

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1651 SCOMM 62: SENATE SPEC. COMM. ON OIL & GAS, 1989-1990

EFFECTIVE SEVERANCE TAX RATE
equals nominal severance tax rate times ELF.

For example, 15.00% times 0.66 equals
an effective severance tax rate of 9.90 %

Date: February 7, 1989

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

JAY S. HAMMOND
GOVERNOR

NEWS RELEASE



FOR IMMEDIATE RELEASE
Date: 7-27-81
Time: 10:00 AM
Place: JUNEAU, ALASKA 99801

HAMMOND SIGNS OIL & GAS LEGISLATION
7-27-81
8131

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FOR IMMEDIATE RELEASE

JUNEAU—Alaska Governor Jay Hammond late today signed into law a bill making major changes in the state's oil and gas taxing system, modifying the oil and gas taxing structure which has been in place for the past three years.

Hammond late Monday signed the oil and gas bill, FCCSSB 524, which besides amending the state's oil and gas laws provides corporate tax relief for most small businesses in the state.

Hammond said he signed the bill since it meets two essential conditions that he laid down in a letter to the Legislature June 23--that any new oil and gas taxing bill must improve the state's case against a challenge by the oil industry over the state's taxing policies, and that the bill will maintain the state's combined royalty and tax "share" from its one-time resource at above 30 percent.

Hammond while saying the bill was not his first preference and is not perfect, said the bill meets his two major conditions.

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"It is the view of all pertinent state agencies that we should content ourselves with the present bill since a far worse alternative would be to take no action at all," Hammond said.

The Governor said the bill improves the state's legal posture in relation to a suit filed by the oil companies over the constitutionality of the 1978 state Oil and Gas Corporation Income tax in several ways.

--The bill adopts a series of amendments to ongoing state tax law designed to make the state's oil taxing policy, taken as a whole, look less unfair toward the oil industry. The amendments, designed to remove the "warts" from state tax law, amend state policy on depreciation, tax exemptions and a host of other issues.

--The bill provides for the deduction of the federal windfall profits tax from state tax payments. The windfall profits tax at the federal level had not been proposed when the state passed the oil and gas income tax in 1978, but the state's failure to permit a deduction for the federal tax has been considered a significant unfairness in the state's tax law.

--The bill makes additional technical changes to ensure that state Native corporations are afforded equal treatment under the income tax laws, regardless of whether they fall under the oil and gas income tax or the "ordinary" income tax, being reimplemented by the new tax law.

--And the bill allows the state to concentrate on the defense of the most questionable provision of the 1978 law, its reliance on "separate accounting" rather than income "apportionment," knowing the state will be returning to the apportionment formula to compute taxes starting on Jan. 1, 1982--limiting the state's tax liability under the existing law to just three years.

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The state in 1978 switched to requiring multinational oil companies to figure their state taxes on the basis of income they received worldwide based on the oil they extracted from the state. The law required the companies to use "separate accounting" in figuring their taxable income, rather than the traditional system of apportioning parts of their income earned from Alaska operations.

The companies sued arguing that the separating accounting system caused them to be taxed twice on their income, once in Alaska, and again in other states.

The state in the new tax law will be returning to a modified apportionment taxing formula, raising the state's severance tax to 15 percent from 12.25 percent to make up most of the revenue the abandonment of the old corporate oil and gas tax will cost the state.

While the apportionment approach to state taxation has been repeatedly upheld as constitutional by the Supreme Court, the court has yet to rule on a case where it was advocated by a taxing state, and has ruled twice against its use in cases brought by taxpayers.

"In short, the income tax in the future will incorporate a 'tried and true' approach to multistate taxation, whereas the present, separate-accounting approach does not," Hammond said.

He noted that several recent independent studies have questioned whether the new tax will cost the state more revenue than official state estimates. He said the latest official estimates by the state's Department of Revenue indicated the state between now and Fiscal Year 1985 will retain 31.2 percent of state oil income, compared to the current 31.8 percent.

Hammond said he has been assured that even if less favorable estimates were to prove correct, the bill will still retain the state 30.7 percent, meeting his bottomline requirement of a minimum of 30 percent.

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"As for the possible revenue effects in 1988 and beyond, I have full confidence in the ability of the Legislature to deal at that time with whatever is required to retain the state's 'fair share' of our oil wealth," Hammond said.

He added he still intends this coming session to seek voter support for a policy statement that would support the state not letting its share of oil revenues fall below 30 percent. "It is incumbent upon all of us in public office to determine as clearly as possible what the electorate believes that 'fair share' to be," Hammond said.

He mentioned that the bill also substitutes a progressive tax table for the existing flat 5.4 percent corporate income tax—a tax which also contains a .4 percent surtax on taxable income over \$50,000. Under the new bill smaller corporations will pay 1 percent on their first \$10,000 of taxable income, 2 percent on their second \$10,000 and so on.

Hammond said the bill should result in a significant tax savings, especially for so called "Mom and Pop" family businesses in the state. The new bill also makes other modifications in the corporate tax law for 1981.

Hammond said "I'll may need some modification next year, notably to clear up how the bill impacts the municipal revenue sharing formula—a formula formerly tied to the level of income from the oil and gas corporate income tax. He said he hopes that issue will be re-examined next session.

Statement of Governor Hammond on Signing FCCSB 524

I have today signed this Free Conference Committee Substitute for Senate Bill No. 524, the oil tax bill. I do so only after being reassured by the Departments of Law and Revenue that this legislation satisfies the two essential conditions that I set out in my letter to the Legislature last June 23rd -- namely, that it will improve our case in the lawsuits over the oil and gas corporate income tax and that it will maintain the State's combined royalty and tax "share" in this one-time resource above 30 percent.

The Attorney General advises that several provisions in the bill will improve the State's legal posture.

- o First, it adopts the so-called "warts" amendments which I originally proposed in House Bill 192. These will eliminate a number of side issues in the litigation that could otherwise divert the court's attention from the basic issue in the case, which is whether states may use the "separate accounting" approach in taxing the income of multistate and multinational corporations.
- o Second, the bill provides for the deduction of windfall profit tax payments. The windfall profit tax had not even been thought of when the present tax was passed in 1978, and it is generally recog-

nized that the failure to allow the deduction was an unintended, but significant unfairness in our income tax laws.

- o Third, the bill makes additional technical changes to ensure that Native corporations are afforded equal treatment under the income tax laws, regardless of whether they fall under the oil and gas income tax or the "ordinary" income tax.
- o And fourth, oil and gas corporate taxpayers will start next year to pay income tax to the state under a modified apportionment approach. It is important to remember that the United States Supreme Court in recent years has repeatedly upheld the apportionment approach as a means for states to tax the income of multistate businesses. In stark contrast to this is the fact that separate accounting has yet to be ruled on in a case where it was advocated by the taxing state, and it has been rejected by the Court twice last year when it was advocated by taxpayers. In other words, the income tax in the future will incorporate a "tried and true" approach to multistate taxation, whereas the present, separate-accounting approach does not.

Additionally, I am advised by the Department of

First: Besides dealing with oil and gas taxes, this bill will provide significant tax relief for smaller corporations. Beginning this year, their tax rate will be one percent on their first \$10,000 of taxable income, two percent on their second \$10,000, and so on. For the many "mom and pop" enterprises that have incorporated themselves over the years, this is major relief from the present 5.4 percent rate on the first \$50,000 and 9.4 percent on any excess. Signing the bill now allows them to begin enjoying those benefits immediately, instead of waiting until the next session of the Legislature to see if something similar can be passed again.

Second, at present certain municipal revenue sharing refers to the total amount of income tax collected as the basis for the amount of revenue shared. Since this bill will reduce the actual income tax receipts (transferring much of the reduction over to the production tax), the formula for continued revenue sharing should be re-examined next year.

Revenue that the State's "share" during the period from FY 82 to FY 85 will be 11.2 percent. Some have objected to Revenue's estimate of the revenue effects of this bill and assert that the revenue consequences during that time will be as much as three or four times greater. However, even if the revenue effect should prove to be as great as these people fear, Alaska's "share" I'm advised will remain 10.7 percent -- thus still fulfilling my pronounced 10-percent requirement to avoid veto. As for possible revenues effects in 1988 and beyond, I have full confidence in the ability of the Legislature to deal at that time with whatever is required to retain the states "fair share" of the oil wealth. Meanwhile, it is incumbent upon all the public offices to determine as clearly as possible what the electorate believes that "fair share" to be.

Critics of this particular bill have argued that it was hastily drafted and ill-considered and that the "backstop" approach -- which, incidentally, I introduced -- would have been far preferable. I can sympathize: the bill is not perfect, nor is it my own preferred choice. I would rather have seen the people get a chance to vote on the question of whether Alaska's "share" in its oil wealth is too great, and I fully intend to introduce legislation next year that will give them precisely this opportunity. In the meantime, it is the view of all pertinent state agencies that we should content ourselves with the present bill. Since a alternative would be to take no action at all.

In conclusion I wish to make two final points.

SENATE



OFFICE OF MAJORITY LEADER

Rep. Furnace:

Here's the material you requested
concerning ELF and Governor Hammond.

Hope it helps.

Max

Synopsis of Alaska Fields

<u>Field</u>	<u>Volume (bbls/day)</u>	<u>Wells</u>	<u>Daily Volume p/well</u>	<u>Effctv Sev Tax Rate Under Current Law</u>	<u>Effctv Sev Tax Rate Under HB118</u>
<u>Current Fields</u>					
<u>North Slope</u>					
Prudhoe Bay	1,526,932	691	2210	11.59%	14.91%
Kuparuk	320,685	337	952	8.36%	13.18%
Lisburne	38,293	51	751	5.22%	0.36%
Endicott	98,099	35	2803	12.25%	8.68%
<u>Cook Inlet</u>					
Beaver Creek	263	2	132	0.00%	0.00%
Granite Pt.	7,454	29	257	0.00%	0.00%
McArthur River	19,053	76	251	0.00%	0.00%
Middle Ground Shoals	7,913	44	180	0.00%	0.00%
Swanson River	5,684	27	211	0.00%	0.00%
Trading Bay	2,310	34	68	0.00%	0.00%
<u>Prospective Fields</u>					
Milne Pt.	30,000	40	750	4.67%	0.00%
West Sak	260,000	4000	65	0.00%	0.00%
Pt. Thomson	50,000	45	1111	7.62%	2.43%
Seal Island	100,000	112	893	6.57%	5.75%
Niakuk	20,000	12	1667	12.25%	0.01%

For current fields actual November 1988 data. For prospective fields the expected values at peak production.

Prudhoe Bay *120 well* *10,000 one* *1.5 m*
c *669 well* *2300 one* *1.55 m*

IF LOWER 48 FIELDS WERE IN ALASKA THEY WOULD PAY
NO SEVERANCE TAX UNDER EITHER CURRENT LAW OR HB 118

<u>Top 10 Lower 48 Fields</u>	<u>Daily Production</u>	<u>Average Daily Per Well Production</u>	<u>ELF (Current or Proposed)</u>	<u>Severance Tax Under Alaska Law</u>
1. Belridge South (CA)	165,981	28	0	0
2. Midway-Sunset (CA)	157,526	19	0	0
3. Kern River (CA)	128,491	17	0	0
4. East Texas (TX)	111,225	12	0	0
5. Elk Hills (CA)	107,244	98	0	0
6. Yates (TX)	91,890	80	0	0
7. Wilmington (CA)	81,975	40	0	0
8. Wasson (TX)	78,510	36	0	0
9. Spraberry Trench (TX)	60,585	8	0	0
10. Slaughter (TX)	55,792	19	0	0

Source: Oil and Gas Journal

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U.S. fields with reserves exceeding 100 million bbl

State	Field	Disc. date	1988 prod.	Cum. prod. 1-1-89 1,000 bbl	Est. rem. reserves	Est. No. wells
ALABAMA						
	Citronelle, 1935		1,827	147,861	7,000	435
ALASKA						
	Endicott, 1978		36,098	43,098	324,902	37
	Granite Point, 1965		2,787	109,535	16,213	29
	Kuparuk River, 1969		112,055	503,397	994,945	328
	Lisburne, 1967		14,600	35,600	175,689	49
	McArthur River, 1965		7,040	529,040	34,960	76
	Middle Ground Shoal, 1962		2,737	155,889	5,263	42
	Prudhoe Bay, 1967		576,335*	6,053,018*	3,503,665	691
	Swanson River, 1957		2,154	209,490	8,846	29

*Includes about 30.66 million bbl of condensate. †Includes about 138.66 million bbl of condensate.

ARKANSAS						
	Smackover, 1922		2,664	556,907	9,097	2,100

CALIFORNIA						
San Joaquin Valley						
	Bairdridge South, 1911		60,583	677,083	435,286	6,000
	Buena Vista, 1909		1,574	647,274	38,271	895
	Coalinga, 1890		10,212	753,945	161,188	2,174
	Coalinga Nose, 1923		1,285	498,685	17,370	78
	Coles Levee North, 1938		442	160,432	2,748	85
	Cuyama South, 1949		469	218,191	6,938	105
	Cymric, 1909		8,479	199,308	40,000	1,013
	Edison, 1928		1,470	134,391	25,670	674
	Elk Hills, 1911		39,144	893,374	579,775	1,099
	Fruitvale, 1928		577	115,553	13,709	274
	Greeley, 1936		237	112,547	1,763	27
	Kern Front, 1912		1,500	173,066	55,230	950
	Kern River, 1899		46,839	1,204,479	743,000	6,709
	Kettleman North Dome, 1928		172	456,648	1,298	44
	Lost Hills, 1910		5,627	178,293	61,603	1,634
	McKittrick, 1926		2,551	266,822	90,919	931
	Midway-Sunset, 1894		57,497	1,679,347	373,863	9,180
	Mount Poso, 1926		6,620	263,250	79,230	411
	Rio Bravo, 1937		151	116,051	1,319	15
	Yowumne, 1974		6,570	81,368	27,015	65
Coastal Area						
	Carpinteria, 1965		2,690	88,101	29,289	114
	Cat Canyon E. & W., 1908		2,736	298,236	46,930	512
	Dos Cuadras, 1969		4,371	212,804	54,140	140
	Elwood, 1928		317	105,705	2,283	7
	Hondo, 1959		9,952	89,621	112,223	20
	Orcutt, 1901		906	165,674	10,238	136
	Point Pedernales, 1982†		6,515	11,715	331,544	10
	Rincon, 1927		1,118	148,759	14,832	240
	San Ardo, 1947		4,641	408,351	122,903	600
	Santa Maria Valley, 1934		1,751	198,131	40,408	172
	South Mountain, 1916		727	145,984	12,035	352
	Ventura, 1919		7,072	894,742	97,026	570
Los Angeles Basin						
	Beta, 1976		6,013	40,423	173,825	60
	Beverly Hills, 1900		2,034	122,616	42,356	116
	Brea Glinda, 1880		2,143	383,894	54,787	720
	Coyote East, 1909		584	108,663	13,212	103
	Coyote West, 1909		808	249,969	7,481	113
	Dominguez, 1923		607	269,266	7,448	113
	Huntington Beach, 1920		5,816	1,066,268	72,044	990
	Inglewood, 1924		2,790	345,453	54,149	366
	Long Beach, 1921		2,466	909,757	17,216	410
	Montebello, 1917		526	192,357	10,267	155
	Richfield, 1919		1,494	189,165	27,412	203
	Santa Fe Springs, 1919		987	613,077	9,036	151
	Seal Beach, 1924		876	203,118	14,113	168
	Torrance, 1922		1,693	212,083	35,847	366
	Wilmington, 1932		29,921	2,292,229	495,633	2,050

COLORADO						
	Rangely, 1933		12,492	739,418	35,000	488

State	Field	Disc. date	1988 prod.	Cum. prod. 1-1-89 1,000 bbl	Est. rem. reserves	Est. No. wells
FLORIDA						
	Jay, 1970		4,676	360,612	55,944	121
ILLINOIS						
	Clay City, 1938		2,448	393,860	6,000	2,600
	Lawrence, 1906		2,919	394,521	5,500	2,700
	Louden, 1938		1,345	388,237	3,555	1,340
	Main, 1906		2,066	233,273	5,000	3,356
	New Harmony, 1939		1,072	153,545	4,000	1,140
	Salem, 1938		2,167	386,983	4,500	1,325

KANSAS						
	Bemis-Shutts, 1928		1,169	244,247	4,405	973
	Chase-Silica, 1930		1,018	301,003	4,499	1,103
	El Dorado, 1915		839	296,734	2,616	322
	Hall-Gurney, 1931		1,032	145,677	4,051	1,130
	Trapp, 1929		1,200	225,858	4,643	1,000

LOUISIANA						
Offshore						
	Bay Marchand Blk. 2, 1949		5,547	596,972	53,758	120
	Eugene Island Blk. 330, 1930		7,859	269,080	55,920	169
	Grande Isle Blk. 16, 1948		1,659	263,729	85,645	44
	Grande Isle Blk. 43, 1956		4,312	272,256	85,688	126
	Mississippi Canyon Blk. 194, 1980		4,929	116,858	76,311	44
	Main Pass Blk. 41, 1957		2,985	237,854	23,384	112
	Main Pass Blk. 306, 1969		1,776	201,869	78,335	94
	South Pass Blk. 27, 1954		1,659	125,317	73,198	118
	South Pass Blk. 21, 1968		9,140	152,151	45,000	156
	South Pass Blk. 62, 1965		3,331	106,364	81,594	73
	South Pass Blk. 55, 1969		4,032	100,875	89,252	61
	Ship Shoal Blk. 204, 1968		1,591	66,070	38,930	40
	Ship Shoal Blk. 207, 1967		1,023	87,818	38,000	25
	Ship Shoal Blk. 208, 1962		4,117	160,169	65,274	67
	South Timbalier Blk. 21, 1939		1,324	216,239	47,133	45
	South Timbalier Blk. 135, 1956		1,390	139,337	25,663	37
	West Delta Blk. 30, 1949		6,754	446,083	47,375	153
	West Delta Blk. 73, 1952		4,469	188,700	86,291	73
Onshore South						
	Bay de Chene, 1941		390	96,382	17,952	24
	Bay St. Elaine, 1928		321	164,808	25,292	18
	Bayou Sole, 1941		769	161,369	3,417	20
	Black Bay West, 1953		1,971	144,799	10,432	94
	Caillou Island, 1930		2,308	602,231	74,020	136
	Cote Blanche Bay West, 1940		741	181,594	46,374	86
	Delta Farms, 1944		293	115,351	7,019	13
	Garden Island Bay, 1934		1,406	221,261	31,954	144
	Golden Meadow, 1938		894	135,439	4,290	176
	Grand Bay, 1938		454	170,514	3,760	41
	Hackberry, East, 1927		777	109,087	7,603	60
	Hackberry, West, 1928		1,771	141,895	6,492	107
	Iowa, 1931		134	99,303	697	25
	Jennings, 1901		315	116,409	700	181
	Lafitte, 1935		1,665	255,304	9,550	111
	Lake Barre, 1929		941	204,023	20,051	31
	Lake Pelto, 1929		477	117,000	17,415	23
	Lake Washington, 1931		2,353	242,390	16,376	93
	Laeville, 1931		447	141,646	7,221	37
	Paradise, 1939		725	126,650	8,600	31

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State	Field	Disc. date	1988 prod.	Cum. prod. 1-1-89 1,000 bbl	Est. rem. reserves	Est. No. wells
Quarantine Bay, 1937			761	172,672	1,654	71
Timbalier Bay, 1938						
Venice, 1937			858	181,878	7,590	59
Vinton, 1910			287	161,001	900	96
Weeks Island, 1945			816	225,939	21,356	33
West Bay, 1940			1,349	228,246	16,355	79

North						
Caddo-Pine Island 1905			3,310	360,899	12,888	10,688
Delhi, 1944			673	211,707	34,651	58
Haynesville, 1921			761	168,237	2,373	166
Homer, 1919			434	98,375	1,908	198
Rodessa, 1935			331	106,027	1,506	67

MISSISSIPPI

Baxterville, 1944			2,609	239,164	10,391	316
Heidelberg, 1944			2,829	174,809	12,171	316
Tinsley, 1939			834	29,677	3,197	173

MONTANA

Bell Creek, 1967			958	128,836	22,984	91
Cut Bank, 1926			994	162,459	37,169	575
Pine, 1951			1,302	105,145	5,687	96

NEW MEXICO

Denton, 1949			652	138,693	3,000	179
Empire-Abo, 1957			1,424	219,983	50,017	405
Eunice-Monument, 1929			2,500	125,414	10,894	879
Hobbs, 1928			8,480	297,482	20,000	613
Maljamar, 1926			1,869	144,961	5,070	851
Vacuum, 1929			12,359	432,242	40,000	1,556

NORTH DAKOTA

Beaver Lodge, 1951			1,704	111,574	16,684	132
Billings Nose, 1979			2,560	61,659	51,744	153
Little Knife, 1977			3,392	51,437	57,924	131
Mondak, 1976			439	13,165	82,887	96

OKLAHOMA

Burbank, 1920			1,135	536,746	8,377	1,105
Eola-Robberson, 1920			746	133,124	8,210	603
Fitts, 1934			2,963	199,894	12,000	589
Glenn Pool, 1905			1,170	327,865	5,000	714
Golden Trend, 1945			4,333	474,100	28,000	1,396
Healdton, 1913			1,938	334,645	9,563	1,000
Hewitt, 1919			3,152	268,371	13,615	923
Oklahoma City, 1928			802	816,170	5,966	174
Postle, 1958			1,216	106,393	14,921	226
Sho-Vel-Tum, 1905			18,398	1,167,379	60,000	7,616
Sooner Trend, 1945			4,147	295,544	20,000	4,746

TEXAS

District 2						
Greta, 1933			746	147,570	12,530	100
Lake Pasture, 1953			2,184	87,784	12,644	143
Tom O'Connor, 1934			10,380	747,848	55,000	646
West Ranch, 1938			2,640	350,034	8,504	307

District 3						
Ananac, 1935			1,068	284,888	15,112	106
Conroe, 1931			3,864	727,215	33,728	278
Giddings, 1971			8,866	278,570	148,032	2,281
Hastings, 1934			3,084	697,237	72,764	206
Magnet Withers, 1936			1,884	110,960	5,000	150
Oyster Bayou, 1941			864	160,204	18,096	39
Thompson, 1931			3,972	472,540	27,360	262
Tomball, 1933			400	121,056	9,868	85
Webster, 1937			5,304	573,192	20,000	243

District 4						
Agua Dulce-Stratton, 1928			360	146,623	24,751	94
Borregos, 1943			192	114,021	20,186	40
Kelsey, 1938			200	114,359	36,247	60

State	Field	Disc. date	1988 prod.	Cum. prod. 1-1-89 1,000 bbl	Est. rem. reserves	Est. No. wells
Plymouth, 1925			400	122,823	3,300	60
Seeligson, 1925			156	271,483	55,544	42
TCB, 1944			456	112,700	52,358	30
White Point E, 1938			60	104,034	6,340	21

District 5						
Alabama Ferry, 1983			3,600	14,600	86,400	253
Van, 1928			3,096	521,960	15,000	366

District 6						
East Texas, 1930			40,597	5,008,717	988,758	9,363
Fairway, 1960			2,424	192,591	17,777	100
Hawkins, 1940			8,244	821,644	42,372	442
Neches, 1953			1,416	103,980	6,036	163
Quitman, 1948			1,680	121,346	8,440	208

District 8						
Andector, 1946			1,500	181,888	6,500	28
Block 31, 1945			3,556	220,068	12,000	325
Cowden, N., 1930			13,596	488,092	40,000	1,210
Cowden, S. Foster, Johnson, 1932			9,696	500,796	40,000	1,593
Dollarhide, 1945			2,568	193,780	11,448	202
Dune, 1938			2,928	183,000	18,704	771
Fullerton, 1942			7,452	348,200	22,000	870
Goldsmith, 1934			7,248	755,516	33,752	2,036
Howard Glasscock, 1925			5,844	404,508	26,000	2,208
Jalan, E., 1925			3,372	142,956	12,000	1,304
Jordan, 1937			480	128,976	2,520	138
Keystone, 1930			1,872	313,080	9,374	812
McElroy, 1926			7,884	465,549	56,800	1,600
Means, 1934			7,020	228,598	20,000	713
Midland Farms, 1944			4,608	241,980	18,616	415
Sand Hills, 1931			2,760	248,207	21,600	1,312
TXL, 1944			2,004	263,516	6,500	600
Waddell, 1927			708	100,712	3,792	188
Ward Estes, N., 1929			3,408	364,177	76,436	1,562
Westbrook, 1923			2,000	88,000	16,000	718
Yates, 1926			33,540	1,171,820	782,685	1,146

District 8-A						
Anton-Irish, 1944			3,564	175,910	24,190	239
Cogdell Area, 1949			1,656	292,218	41,204	103
Diamond M., 1948			1,908	239,418	16,063	474
Kelly-Snyder, 1948			11,592	1,234,962	115,038	806
Levelland, 1938			17,328	484,144	50,000	3,012
Prentice, 1951			6,216	161,036	20,000	437
Salt Creek, 1950			10,404	247,340	12,552	173
Seminole, 1936			17,004	524,765	36,000	624
Slaughter, 1936			20,364	1,029,800	50,000	3,001
Spraberry Trend, 1951			22,212	653,388	50,000	7,321
Wesson, 1936			28,656	1,711,898	60,000	2,152
Welch, 1942			3,324	144,228	14,000	651

District 10						
Panhandle, 1921			7,812	1,423,286	41,240	11,643

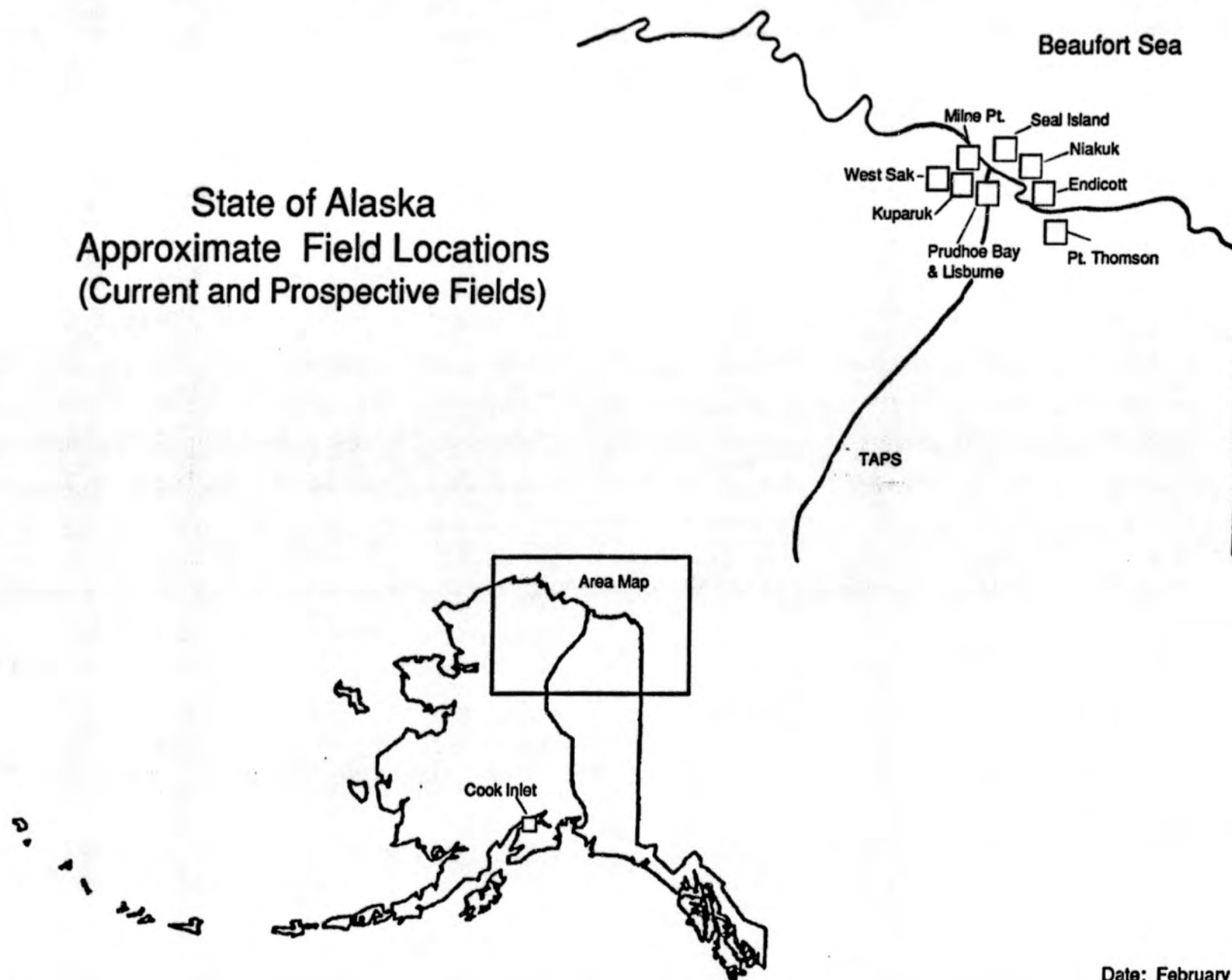
UTAH

Altamont, 1955			3,047	89,493	231,216	227
Aneth, 1956			5,340	354,004	30,000	461
East Anschutz Ranch, 1979			12,756	80,365	727,799	28
Red Wash, 1951			1,075	77,511	13,377	146

WYOMING

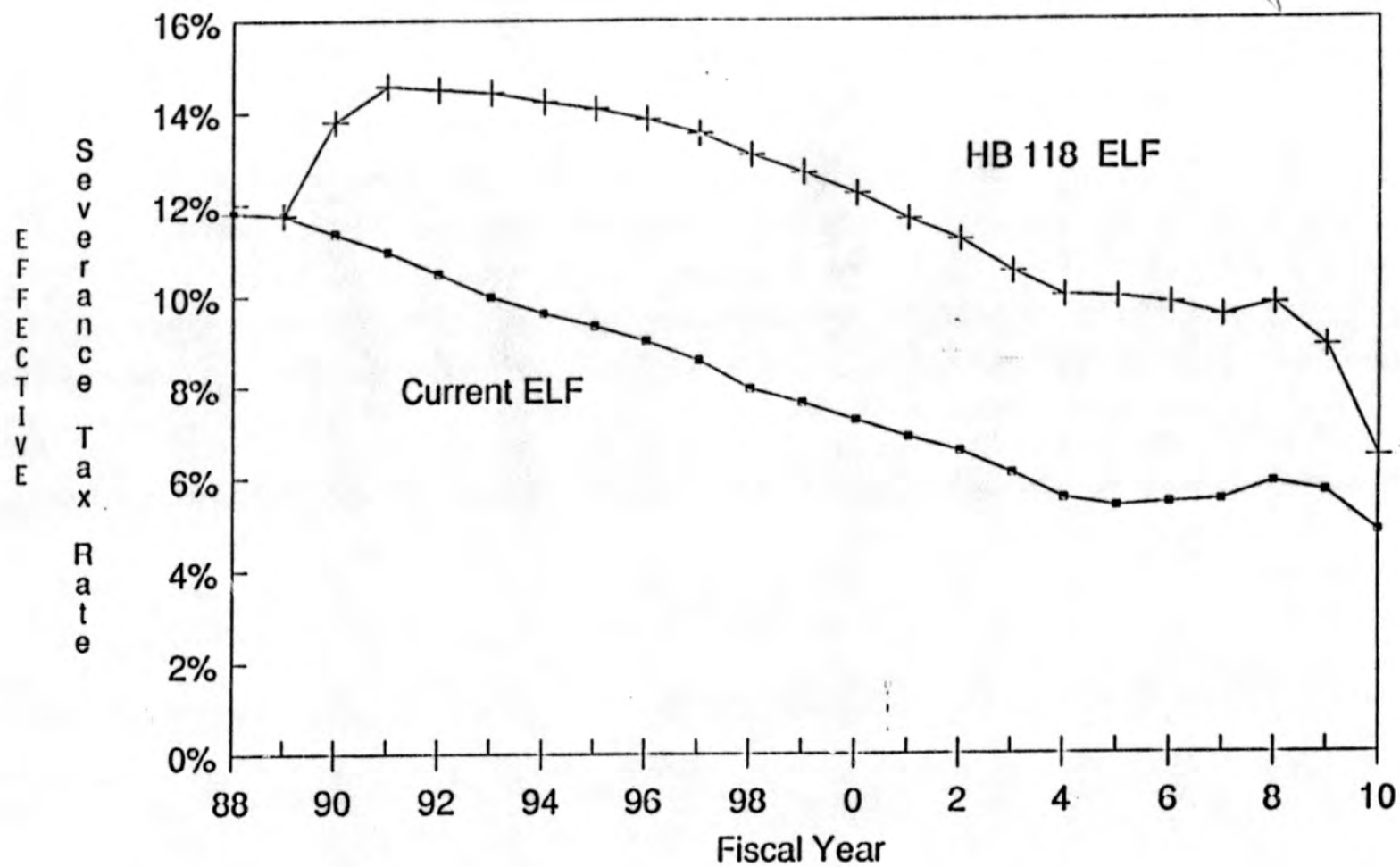
Brady, 1960			2,438	54,537	49,251	22
Byron, 1918			1,119	120,688	7,656	67
Elk Basin, 1915			2,968	446,698	25,750	170
Frannie, 1928			1,122	116,020	5,000	63
Garland, 1906			2,625	154,885	6,000	225
Grass Creek, 1914			2,414	185,120	9,000	288
Hamilton Dome, 1918			2,853	268,109	6,000	239
Hartzog Draw, 1976			6,647	66,722	283,739	157
Hilite, 1969			541	75,416	55,885	93
Lance Creek, 1918			163	107,805	400	24
Little Buffalo Basin, 1914			2,666	118,653	9,389	154
Lost Soldier, 1916			2,308	192,073	6,000	71
Oregon Basin, 1912			8,669	388,180	30,000	500
Painter Reservoir, 1979			1,739	31,674	80,674	31
Salt Creek, 1906			5,210	629,689	25,000	1,217
Wertz, 1920			3,500	99,695	15,000	65
Whitney Canyon, 1980			1,652	10,379	105,485	29

State of Alaska
Approximate Field Locations
(Current and Prospective Fields)



Date: February 7, 1989

HB 118 Will Raise the Tax Rates on Prudhoe Bay and Kuparuk ...



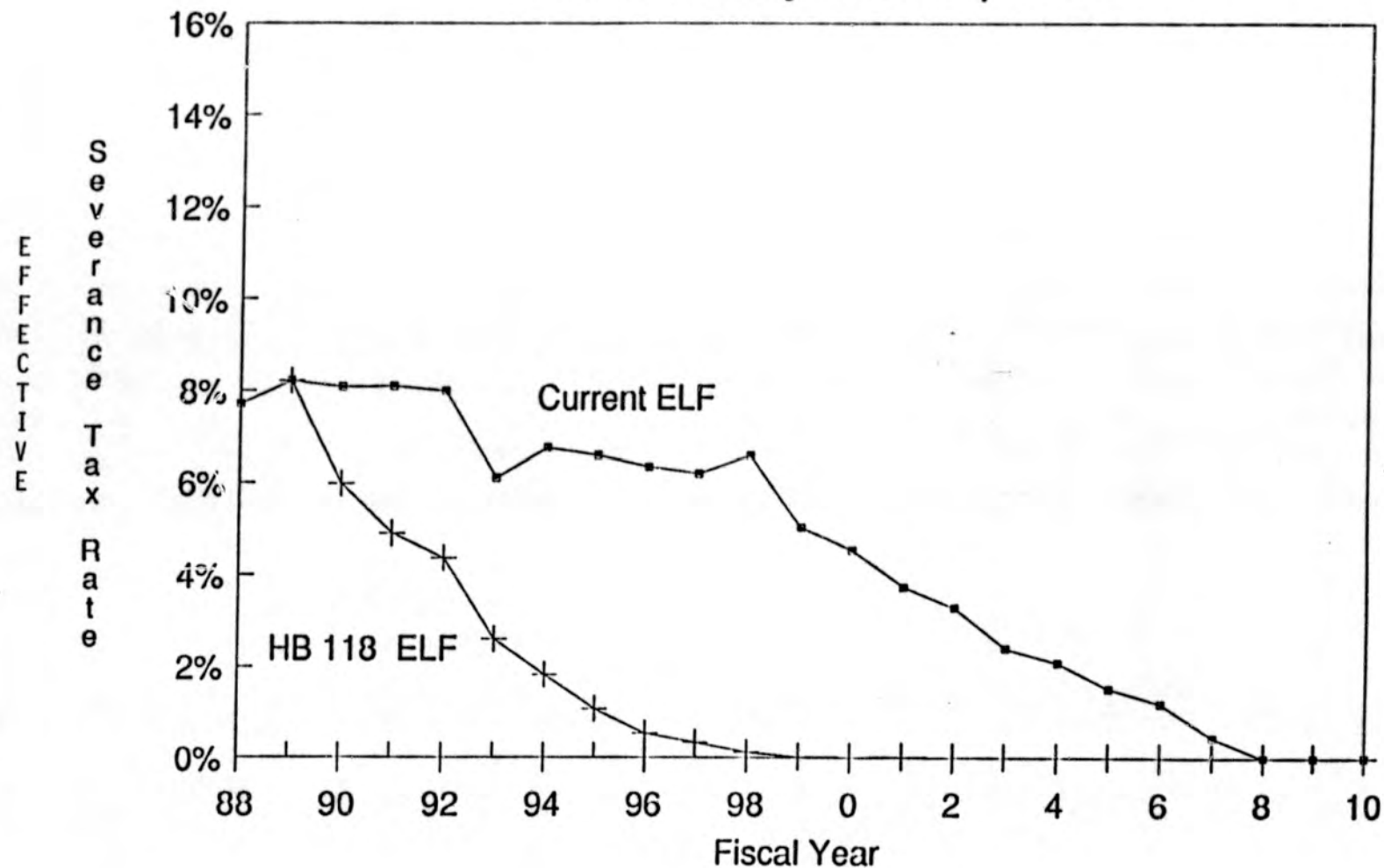
Fields Where Taxes Would Increase Under HB 118

<u>Field</u>	<u>Current Tax Rate¹</u>	<u>HB 118 Tax Rate¹</u>
Prudhoe Bay	11.59	14.91
Kuparuk	8.36	13.18

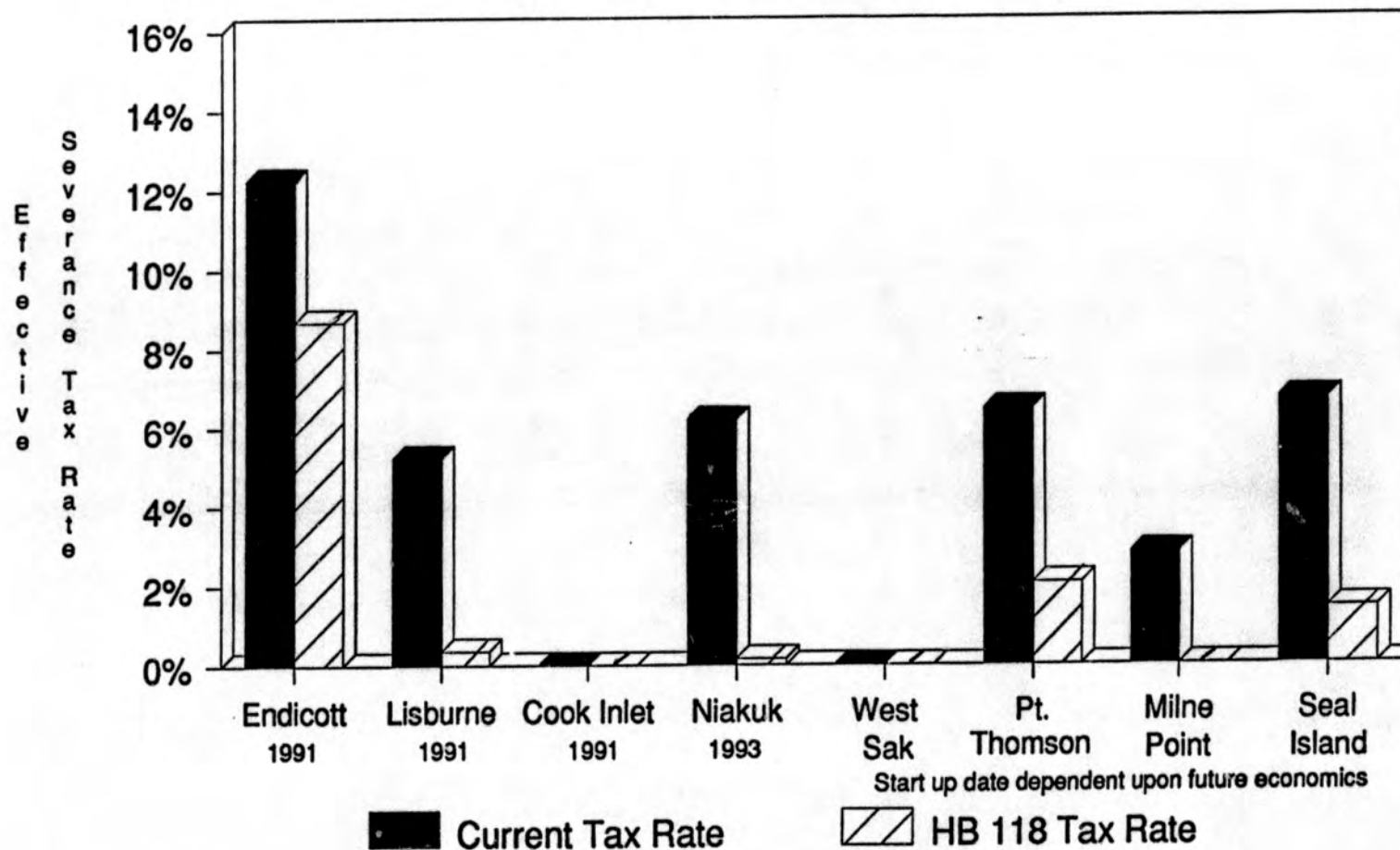
¹ Estimated effective severance tax rate for 1991.

Date: February 7, 1989

HB 118 Will Lower the Tax Rates on All Fields in Alaska Other than Prudhoe Bay and Kuparuk



Fields Where Taxes Would Decrease Under HB 118 (For Representative Years)



Source: Department of Revenue

Date: February 7, 1989

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Act relating to the oil and gas
properties production tax
Sponsor: House Finance Committee
Requestor: House Resources

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	96,000	144,000	163,000	187,000	180,000

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: January 31, 1989

Approved by Commissioner: _____

Agency: Department of Revenue

Date: 2/3/89

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

Fiscal Analysis of HB 118

This bill modifies the economic limit factor (ELF) formula used in computing the production (severance) tax on oil.

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.

Since the bill does not carry an effective date, this analysis has assumed that the bill will be enacted June 1, 1989 and go into effect September 1, 1989 and will apply to oil produced after August 31, 1989. (Because the severance tax on oil for a given month is due during the following month, a tax change which takes effect on September 1 would not affect revenues until October.)

This fiscal note was calculated using the oil price and production assumptions of the Department of Revenue's Fall 1988 Petroleum Production Revenue Forecast mid-case scenario updated for actual data through November of 1988. ^{1/}

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

1995	174
1996	169
1997	163
1998	153
1999	152
2000	144
2001	136
2002	129
2003	117
2004	110
2005	104
2006	91
2007	80
2008	60
2009	45
2020	19

^{1/} Had the fiscal note used the oil price and volume assumptions of the "Consensus Revenue Analysis" of January 24, 1989, the FY 90 fiscal impact would be \$99 million.

Original sponsor: Finance Committee

1 IN THE HOUSE

BY THE SENATE SPECIAL
COMMITTEE ON OIL AND GAS

2 SENATE CS FOR CS FOR HOUSE BILL NO. 118 (Oil & Gas)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-
7 duction tax; and providing for an effective date."

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

9 * Section 1. AS 43.55.013(b) is repealed and reenacted to read:

10 (b) The economic limit factor for oil production of a lease or
11 property shall be computed according to the following formula:

12 $(1 - [PEL/TP]) \exp ([150,000/(TP/Days)] \exp [(460 \times WD)/PEL])$

13 where: PEL = the monthly production rate at the economic limit;

14 TP = the total production during the month for which the
15 tax is to be paid;

16 WD = the total number of well days in the month for which
17 the tax is to be paid;

18 Days = the number of days in the month for which the tax is -
19 to be paid; and

20 exp = exponent.

21 * Sec. 2. This Act takes effect July 1, 1989.

SCOMM

62:29

Alaska State Legislature

Senator Drue Pearce, Chair
Senator Tim Kelly
Senator Rick Halford
Senator Paul Fischer
Senator Al Adams



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ANCHORAGE, ALASKA 99503
(907) 561 2038

SENATE SPECIAL COMMITTEE ON OIL AND GAS

AGENDA

THURSDAY, FEBRUARY 8, 9:00 A.M.

SENATE FINANCE -- ROOM (528)

HB 128 -- OIL & GAS LEASES & ROYALTY REDUCTION

SPONSOR: REPRESENTATIVE KAY BROWN

FIRST HEARING

SSSB 359 -- MUNICIPAL ASSISTANCE: OIL RESPONSE FUND

CONTINUATION OF BILL

Kay Brown

Alaska State Legislature House of Representatives

TO: Senator Drue Pearce, Chair
Senate Special Committee on Oil and Gas

FROM: Representative Kay Brown

DATE: February 7, 1990

SUBJ: CS HB 128 (Finance) Oil and Gas Leasing Practices and
State Royalties

Thank you for scheduling a hearing on CS HB 128 (Finance). As indicated in the enclosed sectional analysis, the proposed legislation has several different provisions that collectively will:

- o improve the efficiency of the state's oil and gas leasing program;
- o encourage production from marginal oil and gas fields;
- o provide for a written finding by the Commissioner of the Department of Natural Resources to the President of the Senate and the Speaker of the House of Representatives before granting a royalty reduction; and
- o strengthen the Public Notice requirements for proposed state oil and gas lease sales.

I look forward to the opportunity to discuss this legislation with the Senate Special Committee on Oil and Gas.

FISCAL NOTE

REQUEST:

Revision Date: 30-Jan-90

Agency Affected: Natural Resources

Title: An Act relating to oil & gas &
geothermal leasing practices.

BRU: Petroleum Management

Sponsor: Brown,M.Davis,Gruenberg,Ellis

Components: Petroleum Mgmt

Requestor: Senate Oil & Gas Committee

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	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Carol Wilson

Phone: 465-2400

Division: Commissioner's Office

Date: 30-Jan-90

Approved by Commissioner: Lennie Gorsuch

Date: 30-Jan-90

Agency: Department of Natural Resources

Distribution (by preparer) :

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

March 16, 1989

The Honorable Kay Brown
Alaska House of Representatives
P. O. Box V
Juneau, Alaska 99811

Dear Representative Brown:

RE: HB 128

We have reviewed with much interest the provisions of HB 128. Conoco believes enactment of this legislation would send a strong signal that the State of Alaska recognizes the current economic dilemma we all are in and is willing to make provisions to ensure the continued economic development and production of its oil resources in times of volatile crude prices. Conoco foresees crude price volatility remaining the dominant factor effecting oil and gas investment decisions for some time to come. The following statement is offered in support of HB 128:

Section 1. Amendment to AS 38.05.035(e).

The proposed amendments to this statute will enable tracts offered for lease during the previous five years to be reoffered for lease through an expedited process. Removing both the two year scheduling requirement and a repeat best interest finding will remove some of the cumbersome detail currently necessary for leasing reoffered tracts. Continued effort to further streamline the present leasing system is needed and encouraged.

Section 2. Amendment to AS 38.05.180(j).

Conoco has been involved both legislatively and administratively with the interpretation of AS 38.05.180(j) for the past several years. We believe the changes proposed in HB 128 will clarify much of the confusion with the existing statute.

When Title 38 was rewritten in 1978, the legislature authorized royalty and net profits share to be included as bid variables. As we interpret the intent, subsection (j) was added to limit the circumstances under which a lessee could reduce its royalty below their bid value submitted to obtain a lease at a competitive lease sale. We believe it was not the legislature's intent at that time to prevent the Commissioner from utilizing authorities granted under subsection (p) which apply during the operation of a unit. The record shows specifically that the legislature rejected an amendment in 1978 that would have limited the Commissioner's authority under (p) by the provisions in (j).

The Honorable Kay Brown
March 16, 1989
Page 2

As applied however, the limitations of subsection (j) have apparently restricted the Commissioner's actions under subsection (p). The changes to 180 (j), as proposed in HB 128, will remove the interpretation conflicts between language originally intended for bidding provisions and the subsequent operation of a unit either producing or mechanically capable of production.

The late 1970's and early 1980's were "boom" times for both the oil industry and the State of Alaska. With oil prices in excess of \$30/bbl and forecasted to increase further, the perception and financial condition of both the State and industry were vastly different than under the economic realities of today. The realities of resource development today dictate changes by both the State and industry if continued economic development of the State's resources is to continue. Industry must reduce and optimize development and operational costs, and the State must institute royalty and taxing systems that preferentially attract and encourage continued private sector investment in Alaska.

Conoco views it's relationship with the State as a partnership, with each partner adhering to the implied and contractual obligations of the other. The partnership will be successful when both partners are able to work together, trust and respect each other, and perceive that they are receiving an equitable return from the partnership. By amending 180 (j) we believe the State would be contributing significantly towards a successful partnership.

Specifically the proposed amendments to HB 128 will:

- Remove the ambiguities between bidding methods and lease operations;
- Remove the arbitrary and poorly defined "two years initial production;"
- Give the Commissioner broader authority to protect the State's interests with crude price increases.

For these reasons, Conoco enthusiastically supports all of the proposed revisions.

Although we have made the decision to resume production from the Milne Point Unit, it should be noted that our anticipated income stream, while generating a small positive cash flow, remains insufficient to provide a positive rate of return on our total investment. Under existing statutes we are eligible to apply for a reduced royalty at Milne Point after approximately ten additional months of production. Although the proposed amendments to 180 (j) may not directly affect Milne Point at this time, we envision they may, given the volatility of crude prices, be of direct future benefit to Milne Point or any other smaller field in the State.

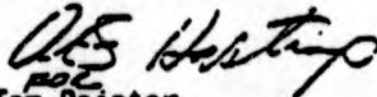
The Honorable Kay Brown
March 16, 1989
Page 3

Section 3. Amendment to AS 38.05.180(w).

Changing the proposed lease term from five years to ten years is very important for leases in frontier areas such as Alaska. With the long lead times for permitting and the potentially limited exploratory drilling seasons, five years is insufficient to adequately evaluate a lease. Increasing the term to ten years will make the leases more attractive to industry, which should also be reflected in lease bonuses to the state.

This concludes my statement supporting HB 128. If you have any questions or need additional clarification, please call me at 564-7601.

Very truly yours,


Tom Painter
Division Manager

AEH(jah)

State Of Alaska Five-Year Oil And Gas Leasing Program
For The Period 1990 Through 1994

	<u>Sale Number</u>	<u>Sale Name</u>	<u>Proposed Date</u>
FY91	67A	Cook Inlet Exempt	September 1990
	70A	Kuparuk Uplands Exempt	September 1990
	64	Kavik (North Slope)	May 1991
	65	Beaufort Sea	May 1991
FY92	74	Cook Inlet	September 1991
	61	White Hills (North Slope)	January 1992
	68	Beaufort Sea	May 1992
FY93	75	Kuparuk Uplands	September 1992
	76	Cook Inlet	January 1993
	77	Nanushuk (North Slope)	May 1993
FY94	57	North Slope Foothills	September 1993
	78	Cook Inlet	January 1994
	79	Cape Yakataga	May 1994
FY95	80	Shaviovik (North Slope)	September 1994

STEVE COWPER, GOVERNOR

March 15, 1989

DEPARTMENT OF NATURAL RESOURCES

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1798
PHONE: (907) 485-2400

OFFICE OF THE COMMISSIONER

The Honorable Cliff Davidson
Alaska State Representative
The Honorable Curt Menard
Alaska State Representative
Co-Chairmen
House Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Davidson and Representative Menard:

Subject: House Bill 128, relating to state oil, gas and geothermal leasing practices, and adjustments of royalties to encourage commercial production.

Position: The Department of Natural Resources supports this bill. It would allow us to be more responsive to industry requests for oil and gas lease sales, would clarify existing public noticing requirements, and would enable us to grant a royalty reduction for shut-in oil and gas that makes resumption of production economically feasible.

Background: Sections one and three of this bill reflect administrative changes in the state's oil and gas leasing program that would lead to increased efficiency for the department, and would generate additional revenues for the state.

An "exempt" oil and gas lease sale consists of acreage that has already been leased at least once by the state, or acreage that is adjacent to already leased lands. A "reoffering" sale consists of acreage that was offered for lease at least once by the state but, for various reasons, was never purchased.

Existing statutes allow the department to hold an exempt oil and gas lease sale without preparing a new written finding, if a written finding has been prepared for the general area during the previous 3 years. This bill would increase the elapsed time before a new finding needs to be prepared to five years. The existing three year period is not enough time for us to offer eligible acreage, as requested by industry, for lease.

This bill would also make the five year exemption from a written finding available to us for reoffering sales, and would increase the lease term for a reoffering sale from five years to ten. Ten

years is the lease term used for other oil and gas lease sales.

Section two of the bill would assist owners of shut-in fields to reestablish commercial production by allowing the Commissioner, based on certain conditions, to reduce the required lease royalty. Royalty reductions granted under this bill would be conditioned to protect the state's interest.

Section four of this bill is an housekeeping measure that would clarify the public noticing requirements for state oil and gas lease sales.

Please let me know if you would like additional information related to this bill.

Sincerely,



Lennie Gorsuch
Commissioner

cc: Committee members
Sponsor
Bob Evans
Denby Lloyd
Dennis Kelso
Don Collinsworth
Jim Eason

Representative Kay Brown
February 7, 1990

SECTIONAL ANALYSIS

CS HB 128 (Finance)

Oil and Gas Leasing Practices and State Royalties

Section 1

Amends existing law regarding the requirement to prepare a new "best interest finding" in the case of "exempt" oil and gas lease sales under AS 38.05.180(d) and AS 38.05.180(w). The proposed change would allow the Department of Natural Resources to lease lands under these statutes without preparing a new "best interest finding" if a finding had been prepared within the previous five years, unless the Commissioner determines that new information has become available that justifies revision of the prior finding.

Section 2

Would give the Commissioner of the Department of Natural Resources authority to reduce royalties in order to reestablish shut-in oil and gas production that would otherwise not be economically feasible. Would remove the provision in existing law requiring two years of initial production from a field before a royalty reduction could be granted. Before granting a royalty reduction, the lessee would be required to make a clear showing that the shut-in resources would not be economical to produce without a royalty reduction. The Commissioner would have to find that the state was obtaining the maximum possible economic return compatible with a reasonable rate of return for the lessee. Further, the Commissioner would have to provide a written finding to the President of the Senate and the Speaker of the House of Representatives before granting a royalty reduction.

Section 3

Amends AS 38.05.180(w) regarding the term of a lease that has been re-offered. Existing law stipulates that the term of a re-offered lease shall be limited to five years. The proposed change would increase the maximum term of a re-offered lease to ten years.

Section 4

Amends the Department of Natural Resources public notice requirements as they pertain to the leasing of hydrocarbon and geothermal resources. The proposed change would reestablish the requirement that the department provide broad public notice of leasing actions to potentially affected parties.

Oil and Gas Lease Sale Options
Comparison of existing statutes with changes proposed in HB 128
to AS 38.05.035(e) and AS 38.05.180(w)
Prepared by Division of Oil & Gas

Regular Sales

Exempt Sales

Reoffering Sales

Regular Sales		Exempt Sales		Reoffering Sales	
Existing Statutes	HB 128 Proposed Change	Existing Statutes	HB 128 Proposed Change	Existing Statutes	HB 128 Proposed Change
Must be on five-year leasing schedule. [AS 38.05.180(b)]	*No changes	Not required to be on five-year schedule. [AS 38.05.180(d)]		Not required to be on five-year schedule. [AS 38.05.180(w)]	
Sales proposed by Div. of Oil & Gas; industry comments solicited each year.		Sales based on unsolicited industry nominations; several received each year.		Sales based on unsolicited industry nominations; several received each year.	
Acreage consists of new "frontier" areas and old areas offered in the past.		Acreage previously leased and now relinquished or expired; or, acreage adjacent to existing leases.		Acreage previously offered but not leased.	
New best interest finding required for each sale; public notices issued.		Can use up to 3-year-old best interest finding if no new significant information; public notices issued.		New best interest finding required for each sale; public notices issued.	
Lease term up to ten years.		Lease term up to ten years.		Lease term no more than five years.	
			*Allows use of up to 5-year-old best interest finding if no new significant information. All public notices will still be issued. [AS 38.05.035(e)(7)]		*Allows use of up to 5-year-old best interest finding if no new significant information. All public notices will still be issued. [AS 38.05.035(e)(8)]
					*Allows lease term of up to ten years. [AS 38.05.180(w)]

SCOMM

62:30

Alaska State Legislature

Senator Drue Pearce, Chair
Senator Tim Kelly
Senator Rick Halford
Senator Paul Fischer
Senator Al Adams



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SENATE SPECIAL COMMITTEE ON OIL AND GAS

TO: All Senators

FROM: Senator Drue Pearce 
Chair, Senate Special Committee on Oil and Gas

DATE: May 7, 1989

RE: Senate changes to House Bill 566

Please join me in supporting the Senate Finance Committee Substitute for House Bill 566. This bill sets up a comprehensive process for dealing with planning and response to releases of oil or other hazardous substances in Alaska. It clarifies existing statutes and provides a framework for resolving many of the issues involved in responding to these releases. The bill before you has the support of the House, the Administration, and the Chairman of the Alaska Oil Spill Commission.

The Senate Finance Committee Substitute combines many of the elements of Senate Bill 503 by setting up the Alaska State Emergency Response Commission under DEC. It also contains Senate Bill 421 in that it establishes a Hazardous Substance Spill Technology Review Council located in SERC; as well as Senate Bill 468 by helping to clarify the roles of the Department of Environmental Conservation and the Division of Emergency Services in the event of a oil or hazardous substance release and by establishing a process within the Incident Command System for resolving remaining issues.

House Bill 566 restricts access to the "470" fund for uses other than cleanup, containment, and related expenses.

More detailed information on the major aspects of House Bill 566 is attached for your review.

SCS FOR CS FOR HOUSE BILL 566

- 1) SERC: Sets up Alaska State Emergency Response Commission (SERC) under DEC with Commissioner of DEC as Chair; Adjutant General as Vice Chair. Duties include:
 - a) Facilitate the preparation/implementation of and approve hazardous substance spill plans under SARA Title III and State and Regional Plans;
 - b) Serve as coordinating group to establish agency roles and duties and ensure proper roles and linkages between state and local entities and the public;
 - c) Appoint Local Emergency Planning Committees.
- 2) INCIDENT COMMAND SYSTEM: Requires State, Regional and Local plans to include an Incident Command System; details, including who does what, to be developed by DEC, and the local Emergency Planning Committees, as appropriate, with final approval by the SERC. Roles must be consistent with statutory responsibility;
- 3) DES ROLE: Transfers Response Depots and Response Corps to Military Affairs, Division of Emergency Services (DES); allows DES to assist with communication and logistics involved in non-governmental responses to releases;
- 4) DEC ROLE: Keeps response office and responsibility to develop State and Regional Plans;
- 5) TECHNOLOGY COUNCIL: Establishes the Hazardous Substance Spill Technology Review Council located in SERC to:
 - a) Develop protocols to test technology;
 - b) Serve as clearinghouse for technology and research;
 - c) Direct DEC to conduct or contract for research into oil and hazardous substances spill technology;
 - d) Make recommendations regarding spill issues;
- 6) "470 FUND": Fund could be used for cleanup, containment and related costs associated with the release or threatened release oil or a hazardous substance without a specific appropriation for that purpose. All other uses of fund monies (e.g. response office, response depots, response corps, matching funds, preparation of state and regional master contingency plans, etc.) would require specific appropriation language. Also requires annual reports to the Legislature from DEC and the Governor of fund uses and related information.

- 7) OTHER: Requires DEC to report to the legislature, by March 1, 1991, its recommendations about the feasibility of establishing a process under which all types of oil and hazardous substance spill technology would have to be submitted to the department for approval before it could be used in the state.

Testimony before Senate Oil & Gas Committee: Tuesday, March 27, 1990

Thank you Madame Chair for the opportunity to testify before this committee. For the record, my name is Erv Martin, Director of the Alaska Division of Emergency Services.

I wish to preface my comments with the following caveat:

As a member of the Executive Branch of State Government, it is my duty not to dissent from the Administration's formal position on any particular issue.

That said, and notwithstanding, Alaska Statute 26.23.040 paragraphs (e) (12) & (14) require the Division of Emergency Services to cooperate in achieving the purposes and proper implementation of the Alaska Disaster Act for disaster prevention, preparedness, response and recovery. And in accordance with the bylaws of the State Emergency Response Commission as vice chair, for emergency planning and training in executing the provisions of SARA Title III thru Administrative Order 103.

What is your question?

(in response to Senator Halford's question)

I believe SB 468 accurately reflects the Oil Spill Commission's recommendations #43, 44, 50 and 51.

I strongly and enthusiastically support the Dept. of Environmental Conservation responsibilities as the State's technical lead agency for oversight authority for regulatory compliance, pollution monitoring, inspections and investigations; directly with industry & facility operators.

From the macro perspective and comprehensive view - It is logical and reasonable and more cost effective in the long run for all disaster management and emergency response coordination functions to be vested in a single state agency for continuity of management principles rather than being distributed and dissipated between various State agencies. This bill would not diminish, in any way, DEC's regulatory authority for compliance of the oil industry and they would remain the technical, lead agency in an oil spill disaster.

(In response to Deputy Commissioner Amy Kyle's comments.)

My interpretation on the activation of the oil and hazardous substance response office is predicated upon an actual or potential event which poses an imminent and substantial threat to public health or welfare or to the environment, under a declared incident.

(Further response to Deputy Commissioner Amy Kyle's comments.)

The Division of Emergency Services is not just logisticians or communicators, but comprehensive managers of dysfunctional resources dispersed throughout multiple agency's, both vertically from local-state-federal levels and horizontally across the spectrum of available assets. This is within our cooperative effort with local government for the totality of the impacts.

The network of the existing infrastructure is a continuous, ongoing relationship for multi- hazard, disaster preparedness, response, and recovery.

Without the bill - the confusion and fragmentation of responsibilities will continue to exist.

END OF TESTIMONY

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

MEMORANDUM

April 6, 1990

SUBJECT: SCS CSHB 566 (Oil & Gas); Technical Title Change

TO: Senator Drue Pearce
Chair, Senate Special Committee on Oil & Gas

FROM: Pamela Finley *Pam*
Assistant Revisor of Statutes

The draft of SCS CSHB 566 (O&G) is enclosed. Please note that we have made a technical change in the title of the bill as passed by the House. In both places where it occurred in the title, "releases" was changed to "release". Technical title changes in the second house are allowed under Uniform Rule 24(c). However, if you would prefer, we can send you a draft with the title exactly as it was in the bill that passed the House.

PLF:pl
WKP4/032

Enclosure

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act authorizing the
Governor to spend money...
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Fish and Game
BRU: _____
Components: _____

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						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0					
REVENUE	0					

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0					

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS : (Attach a separate page if necessary)

No FY 90 Impact.

Prepared by: _____ Phone: _____
Division: _____ Date: _____

Approved by Commissioner: *Donna H. Atley* Date: 2 27 90
Agency: Fish and Game

Distribution (by preparer):

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

STATE OF ALASKA
1990 LEGISLATIVE SESSION

No. 3
BILL VERSION: CSHB 566(Fin)
PUBLISH DATE: HOUSE 4/3/90

FISCAL NOTE

REQUEST:

Revision Date: 4/2/90
Title: An Act concerning Response Fund
expenditures/DES's role in spill disaster/SERC
Sponsor: Rules Committee
Requestor: House Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	115.4	115.4	115.4	115.4	115.4	115.4
TRAVEL	80.4	80.4	80.4	80.4	80.4	80.4
CONTRACTUAL	23.0	23.0	23.0	23.0	23.0	23.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	10.0	10.0	10.0	10.0	10.0	10.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	230.8	230.8	230.8	230.8	230.8	230.8

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

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER *	230.8	230.8	230.8	230.8	230.8	230.8
TOTAL	230.8	230.8	230.8	230.8	230.8	230.8

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

* Funding source is the Oil & Hazardous Substance Release Response Fund.

Prepared by: Camille Stephens
Division: Environmental Quality

Phone: 465-2630
Date: 4/2/90

Approved by Commissioner: *A. D. King*
Agency: Department of Environmental Conservation

Date: 4/2/90

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

Sections 1-7

Sections 1-7 will not require additional resources for the Department of Environmental Conservation.

Section 8

This legislation establishes the State Emergency Response Commission (SERC) in statute. The scope of the SERC, currently established under administrative order, is broadened to include contingency planning for oil spill response, as well as providing additional representation by resource agencies (DNR, F&G) and health and safety agencies (Labor, Public Safety).

The Department presently funds .5 FTE as technical staff to the SERC. This legislation will require two additional FTE (153.4) to serve as technical support to the SERC, coordinate SERC meetings, coordinate establishment of LEPCs, provide technical information to LEPCs, and other duties as required by the statute. The Department considers it essential that SERC/LEPC plans are coordinated with the State and Regional Oil and Hazardous Substance Discharge Prevention and Contingency Plans.

Travel expenses and per diem for commission members attending quarterly SERC meetings (6-8 persons) and quarterly subcommittee meetings (6-8 persons) are paid by the Department. There are four subcommittees. Based on an air fare of \$360 and one day per diem at \$80/day, travel and per diem amount to \$70.4.

Based on the past year's expenditures, annual costs to advertise quarterly SERC meetings in newspapers will require approximately \$5.0. Annual cost to transcribe audio tapes of quarterly SERC meetings is \$2.0.

SUMMARY

	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
ECO III	57.7	5.0	8.0	1.0	5.0	\$ 76.7
ECO III	57.7	5.0	8.0	1.0	5.0	\$ 76.7
Travel/per diem		70.4				\$ 70.4
Contractual			7.0			\$ 7.0
TOTALS	115.4	80.4	23.0	2.0	10.0	\$230.8

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION SCSCSHB 566 (O&G)(a)
PUBLISH DATE: 4/11/90

FISCAL NOTE

REQUEST:

Revision Date: 4/4/90
Title: An act concerning Response
Fund expenditures/transferring authority to DES...
Sponsor: Rules/Governor
Requestor: S Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	88.3	88.3	88.3	88.3	88.3	88.3
CONTRACTUAL	347.0	327.0	227.0	227.0	227.0	227.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	435.3	415.3	315.3	315.3	315.3	315.3
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	435.3	415.3	315.3	315.3	315.3	315.3
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	445.3	415.3	315.3	315.3	315.3	315.3

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Lynn Kent
Division: Environmental Quality

Phone: 465-2630
Date: 4/4/90

Approved by Commissioner: *R. D. Hyle*
Agency: Environmental Conservation

Date: 4/4/90

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

Sections 1-22

These sections of the bill will not require any additional money for the Department.

Section 23

This section of the bill requires the Department to adopt regulations regarding oil and hazardous substance containment and cleanup technologies and products. There is contractual money included (\$20.0) in FY 91 for assistance in writing the regulations.

Section 24

This section will not require any additional money for the Department.

Section 25

This section establishes the State Emergency Response Commission (SERC) in statute. The scope of the SERC, currently established under administrative order, is broadened to include ultimate responsibility for regional and statewide contingency planning for oil spill response, as well as housing the Oil and Hazardous Substance Spill Technology Review Council.

While the SERC is established under the purview of the Division of Emergency Services, Department of Military and Veterans' Affairs, it is established within DEC statutes. Therefore, funding is included for travel expenses and per diem for commission members attending quarterly SERC meetings (6-8 persons) and quarterly subcommittee meetings (6-8 persons). There are currently four subcommittees. Based on an air fare of \$360 and one day per diem at \$80/day, travel and per diem amount to \$70.4.

This legislation will require the commission to establish LEPCs for each emergency planning district. Approximately 12 Local Emergency Planning Committees (LEPC) are in the process of being established at an estimated cost of \$20.0 to each community. Contractual services monies in the amount of \$120.0 (\$10.0 per LEPC) will be necessary to help insure that LEPCs are established, members receive appropriate training, and that the requirements of this proposed statute and SARA Title III are complied with. This cost will recur in subsequent fiscal years as additional LEPCs are established.

Based on the past year's expenditures, annual costs to advertise quarterly SERC meetings in newspapers will require approximately \$5.0. Annual cost to transcribe audio tapes of quarterly SERC meetings is \$2.0.

The Hazardous Substance Spill Technology Review Council is also established under this section of the bill. This is established under the SERC, which is established under the purview of the Division of Emergency Services, Department of Military and Veterans' Affairs, but is established within DEC's statutes. Therefore funding is included for travel costs for seven commission members, based on four meetings per year, three days per meeting at \$80 per diem (\$6.7) and \$400 average per airfare (\$11.2). Funds (\$200.0) are included for technical assistance contracts which may include data collection, analysis of response technologies, and technical research. These funds are reduced to \$100.0 after the first two fiscal years.

Sections 26-30

These sections will not require any additional money for the Department.

FY 91 fiscal detail

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Travel/per diem (SERC)		70.4				\$ 70.4
Contractual (SERC)			127.0			127.0
Contractual (Regs)			20.0			20.0
Council members		17.9				17.9
Contractual (Tech asst)			200.0			200.0
TOTALS		88.3	347.0			\$435.3

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "...transferring the oil and hazardous substance response office to the Dept. of Military & Veterans' Affairs" BRU: Legal Services
 Sponsor: Senate Oil and Gas Components: Operations
 Requestor: Senate Oil and Gas

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	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard L. Pegues Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: April 2, 1990
 Approved by Commissioner: Richard L. Pegues / FOR Douglas R. Bailey, Attorney General Date: April 2, 1990
 Agency: Department of Law

Distribution (by preparer):

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

Changes in CSSB 503 (Fin)
 have no fiscal impact.
 This fiscal note is
 appropriate. 4/11/90 RL

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. ^{SCS} ~~CSHB~~ 566 (Oil and Gas)

This bill amends various statutes to provide that when an actual or imminent oil or hazardous substance discharge develops in to a catastrophic oil discharge, or becomes a declared disaster emergency, the division of emergency services, Department of Military and Veterans' Affairs, shall exercise the authority of the Department of Environmental Conservation and direct a person or persons to take action necessary to meet the emergency, and protect the public health, welfare and environment. The division would establish an oil and hazardous substance response office to perform related duties.

The bill would also provide that the attorney general shall immediately seek to recover money expended by the division of emergency services for containment and cleanup. Because the Department of Law already provides this service on behalf of DEC, there will not be a fiscal impact for the Department of Law if the division of emergency services is included in this provision. Law's costs for this purpose are normally reimbursable from the hazardous substance release response fund, as a necessary part of containment and cleanup.

Section 25 of the bill establishes an Alaska State Emergency Response Commission, within the Department of Military and Veterans' Affairs, to oversee state and regional plans for hazardous substance response, and to prepare, review, and revise the statewide and regional master oil and hazardous substance discharge and prevention contingency plans. The commission would be responsible for overseeing local planning committee activities.

A Hazardous Substance Spill Technology Review Council would also be established within the commission. The council would be responsible for reviewing and recommending oil and hazardous substance spill technology research topics to DEC; establishing testing protocols to be used by DEC to evaluate the effectiveness of hazardous substance spill technologies for use in the state; identifying sources of money that may be available for discharge related research; and making proposals to the governor and the commission to encourage and fund prevention, response, cleanup, and mitigation of future discharges of hazardous substances.

The council would serve as a central repository of hazardous substance discharge information and compile and maintain information relating to available containment and cleanup technology, including ways to improve hazardous substance spill response technology and procedures, steps that should be taken by government and industry to ensure proper management, handling, and transportation of hazardous substance, and the steps that should be taken to improve the ability of industry and government to respond to discharges of hazardous substances. The council would also compile and maintain information on the extent to which industry practices and governmental practices or laws should be changed to reduce or minimize the potential for hazardous substance discharge and on hazardous substance spill technology research conducted by the Department of Environmental Conservation.

Finally, the council would be given investigative and hearing powers and would be able to issue subpoenas, administer oaths, and conduct investigations related to its duties. The council would be empowered to compel the attendance of witnesses and production of papers, books, records, accounts, documents, and testimony, and could have the depositions of witnesses taken in a manner prescribed by court rule or law for the taking of depositions in civil actions when it is consistent with the duties assigned to the council. The failure,

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SCSCMB 566 (Oil and Gas)

refusal, or neglect to obey a subpoena would be punishable by law or court rule. The superior court would be able to compel obedience to the council's subpoena in the same manner as prescribed for obedience to a subpoena issued by the court.

These latter powers are substantial and could require considerable attorney legal services if the council conducted extensive investigations. Unfortunately, there is no way to predict the extent to which investigations might be conducted. For instance, if the council's investigations are merely incidental, existing staff who normally assist the Department of Environmental Conservation would suffice. Conversely, if the council undertook an indepth investigation involving complex issues, substantial evidence, or numerous witnesses, additional attorney resources would be required before the work could be undertaken. Consequently, it is likely that an appropriation for legal services will be required at some point after the bill is implemented and the actual workload becomes known.

FISCAL NOTE

REQUEST:

Revision Date: April 2, 1990

Title: Oil and hazardous substance response.

Agency Affected: DMVA

BRU: Disaster Planning & Control

Sponsor: Governor

Requestor: Senate Oil and Gas Committee

Components: Oil & Hazardous Substance Response Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	443.4	443.4	443.4	443.4	443.4	443.4
TRAVEL	115.4	115.4	115.4	115.4	115.4	115.4
CONTRACTUAL	1427.0	1327.0	1327.0	1327.0	1327.0	1327.0
SUPPLIES	59.0	59.0	59.0	59.0	59.0	59.0
EQUIPMENT	67.0	67.0	67.0	67.0	67.0	67.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2111.8	2011.8	2011.8	2011.8	2011.8	2011.8

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	2111.8	2011.8	2011.8	2011.8	2011.8	2011.8
TOTAL						

POSITIONS:

FULL-TIME	9	9	9	9	9	9
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jeff Morrison, Director

Phone: 465-4600

Division: Administrative & Support Services, DMVA

Date: 4/2/90

Approved by Commissioner: MG John Schaeffer

Date: 4/2/90

Agency: Department of Military & Veterans Affairs

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

FISCAL NOTE FOR
Department of Military and Veterans Affairs

This bill does two things that have a fiscal impact: 1) it transfers the Oil and Hazardous Substance Response Office created by Ch 113, SIA 1989 from the Department of Environmental Conservation to the Department of Military and Veterans Affairs; and 2) it establishes the State Emergency Response Commission (SERC) in statute. Passage of the act would create a new component in the Disaster Planning and Control BRU: Oil and Hazardous Substance Response Office.

The fiscal note for DMVA for these two purposes is derived from the fiscal notes prepared by the Department of Environmental Conservation for SB264 (Ch 113, SIA 1989) [for the costs associated with the Oil and Hazardous Substance Response Office], and for the initial Governor's submission of SB 503 [for the costs associated with the SERC].

Due to the short response time to prepare this fiscal note, it may be necessary to revise it after consultation with the Department of Environmental Conservation. There was not ample time to work closely with DEC prior to the deadline for submission of the fiscal note.

TRANSFER OF OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE

The response office would consist of a full-time staff of nine agency personnel: a deputy director, six response specialists, one administrative assistant, and one clerk typist. The contractual line includes the following: 1) the second of two years of office set-up costs (\$100,000); 2) training contracts (\$200,000); 3) contracts with local governments (\$500,000); 4) wages and per diem for volunteer training (\$300,000); 5) contracts with private response specialist (\$100,000); and contracts for oil spill response research (\$100,000). These funds are currently budgeted in the Department of Environmental Conservation, in the Environmental Quality Projects component of the Environmental Quality BRU.

Funding for this office is from the Oil and Hazardous Substance Release Response Fund, established by A.S. 46.08.010. Including the personal services costs and contractual services costs specifically addressed above, the total costs of this portion of the fiscal note are:

Personal services	443.4
Travel	45.0
Contractual Services	1300.0
Supplies	59.0
Equipment	67.0
Total	1914.4

ESTABLISHMENT OF STATE EMERGENCY RESPONSE COMMISSION (SERC)

The staff of the Oil and Hazardous Substance Response Office will serve as staff to the SERC under terms of this bill, providing the following services: serve as technical support to the SERC, coordinate SERC meetings, coordinate establishment of the Local Emergency Planning Committees (LEPCs), provide technical information to LEPCs and other duties required by statute. This legislation will not require additional new positions. Costs of the SERC will consist chiefly of travel and per diem of SERC members, and costs of establishing Local Emergency Planning Committees (LEPCs).

meetings (6-8 persons) and quarterly subcommittee meetings (6-8 persons) will be paid by the fiscal note to this bill. There are four subcommittees. Assuming air fare of \$360.00 and per diem of \$80.00 per member on an average, the total cost of travel and per diem are estimated to be \$70,400.

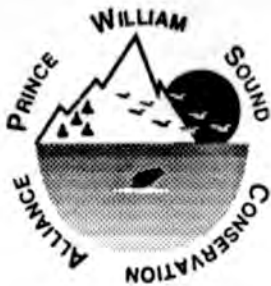
The legislation will require the SERC to establish LEPCs for each emergency planning district. Approximately 12 LEPCs are in the process of being established at an estimated cost of \$20,000 to each community. Contractual services monies in the amount of \$120,000 (\$10,000 per LEPC) will be necessary to help ensure that LEPCs are established, members receive appropriate training, and that the requirements of this proposed statute and SARA Title III are complied with. This cost will recur in subsequent fiscal years as additional LEPCs are established.

Based on past experience, annual costs to advertise quarterly SERC meetings in newspapers will require approximately \$5,000. Annual cost to transcribe audio tapes of quarterly SERC meetings is \$2,000.

Including the travel and contractual services costs specifically addressed above, the total costs of this portion of the fiscal note are:

Personal services	0.0
Travel	70.4
Contractual Services	127.0
Supplies	0.0
Equipment	0.0
Total	197.4

The combined annual cost of the fiscal note is \$2,111,800. This drops by \$100,000, to \$2,011,800, in the second year due to the end of office start-up costs. Since this fiscal note was prepared rather hastily, we welcome the critical review of the legislative finance committees.



PRINCE WILLIAM SOUND CONSERVATION ALLIANCE

P.O. Box 1697
Valdez, AK 99686
(907) 835-2799, 4922
Fax 835-5395

April 7, 1990

Valdez Board Members

Nan Eagleson
President

Nancy Lethcoe
Vice-president

Sue McCollum
Secretary-treasure

Bruce Good

Bob Fultz

Kim McCarty

Stan Stephens

John Weiland

Harold Blehm

To: Senate Oil and Gas Committee
From: Nancy R. Lethcoe, executive director
Re: HB 566 aand CSSB503

Madame Chairman:

I am Nancy Lethcoe, executive director of the Prince William Sound Conservation Alliance. The Prince William Sound Conservation Alliance is a non-profit organization formed in 1988 of businessess and individuals representing tourism, recreation, fisheries, environmental, local, and conservation interests. We have over 300 members. We support the development of oil in Alaska, but believe oil development, storage and transportation must be done in a manner that is mutually compatible with other resource uses. We hold a position on the board of the Oil Reform Alliance.

The Conservation Alliance played an active role from the first hours of the response to the EXXON VALDEZ oil spill and continues to do so. Our response has included placing volunteers in the DEC office during the first weeks of the spill, operating the Volunteer Response Center, attending Science and Operational Committee meetings, serving on the Interagency Shoreline Cleanup Committee (ISCC), and operating a volunteer and paid winter cleanup program under Governor Cowper's Winter Cleanup Program. This past week, we have had 30 people working in Prince William Sound to remove oiled debris from the Sound's shorelines so that the oiled debris is not refloated and does not become entangled in fishermen's nets or drift onto previously unoiled recreational use areas. *Exxon still refuses to pay for the cost of shipping and disposing of this oiled debris.* SPILLS MUST BE PREVENTED. IF THEY OCCUR, THE STATE MUST BE BETTER PREPARED TO RESPOND. HB 566 IMPROVES THE STATE'S RESPONSE CAPABILITES. CSSB 503 REDUCES THEM. WE URGE YOU TO SUPPORT HB566 AS PASSED BY THE HOUSE.

Board Members at-large

Cliff Eames
(ACE, Anchorage)

Marsha Hodson
(Anchorage)

Steve Kallick
(SEACC, Juneau)

Dr. Riki Ott
(Cordova)

Gerald Sanger
(Whittier)

The Conservation Alliance strongly supports the continuation of the Department of Environmental Conservation (DEC) as the lead agency for all oil spills including catastrophic spills and an increased role for the Division of Emergency Services (DES) in providing support and logistical services to DEC for the following five reasons:

1. DEC has the statutory authority to respond to an oil spill to initiate cleanup if the spiller refuses or is unknown and to document damages for the recovery of cleanup costs and damages to natural resources from the spill. The Division of Emergency Services does not have the authority or expertise to document violations of state statutes and damages to state resources. *Failure to correctly document damages for use by the Dept. of Law could cost the State hundreds of millions of dollars in the future if the State does not have the proper evidence to file suit against spillers.* The State cannot afford the luxury of financing the cost of oil and hazardous substance cleanups nor can we afford the luxury of restoring damaged resources. Environmental disasters are economic, social, personal and community disasters. Fishermen, tour and charter boat operators, hunters, trappers, guides, recreational users, lodge operators, and communities in the spill area should not by default be expected to shoulder alone the financial burden of the lost resources on which their income was based. We are not dispensible Alaskans. Alaska's non-oil resources are not dispensible. *We urge you to support HB566 as passed by the House.*

2. The Division of Emergency Services is a facilitator. They tell someone else to "go do something." Since CSSB503 came out of this committee, I have contacted numerous people who have worked with DES in responding to emergencies such as forest fires and floods. Uniformly, I have heard that DES is very good in logistics and in coordination with communities. This confirmed our experience with DES during the Exxon Valdez spill when they played a much appreciated role in informing Whittier of what was happening and provided us with much needed equipment. However, I have also heard that DES is lousy in giving directions to other agencies: their directions waste other agencies time and resources, because DES does not have sufficient expertise to recognize and deal with real technical and scientific problems. *By placing DES in charge, you are asking an agency that does a good job in logistics to assume functions beyond its mandate and ability. This is poor government. We ask you to support HB566 as passed by the House instead.*

3. By placing DES in charge of spills, CSSB503 created another level of bureaucracy between the response of the state to the spill and spiller. This added layer of bureucracy will increase the costs of the State in responding to the spill without any clear benefit to the State. It will make it more difficult for the spiller to know "who is in charge." *We ask you to support HB 566 because it establishes clearer lines of authority and is more fiscally responsible than CSSB503.*

4. The Department of Environmental Conservation has personnel from the lowest level of response to managerial positions who have gained years of experience in responding to spills statewide. The Divison of Emergency Services has no such depth of experience. Where will they get this experience? How long will it take? Who is going to pay for it? Why waste the trained personnel resources the State already has invested in at DEC? *Again, we urge you to adopt HB 566 as passed by the House because it represents a more responsible use of State resources.*

5. Finally, HB566 represents the intent of the Oil Spill Commission while CSSB503 does not. Commission Chief, Walt Parker, testifying before the Senate Finance Committee stated: "DEC should continue its oversight role over government and private resources to ensure that the state and regional response plans will work." *We urge you to support HB566 as passed by the House shich represents the findings of the Oil Spill Commission.*

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 10, 1990

SUBJECT: Amendments
SCS CSHB 566(O&G)

TO: Senator Drue Pearce, Chair
Senate Special Committee on Oil and Gas

FROM: Terri Lauterbach *TL*
Legislative Counsel

Enclosed are two amendments requested by David Rogers.

The amendment labeled go0520hGa corrects the title to reflect the special effective dates at the end of the SCS. This type of title amendment is a technical change allowed under Uniform Rule 24(c).

The other amendment addresses the status of DEC orders issued in emergencies that turn out to be disasters under DES/DMVA jurisdiction.

Your other amendment is still in process.

TL:pl
WKP4/043

Enclosures

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 566 (Oil & Gas)

Page 1, line 9, after "Commission":

Insert "; and providing for an effective date"

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 566 (Oil & Gas)

Page 3, line 15, after ".":

Insert "An order issued by the department under this subsection remains valid after the emergency develops into a catastrophic oil discharge or becomes a declared disaster emergency until the order is rescinded or modified by an order of the division of emergency services, Department of Military and Veterans' Affairs."

Original sponsor(s): Rules/Governor

Sen. Pearce

1 IN THE HOUSE BY THE SENATE SPECIAL COMMITTEE ON OIL & GAS
2 SENATE CS FOR CS FOR HOUSE BILL NO. 566 (Oil & Gas)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state response actions and plan-
7 ning involving the release or threatened release of
8 oil or a hazardous substance; and establishing the
9 Alaska State Emergency Response Commission."

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

11 * Section 1. AS 26.23.020(g) is amended by adding a new paragraph to
12 read:

13 (11) use money from the oil and hazardous substance release
14 response fund, established by AS 46.08.010, to respond to a declared
15 disaster emergency related to an oil or hazardous substance discharge.

16 * Sec. 2. AS 26.23.040 is amended by adding a new subsection to read:

17 (f) The Alaska division of emergency services shall establish
18 the oil and hazardous substance response office and perform related
19 duties under AS 46.08.100 - 46.08.190.

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

21 (b) Whenever, and to the extent that, money is needed to cope
22 with a disaster, the first recourse shall be to funds regularly appro-
23 priated to state and local agencies. The second recourse shall be to
24 funds available in the disaster relief fund or, for oil or hazardous
25 substances discharges, the oil and hazardous substance release re-
26 sponse fund, as the governor determines appropriate. If money avail-
27 able from these sources is insufficient, and if the governor finds
28 that other sources of money to cope with the disaster are not avail-
29 able or are insufficient, the governor may, notwithstanding any limi-

1 tation imposed by AS 37.07.080(e), transfer and spend money appropri-
2 ated for other purposes or, in situations involving natural disasters,
3 borrow from the United States government or other public or private
4 sources for a term not to exceed two years.

5 * Sec. 4. AS 26.23 is amended by adding a new section to read:

6 Sec. 26.23.215. RELATIONSHIP TO OTHER PLANNING STATUTES. To the
7 extent that the state emergency plan, interjurisdictional plans, and
8 local plans prepared under this chapter relate to action required to
9 avert damage from a release of oil or a hazardous substance, the plans
10 must be substantially equivalent in relevant respects to the emergency
11 plans prepared or approved by the Alaska State Emergency Response
12 Commission under AS 46.04.200 - 46.04.210 and AS 46.13 and use the
13 same incident command system used in those plans.

14 * Sec. 5. AS 39.50.200(b) is amended by adding a new paragraph to read:

15 (51) Hazardous Substance Spill Technology Review Council
16 (AS 46.13.110).

17 * Sec. 6. AS 44.66.010(a) is amended by adding a new paragraph to read:

18 (17) Hazardous Substance Spill Technology Review Council
19 (AS 46.13.110) -- June 30, 1994.

20 * Sec. 7. AS 46.03.020 is amended by adding a new paragraph to read:

21 (14) enter into agreements with agencies of the state and
22 federal government, political subdivisions, the University of Alaska,
23 or private entities to conduct research into oil and hazardous sub-
24 stances spill technology; the department shall include in the research
25 topics for which it conducts or contracts for research, the research
26 topics recommended to it by the Hazardous Substance Spill Technology
27 Review Council under AS 46.13.120.

28 * Sec. 8. AS 46.03.865(a) is amended to read:

29 (a) When the department finds that an actual or imminent dis-

1 charge of oil, a hazardous substance, or low level radioactive mate-
2 rials to the air, water, land, or subsurface land of the state poses
3 an immediate threat to the public health or welfare [,] or the envi-
4 ronment of the state, it may issue an order declaring an emergency and
5 directing a person or persons to take action the department believes
6 necessary to meet the emergency, and protect the public health, wel-
7 fare, or environment. The department may also exercise the authority
8 granted to the oil and hazardous substance response office under
9 AS 46.08.140. However, if the situation for which the department
10 declares an emergency develops into a catastrophic oil discharge, as
11 defined in AS 46.04.900, or becomes a declared disaster emergency
12 under AS 26.23, the division of emergency services, Department of
13 Military and Veterans' Affairs, shall exercise the authority of the
14 department under this subsection and the department's activities shall
15 be subject to the approval of the division.

16 * Sec. 9. AS 46.03.865(c) is amended to read:

17 (c) During a period of emergency declared under (a) of this
18 section, each state agency, including, when appropriate, the division
19 of emergency services, Department of Military and Veterans' Affairs
20 [UNDER THE AUTHORITY CONFERRED BY AS 26.20], shall take whatever
21 action the department finds necessary to meet the emergency [,] and to
22 protect the public health, welfare, or environment. However, if the
23 situation for which the department declared an emergency develops into
24 a catastrophic oil discharge, as defined in AS 46.04.900, or becomes a
25 declared disaster under AS 26.23, each state agency, including the
26 department, shall take whatever action the division of emergency
27 services finds is necessary to meet the disaster and to protect the
28 public health, welfare, or environment.

29 * Sec. 10. AS 46.04.080(a) is amended to read:

1 (a) The actual or imminent occurrence of a catastrophic oil
2 discharge constitutes a disaster emergency under AS 26.23 without a
3 declaration of disaster by the governor under AS 26.23.020. The [.
4 HOWEVER, THE] department shall augment and support [PERFORM THE DUTIES
5 OF] the Alaska division of emergency services, Department of Military
6 and Veterans' Affairs, in the performance of the division's duties
7 under AS 26.23.040 and AS 46.08.100 - 46.08.190 as they apply to
8 catastrophic oil discharges. During a response to a catastrophic oil
9 discharge, the [THE] department shall consult and coordinate its
10 duties [UNDER THIS SECTION] with the Alaska division of emergency ser-
11 vices and act under directives of the division.

12 * Sec. 11. AS 46.04.090(a) is amended to read:

13 (a) The department, when feasible, shall enter into contracts
14 with persons or private organizations to provide the personnel, equip-
15 ment, or other services or supplies that [WHICH] may be required to
16 carry out this chapter. Contracts under this section are governed by
17 AS 36.30 (State Procurement Code). When private contracting is not
18 feasible, the department may establish and maintain at ports, harbors,
19 or other locations in the state, the cleanup personnel, equipment, and
20 supplies that [WHICH], in its judgment, are necessary to carry out
21 this chapter. When exercising its authority under this subsection,
22 the department shall coordinate with the oil and hazardous substance
23 response office in the Department of Military and Veterans' Affairs to
24 avoid duplication of efforts.

25 * Sec. 12. AS 46.04.200 is amended to read:

26 Sec. 46.04.200. STATE MASTER PLAN. (a) The Alaska State Emer-
27 gency Response Commission [DEPARTMENT] shall prepare and annually
28 review and revise a statewide master oil and hazardous substance
29 discharge and prevention contingency plan.

1 (b) The state master plan prepared under this section must

2 (1) take into consideration the elements of an oil dis-
3 charge contingency plan approved or submitted for approval by the
4 Department of Environmental Conservation under AS 46.04.030;

5 (2) include an incident command system consistent with the
6 requirements of AS 46.13.090(b) that clarifies and specifies [CLARIFY
7 AND SPECIFY] the respective responsibilities of each of the following
8 in the assessment, containment, and cleanup of a [CATASTROPHIC OIL
9 DISCHARGE OR OF A SIGNIFICANT] discharge of oil or a hazardous sub-
10 stance into the environment of the state:

11 (A) the Department of Environmental Conservation, the
12 division of emergency services in the Department of Military and
13 Veterans' Affairs, and other agencies of the state;

14 (B) municipalities of the state;

15 (C) appropriate federal agencies;

16 (D) operators of facilities;

17 (E) private parties whose land and other property may
18 be affected by the oil or hazardous substance discharge; and

19 (F) other parties identified by the commission [COM-
20 MISSIONER] as having an interest in or the resources to assist in
21 the containment and cleanup of an oil or hazardous substance
22 discharge;

23 (3) include an incident command system consistent with the
24 requirements of AS 46.13.090(b) that specifies [SPECIFY] the respec-
25 tive responsibilities of parties identified in (2) of this subsection
26 in an emergency response under AS 26.23, AS 46.03.865, or AS 46.04.-
27 080; and

28 (4) identify actions necessary to reduce the likelihood of
29 catastrophic oil discharges and significant discharges of hazardous

1 substances.

2 (c) In preparing and annually reviewing the state master plan,
3 the commission [COMMISSIONER] shall

4 (1) consult with municipal and community officials, and
5 with representatives of affected regional organizations;

6 (2) submit the draft plan to the public for review and
7 comment;

8 (3) submit to the legislature for review, not later than
9 the 10th day following the convening of each regular session, the plan
10 and any annual revision of the plan; and

11 (4) require or schedule unannounced oil spill drills to
12 test the sufficiency of an oil discharge contingency plan approved
13 under AS 46.04.030 or of the cleanup plans of a party identified under
14 (b)(2) of this section.

15 * Sec. 13. AS 46.04.210(a) is amended to read:

16 (a) For any region of the state, the boundaries of which are
17 determined by the commission [COMMISSIONER] by regulation, in which
18 the department is required to review and approve an oil discharge
19 contingency plan submitted by a person under AS 46.04.030, the commis-
20 sion [DEPARTMENT] shall prepare and annually review and revise a
21 regional master oil and hazardous substance discharge and prevention
22 contingency plan.

23 * Sec. 14. AS 46.04 is amended by adding a new section to article 2 to
24 read:

25 Sec. 46.04.220. DEFINITION. In AS 46.04.200 - 46.04.210, "com-
26 mission" means the Alaska State Emergency Response Commission estab-
27 lished under AS 46.13.

28 * Sec. 15. AS 46.08.040 is amended by adding new subsections to read:

29 (b) When the governor declares a disaster related to an oil or

1 hazardous substance discharge emergency under AS 26.23.020(c), the
2 governor may, during the effective period of the disaster emergency,
3 use money from the fund to respond to the disaster emergency.

4 (c) The adjutant general of the Department of Military and
5 Veterans' Affairs may use money from the fund to pay costs incurred by
6 the division of emergency services, Department of Military and Veter-
7 ans' Affairs, to

8 (1) establish and maintain the oil and hazardous substance
9 response office and for the expenses of the oil and hazardous sub-
10 stance response corps and the oil and hazardous substance response
11 depots established by that office; and

12 (2) contain, clean up, and take other necessary action to
13 address a release or threatened release of oil or a hazardous sub-
14 stance.

15 (d) The Alaska State Emergency Response Commission may use money
16 from the fund to prepare, review, and revise the state and regional
17 master oil and hazardous substance discharge and prevention contingen-
18 cy plans required under AS 46.04.200 - 46.04.210.

19 * Sec. 16. AS 46.08.060(a) is amended to read:

20 (a) The commissioner shall submit a report to the legislature
21 not later than the 10th day following the convening of each regular
22 session of the legislature. The report may include information con-
23 sidered significant by the commissioner but must include:

24 (1) the amount of money expended by the department under
25 AS 46.08.040(a) [AS 46.08.040] during the preceding fiscal year;

26 (2) the amount and source of money received and money
27 recovered by or on behalf of the department during the preceding
28 fiscal year as specified in AS 46.08.020;

29 (3) a summary of municipal participation in the depart-

1 ment's responses that were funded by the fund;

2 (4) a detailed summary of department activities in respon-
3 ses funded by the fund during the preceding fiscal year, including
4 response descriptions and statements outlining the nature of the
5 threat; and

6 (5) the projected cost to the department for the next
7 fiscal year of monitoring, operating, and maintaining sites where
8 response has been completed or is expected to be continued during the
9 fiscal year.

10 * Sec. 17. AS 46.08.060 is amended by adding a new subsection to read:

11 (c) In addition to the department's report required under (a) of
12 this section, the governor, the Department of Military and Veterans'
13 Affairs, and the Alaska State Emergency Response Commission shall each
14 submit a report about their use of the fund during the previous fiscal
15 year to the legislature not later than the 10th day following the
16 convening of each regular session of the legislature. The report by
17 the Department of Military and Veterans' Affairs must include informa-
18 tion about its activities that is the same as the information required
19 under (a) of this section for activities of the Department of Environ-
20 mental Conservation as well as a detailed explanation of its use of
21 the fund for the oil and hazardous substance response office, corps,
22 and depots under AS 46.08.040(c)(1). In the governor's report, the
23 governor shall describe in detail the governor's use of money from the
24 fund, with separate explanations, by agency, of the activities that
25 were funded under the authority of AS 46.08.040(b). The commission's
26 report must include an explanation of its expenditures under the
27 authority of AS 46.08.040(d).

28 * Sec. 18. AS 46.08.070(a) is amended to read:

29 (a) The commissioner and the adjutant general shall seek reim-

1 bursement promptly under this section, AS 46.03.760(e), or federal law
2 for the cost incurred in the cleanup or containment of oil or a haz-
3 ardous substance that has been released.

4 * Sec. 19. AS 46.08.070(b) is amended to read:

5 (b) The attorney general, at the request of the commissioner or
6 the adjutant general, shall immediately seek to recover money expended
7 by the department or the division of emergency services under AS 46.-
8 08.005 - 46.08.080 or other law to contain and clean up oil or a
9 hazardous substance that has been released or to control the threaten-
0 ed release of oil or a hazardous substance.

1 * Sec. 20. AS 46.08.100 is amended to read:

2 Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the
3 division of emergency services, Department of Military and Veterans'
4 Affairs, [DEPARTMENT] the oil and hazardous substance response office.
5 The office shall include a director and employees who are specially
6 trained in programs and technologies related to the containment and
7 cleanup of releases or threatened releases of oil and hazardous sub-
8 stances.

9 * Sec. 21. AS 46.08.110(c) is amended to read:

0 (c) Members of the corps are entitled to per diem and expenses
1 as determined by the division [COMMISSIONER] for training and for days
2 spent in service to the state in containment and cleanup actions.

3 * Sec. 22. AS 46.08.130(b) is amended to read:

4 (b) The office may respond under (a) of this section to an oil
5 or hazardous substance discharge only if:

6 (1) the oil discharge is a catastrophic oil discharge that
7 constitutes a disaster [AN] emergency under AS 46.04.080(a);

8 (2) the discharge of oil or a hazardous substance is de-
9 clared to be an emergency under AS 46.03.865;

(3) the governor declares the discharge an emergency under AS 26.23; or

(4) the division director or the commissioner of environmental conservation reasonably believes that there has been a discharge of oil or a hazardous substance, or that there is a potential discharge of oil or a hazardous substance, and the discharge may qualify under (1) - (3) of this subsection; or

(5) the office is requested by the commissioner of environmental conservation to assist the department because the commissioner reasonably believes that the discharge or potential discharge poses an imminent and substantial threat to public health or welfare or to the environment.

* Sec. 23. AS 46.08.130 is amended by adding a new subsection to read:

(c) When the office responds to an oil or hazardous substance discharge under this section, its activities are governed by the incident command system applicable to the type of discharge to which it is responding, as required under AS 46.13.090(b).

* Sec. 24. AS 46.08.190 is amended by adding a new paragraph to read:

(4) "division" means the division of emergency services, Department of Military and Veterans' Affairs.

* Sec. 25. AS 46.08 is amended by adding new sections to read:

ARTICLE 3. RESPONSE TECHNOLOGIES.

Sec. 46.08.200. APPROVAL PROCESS FOR RESPONSE TECHNOLOGIES. (a) The department shall, by regulation, adopt procedures and criteria it will use for approving or disapproving equipment, substances, and other technologies for use in containment and cleanup of a release of oil or a hazardous substance. The regulations must include the protocols developed by the Hazardous Substance Spill Technology Review Council under AS 46.13.120 and provide that the approval process will

1 take no longer than six months after the date the department receives
2 an application for approval.

3 (b) A person may apply to the department for approval of equip-
4 ment, a substance, or other technology for use in containment or
5 cleanup of a potential release of oil or a hazardous substance. An
6 application under this subsection must be in written form and include
7 information requested by the department.

8 Sec. 46.08.210. PROHIBITION. A person may not use equipment, a
9 substance, or other technology for containment or cleanup of a release
10 of oil or a hazardous substance unless the equipment, substance, or
11 other technology has been approved by the department for that use.

12 * Sec. 26. AS 46.09.030 is amended to read:

13 Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner of
14 environmental conservation or the director of the division of emer-
15 gency services, Department of Military and Veterans' Affairs, may
16 request the governor to determine that an actual or imminent release
17 of a hazardous substance constitutes a disaster emergency under
18 AS 26.23. If the governor declares a disaster emergency under AS 26.-
19 23, the commissioner shall [MAY] assist the division of emergency
20 services, Department of Military and Veterans' Affairs, [ADJUTANT
21 GENERAL] in the relief of the emergency.

22 * Sec. 27. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 13. ALASKA STATE EMERGENCY RESPONSE COMMISSION.

24 Sec. 46.13.010. ALASKA STATE EMERGENCY RESPONSE COMMISSION
25 ESTABLISHED. (a) There is established in the Department of Military
26 and Veterans' Affairs the Alaska State Emergency Response Commission.

27 (b) The oil and hazardous substance response office established
28 under AS 46.08.100 shall serve as staff for the commission.

29 Sec. 46.13.020. COMPOSITION OF THE COMMISSION. The commission

consists of the commissioners of community and regional affairs, environmental conservation, fish and game, health and social services, labor, natural resources, public safety, and transportation and public facilities, or the designees of the commissioners, the adjutant general of the Department of Military and Veterans' Affairs or a designee, and seven public members to be appointed by the governor. To the extent practicable, the commission must include members with expertise in the emergency response field.

Sec. 46.13.030. OFFICERS, TERMS, AND COMPENSATION. The adjutant general of the Department of Military and Veterans' Affairs, or the adjutant general's designee, shall chair the commission. The commissioner of environmental conservation, or the commissioner's designee, shall serve as vice-chair. Members of the commission other than those from the designated state departments serve at the pleasure of the governor for staggered terms of three years. Members of the commission serve without compensation but are entitled to per diem and travel expenses authorized for members of boards and commissions under AS 39.20.180.

Sec. 46.13.040. POWERS AND DUTIES OF COMMISSION. The commission shall

(1) serve as the state emergency response commission required under 42 U.S.C. 11001 - 11005;

(2) designate, and revise as necessary, the boundaries of emergency planning districts, using the boundaries of political subdivisions if appropriate;

(3) review, oversee, and facilitate the preparation and implementation of emergency plans for hazardous substance response, including the statewide and local plans prepared under AS 26.23;

(4) prepare, review, and revise the statewide and regional

1 master oil and hazardous substance discharge and prevention contingency
2 plans required under AS 46.04.200 - 46.04.210;

3 (5) establish a local emergency planning committee for each
4 emergency planning district, and appoint, and revise as necessary, the
5 membership of each committee;

6 (6) supervise and coordinate the activities of local emer-
7 gency planning committees;

8 (7) establish procedures for receiving and processing
9 requests from the public for information under 42 U.S.C. 11044, in-
10 cluding tier II information under 42 U.S.C. 11022;

11 (8) perform other coordinating, advisory, or planning tasks
12 related to hazardous substance emergency planning and preparedness,
13 community right-to-know reporting, toxic chemical release reporting,
14 or management of hazardous substances;

15 (9) provide procedures and oversight to integrate, as
16 appropriate, hazardous substance response planning under 42 U.S.C.
17 11001 - 11005, federal contingency planning under 33 U.S.C. 1321 and
18 other federal laws applicable to hazardous substance discharges, and
19 state, regional, and local hazardous substance contingency planning
20 under AS 26.23 and AS 46.04.200 - 46.04.210;

21 (10) to the extent consistent with the constitution and law
2 of the state, perform all other functions prescribed for state emer-
3 gency response commissions under 42 U.S.C. 11001 - 11005; and

4 (11) adopt regulations necessary to carry out the purposes
5 of this chapter and 42 U.S.C. 11001 - 11005.

6 Sec. 46.13.050. AGENCY COOPERATION. The commission may request
7 data, reports, or other information from a state agency. To the
8 extent feasible and not otherwise prohibited by laws making specific
9 information confidential and nondisclosable, a state agency shall

1 cooperate with the commission and furnish the commission with the
2 information and assistance necessary to accomplish the purposes of 42
3 U.S.C. 11001 - 11005 and this chapter.

4 Sec. 46.13.060. EMERGENCY PLANNING DISTRICT BOUNDARIES. Bound-
5 aries for emergency planning districts are the regions designated by
6 the division of emergency services, Department of Military and Veter-
7 ans' Affairs unless otherwise designated by the commission.

8 Sec. 46.13.070. LOCAL EMERGENCY PLANNING COMMITTEES. The com-
9 mission shall establish and appoint the members of a local emergency
0 planning committee for each emergency planning district. Each commit-
1 tee must include, at a minimum, representatives from each of the
2 following groups or organizations: elected state and local officials;
3 law enforcement; civil defense; fire fighting; first aid; health;
4 local environmental, hospital, and transportation personnel; broadcast
5 and print media; community groups; and owners and operators of facili-
6 ties subject to the requirements of 42 U.S.C. 11001 - 11005.

7 Sec. 46.13.080. DUTIES OF LOCAL EMERGENCY PLANNING COMMITTEES.
8 Each local emergency planning committee shall

9 (1) establish procedures for receiving and processing
0 requests from the public for information under 42 U.S.C. 11044, in-
1 cluding tier II information under 42 U.S.C. 11022;

2 (2) appoint a chair and establish rules by which the com-
3 mittee shall function, including provisions for public notification of
4 committee activities, public meetings to discuss the emergency plan,
5 public comments, response to the comments by the committee, distribu-
6 tion of the emergency plan, and designation of an official to serve as
7 coordinator for information;

8 (3) prepare and periodically review an emergency plan in
9 accordance with 42 U.S.C. 11003(a);

1 (4) evaluate the need for resources necessary to develop,
2 implement, and exercise the emergency plan, and make recommendations
3 with respect to additional resources that may be required and the
4 means for providing the additional resources;

5 (5) to the extent consistent with the constitution and law
6 of the state, perform all other functions prescribed for emergency
7 planning committees in 42 U.S.C. 11001 - 11005; and

8 (6) participate as a local advisory committee in the prepa-
9 ration of statewide regional contingency plans.

10 Sec. 46.13.090. EMERGENCY PLANS. (a) Each emergency plan must
11 include

12 (1) identification of facilities subject to the
13 requirements of 42 U.S.C. 11001 - 11005 that are within the emergency
14 planning district, identification of routes likely to be used for the
15 transportation of substances on the list of extremely hazardous sub-
16 stances referred to in 42 U.S.C. 302(a), and identification of addi-
17 tional facilities contributing or subjected to additional risk due to
18 their proximity to facilities subject to the requirements of 42 U.S.C.
19 11001 - 11005 such as hospitals or natural gas facilities;

20 (2) methods and procedures to be followed by facility
21 owners and operators and local emergency and medical personnel to
22 respond to a release of hazardous substances, and to a release of
23 substances on the list of extremely hazardous substances referred to
24 in 42 U.S.C. 302(a);

25 (3) designation of a community emergency coordinator and
26 facility emergency coordinators, who shall make determinations neces-
27 sary to implement the emergency plan;

28 (4) procedures providing reliable, effective, and timely
29 notification by the facility emergency coordinators to persons des-

1 ignated in the emergency plan, and to the public, that a release has
2 occurred, consistent with the emergency notification requirements of
3 42 U.S.C. 11004;

4 (5) methods for determining the occurrence of a release,
5 and the area or population likely to be affected by that release;

6 (6) a description of emergency equipment and facilities in
7 the community and at each facility in the community subject to the
8 requirements of 42 U.S.C. 11001 - 11005, and an identification of the
9 persons responsible for the equipment and facilities;

10 (7) evacuation plans, including provisions for a precau-
11 tionary evacuation and alternative traffic routes;

12 (8) training programs, including schedules for training of
13 local emergency response and medical personnel; and

14 (9) methods and schedules for exercising the emergency
15 plan.

16 (b) Each emergency plan must incorporate within it an incident
17 command system. The incident command system must provide that final
18 state decision-making authority in situations involving a response to
19 a release of a hazardous substance lies with the Department of Envi-
20 ronmental Conservation unless the release is a declared disaster
21 emergency under AS 26.23 or a catastrophic oil discharge under AS 46.-
22 04.080, in which case the incident command system must provide that
23 final state decision-making authority lies with the division of emer-
24 gency services, Department of Military and Veterans' Affairs.

25 Sec. 46.13.100. FINDINGS AND PURPOSE. The legislature

26 (1) finds and declares that there exists a lack of scien-
27 tific knowledge concerning the availability, properties, and effec-
28 tiveness of various hazardous substance containment and cleanup tech-
29 nologies; and

1 (2) concludes that it is in the best interest of the state
2 and its citizens to establish a Hazardous Substance Spill Technology
3 Review Council in the Alaska State Emergency Response Commission to
4 assist in the identification of containment and cleanup products and
5 procedures for arctic and sub-arctic hazardous substance releases and
6 make recommendations to the departments and agencies of the state
7 regarding their use and deployment.

8 Sec. 46.13.110. HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW
9 COUNCIL. (a) There is established in the Alaska State Emergency
10 Response Commission the Hazardous Substance Spill Technology Review
11 Council.

12 (b) The council consists of the adjutant general of the
13 Department of Military and Veterans' Affairs, the commissioner of
14 environmental conservation, a representative of the University of
15 Alaska appointed by the governor, the governor's senior science advi-
16 sor, a representative of the Prince William Sound Science Center in
17 Cordova appointed by the governor, and four other members, one from
18 each judicial district of the state, appointed by the governor, with
19 broad experience or expertise in one or more of the following areas:
20 physical or biological science; oil technology, transportation, or
21 management; fisheries; economics; environmental engineering; or law.
22 The U.S. Coast Guard and the Environmental Protection Agency may each
23 appoint a federal employee to the council to represent their agencies
24 as nonvoting members. Appointed state members of the council serve
25 overlapping three-year terms.

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

28 (d) The oil and hazardous substance response office established
29 under AS 46.08.100 shall serve as staff for the council.

1 (e) State and federal members of the council serve without
2 compensation, but are entitled to per diem and travel expenses autho-
3 rized for boards and commissions under AS 39.20.180.

4 (f) The council shall meet regularly at the call of the commis-
5 sion or the chair of the council.

6 (g) State members of the council are subject to AS 39.50.

7 Sec. 46.13.120. DUTIES OF THE COUNCIL. The council shall

8 (1) review and recommend to the Department of Environmental
9 Conservation research topics for it to pursue under its authority in
0 AS 46.03.020(a)(14);

1 (2) establish testing protocols to be used by the Depart-
2 ment of Environmental Conservation to evaluate the effectiveness of
3 hazardous substance spill technologies for use in the state;

4 (3) identify sources of money that may be available for
5 discharge-related research;

6 (4) make proposals to the governor and commission to en-
7 courage and fund prevention, response, cleanup, and mitigation of
8 future discharges of hazardous substances;

9 (5) compile and maintain information relating to

0 (A) containment and cleanup technology that is avail-
1 able in the event of a hazardous substance discharge, the extent
2 to which current containment and cleanup technology is available
3 and may be applied in the state, and ways to improve hazardous
4 substance spill response technology and procedures;

5 (B) steps that should be taken by government and
6 industry to ensure proper management, handling, and transporta-
7 tion of hazardous substances and to improve the statewide ability
8 of industry and governmental agencies to respond to discharges of
9 hazardous substances;

1 (C) the extent to which industry practices and govern-
2 mental practices or laws should be changed to reduce or minimize
3 the potential for hazardous substance discharges;

4 (D) hazardous substances spill technology research
5 conducted by the Department of Environmental Conservation; and

6 (6) perform other functions as may be requested by the
7 commission.

8 Sec. 46.13.130. INVESTIGATIONS; HEARINGS. (a) The council may
9 issue subpoenas, administer oaths, and conduct investigations related
10 to its duties.

11 (b) The council may compel the attendance of witnesses and
12 production of papers, books, records, accounts, documents, and
13 testimony, and may have the deposition of witnesses taken in a manner
14 prescribed by court rule or law for the taking of depositions in civil
15 actions when consistent with the duties assigned to the council.

16 (c) On a majority vote of the council, subpoenas and subpoenas
17 duces tecum may be issued and served in the manner prescribed by
18 AS 44.62.430(b) and (c) and court rule. The failure, refusal, or
19 neglect to obey a subpoena is punishable as contempt in the manner
20 prescribed by law or court rule. The superior court may compel obedi-
21 ence to the council's subpoena in the same manner as prescribed for
22 obedience to a subpoena issued by the court.

23 (d) State agencies shall, to the extent permitted by law, coop-
24 erate with the council and provide it with information it requests for
25 carrying out its duties.

26 Sec. 46.13.900. DEFINITIONS. In this chapter,

27 (1) "commission" means the Alaska State Emergency Response
28 Commission;

29 (2) "council" means the Hazardous Substance Spill Technol-

ogy Review Council;

(3) "hazardous substance" has the meaning given in AS 46.-03.826.

* Sec. 28. TRANSITIONAL PROVISION. The Alaska State Emergency Response Commission established under AS 46.13, enacted by sec. 27 of this Act, is a continuation of the Alaska State Emergency Response Commission established by Administrative Order No. 103. The terms of the public members of the commission who are serving terms on the effective date of this section continue until the date that was scheduled for their expiration before the effective date of this section.

* Sec. 29. TESTING PROCEDURES. (a) The Hazardous Substance Spill Technology Review Council shall establish the initial testing protocols required under AS 46.13.120(2), enacted by sec. 27 of this Act, by January 1, 1991.

(b) The Department of Environmental Conservation shall adopt the initial regulations required under AS 46.08.200(a), enacted by sec. 25 of this Act, by July 1, 1991.

* Sec. 30. AS 46.08.040(2), 46.08.040(5), and 46.08.150(3) are repealed.

* Sec. 31. AS 46.08.210, enacted by sec. 25 of this Act, takes effect July 1, 1992.

* Sec. 32. Except as provided in sec. 31 of this Act, this Act takes effect July 1, 1990.

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ponsor(s): Rules/Governor

SE BY THE SENATE SPECIAL COMMITTEE ON OIL & GAS
SENATE CS FOR CS FOR HOUSE BILL NO. 567 (Oil & Gas)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

entitled: "An Act relating to oil discharge prevention and contingency plan requirements, financial responsibility requirements related to oil, penalties, and inspection authority of the Department of Environmental Conservation; relating to the oil and hazardous substance release response fund and responses to oil and hazardous substance emergencies; authorizing the Department of Environmental Conservation and municipalities to enter into agreements pertaining to vessel traffic control and monitoring systems; and providing for an effective date."

ED BY THE LEGISLATURE OF THE STATE OF ALASKA:

on 1. AS 29.35.020 is amended by adding a new subsection to

d) A municipality may enter into agreements with the United Coast Guard, the United States Environmental Protection Agency, other persons relating to development and enforcement of vessel traffic control and monitoring systems for oil barges and tank vessels carrying oil operating in or near the waters of the state.

AS 46.03.759(c) is amended to read:

a) Subject to the \$500,000,000 maximum set under (a) of this section, the court shall assess four times the penalty set out in (a) of this section if the court finds

(1) the discharge was caused by the gross negligence or