need for mental health services, law enforcement services, and social services of various kinds. The language of AS 46.08.040(1) is certainly broad enough to encompass such additional costs: "... take other necessary action ... [regarding] ... a release or threatened release of

oil . . . that poses an imminent and substantial threat to the public health or welfare, or to the environment." This language can be read as authorizing expenditures to deal with social problems that result from a spill as well as problems of the natural environment. But there is no indication in the legislative history that the legislature actually considered expenditures of this type when it passed the statute. Lack of explicit legislative history, one way or the other, certainly does not disqualify such expenditures, particularly in view of language that appears to authorize expenditures for purposes other than protecting the environment, i.e., the public health or welfare. But the fact that the use of the Fund was left to the discretion of the commissioner of environmental conservation, whose own statutory authority does not reach to social problems, rather than the Governor or some other interagency coordinating office, may suggest a more limited legislative purpose. The best advice we can offer is that, although payment from the Fund of expenditures for social problems resulting from a spill may be sustained, the legality of such expenditures is not nearly as clear as expenditures for the natural environment. Therefore we urge caution.

Finally, we note that the commissioner of environmental conservation, as manager of the Fund, does have a duty to manage with more than the expenses of the immediate spill in mind. When faced with a wide range of claims on the Fund, the commissioner may legitimately withhold monies in the Fund in order to have them available for responses to other spills; and the commissioner may legitimately reserve monies for setting up and maintaining the emergency response corps and depots as directed by ch. 113, SLA 1989.

This has necessarily been a hasty review of the subject. Please let us know if you have further questions.

cc: Douglas B. Baily, Attorney General
Department of Law

Dennis Kelso, Commissioner
Department of Environmental Conservation

D. Collinsworth, Commissioner
Department of Fish and Game

Lennie Boston-Gorsuch, Commissioner
Department of Natural Resources

Robert E. LeResche, Executive Director
Oil Spill Coordinating Office
Office of the Governor

MEMORANDUM

TO : Matt Jamin

FROM : Allen Field

DATE : February 1, 1990

RE : Retroactive Application of a Civil Statute: The WPPS Example.

I thought this might be of interest to you. It appears that a scenario similar to what we are trying to do in Alaska was successfully accomplished in the WPPS litigation.

While the WPPS litigation was in progress, the Washington Legislature, in 1985, passed an amendment raising the standard of fault applicable to municipal entities and officials from a negligence standard to scienter. The amendment, however, made no mention of retroactive effect. Consequently, a Washington federal district court ruled the statute (RCW sect. 21.20.130(7)) was only prospective in application. Within two weeks, the legislature introduced and later passed an amendment making the statute explicitly retroactive. Legislature history revealed that the sole purpose of the amendment was to effect the instant litigation to protect local ratepayers.

In re Washington Public Power Supply Syst. Sec. Litigation, 673 F.Supp. 411 (W.D. Wash. 1987) held that the legislature's motive in passing the amendment was improper and unconstitutionally impinged on the power of the judiciary, violating the principle of separation of powers. However, on a motion to reconsider, the court vacated its ruling, declaring that:

While remaining convinced that the actions of the Washington Legislature in this matter were inappropriate and overreaching, I reluctantly conclude that the application of the separation of powers doctrine to the actions by a branch of state government affecting a branch of federal government is not supported in the law.

In re Washington Public Power Supply Syst. Sec. Litigation, CCH Fed. Sec. Law Rep. Par. 94,325 (1988).

The Washington Supreme Court in related litigation upheld the legislature's actions and the retroactive application of the statute against a variety of constitutional challenges. Haberman v. Public Power Supply System, 744 P.2d 1032 (Wash. 1987).

1. Equal Protection

Notwithstanding that plaintiffs and intervenors lacked standing to assert this claim within the context of the particular statute, the court held there was a rational basis to the legislature's

Memorandum
Retroactive Application
Page 2

purpose and the statute was a means reasonably related to this purpose. The court emphasized that "such a rational basis for a legislative decision need not have actually motivated the Legislature's decision." 744 P.2d at 1056. Under a rational basis test "a statutory classification will be upheld if any state of facts may reasonably be conceived to substantiate it." *Id.*

For similar reasons, the court rejected the argument that the statute violated the prohibition against special legislation, Wash. Const. art. 2 sect. 28(17).

2. Due Process

The court did not even reach the merits of the intervenors' federal and state due process claims, holding that claimants had not first established a legitimate claim of entitlement. Under Washington law, statutory tort claim rights do not vest until a final, unreviewable judgment. The intervenors had no claim of entitlement to the pre-amendment terms and, therefore, the retroactive application of the statute did not implicate any interest protected by state or federal due process guarantees. 744 P.d at 1058.

3. Separation of Powers

The court ruled that a statute which prescribes new rules to be applied to pending litigation does not infringe upon a judicial function and, therefore, does not violate the separation of powers clause. The court noted that it disagreed with the federal district court's initial ruling discussed *supra*. 744 P.2d at 1058 n.1.

4. Impairment of Contracts

The contracts clause does not prohibit generally states from enacting legislation with retroactive effects. 744 P.2d at 1059. Moreover, the negligence standard of the former statute was not expressly incorporated into the bond contract. Therefore, the amendment did not unconstitutionally impair any of the plaintiff's contractual rights.

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purpose and the statute was a means reasonably related to this purpose. The court emphasized that "such a rational basis for a legislative decision need not have actually motivated the Legislature's decision." 744 P.2d at 1056. Under a rational basis test "a statutory classification will be upheld if any state of facts may reasonably be conceived to substantiate it." Id.

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FEB 26 1990

February 22, 1990

Senator Drue Pearce
Room 510, Capitol
P. O. Box V
Juneau, Alaska 99811

Dear Senator Pearce:

Enclosed for your consideration is Resolution No. 9007 which was adopted by the Valdez City Council on February 20, 1990.

This resolution urges the Alaska Legislature to adopt the Sponsor Substitute for Senate Bill 359 and the revisions thereto proposed by the Oiled Mayors Subcommittee of the Alaska Conference of Mayors.

Thank you for your consideration of this resolution.

Yours truly,

Jeanne Donald
Jeanne Donald
City Clerk

Enclosure

CITY OF VALDEZ

RESOLUTION NO. 9007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AUTHORIZING LOBBYING IN FAVOR OF SPONSOR SUBSTITUTE FOR ALASKA STATE SENATE BILL 359

WHEREAS, the release of oil and hazardous substances into the environment has presented and can present in the future a real and substantial threat to the health, safety and welfare of the citizens of Valdez; and

WHEREAS, the release of oil and hazardous substances into the environment has presented and can present in the future a real and substantial threat to the economy of the City of Valdez; and

WHEREAS, the release of oil and hazardous substances into the environment has presented and can present in the future a real and substantial impact upon the delivery of public services and performance of public functions by the City of Valdez; and

WHEREAS, the City Council of the City of Valdez desires to have future releases of oil and hazardous substances prevented; and

WHEREAS, the City Council of the City of Valdez desires to containment and cleanup authority outside municipal boundaries; and

WHEREAS, the costs incurred by the City of Valdez in responding to cleanup and containment of oil and hazardous substances and in providing increased public services as a result of a past or future release of oil or a hazardous substance should be paid to the City by means of either grants or reimbursement from the State of Alaska or from the person responsible for the release; and

WHEREAS, Alaska State Senate Bill 359 clarifies a municipality's exercise of extraterritorial authority for containment and cleanup, clarifies a municipality's right of recovery against the responsible person for the increased costs of providing public services, creates two separate and distinct grant programs to aid a municipality in responding to a release, establishes an oil and hazardous substance municipal impact fund, clarifies the municipality's right to reimbursement from the State, and clarifies the State's obligation to consult with a municipality in preparing contingency plans; and

CITY OF VALDEZ, ALASKA
RESOLUTION NO. 9007
Page 2

WHEREAS, Sponsor Substitute for Alaska State Senate Bill 359 amends Alaska State Senate Bill 359 by treating village councils the same as municipalities, increases the list of needs eligible for municipal impact fund grants, prohibits a municipality from recovering twice for the same costs without limiting the ability of a municipality to recover for all damages caused by the release of oil or a hazardous substance and contains miscellaneous technical revisions; and

WHEREAS, the Oiled Mayors group has proposed additional revisions to Alaska State Senate Bill 359, including expanding the list of needs eligible for grants and making the bill retroactive to March 1, 1989; and

WHEREAS, the City Council of the City of Valdez finds that it is in the public interest as well as the interest of the City of Valdez to support Sponsor Substitute for Alaska State Senate Bill 359 and support the revisions proposed by the Oiled Mayors group;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, that

Section 1. The City of Valdez strongly urges the Alaska Legislature to adopt the Sponsor Substitute for Alaska State Senate Bill 359 and the revisions thereto proposed by the Oiled Mayors Subcommittee of the Alaska Conference of Mayors.

Section 2. A copy of this resolution, properly certified, shall be sent to Governor Steve Cowper, Senator Jay Kerttula, Senator Mike Szymanski, Representative Gene Kubina, Senator Drue Pearce, and the Alaska Municipal League.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, this 20th day of February, 1990, at Valdez, Alaska.

CITY OF VALDEZ, ALASKA


Lynn Chrystal, Mayor

ATTEST:


Jeanne D. Donald, City Clerk

REPORT TO THE VALDEZ CITY COUNCIL
1989 ANNUAL REPORT

Pursuant to Section 2-4(c) of the Valdez City Code which states, in part, that the City Manager shall "once a year present a detailed statement of what he has done during the year covered by the report." I have interpreted this to mean a report on what the City has done under the direction of the City Manager. The following is this detailed report for 1989:

SUMMARY:

The City of Valdez thought that the highlight of the year would be the violent wind and cold storm we experienced in January which froze a lot of water pipes and did damage mainly to the library (it would have been more extensive had it not been for a quick response from City and contractor personnel).

That potential assessment of the year all changed on March 24 with the grounding of the EXXON VALDEZ and the subsequent oil spill; media feeding frenzy; wildlife cleaning; invasion of all fashion of laborer, vendor, bureaucrat, scientist, dignitary, fast-buck artist, social scientist, EXXON/VECO/NORCON executive, etc. The City was in the middle of a world class "Chinese fire drill" which placed incredible and almost indescribable burdens on City services. The maintenance of basic sanitation, safety, and health was the immediate problem during April, and as the oil spill response evolved with a population peaking at an estimated 11,000 the demands on the City changed. The City of Valdez staff performed exceedingly well in meeting the dynamic situation that occurred.

The oil spill prevented the City from addressing many other planned activities for 1989. However, even in the year of the spill many of the priorities identified for 1989 were successfully handled. The highlights of these other accomplishments include:

- . Local taxing stability through the City's efforts to work effectively with the Senate Select Advisory Committee on Municipal Taxation of Oil and Gas properties which produced recommendations highly favorable to the City.
- . More efficient performance due to the installation of MENTOR software and training for Finance Department staff to effectively use this standardized software to replace a high maintenance customized system. Similarly new CHIEF software allows the Buildings and Grounds Department to more effectively track and account for maintenance work orders.
- . Improved public safety service due to the successful reorganization of the Department of Emergency Services as requested by City Council. The separate Police and Fire Departments are functioning well under the leadership of their new respective chiefs.
- . Improved quality of life due to successful paving of hospital parking lot, bus turnaround area, and several streets and pav-

-ing overlays of other critical areas.

The priorities identified for 1989 where the City did not perform as hoped include:

- . Preparation of the Comprehensive Development Plan.
- . Review of salaries and personnel ordinances and regulations.
- . Preparation of a comprehensive flood mitigation program.
- . Completion of municipal land selection entitlements.

After consultation with the City Council, these unmet priorities will be included, as directed, in the 1990 Work Plan.

In order to provide a simplified presentation of accomplishments for 1989, several departments have been merged into one of seven categories.

ADMINISTRATION/CITY CLERK/FINANCE

The oil spill responsibilities placed considerable demands on the City Manager's office to address the operational, governmental liaison, media, negotiation, and managerial demands of a seven-month crisis. The City Clerk's office was also affected by the need to provide support to the Mayor and City Council in working with the media, hosting dignitaries, sponsoring events, and responding to the mail and calls that poured into the City (including setting up a mechanism to accept donations).

The Finance Department drafted new purchasing and property control procedures which were formally adopted by the City in May 1989. Oil spill responsibilities it assumed included setting up a reimbursement program from Exxon for additional City services, increased billings for City services, and payroll for temporary hires to service oil spill demands. Exxon has been billed \$1,393,202 for local government services and has reimbursed the City to the tune of \$1,379,056. Additional funding of \$842,149 in capital projects for the City have also been added by Exxon.

Besides successfully addressing oil spill demands, Administration and Finance (with a great deal of technical/legal support from our attorneys and logistical help from Parks and Recreation Director Nancy Peterson) were able to successfully address the State Assessor's attempt to limit the amount of oil and gas property available for local taxation.

PUBLIC SAFETY

The major accomplishments of the Police and Fire/EMS Departments were the separation and reorganization of the former Department of Emergency Services back into more traditional public safety departments. Acting DES Chief Joe Michaud, Police Chief Bert Cottle, and Bob Preston, who held together the fire service side, deserve a lot of credit for making this reorganization successful. I be-

lieve the separation of the public safety service has accomplished what the City Council wanted: improved morale, increased technical expertise through greater specialization, increased emphasis on fire protection/prevention, growth and improved training of volunteer firefighters. The addition of Fire Chief Charlie Lundfelt provided renewed focus in the area of fire protection for the City.

The Police and Fire Departments were both impacted a great deal by the oil spill response activities. Overtime (reimbursed by Exxon) was required of the personnel to keep up with the demand. The statistical comparison between 1976 (peak of pipeline days), 1988, and 1989 graphically demonstrates the increased activity.

POLICE DEPARTMENT

	<u>1976</u>	<u>1988</u>	<u>1989</u>
Assaults	96	34	58
Accidents	469	112	298
Bar Disturbances	205	56	130
Disturbances	54	149	359
Driving While Intoxicated .	unavailable	76	153
Man-Days in Jail	520	1,845	2,660
Traffic Tickets	1,079	200	456
Arrests	346	301	673
Officer Responses	4,762	4,111	6,734

FIRE/EMS DEPARTMENT

	<u>1988</u>	<u>1989</u>
Ambulance Callouts	151	325
Fire Callouts	63	95
Fire Alarm Callouts	60	113

Animal Control operations experienced an estimated increase of 20% in demands for service. Direct and peripheral support to oil spill cleanup participants levied an especially heavy burden during June, July, and August. Animal Control capital resources were severely strained; the pathological incinerator, used to dispose of oil spill carcasses, was heavily damaged and will need replacement.

ANIMAL CONTROL

	<u>1988</u>	<u>1989</u>
License Fees	\$3,652	\$5,326
Impound Fees	\$4,410	\$9,408
Dogs/Cats Impounded	333/222	457/136
Dogs/Cats Adopted	45/77	52/33
Citations	36	34
Medical Assists	87	104
Agency Assists (Burns)	48	118
Misc. Animals (Deer, Birds,		

LIBRARY/MUSEUM

1989 was a year of destruction for the Valdez Library and construction for the Valdez Museum. The Library suffered the worst damage of any City operation from the "big blow" in late January. The freezing of fire suppression sprinkler pipes flooded the Library and damaged some equipment. Speedy response aided in keeping permanent damage to a minimum. The Library was closed for 7 days but reopened almost as good as new. The Library later set records due to the rapidly growing population of Valdez in response to the oil spill. 1,488 new library cards were issued, nearly doubling the old record of 795 in 1981. The gate count of 54,168 patrons topped the old count record (we have only had a gate since 1987, of 49,206 by 10%. The down side of oil spill is a higher than normal loss rate of Library materials. At year end 223 items valued at \$2,208 were overdue. The Library staff is in the process of reviewing policies regarding library card eligibility requirements and circulation.

The Valdez Museum saw the successful completion of the Egan Commons. This new addition provides much needed exhibit space for some of our more valuable larger pieces, like our vintage fire apparatus, and also gives the Museum a more conspicuous entry into our facility. Museum operations were somewhat hampered by the construction, but in most respects it was a normal year. Patron counts were down significantly, only 24,183 in 1989, compared to 37,693 in 1988. Donated revenue also declined by about \$6,700. This can be attributed to a reduced number of summer visitors, by some estimates tourist traffic in Valdez was down 40%, and construction disruptions. Buses from the tour ships did not let visitors off in front of the Museum as they had in the past.

ENGINEERING/COMMUNITY DEVELOPMENT/UTILITIES

The Engineering Department was drastically impacted by oil spill demands in the areas of building code enforcement, mobile home installation, building permit requests, sewer treatment plant operations, water demand, and supervision of City "force account" workers. In spite of the oil spill chaos, the major projects on the capital improvement projects agenda - Phase II of the Commercial Fisherman's Dock, Egan Commons, and various asphalt paving projects - were successfully completed. Some projects, like major maintenance at the Valdez Container Terminal, were delayed due to conflicts with oil spill activity. The biggest disappointment proved to be the picnic shelter. Its costs were underestimated and it could not be completed this year due to labor problems. Building also boomed. 217 commercial and residential construction permits were issued compared to 104 for 1988. The value of this construction is estimated to be at least \$5 million compared to \$3.6 million in 1988. The Department had the City Engineer and engineering secretary resign in June, and a new City Engineer has not yet been successfully recruited. Carol Smith

stepped in to cover the secretarial needs for both departments until a new secretary could be hired. Charlotte Burrill deserves much credit for keeping the operation on an even keel. Temporary staff was added to handle the increased activity, and Vern Ellwein remains as the building official.

The Community Development Department was also hammered by oil spill activity. New businesses, itinerant merchants, zoning questions, temporary structures, land leases, land use permits, myriad issues presented by a rapidly growing population, and the need to coordinate with State and Federal agencies on various subjects greatly hampered work on the Comprehensive Development Plan and the Air Service Study. These demands also made it impossible to service many requests for assistance from Valdez residents. Some additional contractual help was hired and a summer intern was hired to assist with population counts so we could keep track of our dynamic town. As a result of the work of the Community Development Department in this area, the Department of Community and Regional Affairs certified a population of 7,193 for 1989, about double our normal population. While this does not mean our State Revenue Sharing and Municipal Assistance payments, which totalled just over \$1 million in 1989, will double in 1990, they should increase significantly; the City is conservatively budgeting a 45% increase or \$450,000 more from these State aid programs. The inability to make further progress on the Comprehensive Development Plan was the biggest disappointment of the year. We also did not make as much progress as earlier projected on the flood mitigation plan for the City and municipal land selections. Even if staff time had been available for these projects, it is unlikely we would have received the community input and participation necessary to make these planning programs meaningful. People were simply too busy with the events surrounding the oil spill. The business survey and preliminary data gathering were accomplished for the Comprehensive Plan. Through the assistance of several consultants, work was begun on high priority projects such as Valdez Air Service Study, Gravel Management Plan, Municipal Land Selection, and the next phase of the Comprehensive Plan; and some work has begun on the other projects as well.

Gary Hennigh, the Community Development Director, resigned in November to pursue new opportunities after only a year in the position. Pamela Ulvestad was called upon throughout the summer and fall to carry much of the load of the Community Development office while Mr. Hennigh assisted with special oil spill projects and during the interim between directors. The City was able to recruit a highly qualified replacement in Mr. Dave Dangel. Dave started work on January 29, 1990.

1989 proved to be a test for some of the City's infrastructure. Both water and sewer capacities were stretched to the limits and many times almost overloaded. Under normal circumstances, the in-town system's water demands during the second and third quarters

are mainly affected by the local seafood processing activity. During 1989, these demands were compounded by the oil spill activity and showed an average increase of .5 million gallons per day (MGD). Listed below are the average demands and the peak flows the systems experienced this summer:

Potable Water Usage

1989 Peak Flow: 3.6 MGD
Previous Peak Flow: 2.5 MGD

Average 2nd and 3rd Quarter demands:

1988: 1.6 MGD
1989: 2.1 MGD

The sewage treatment plant began showing signs of overloading around the end of May due to oil spill impact. It did not return to satisfactory operation until the middle of August. The plant could have possibly handled the 1989 loading better if it had not been for the sludge build-up in the first lagoon.

	<u>Hydraulic Loading</u> <u>million gallons per day</u>		<u>Solids Loading</u> <u>pounds per day</u>	
	<u>1988</u>	<u>1989</u>	<u>1988</u>	<u>1989</u>
April	.550	.810	367	980
May	.670	.830	525	1,322
June	.490	.750	417	1,532
July	.490	.690	699	1,266
August	.600	.600	676	1,006
September	.610	.900	930	1,208

PARKS AND RECREATION

The Parks and Recreation Department played an important role in the oil spill response. The Department continued to provide extensive recreation opportunities for the residents, visitors, and transients of Valdez, but over and above its normal activities the Department made other contributions. The Department played a leading role, in concert with the Public Works, Engineering, and Community Development Departments, in establishing temporary campgrounds with showers and toilets. The Parks and Recreation Department also provided an extended activity period under its Summer Fun program so that older children, whose parents were probably involved in oil spill cleanup jobs, could receive additional supervision.

The Civic Center was also the focus of much activity related to the oil spill. Early on it hosted press conferences for media from all over the world and later it entertained a congressional hearing. There were meetings held at the facility every day related to scientific examination of the effects of the oil spill on wildlife and the environment. The Civic Center policies and procedures, includ

ing a return to an exclusive catering contract, were revised and adopted by the City Council. These will greatly assist in the management of the facility.

The Parks and Recreation Department had a successful season running the Glacier Campground as receipts from the camping fees collected paid for the operation of the facility. This Department provided much of the assistance in the production of a newsletter for Valdez residents. It also sponsored cleanup days and the City beautification program.

Parks And Recreation Year-End Participant Totals

	1988	1989
Black Gold Rec. Hall	18,988	17,854*
Teen Center	16,802	20,152
Gym Activities	11,578	15,929
Senior High Pool	20,560	15,850**
Hydro Pool	3,643	4,630
Special Events	3,656	2,913
Summer Programs	2,169	2,474
TOTALS	77,396	79,802

*Rec. Hall Statistics	1988	1989
for May and June:	May	2,210
	June	2,095

**High School Pool was closed for 1-1/2 months.

Civic Center

	#Events	Attendance	Rental Revenues	Catering Revenues	Movie Revenues	TOTAL REVENUES
1988	398	26,699	\$14,227	\$ 8,855	\$ 0	\$23,082
1989	725	47,804	54,134	10,050	8,340	72,524

COUNSELING CENTER/HOSPITAL

The Counseling Center underwent significant changes this year as a result of the EXXON VALDEZ oil spill. Increased state grants were obtained to hire an additional counselor and a secretary to address the increased caseloads that started appearing at the Counseling Center. The Counseling Center also initiated a project to survey a statistically valid sample of residents from Valdez and Cordova for measuring psychological impacts of the tanker grounding and the subsequent oil spill cleanup activity. This project is approximately two-thirds complete and should provide some useful information on how people are affected by this type of event.

Valdez Counseling Center New Clients

	1987	1988	1989
New Clients	64	82	149
New ASAP Cases	105	0*	263
Average New Clients/Mo. ...	5.33	6.83	12.42
Average New ASAP Cases/Mo..	8.75	0.00*	21.90

*No Alcohol Safety Action Program during 1988.

The Valdez Community Hospital, managed under contract by Lutheran Health Services, also was dramatically impacted by oil spill activities.

	1988	1989
Outpatient Procedures	5,000	10,000
Emergency Room Visits	1,505	3,371
Revenues	\$ 871,635	\$1,279,194 est.
Expenses	\$1,381,727	\$1,799,040 est.
Percent of Occupancy	21.53%	23.90% est.

The Hospital carries over into 1990 a large accounts receivable balance that needs to continue to be worked. This large balance is attributable in large part, either directly or indirectly, to the oil spill.

On the positive side, the Hospital received more donations than ever before:

- | | |
|------------------------------|---|
| Exxon: | . 3 hand-held radios |
| | . computer upgrade system |
| | . hypothermia blanket system |
| | . 1/2 the cost of the Laboratory equipment for processing CBC's |
| Fairbanks Memorial Hospital: | . Ultrasound Machine |
| United Way: | . TV's for patient rooms |

PUBLIC WORKS

The Public Works Department contributed in numerous ways to oil spill response. The Department assisted in providing services for temporary campgrounds, kept the water and sewer functioning under unprecedented demand, managed the collection and disposal of solid waste four to five times the normal volume, and provided support for the wide range of services provided by the City. There was some turnover in staff which can be attributed to oil spill related opportunities, but the Department has largely been successful in finding qualified replacement personnel.

The installation and use of the CHIEF software system has greatly assisted in keeping track of work orders by the Buildings and Grounds section of the Department.

The Department was criticized for its oversight of the lawn maintenance contract. The criticism was proven unwarranted by a horticultural expert, but the vociferousness of the criticism continued unabated. This responsibility will be transferred to the Parks and Recreation Department for oversight so it can be managed in concert with the City beautification program. The Parks and Recreation Commission will also provide an additional level of appeal to address complaints.

The very wet December of 1989 proved to be quite a test for the snow removal forces of the Department. The crews were challenged and a few rough edges were smoothed, but on the whole the snow crew responded well.

Initial work was begun to bring the City's sanitary landfill into compliance with Department of Environmental Conservation standards. Improvements in landfill operations, including controlled access, increased attendant coverage, and improved litter control have also been instituted. Analysis of the existing landfill site, focusing primarily on problems attributable to a high water table, was conducted by the environmental engineering firm of Hart Crowser.

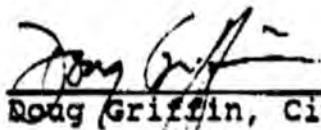
PORTS/HARBOR

No area of City operations was more severely impacted by the oil spill response than our ports, docks, harbor, and airport. The Valdez Container Terminal was a valuable asset shared with Exxon and its subcontractors. It provided staging area, storage space, and flexible dock facilities to support the armada of barges, ships, flotels, and boats used to clean up oil and support the effort. The Old City Dock also was used in various ways to service vessels and provide moorage for the Hotel Ship Prince George, along with its normal function of servicing some fishing boats and providing moorage for Alaska state ferries and a tour ship.

The boat harbor also served as a nerve center for oil spill cleanup operations. Cleanup vessels and crew boats were dispatched from the harbor and the facilities operated at full capacity all summer long. The harbor operated extended hours and generated enough revenue to pay for its operation this year.

The airport was incredibly busy this year in supporting aircraft activity and providing office space in the terminal. Normal flight operations of 12 per day rose to an average exceeding 300 operations per day. A portion of the airport roof was torn off by high winds on day four of the oil spill. This required immediate repair. Other, long overdue, maintenance and repair were needed as our building received some use.

This report of activities by the City Valdez and its dedicated employees is, hereby, respectfully submitted.

 1-30-90
Doug Griffin, City Manager

FEB 20 1990

PRINCE WILLIAM SOUND

C O M M U N I T Y C O L L E G E

February 7, 1990

The Honorable Drue Pearce
Alaska State Senate
Box V
Juneau, AK 99811

Dear Senator Pearce:

I realize the Alaska State Legislature will be considering a number of bills regarding the Exxon Valdez Oil Spill. Last week I attended a Senate Oil and Gas Committee meeting regarding SB 359 and today I testified on this bill via audioconference.

The attached materials may help give you insight into the many problems faced by the affected Alaskan communities. As mayor of Valdez at the time of the spill and as president of Prince William Sound Community College, I was very aware of the problems Valdez faced. As one of the Oiled Mayors, I learned of the many and varied problems faced by the other communities.

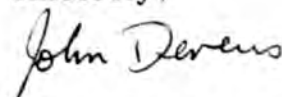
There is no community in our state that is totally immune from a disaster such as we faced. Earthquakes, mechanical failures, and human error can place any Alaskan community in jeopardy. A source of immediate financial aid is extremely important. During the Exxon Valdez spill, our only source of funding was our own reserves or Exxon. Going to Exxon with every one of our needs for community services placed us in a very difficult position.

The Exxon Valdez spill was a best case example. Exxon paid for more than many of us expected but they did not pay all of the costs the communities experienced. Another company may have refused to pay for any costs.

As you can see from the attached materials, our communities were faced with a number of problems that were either directly caused or aggravated by the financial situation and this was with a company that spent more than one billion dollars. The next time it could be a foreign-owned tanker or other type of disaster that will leave Alaskan communities without adequate resources to protect themselves.

I would encourage you to pass either SB 359 or a comparable bill to provide our communities with the protection they need.

Sincerely,



John Devens, Ph.D.
President
Prince William Sound Community College

cc: Mayor Robert Brodie, Chair, Oiled Mayors
Mayor Willie Goodman, President, Conference of Mayors