

**SCOMM**

**62:30**

# Alaska State Legislature

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

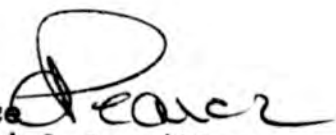


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ANCHORAGE, ALASKA 99503  
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## SENATE SPECIAL COMMITTEE ON OIL AND GAS

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

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STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

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 *Paw*  
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						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0					
<b>REVENUE</b>	0					

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
<b>TOTAL</b>	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: *Donald H. Atiles* 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. Kyle

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
<b>TOTALS</b>	<b>115.4</b>	<b>80.4</b>	<b>23.0</b>	<b>2.0</b>	<b>10.0</b>	<b>\$230.8</b>

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: *A. D. Kyle*  
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
<b>TOTALS</b>		<b>88.3</b>	<b>347.0</b>			<b>\$435.3</b>

# REQUEST: FISCAL NOTE

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

## 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						
REVENUE						

## 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.

*Richard L. Pegues*  
Richard L. Pegues, Director

Prepared by: \_\_\_\_\_  
 Division: Administrative Services  
 Approved by Commissioner: *Richard L. Pegues (FOR)*  
 Agency: Department of Law  
 Approved by Commissioner: Douglas R. Raily, Attorney General

Phone: 465-3672  
 Date: April 2, 1990  
 Date: April 2, 1990

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*

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SCS CSRS 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 Environment 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. SCS CSMB 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.  
 Sponsor: Governor  
 Requestor: Senate Oil and Gas Committee

Agency Affected: DMVA  
 BRU: Disaster Planning & Control  
 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						
<b>TOTAL OPERATING</b>	<b>2111.8</b>	<b>2011.8</b>	<b>2011.8</b>	<b>2011.8</b>	<b>2011.8</b>	<b>2011.8</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	2111.8	2011.8	2011.8	2011.8	2011.8	2011.8
<b>TOTAL</b>						

**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  
 Division: Administrative & Support Services, DMVA  
 Approved by Commissioner MG John Schaeffer  
 Agency: Department of Military & Veterans Affairs

Phone: 465-4600  
 Date: 4/2/90  
 Date: 4/2/90

- 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, SLA 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, SLA 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.

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:

**Board Members at-large**

Cliff Eames  
(ACE, Anchorage)

Marsha Hodson  
(Anchorage)

Steve Kallick  
(SEACC, Juneau)

Dr. Riki Ott  
(Cordova)

Gerald Sanger  
(Whittier)

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 arduous 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

1 consists of the commissioners of community and regional affairs,  
2 environmental conservation, fish and game, health and social services,  
3 labor, natural resources, public safety, and transportation and public  
4 facilities, or the designees of the commissioners, the adjutant gen-  
5 eral of the Department of Military and Veterans' Affairs or a desig-  
6 nee, and seven public members to be appointed by the governor. To the  
7 extent practicable, the commission must include members with expertise  
8 in the emergency response field.

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

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

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

23 (2) designate, and revise as necessary, the boundaries of  
24 emergency planning districts, using the boundaries of political sub-  
25 divisions if appropriate;

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

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

1 master oil and hazardous substance discharge and prevention contingen-  
2 cy 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  
22 of the state, perform all other functions prescribed for state emer-  
23 gency response commissions under 42 U.S.C. 11001 - 11005; and

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

26 Sec. 46.13.050. AGENCY COOPERATION. The commission may request  
27 data, reports, or other information from a state agency. To the  
28 extent feasible and not otherwise prohibited by laws making specific  
29 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

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

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

(3) prepare and periodically review an emergency plan in  
6 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-

1           ogy Review Council;

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

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

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

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

18           \* Sec. 30. AS 46.08.040(2), 46.08.040(5), and 46.08.150(3) are re-  
19 pealed.

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

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

NOTE TO THE FILE:

SENATE FINANCE COMMITTEE,

SUBCOMMITTEE ON HB 566 -

MEETING TAPES FOR 4-30-90

WHICH WERE WITH THESE  
FILES, ARE NOW WITH THE  
1989-1990 SENATE FINANCE  
COMMITTEE TAPES.