

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6501 SENATE RESOURCES 905

1 prepared for the purpose, to waive the confidential treatment of  
2 information about the borrower's loan. The borrower shall designate  
3 on the form the names of persons and organizations to whom information  
4 about the loan may be released. If the person agrees to a waiver  
5 under this section and thereafter requests two extensions of payments  
6 or defaults on the note, the commissioner may release information  
7 about the loan to the persons and organizations specified by the  
8 debtor.

9 \* Sec. 9. AS 16.43.960 is amended by adding a new subsection to read:

10 (j) The commission shall immediately cancel a limited entry  
11 permit card issued to a debtor under a loan made under AS 16.10.300 -  
12 16.10.370 when the commission receives a certificate of loan termina-  
13 tion containing a copy of the

14 (1) notice required by AS 16.10.335(a); or

15 (2) notice that the automatic stay issued if the debtor has  
16 filed bankruptcy is no longer in effect.

17 \* Sec. 10. This Act takes effect immediately under AS 01.10.070(c).  
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**S B**

**260**

SENATE COMMITTEE REPORT

FURTHER

FIN

4/14/89

DATE TURNED INTO OFFICE

Mr. President:

RESOURCES

Committee considered

SB 260

levying a severance tax on oil; efd

and recommended

*the Oil & Gas CS + may do pass*

- replace with \_\_\_\_\_ CS ~~25~~ )  same title
- or adopt \_\_\_\_\_ CS SB 260 (oil and gas) )  new title
- attached amendment(s) and  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

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

- FISCAL NOTE(S)**  zero  fiscal impact  appropriation no FN  
 new  updated  previous  
 same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*[Handwritten signatures]*  
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*[Handwritten signature]*  
 \_\_\_\_\_  
 Chairman signature and recommendation

Committee Backup attached

A M E N D M E N T

OFFERED IN THE SENATE

BY THE RESOURCES COMMITTEE

TO: CSSB 260 (Oil & Gas)

Page 4, following line 1:

Insert a new bill section to read:

"\* Sec. 3. APPLICATION OF AS 43.59.060. (a) AS 43.59.060, added by sec. 2 of this Act, does not apply to prevent the levy and collection of the severance tax imposed by AS 43.59 until the first day of the fiscal year next following the day on which the balance of the oil and hazardous substance release response fund first exceeds \$100,000,000.

(b) The commissioner of administration shall certify to the commissioner of environmental conservation, the commissioner of revenue, and the division of legislative finance the date on which the balance of the oil and hazardous substance release response fund first exceeds \$100,000,000."

Renumber the following bill section accordingly.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
LINEAL ALASKA 99811  
407 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 19, 1989

SUBJECT: Levying a nickel-per-barrel severance tax on oil for support of the oil and hazardous substance release response fund (CSSB 260 (Oil & Gas))

TO: Senator Jalmar Kerttula

FROM: Jack Chenoweth  
Legislative Counsel 

This legislation imposes a 5 cent per barrel tax on oil that is subject to the state's oil and gas properties production (severance) tax and indicates the manner of the disposition of the proceeds of the tax.

Bill section 1, an uncodified provision, defines the purpose of the legislation.

Bill section 2, amending AS 43, imposes the tax. In essence:

-- AS 43.59.010 levies the nickel-per-barrel tax and defines its application.

-- AS 43.59.020, prescribing the process of administration and collection of the tax, ties it to administration of the current severance tax levied and collected under AS 43.55.

-- AS 43.59.030 requires deposit of the tax proceeds into the general fund and requires a separate accounting of them.

-- AS 43.59.040 authorizes the legislature to appropriate the annual estimated balance of revenue obtained from payment of the tax to the existing oil and hazardous substance release response fund (AS 46.08.010).

-- AS 43.59.050 prescribes circumstances under which the tax may be suspended and reimposed. Payment of the tax may be suspended commencing the first day of the second calendar

Senator Jalmar Kerttuia  
Page 2  
April 19, 1989

quarter following a determination that the difference between the cumulative deposits of the tax made through the calendar quarter and amounts expended from the contingency fund equal or exceed \$100,000,000. Payment of the tax is reimposed commencing the first day of the second calendar quarter following a determination that the difference between the cumulative deposits of the tax made through the calendar quarter and amounts expended from the contingency fund are less than \$100,000,000. The section sets out a process by which these determinations are to be made.

-- AS 43.59.060 authorizes a year-long suspension of the tax payable during a state fiscal year if the legislature fails to appropriate an amount of money from the general fund to restore the oil and hazardous substance release response fund to at least \$20,000,000.

-- Definitions pertinent to the tax are collected and set out in AS 43.59.100.

The bill is given an immediate effective date by bill section 3.

JC:gc  
WKG9/088

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Severance tax on oil

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

Sponsor: Kerttula and Szymanski  
Requestor: \_\_\_\_\_

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	0	32,000	30,000	28,000	26,000	23,000

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page for analysis.

Prepared By: Roger Marks  
Division: Oil & Gas Audit Division

Phone: 277-5627  
Date: April 10, 1989

Approved by Commissioner: Hugh Malone  
Agency: Department of Revenue

Date: 4/11/89

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

SB 260  
Fiscal Note Analysis

1. This bill imposes an additional severance tax on oil of 5¢ per barrel.
2. The FY 90 number is for the 12 month period. Depending on the actual effective date, the numbers can be multiplied proportionally.
3. The volumes are based on the mid-price scenario of the Spring 1989 Department of Revenue forecast.

Future Years

<u>Fiscal Year</u>	<u>\$ (000s)</u>
1995	20,000
1996	17,000
1997	15,000
1998	13,000
1999	11,000
2000	9,000
2001	8,000
2002	7,000
2003	6,000
2004	5,000
2005	4,000
2006	3,000
2007	3,000
2008	2,000

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Severance tax on oil

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

Sponsor: Kerttula and Szymanski  
Requestor: S. Oil & Gas Committee

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
<b>OPERATING</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
<b>CAPITAL</b>						
<b>REVENUE</b>	0	36,000	35,000	33,000	30,000	27,000

FUNDING: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page for analysis.

Prepared By: Roger Marks  
Division: Oil & Gas Audit Division

Phone: 277-5627  
Date: April 6, 1989

Approved by Commissioner: Hugh Malone  
Agency: Department of Revenue

Date: 4/10/89

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

SB 260  
Fiscal Note Analysis

1. This bill imposes an additional severance tax on oil of 5¢ per barrel.
2. The FY 90 number is for the 12 month period. Depending on the actual effective date, the numbers can be multiplied proportionally.
3. The volumes are based on the mid-price scenario of the Spring 1989 Department of Revenue forecast.

Future Years

<u>Fiscal Year</u>	<u>\$ (000s)</u>
1995	23,000
1996	20,000
1997	17,000
1998	15,000
1999	13,000
2000	11,000
2001	9,000
2002	8,000
2003	6,000
2004	6,000
2005	4,000
2006	4,000
2007	3,000
2008	3,000

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
 Title: An Act levying a severance tax  
on oil and providing for an effective date. BRU: Finance  
 Sponsor: Kerttula and Szymanski Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER 1034 PERS/TRS	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No cost to the Division of Finance. The cost to set up accounting for this can be absorbed in the existing budget.

Prepared By: Keith Busch, Director *Keith Busch* Phone: 465-2240  
 Division: Finance Date: 4/13/89

Approved by Commissioner: John M. Andrews *JM* Date: 4/13/89  
 Agency: Department of Administration

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



# Alaska State Legislature

APR 11 1989

## SENATE

Official Business

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

### SPONSOR STATEMENT

#### SENATE BILL 260, LEVYING A SEVERANCE TAX ON OIL

April 11, 1989

Senate Bill 260 would levy an additional \$.05 severance tax on the oil companies. It is the intent of this legislation that the revenues from this additional tax would be appropriated to the Oil and Hazardous Substance Release Response Fund, (the "470 Fund") administered by the Department of Environmental Conservation.

At present, legislative appropriations and reimbursement claims provide the only source of funding for this "470 Fund." The Legislature has appropriated an average of \$600,000 into the fund each year since its inception. The Department of Environmental Conservation estimates that it takes an average of three years before they can collect any money from the oil companies as reimbursement. For example, nothing has been received to date from the 1987 Cook Inlet spill. Before the Valdez oil spill, there was approximately \$1.2 million in the "470 Fund".

Thus, the State does not have any way of providing a continuing source of funding for this emergency fund. Senate Bill 260 is the simplest and easiest way to ensure that adequate funds are available to meet the State's responsibility for oil spill clean-up. For the oil companies, it is an infinitesimal contribution to the State's clean-up fund.

The State has learned from the recent disaster in Prince William Sound that we cannot rely on the oil companies to mobilize equipment and provide funds for an immediate response. We need a source of funding to immediately respond to a disaster ourselves.

This expensive spill indicates a minimum basic sustained need of \$250,000,000 in this fund.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Administration  
 Title: \* See below BRU: Finance  
 Sponsor: Kerttula and Szymanski Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

\* An Act levying a severance tax on oil and providing that all the proceeds of that tax may be appropriated to the oil and hazardous substance release response fund; and providing for an effective date.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER 1034 PERS/TRS	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No cost to the Division of Finance. The cost to set up central accounting for this can be absorbed in the existing budget.

Prepared By: Keith Busch, Director *Keith Busch*  
 Division: Finance

Phone: 465-2240  
 Date: 4/17/89

Approved by Commissioner: John M. Andrews *[Signature]*  
 Agency: Department of Administration

Date: 4/17/89

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

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Severance tax on oil

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

Sponsor: Kerttula and Szymanski  
Requestor: S. Spec. Comm. on Oil & Gas

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	0	32,000	30,000	28,000	26,000	23,000

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page for analysis.

Prepared By: Roger Marks  
Division: Oil & Gas Audit Division

Phone: 277-5627  
Date: April 17, 1989

Approved by Commissioner: Hugh Malone  
Agency: Department of Revenue

Date: 4/17/89

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

CS SB 260  
Fiscal Note Analysis

1. This bill imposes an additional severance tax on oil of \$.05 per barrel. This tax revenue is deposited into the general fund but a special accounting is to be kept of these deposits. Once the balance of deposits from this tax equals or exceeds \$100 million, the tax is discontinued until such time as the balance falls below \$100 million, at which point the tax is reimposed.
2. The FY 90 number is for the 12 month period. Depending on the actual effective date, the numbers can be multiplied proportionally.
3. The sum of revenue collected from this tax under our current assumptions from FY 90 through FY 94 is \$139 million, well above the \$100 million cap. The implied assumption made in this fiscal is that a significant portion of the revenue collected under this tax between FY 90 and FY 94 would be expended to ameliorate impacts of the EXXON/Valdez spill.
4. The volumes are based on the mid-price scenario of the Spring 1988 Department of Revenue forecast.

The following table illustrates the projected revenue potential of the \$.05 per barrel additional severance tax for FY 95 and beyond:

<u>Fiscal Year</u>	<u>Future Years Annual \$(000)</u>	<u>Cumulative \$(000)</u>
1995	20,000	20,000
1996	17,000	37,000
1997	15,000	52,000
1998	13,000	65,000
1999	11,000	76,000
2000	9,000	85,000
2001	8,000	93,000
2002	7,000	100,000

BILL: SB 260

NAME: CSSB 260(FIN) AM

TITLE: "An Act imposing a conservation surcharge of \$.05 per barrel on oil subject to the oil and gas properties production tax; authorizing the appropriation of the proceeds of the surcharge to the oil and hazardous substance release response fund; providing for suspension of the surcharge when cumulative deposits of revenue generated by the surcharge equal or exceed cumulative expenditures from the fund by \$50,000,000, and for reimposition of the surcharge when cumulative deposits of revenue generated by the surcharge do not < REFER TO BILL TEXT (PF5) FOR COMPLETE TITLE >

PRIME SPONSOR: KERTTULA  
CO-SPONSOR: SZYMANSKI

FUNDING : \$000 GENERAL(FNOTE) \$000 OTHER(FNOTE)

CURRENT STATUS: CHAPTER 112 SLA 89 STATUS DATE: 06/15/89

Selection=>

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT  
SB 260 Bill/Resolution Floor Action Page 2 of 5

Current Status: CHAPTER 112 SLA 89

Jrn-Date	Jrn-Page	Action
1 04/04/89	1050	(S) READ THE FIRST TIME - REFERRAL(S)
2 04/04/89	1050	(S) OIL & GAS. THE RESOURCES, FINANCE
3 04/14/89	1252	(S) O&G RPT CS 4NR NEW TITLE
4 04/17/89	1265	(S) FN TO SB PUBLISHED (REV)
5 04/17/89	1265	(S) ZERO FN TO SB PUBLISHED (ADM)
6 04/21/89	1346	(S) FN TO CS PUBLISHED (REV)
7 04/21/89	1346	(S) ZERO FN TO CS PUBLISHED (ADM) 4/20
8 04/21/89	1357	(S) FIN WAIVED FIVE-DAY NOTIFICATION RULE
9 04/21/89	1359	(S) RES RPT 4DP (O&G)CS
10 04/21/89	1360	(S) PREVIOUS FNS (REV, ADM)
11 04/28/89	1504	(S) FIN RPT CS 3DP 3NR NEW TITLE
12 04/28/89	1504	(S) ZERO FN TO CS PUBLISHED (REV)
13 04/28/89	1504	(S) ZERO FN TO CS PUBLISHED (ADM)
14 04/29/89	1519	(S) RULES TO CALENDAR
15 04/29/89	1526	(S) READ THE SECOND TIME
16 04/29/89	1526	(S) FIN CS ADOPTED UNAN CONSENT
17 04/29/89	1527	(S) AM NO 1 MOVED BY ADAMS
18 04/29/89	1527	(S) AM NO 1 FAILED Y2 N18

Selection=>

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD CHT/JRNL FIRST LAST QUIT  
BASIS Journal Text

04/21/89 SENATE JOURNAL PAGE 1359  
\_SB 260\_

The Resources Committee considered SENATE BILL NO. 260 (An Act levying a severance tax on oil; and providing for an effective date) and a majority of the committee recommended the Senate Special Committee on Oil and Gas Committee Substitute offered on page 1252 be adopted and do pass. The report was signed by Senator Fahrenkamp, Chair, and concurred in by Senators Zharoff, Kerttula and Sturgulewski.

04/21/89 SENATE JOURNAL PAGE 1360

Original sponsors: Kerttula and Szymanski

1 IN THE SENATE

BY THE SENATE SPECIAL  
COMMITTEE ON OIL AND GAS

2 CS FOR SENATE BILL NO. 260 (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 levying a severance tax on oil and providing  
7 that all the proceeds of that tax may be appropriated  
8 to the oil and hazardous substance release response  
9 fund; and providing for an effective date."

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

11 \* Section 1. PURPOSE. It is the purpose of this Act to provide a means  
12 by which to pay the expenses incurred in the protection of state land and  
13 water against the release of oil and hazardous substances that cause envi-  
14 ronmental damage or danger.

15 \* Sec. 2. AS 43 is amended by adding a new chapter to read:

16 CHAPTER 59. SEVERANCE TAX ON OIL FOR POLLUTION CONTROL.

17 Sec. 43.59.010. TAX LEVIED. Every producer of oil shall pay a  
18 tax of \$.05 per barrel of oil produced from each lease or property in  
19 the state, less any oil the ownership or right to which is exempt from  
20 taxation.

21 Sec. 43.59.020. ADMINISTRATION OF THE TAX. (a) The tax imposed  
22 by AS 43.59.010 is in addition to and shall be paid in the same manner  
23 as the taxes imposed by AS 43.55.

24 (b) A producer of oil shall make reports of production in the  
25 same manner and under the same penalties as required by AS 43.55.

26 Sec. 43.59.030. DISPOSITION OF TAX PROCEEDS. (a) The commis-  
27 sioner shall deposit the proceeds from the tax into the general fund.

28 (b) The commissioner of administration shall separately account  
29 for all proceeds of the tax deposited into the general fund.

1           Sec. 43.59.040. USE OF REVENUE DERIVED FROM TAX. The legisla-  
2           ture may appropriate the annual estimated balance of the account  
3           established under AS 43.59.030 to the oil and hazardous substance  
4           release response fund established by AS 46.08.010.

5           Sec. 43.59.050. SUSPENSION AND REIMPOSITION OF THE TAX. (a)  
6           Not later than 30 days after the end of each calendar quarter, the  
7           commissioner of administration shall determine the cumulative total of  
8           money

9                     (1) that has been deposited through that calendar quarter  
10                    into the general fund under AS 43.59.030;

11                   (2) expended through that calendar quarter from the oil and  
12                    hazardous substance release response fund established in AS 46.08.010.

13                   (b) Within 15 days after making the determinations required by  
14                    (a) of this section, the commissioner of administration shall report  
15                    to the commissioner the difference between the amount determined under  
16                    (a)(1) of this section and amount determined under (a)(2) of this  
17                    section.

18                   (c) If the commissioner of administration reports that the  
19                    difference determined under (b) of this section equals or exceeds  
20                    \$100,000,000, the commissioner of revenue may suspend imposition and  
21                    collection of the tax levied and collected under AS 43.59.010. If the  
22                    commissioner suspends imposition and collection of the tax, the sus-  
23                    pension begins on the first day of the calendar quarter next following  
24                    the commissioner's receipt of the commissioner of administration's  
25                    report under (b) of this section. Before the first day of a suspen-  
26                    sion authorized by this subsection, the commissioner shall make a  
27                    reasonable effort to notify all persons who are known to the depart-  
28                    ment to be paying the tax under this chapter that the tax will be  
29                    suspended.

1 (d) Except as provided in AS 43.59.060, if the commissioner of  
2 administration reports that the difference determined under (b) of  
3 this section is less than \$100,000,000, the commissioner of revenue  
4 shall require imposition and collection of the tax authorized under  
5 AS 43.59.010. Reimposition of the tax begins on the first day of the  
6 calendar quarter next following the commissioner's receipt of the  
7 commissioner of administration's report under (b) of this section.  
8 Before the first day of reimposition of the tax authorized by this  
9 subsection, the commissioner shall make a reasonable effort to notify  
10 all persons who are known to the department to be required to pay the  
11 tax under this chapter that the tax will be reimposed.

12 Sec. 43.59.060. TAX NOT IMPOSED. The tax authorized by this  
13 chapter is not levied during any fiscal year for which the estimated  
14 revenue from the tax would be sufficient to restore the balance of the  
15 oil and hazardous substance release response fund on the first day of  
16 the fiscal year to at least \$100,000,000, and the legislature does  
17 not, during the regular legislative session preceding the first day of  
18 the fiscal year, appropriate money from the general fund to the oil  
19 and hazardous substance release response fund sufficient to restore  
20 the balance of the fund on the first day of the fiscal year to at  
21 least \$100,000,000.

22 Sec. 43.59.100. DEFINITIONS. In this chapter

- 23 (1) "barrel of oil" has the meaning given in AS 43.55.140;  
24 (2) "lease or property" has the meaning given in AS 43.55.-  
25 140;  
26 (3) "oil" has the meaning given in AS 43.55.140;  
27 (4) "ownership or right to which is exempt from taxation"  
28 has the meaning given in AS 43.55.140;  
29 (5) "tax" means the cents-per-barrel severance tax levied

1 by AS 43.59.010.

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

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# Alaska State Legislature

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



WHILE IN JUNEAU  
P O BOX V  
JUNEAU, ALASKA 99801  
(907) 465 4993

111 C STREET, SUITE 150  
ANCHORAGE, ALASKA 99501  
(907) 561 2038

## SENATE SPECIAL COMMITTEE ON OIL AND GAS

To: Members of the Senate Special  
Committee on Oil and Gas

From: Committee staff

Re: SB 260, Sectional Analysis

Date: April 11, 1989

### Section 1. Purpose:

This act will provide a means to pay the costs related to protecting state lands from discharges of oil and hazardous substances.

### Section 2.

#### AS. 43.59.010. Tax Levied.

A \$.05 per barrel tax shall be assessed against every producer of oil produced from each lease or property in the state, less any oil which is exempt from taxation such as royalty oil.

#### AS 43.59.020. Administration of the Tax.

This tax is in addition to the oil production tax, and shall be paid monthly. The oil producer shall report, under oath, on forms prescribed or acceptable to the department with the required information. Each producer is subject to a penalty of \$25 a day for each lease or property upon which the report is not filed.

#### AS 43.59.030. Disposition of Tax Proceeds.

The commissioner of revenue will deposit the tax in the general fund. The legislature may appropriate the annual estimated balance to the oil and hazardous substance release response fund.

### Section 3:

Immediate effective date.

Testimony of Hugh Motley  
Vice President and General Tax Officer, ARCO Alaska, Inc.  
to  
Senate Oil and Gas Committee  
April 13, 1989

Good evening. My name is Hugh Motley, vice president and general tax officer for ARCO Alaska, Inc. I'm here today to testify on behalf of ARCO Alaska on Senate Bill 260, which proposes an additional severance tax to pay expenses incurred by the state in responding to an oil spill or the release of a hazardous substance.

Before addressing the bill, I'd like to say that we at ARCO Alaska are as stunned and dismayed by what has occurred in Prince William Sound as you are. We are horrified by pictures of oiled beaches, dying sea otters and, like you, angered by conflicting reports about the effectiveness of cleanup efforts.

Since it was not our tanker, we know relatively little about the events leading to the grounding of the Exxon Valdez or the containment efforts that followed. The data we have access to is a mixture of fact, rumor and speculation. Although we've offered technical assistance, personnel and provided thousands of feet of boom to Exxon, mopping up the spill is a responsibility which has been assumed by Exxon. We don't want to interfere with or impede their efforts.

We do know that this should never have happened, and that the oil spill contingency plan could have been more effectively executed. Mistakes had to have been made. Determining who made them and why is still an open question.

No one is in a position to accurately point fingers at anyone. For that reason we ask that you wait until a factually accurate record of the events following the March 24 accident is available before acting on legislation that could have sweeping, long term impacts. A complete investigation is a necessary first step in reducing the risk of future spills and improving oil spill cleanup capability in Alaska.

At ARCO Alaska, we've already begun that process. We have reviewed emergency contingency plans at all of our facilities. Risk is inherent in the exploration, production and transportation of oil and gas. We're continually working to reduce that risk. In the process, we're preparing for the worst and impressing upon our employees the need for individual responsibility in the work place. Events in Prince William Sound have shown that a single human error can lead to terrible tragedy and obscure a fine record built by an entire industry.

People will remember this spill for years to come. They have already forgotten that tankers carrying 7 billion barrels of oil have safely traversed Prince William Sound almost 9,000 times over the last 12 years.

We are and will remain good citizens of this state. We've helped bring unparalleled prosperity to Alaska. Everyone here has

benefitted in some way from the dollars we've invested and the oil we've produced. The industry is not going to leave the state while you investigate this spill. We will still be here when all the facts are in and appropriate legislation is enacted.

Exxon has publicly acknowledged full financial responsibility for the spill. Their efforts to cleanup the spill have not been restrained by cost. They've promised to compensate fishermen, processors, cannery workers, tour boat operators and others for the financial losses they've suffered. We believe Exxon will do what they say.

The state already has laws that allow it and other injured parties to collect all of the monetary damages caused by this spill. State laws allow for extensive fines and penalties if punitive action is warranted. The Trans Alaska Pipeline liability fund now contains more than \$248 million. The fund is automatically renewed at the rate of 5 cents a barrel if it drops below \$100 million.

We understand that additional legislation is being demanded by a concerned public. Raising oil taxes and establishing a new cleanup fund is not the answer. Senate Bill 260 only duplicates existing financial safeguards. It does nothing to reduce the risk of a recurrence or improve oil spill response capability.

Senate Bill 260 doesn't ensure that the money collected will be used for oil spill response. It has no provisions for a limit on the tax collected based on estimated cleanup costs. The bill could severely impact economically marginal fields in Cook Inlet and on the North Slope, fields so marginal that they are currently assessed little or no

production tax by the state. For these reasons we oppose the adoption of Senate Bill 260.

No one has had adequate time to assess the short term and long term effects of Senate Bill 260 and other spill-related bills on state oil revenues, the economy or the oil industry. We urge that you get the facts before you take action on this or any related bill.

# SOUTHEAST CONFERENCE

P.O. Box 22286

Juneau, Alaska 99802

## SOUTHEAST CONFERENCE RESOLUTION #89-01

RELATING TO THE PREPARATION OF A SOUTHEAST REGION OIL AND HAZARDOUS SUBSTANCE DISCHARGE AND PREVENTION PLAN AND DEMONSTRATION THAT THERE BE IMMEDIATE CAPABILITY TO PROTECT THE SOUTHEAST COAST AND ITS RESOURCES

WHEREAS, the recent oil spill disaster in Prince William Sound clearly demonstrates the vulnerability of coastal communities; and

WHEREAS, more than 500 super tankers transporting North Slope crude oil pass through the Southeast coastal waters and carry massive quantities of oil; and

WHEREAS, the news recently reported an oil company announcement that a large crack(s) was found in a tanker at Valdez; and

WHEREAS, the recent disastrous oil spill also points out the impact and the reality of possible human errors aboard the tankers; and

WHEREAS, the coastal environment is the primary habitat of our fish and wildlife and the foundation of our economy; and

WHEREAS, tides, currents and winds could put a blanket of oil around our islands and mainland, destroying our salmon, herring, crab, clams, abalone, shrimp, halibut, sable fish, ground fish and other fisheries; and

WHEREAS, a spill of the magnitude of the one in the Prince William Sound would devastate the marine organisms and mammals in Southeast Alaska; and

WHEREAS, the devastation of our coastal environment would cause a collapse of our economy, putting thousands of people out of work; and

WHEREAS, a spill of such magnitude could have long term effects on the propagation of all fisheries and wildlife for decades in Southeast Alaska; and

WHEREAS, a spill accident would have secondary impacts that threaten our eagles, bears, deer and other wildlife that rely on the sea for food sources; and

WHEREAS, the Gulf of Alaska has a known history of violent storms which cause further deterioration of oil tankers that are already aging; and

RESOLUTION #89-01, P.2

WHEREAS, the people of Southeast Alaska have a right to expect maximum protection, including a demonstration of the capability to prevent, contain, and clean-up, possible oil spills.

NOW THEREFORE BE IT RESOLVED that the Southeast Conference strongly urges the Federal Government, the State, and the oil industry to assure the protection of the people and the environment of Southeast Alaska by preparing a Southeast Region Oil and Hazardous Substance Discharge and Prevention Plan, and demonstrate that there is immediate capability to protect the Southeast Coast and its resources by making available appropriate oil spill containment equipment and supplies in Yakutat, Sitka and Annette Island and any other appropriate locations; and

BE IT FURTHER RESOLVED that the Southeast Conference urgently requests the legislature to immediately pass Senate Bill 261 requiring the Department of Environmental Conservation to prepare a State Master Oil and Hazardous Substance Discharge Plan; and

BE IT FURTHER RESOLVED that the Southeast Conference urges the President, the Governor, and Oil Company Executive Officers to take action immediately.

Adopted by the Southeast Conference Board of Directors this 10th day of April, 1989.



---

William B. Privett, President

**EXXON COMPANY, U.S.A.**

P.O. BOX 198801 • ANCHORAGE, ALASKA 99519-8801 • (907) 661-8331

DONALD E. CORNETT  
ALASKA COORDINATOR

April 7, 1989

Mr. Hugh Gellert, Director  
State of Alaska, Division of Tourism  
State Office Building, Ninth Floor  
333 Willoughby Avenue  
Juneau, Alaska 99801

Dear Mr. Gellert:

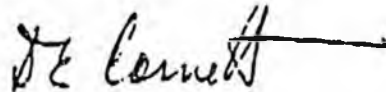
I'm deeply concerned about the potential impact of the Valdez oil spill on the Alaskan tourism industry. It is vital to the state economy, now and in the future, that we act immediately to reassure travelers, tour companies and travel agents.

It goes without saying that the scenic beauty of the Prince William Sound and Gulf of Alaska are important assets to Alaskan tourism. While the oil spill is sizeable, much of the Sound has not been affected and we are working very hard to clean up the portion which has. At the same time, we are also very concerned about the thousands of families who depend on tourism for their livelihood. We would like to minimize the economic crisis which could result from a public misimpression about the scenic damage which has occurred.

In this spirit, I am proposing that we work together to protect the immediate and long term future of these families. As a first step, we need your in depth analysis of the potential negative impacts on the tourism industry. Based on this analysis, we would like your recommendations and budget estimate for an appropriate marketing program. The Alaska Tourism Marketing Council would retain control of program implementation and Exxon would underwrite appropriate costs. We are sincerely interested in helping to minimize the negative impacts on Alaskan tourism from this spill.

I would appreciate your prompt attention to this request and look forward to working with you.

Cordially,



DEC:jl/p/196

c: Douglas B. Bailey, State Attorney General  
Governor Steve Cowper  
Alaska Tourism Marketing Council Board  
Alaska Visitors Association Board  
Alaska State Legislature  
The Honorable Ted Stevens  
The Honorable Frank Murkowski  
The Honorable Don Young

APRIL 11, 1989

VALDEZ, ALASKA

NEWS RELEASE

EXXON HIRES RURAL AFFAIRS CONSULTANT TO ASSESS VILLAGE NEEDS

Exxon has hired Judy Meidinger, an Anchorage-based rural affairs specialist, to work with members of Prince William Sound native villages in assessing their food and supply needs.

Exxon will purchase the supplies requested by the villages and arrange for a contractor to deliver them. Local community centers will manage the distribution to residents.

Meidinger has already contacted leaders of Chenega Bay and Tatitlek, two Prince William Sound villages, and is gathering information on their needs for submission to Exxon officials in Valdez. She is also working with North Pacific Rim, a nonprofit native association, to determine needs of other villages in the region.

Meidinger's preliminary findings indicate needs for food staples in both Chenega Bay and Tatitlek. Meat, vegetables, fresh fruit, milk, flour and eggs have been requested by residents. Paper products, soap and other basic supplies are also needed and will be included in Exxon's shipment to the villages.

Seventy people live in Chenega Bay, 110 in Tatitlek. Both villages have run low on the fuel that powers their school and village generators. Exxon has furnished Chenega Bay with 5,000 gallons of fuel and will be supplying Tatitlek with 7,500 gallons.

"The villagers are grateful for Exxon's immediate response to their needs," said Meidinger. "There is a positive feeling among the people I've talked to, that Exxon is listening and responding."

4-12

APRIL 12, 1989

VALDEZ, ALASKA

NEWS RELEASE

EXXON ADVANCES \$1,000,000 TO AQUACULTURE CORPORATION

Exxon Shipping Company President Frank Iarossi took a business card out of his pocket, wrote on it: "\$1,000,000," signed it, and handed it to Bruce Suzumoto, President of Prince William Sound Aquaculture Corporation.

"This is your guarantee from Exxon," Iarossi said.

By the next day, Exxon had wired \$1,000,000 to the Prince William Sound Aquaculture Corporation as an advance against expenses incurred by the corporation in their efforts to protect the Armin F. Koernig hatchery in Sawmill Bay.

The Sawmill Bay hatchery holds 117 million salmon fry, and PWSAC members have installed boom materials provided by Exxon around the perimeters of the hatchery to protect the salmon. Six to seven million fry have been transferred to the saltwater pens and are scheduled for release into Prince William Sound during the last week of April through early May.

Fishermen, whose boats are under contract to Exxon, have developed a multi-tiered boom system using lines of protection stretching from the bay's opening up to and around the hatchery's holding ponds. Over 3,000 feet of 42" Navy boom was shipped yesterday to augment the materials already on hand. Exxon representatives in Valdez and Cordova are in communication with fishermen concerning requests for additional supplies.

A large amount of boom is currently deployed around the hatchery, and additional material is available if needed. Fishermen at Sawmill Bay continue boom maintenance and deployment activities.

**EXXON COMPANY, U.S.A.**

P. O. BOX 198601 • ANCHORAGE, ALASKA 99519-8601 • (907) 561-5331

DONALD E. CORNETT  
ALASKA COORDINATOR

April 7, 1989

Ms. Merry Tuten, Director  
Alaska Seafood Marketing Institute  
1111 West Eighth  
Juneau, Alaska 99801

Dear Ms. Tuten:

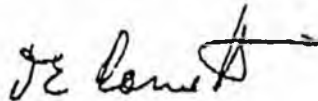
I'm deeply concerned about the potential impact of the Valdez oil spill on Alaskan seafood markets at home and abroad. It is vital to our state economy, now and in the future, that we act immediately to reassure seafood consumers and wholesalers.

I'm certain you agree with me that the Prince William Sound has many valuable fisheries and is a very important source of fish. But, it would only compound the current tragedy if we let consumers and wholesalers believe that the supply or quality of Alaskan seafood will be affected.

I am proposing that we work together to protect the immediate and long-term future of the families that depend upon the Prince William Sound for their livelihood. As a first step, we need your in-depth analysis of the potential negative impact on Alaskan seafood markets. Based on your analysis, we want your recommendations, and budget figures, for an appropriate marketing response. The ASMI would have control of program implementation and Exxon would be willing to provide appropriate funding. We are sincerely interested in helping to protect the future of the fisheries of Prince William Sound.

I would appreciate your prompt attention to this request and look forward to working with you.

Cordially,



DEC:jlpl/195

c: Douglas B. Bailey, State Attorney General  
Governor Steve Cowper  
Alaska Seafood Marketing Institute Board  
Alaska State Legislature  
The Honorable Ted Stevens  
The Honorable Frank Murkowski  
The Honorable Don Young

April 13, 1989

Senate Special Committee on Oil and Gas  
Statement of Alyeska Pipeline Service Company  
Presented by R.I. Shoaf

Madame Chairman and members of the Committee,

My name is Rob Shoaf. I am an employee of Alyeska Pipeline Service Company. My job is government relations. Like every Alaskan, we have been shocked by the results of the Exxon Valdez spill. I share with the management and employees of Alyeska Pipeline the belief that all of us in the oil industry must renew our dedication to preventing occurrence of another tragedy like this.

At least 17 bills have been introduced in the Alaska legislature in reaction to the Exxon Valdez oil spill. Most of the ideas expressed in the proposed legislation are good and can lead to improved protection for the people and environment of Alaska from disasters like the one that recently occurred. Alyeska's goal is to cooperate with the State as it plans and implements new prevention and response techniques for Prince William Sound. We believe that the Alaska Department of Environmental Conservation is the appropriate state agency to direct this effort. We also believe that the communities and hatcheries in Prince William Sound and in the surrounding areas like Resurrection Bay, Kachemak Bay, Cook Inlet, Kodiak and the Alaska Peninsula must participate in the assessment of what happened and in the preparation to prevent and to respond to similar events in the future, if they occur.

We understand the public's desire to make changes immediately so that there will be a different response in the event of another occurrence. Ultimately the best plan to prepare for future events will be based on thorough study of what happened this time. Now

that the state has appropriated the money needed for ongoing response efforts, the number one priority should be to establish an assessment process that will involve all potentially affected groups. Participants in the assessment must be charged with the responsibility to make recommendations to the administration and the legislature. It will be most efficient for the administration and legislature to combine their efforts. Alyeska promises to cooperate with that assessment and requests that one focus of planning for the future be the coordination of industry and private efforts to maximize the protection of Alaska's resources.

In order for you to determine what needs to be done immediately and what should wait for the recommendations produced by the assessment and planning process, you should be aware of the current operating conditions in Valdez as a result of the DEC's emergency order directing immediate changes in the operation of the Valdez Marine Terminal.

#### Tanker Safety - Accident Prevention.

At the present time, pilots escort tankers out of Valdez past Bligh Reef. Two tugs accompany all outbound tankers in PWS. Alyeska maintains radio or radio/telephone contact with all tankers in PWS. Equipment will be installed to record these radio transmissions. The DEC is evaluating Coast Guard radar procedures and equipment.

#### Oil Spill Response.

As required by the emergency order, Alyeska booms all vessels upon arrival at the terminal, as we have done since February 1989. The area within these booms is inspected on an hourly basis. All of the core contingency equipment required by the terminal oil spill plan is in place at the terminal and available for use. This equipment may not be used except in response to spills or for training. Alyeska now has an around the clock dedicated 12 man oil spill response crew.

Future equipment and Material.

Alyeska and the DEC are working together to define what additional steps must be taken to satisfy the requirements of the Order.

In light of these events, we believe the legislature should encourage the DEC to take steps that will enhance the response capability existing in Prince William Sound. However, we urge that the ultimate response organization be created only after an evaluation of recent events produces recommendations from the DEC and the local communities. Even decisions on the types and amounts of materials and equipment to be stored in various places in PWS should be made based on careful analysis of the objectives of the public response organization.

To be more specific, we suggest that the legislature direct the DEC to work with the Joint Committee and/or Task Force to analyze what happened and to plan for the future. The DEC should also be given the discretion and resources to purchase and deploy basic equipment and materials, and to create and train a basic PWS response organization, pending further development of detailed plans. These efforts should be under the direction of a State Oil Spill Coordinator, within the DEC.

The immediate focus of the legislature should be on PWS. If a fee on TAPS throughput or an additional severance tax on North Slope production is used to create revenue for a public response organization and for a response fund, uses of the revenue should be limited to those areas and events that might be affected by North Slope production and transportation. If the geographic area or the types of events covered by a fund created by new taxes is expanded beyond this basic responsibility, then the revenue sources should be expanded as well.

If a new revenue source is established, a cap on the fund balance and imposition of the tax is appropriate. Expenditures from the fund that are recovered from responsible parties should be returned to the fund to avoid reimposition of the tax.

Thank you for this opportunity to comment before the Committee.



# Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-586-2345

## AEL ISSUE PAPER: OIL SPILL RELATED BILLS

**The Alaska Environmental Lobby supports the intent of all these bills.** The top priorities in the wake of the Exxon Valdez oil spill are: ensuring oil industry payment for improved state capability to prevent and respond to oil and hazardous substance release; stronger penalties to prevent future disasters of this type; and adequate DEC funding to upgrade response and monitoring efforts.

### REVENUE:

- \* All oil production, not just marine transported petroleum, should be taxed to fund prevention and cleanup.
- \* Both the \$.05/barrel tax proposed in SB 260, and the \$.02/barrel tax with a \$20 million cap on the fund proposed in SB 266, fail to generate adequate funds to cover the costs of the Exxon Valdez spill, let alone establish an on-going emergency response fund of significant size. The fund will only be effective for future emergency response and cleanup if it is fed by a steady stream of revenue.
- \* Provisions to ensure that the legislature does appropriate money to the Fund, as provided in SB 266, are appropriate.
- \* Other oil revenue sources to adequately fund prevention and cleanup should be explored.

### RESPONSE CORPS/STRIKE FORCE:

- \* Any emergency response team must combine trained professional specialists (SB 266) who can provide state-of-the-art technical expertise, with trained local volunteers (SB 264) who are prepared for an emergency cleanup. Local fishermen's response to the Prince William Sound spill has proved how valuable local knowledge is to any cleanup effort.
- \* A strike force must not substitute for cleanup by the responsible party. It must serve, instead, as an emergency back-up.
- \* Strike force responsibilities should include oversight, monitoring, evaluation, enforcement, and cleanup of all oil and hazardous substance spills.
- \* Adequate funding must be available to carry out these duties.

### INQUEST:

- \* A task force, such as proposed in SB 277, should be established to evaluate the events surrounding the Exxon Valdez discharge disaster, and to make agency, legislative, and industry recommendations on how to prevent similar occurrences in the future.

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB  
 KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY  
 DENALI CITIZENS' COUNCIL • ALASKA FRIENDS OF THE EARTH • JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY  
 KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • ALASKA WILDLIFE ALLIANCE  
 SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL  
 KNIK KANGERS AND KAYAKERS

**TESTIMONY  
OF  
D. E. CORNETT**

**BEFORE THE  
SENATE SPECIAL COMMITTEE ON OIL & GAS**

**THURSDAY, APRIL 13, 1989**

**JUNEAU, ALASKA**

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**



# Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-586-2345

## AEL ISSUE PAPER: OIL SPILL RELATED BILLS

**The Alaska Environmental Lobby supports the intent of all these bills. The top priorities in the wake of the Exxon Valdez oil spill are: ensuring oil industry payment for improved state capability to prevent and respond to oil and hazardous substance release; stronger penalties to prevent future disasters of this type; and adequate DEC funding to upgrade response and monitoring efforts.**

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- \* Adequate funding must be available to carry out these duties.

### INQUEST:

- \* A task force, such as proposed in SB 277, should be established to evaluate the events surrounding the Exxon Valdez discharge disaster, and to make agency, legislative, and industry recommendations on how to prevent similar occurrences in the future.

\* Any task force must be comprised of a broad spectrum of interests, and must employ fully public process.

\* The deadline for the final report should be no later than January 1, 1990.

**PENALTIES:**

\* Stronger penalties, as proposed in SB 271, are necessary incentives to the oil industry to better protect our environment and to avoid future catastrophic spills.

\* These stonger penalties must include all oil spills, not just crude oil or marine transported petroleum.

\* The application of criminal penalties for oil and hazardous substance release needs to be considered.

**Coordinated Statewide/Regional Contingency Plans:**

\* The state needs to take a more proactive approach to protecting the environment and preventing future spill disasters.

\* The state's oil spill and hazardous substance release response efforts must be coordinated, as provided for in SB 261. In addition, it is important that the responsibilities of the involved parties are clearly delineated, that local municipalities and communities are properly included in the planning, and that oil and hazardous substance releases are properly evaluated, investigated, and prosecuted.

\* To avoid duplication, Superfund Title III activities must be incorporated into this contingency planning.

\* Additional funding must be appropriated to DEC to carry out these critical responsibilities.

April 13, 1989

Karen Brewster

**TESTIMONY  
OF  
D. E. CORNETT**

**BEFORE THE  
SENATE SPECIAL COMMITTEE ON OIL & GAS**

**THURSDAY, APRIL 13, 1989**

**JUNEAU, ALASKA**

MADAM CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM DON CORNETT, ALASKA COORDINATOR FOR EXXON COMPANY, U.S.A. I APPRECIATE THE OPPORTUNITY TO APPEAR THIS EVENING AND COMMENT ON THE LEGISLATIVE ACTIVITY RELATIVE TO THE EXXON VALDEZ OIL SPILL IN PRINCE WILLIAM SOUND. I HAVE NOT HAD A CHANCE TO READ THE VARIOUS BILLS AND AM HERE TO BRING YOU UP TO DATE ON THE ENORMOUS EFFORTS EXXON IS DEVOTING TO THE SPILL IN CONJUNCTION WITH STATE AND FEDERAL AGENCIES--ALL UNDER THE DIRECTION OF THE COAST GUARD. BEFORE YOU DECIDE WHETHER AND WHAT LEGISLATION IS NEEDED, I URGE THAT YOU GIVE CONSIDERATION TO THE ACTIONS EXXON HAS TAKEN SINCE THE ACCIDENT.

WE CANNOT UNDO WHAT HAPPENED, BUT WE CAN AND HAVE TAKEN STEPS TO MITIGATE THE EFFECTS. I WOULD LIKE TO DESCRIBE FOR YOU SOME OF THE ACTIONS WE HAVE TAKEN:

- FIRST AND MOST IMPORTANTLY, WE PLACED TOP PRIORITY ON SAFELY RECOVERING THE 1 MILLION BARRELS OF OIL WHICH REMAINED ON THE EXXON VALDEZ AFTER THE SPILL. YOU SHOULD APPRECIATE THAT THIS REQUIRED CONSIDERABLE EXPERTISE AND OUR SUCCESS WAS EXCEEDINGLY IMPORTANT.

- REACTING VERY QUICKLY TO THE SPILL, WE BEGAN A MASSIVE BUILDUP OF EQUIPMENT AND PERSONNEL TO FIGHT THE SPILL. MORE THAN 4 MILLION POUNDS OF MATERIAL AND EQUIPMENT HAVE BEEN AIRLIFTED TO THE SITE FROM AS FAR AWAY AS ENGLAND. MORE THAN 200,000 FEET OF BOOM, 41 SIMMERS, AND 210 VESSELS HAVE BEEN DEPLOYED. WE BELIEVE THIS IS PROBABLY THE LARGEST BUILDUP OF MATERIALS EVER ASSEMBLED FOR A SPILL OF THIS TYPE.
- TO THIS POINT, IT HAS BEEN ESTIMATED THAT MORE THAN 60% OF THE SPILLED OIL HAS EVAPORATED, BEEN DISPERSED, BIODEGRADED, OR RECOVERED. MUCH OF THE REMAINING OIL HAS MADE ITS WAY INTO THE GULF OF ALASKA, WHERE NATURE WILL DECOMPOSE THE OIL.
- IN FIGHTING THE SPILL IN COOPERATION WITH LOCAL EXPERTS, KEY ENVIRONMENTALLY SENSITIVE AREAS WERE IDENTIFIED AND TOP PRIORITY PLACED ON PROTECTION OF THOSE AREAS. OTHERS HAVE CONTRIBUTED TO THE PROTECTION OF THESE AREAS AND EXXON HAS PAID \$1.5 MILLION TO LOCAL GROUPS TO COVER THEIR COSTS IN THE OIL SPILL CONTAINMENT EFFORT. THE PRINCE WILLIAM SOUND AQUACULTURE ASSOCIATION AND THE CORDOVA FISHERMEN UNITED HAVE BEEN ACTIVE PARTICIPANTS.

- ATTENTION IN RECENT DAYS HAS BEEN DEVOTED TO SHORELINE CLEANUP UNDER GUIDELINES ESTABLISHED BY THE SHORELINE CLEANUP COMMITTEE. THE COMMITTEE IS COMPRISED OF EXPERTS FROM THE STATE OF ALASKA, THE FEDERAL GOVERNMENT, AND EXXON. WORKING TOGETHER, THESE GROUPS HAVE DEVELOPED AND AGREED UPON CLEANUP PLANS.
- NATIVE ALASKAN WORKERS AND CONTRACTORS ARE BEING GIVEN PRIORITY BY EXXON IN ITS OIL SPILL CLEANUP EFFORTS.
- IN OUR OVERALL EFFORTS, WE HAVE NOT FORGOTTEN THE IMPACT WHICH THE OIL SPILL HAD ON THE BIRDS AND OTTERS. RESCUE CENTERS WERE CONSTRUCTED IN VALDEZ, ONE IS UNDER CONSTRUCTION IN SEWARD AND A BIRD RESCUE CENTER IS PLANNED FOR CORDOVA.

WE ALSO KNOW THAT YOU ARE PARTICULARLY CONCERNED ABOUT HOW EXXON WILL REIMBURSE PERSONS FOR DAMAGES RESULTING FROM THE SPILL. SO I WOULD LIKE TO DESCRIBE FOR YOU THE PROCESS AND PROCEDURES WE HAVE PUT INTO PLACE FOR HANDLING CLAIMS FILED BY THOSE WHO HAVE BEEN AFFECTED.

WE INTEND TO PROVIDE FAIR, REASONABLE AND PROMPT SETTLEMENTS TO THOSE WHO WERE DAMAGED BY THE SPILLED OIL. CLAIMS ARISING FROM THE OIL SPILL WILL BE EXPEDITIOUSLY PROCESSED BY OFFICES IN VALDEZ, CORDOVA AND HOMER. WHILE WE ARE HOPEFUL OTHER AREAS WILL NOT BE SIGNIFICANTLY AFFECTED, ADDITIONAL OFFICES WILL BE ESTABLISHED IN KODIAK, SEWARD AND OTHER COMMUNITIES IF NEEDED.

CLAIMS FOR BOTH PROPERTY DAMAGES AND FOR LOSS OF INCOME ARE BEING RECEIVED. LOSS OF INCOME CLAIMS WILL BE PROCESSED FOR INDIVIDUALS AND BUSINESSES THAT LOSE NET INCOME BECAUSE OF THEIR REDUCED ABILITY TO USE THE NATURAL RESOURCES OF PRINCE WILLIAM SOUND AS A DIRECT RESULT OF THE DISCHARGE OF OIL. THESE WILL INCLUDE FISHERMEN, HATCHERIES, CANNERIES AND OTHERS WHO HAVE BEEN DIRECTLY IMPACTED BY THE SPILLED OIL. WE KNOW THERE WILL BE SOME CLAIMS FILED BY A FEW WHO WERE NOT DAMAGED AND WE WILL NOT PAY THOSE. HOWEVER, IT IS OUR INTENT TO REIMBURSE THOSE WHO WERE ACTUALLY AND DIRECTLY DAMAGED BY THE SPILLED OIL.

IN ORDER TO SUPPORT A CLAIM, REASONABLE DOCUMENTATION WILL, OF COURSE, BE REQUIRED. SUCH DOCUMENTATION MAY INCLUDE FEDERAL TAX RETURNS, PERMITS TO

FISH, FISH DELIVERY TICKETS, CONTRACTS WITH PROCESSORS, EMPLOYMENT CERTIFICATION FROM EMPLOYERS, OR OTHER VALID RECORDS WHICH SUPPORT THE AMOUNT CLAIMED.

A THREE STEP PAYMENT PROCEDURE HAS BEEN PLACED INTO OPERATION - ADVANCES, PARTIAL SETTLEMENTS, AND FINAL SETTLEMENTS - TO EXPEDITE THE FLOW OF CASH.

IN ORDER TO PROVIDE PAYMENTS FOR THOSE IN NEED OF IMMEDIATE CASH, A CASH ADVANCE SYSTEM IS IN PLACE. WITH MINIMUM DOCUMENTATION TO ESTABLISH THE VALIDITY OF A CLAIM AND THE NEED FOR IMMEDIATE CASH, ADVANCES ARE BEING MADE WITH A RECEIPT REQUESTED AND THE GRANTING OF THE RIGHT OF OFFSET AGAINST SUBSEQUENT SETTLEMENTS. THE INDIVIDUALS RECEIVING THE ADVANCE GIVE UP NONE OF THEIR RIGHTS BUT RECEIVE PARTIAL PAYMENT TOWARD THE ULTIMATE AMOUNT.

PARTIAL SETTLEMENTS CAN BE EFFECTED TO SETTLE CLAIMS FOR EVENTS THAT HAVE ALREADY OCCURRED SUCH AS THE CLOSING OF THE HERRING SEASON. UNDER THIS PROCEDURE A FINAL SETTLEMENT IS NEGOTIATED, THE FULL AMOUNT IS PAID AND A RELEASE IS OBTAINED ONLY FOR THE EVENT BEING SETTLED. INDIVIDUALS GIVE UP NONE OF THEIR RIGHTS TO CLAIM DAMAGES FROM ANY OTHER EVENTS.

FINAL SETTLEMENTS WILL BE NEGOTIATED AS SOON AS ALL THE FACTORS ARE KNOWN AND DOCUMENTATION CAN BE FINALIZED.

SPECIAL FINANCING ARRANGEMENTS ARE BEING DEVELOPED TO ASSIST IN SOLVING THE CASH FLOW PROBLEM OF BUSINESSES SUCH AS CANNERIES. THE ARRANGEMENTS WILL BE MADE THROUGH ALASKA BANKS TO THE MAXIMUM EXTENT POSSIBLE.

OTHER STEPS SUCH AS MAXIMIZING THE USE OF LOCAL PROCUREMENT, LOCAL HIRING, AND EXPEDITED PAYMENT PROCESSING FOR INVOICES HAVE ALSO BEEN IMPLEMENTED.

ALL OF THE EFFORTS HAVE BEEN PUT IN PLACE TO MITIGATE, TO THE EXTENT POSSIBLE, THE ECONOMIC IMPACT ON THOSE INDIVIDUALS AND COMPANIES DIRECTLY AFFECTED BY THE OIL SPILL.

WE ARE HOPEFUL THAT MOST CAN BE HANDLED TO THE SATISFACTION OF THE CLAIMANT THROUGH THIS PROCESS. HOWEVER, FOR THOSE FEW CASES WHERE AGREEMENT CANNOT BE REACHED, WE SUPPORT VOLUNTARY ARBITRATION BY A PANEL TO BE SELECTED BY EXXON AND THE CLAIMANT. IT IS IMPORTANT THAT THE ARBITRATION ALTERNATIVE BE AGREED BY BOTH PARTIES AND THAT BOTH ARE ASSURED OF A FAIR HEARING BY AN IMPARTIAL GROUP OF ARBITRATORS. WE UNDERSTAND LEGISLATION ALONG THESE LINES WAS INTRODUCED THIS MORNING.

ANYONE HAVING A CLAIM IS ENCOURAGED TO CONTACT THE NEAREST EXXON CLAIMS OFFICE AND WE PROMISE TO GIVE EXPEDITIOUS CONSIDERATION TO THEIR CLAIM.

IN SUMMARY, I REGRET THAT WE CANNOT UNDO THE REGRETFUL ACCIDENT, BUT WE ARE DOING OUR BEST TO CONTAIN THE OIL, CLEANUP THE OIL WHICH REACHES SHORE, AND REIMBURSE THOSE DAMAGED BY THE SPILLED OIL. I BELIEVE THAT OUR CORPORATION HAS REACTED TO THE SPILL IN A RESPONSIBLE WAY. THANK YOU FOR THE OPPORTUNITY TO BRING YOU UP TO DATE ON WHAT WE ARE DOING.

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DEPARTMENT OF ENVIRONMENTAL CONSERVATION

TESTIMONY ON ISSUES RELATED TO OIL SPILLS

The Department of Environmental Conservation appreciates the opportunity to comment on the legislation being considered here today.

Before we comment on each specific bill, I would like to describe some of the issues we see as critical to an effective legislative package to address hazardous substance spills. These thoughts and recommendations are preliminary, as most of the department's experts in this area are still in the field. We have not had an opportunity to fully debrief on this incident and to fully develop a position on the remedies necessary to better protect the people of the state and the natural resources of the state. However, we would like to share these thoughts. We have also not yet had an opportunity to provide specific recommendations on each bill.

Structure of contingency planning and response

The relationship between operators, the state, and other interested parties in both preventing and responding to hazardous substance releases needs thorough analysis and possible change. At present, the industry has the lead in both developing plans to respond to spills and in carrying out the actual response. The state is left in a largely reactive posture, and other interested parties such as local communities, fishing groups, and so on, are basically not included at all.

In the event of an inadequate response, the state's recourse under existing statutes is to take over the spill response. At present, DEC's resources to conduct such an operation are extremely minimal. Hence, the practical remedy in existing statute for failure to perform is largely ineffective. We need to look at whether the state needs to have an independent ability to initiate and carry out a meaningful response, without relieving the responsible party of their responsibility for the reaction to the spill. It might be appropriate to consider providing authority to compel a response according to approved contingency plans. A state strike force is another approach.

With regard to contingency planning, all planning is left to

operators of facilities. While cooperative agreements between different operations are possible, they are not required. There is no requirement for participation in a statewide data base and response planning structure.

The major lesson of this spill is that we cannot rely on the structure we have now, and we need to look at ways to improve responsiveness.

#### Adequate Funding for Prevention and Response Activities

A second concern is the need to adequate funding for spill prevention and response activities. Several bills propose funding sources for a reliable, adequate response fund. There must also be adequate funding for prevention, response planning, and ongoing preparedness. This is a critical portion of an effective solution.

#### Penalties

The penalties provided in the existing legislation need to be reexamined. The Department supports increases in penalties to reflect more closely actual costs. We also need to review the adequacy of criminal penalties. Current requirements for demonstration of financial responsibility for operators need to be updated to reflect more accurately actual damages. The Department recommends that the Legislature specifically address the problem of derelict vessels abandoned on state tidelands, and consider financial responsibility for salvage. Penalties for failure to comply with the regulations, as well as those for spilling oil into the water, need to be addressed.

#### Prevention

In the area of prevention, the Legislature might consider a review of the navigation aids that govern tanker traffic in the waters of the state to determine whether enhancements would reduce likelihood of collisions, groundings or other problems. The Department should be given the authority to look at ways to prevent spills, in addition to respond to spills.

#### Technology

The Department believes that improved technology needs to be identified and developed. Experience in this spill indicates that other countries have technology, such as the Soviet skimmer and Norwegian boom deployment vessels, that is substantially better than what is currently described as the state of the art in this country. It would be important to review this technology and to identify areas where more research and development is needed. We have discussed with Norwegian pollution control authority officials the establishment of a working relationship for technical exchange

and training. A training center for northern climates could be appropriate for Alaska.

Involvement of local residents and experts

In Prince William Sound, the best expertise on how to move vessels and materials on the waters came from the fishermen, without doubt. The fishermen and other residents of the area have provided invaluable guidance and direction for those parts of the cleanup and defensive operations that have been successful. The response plan needs to tap this expertise. Expensive equipment from all over the world is of little value if it cannot be deployed. The use of fully trained volunteers from local communities would be one way to make use of this expertise, and is a method we would support. There may also be others. In Norway, volunteers are trained in each community for spill response, in a way that resembles fire departments here.

A combination of state, local, and industry response capacity, in conjunction with adequate state agency funding and authority, is a promising approach for Alaska.

We will offer comments on the individual bills.



# UNITED FISHERMEN OF ALASKA

211 4th Street, Suite 106  
Juneau, AK 99801  
907-586-2820

April 10, 1989

Dear Legislator:

The oil spill in Prince William Sound is a calamitous event. We, of United Fishermen of Alaska, are deeply concerned over the erosion of state resource agency budgets which left the State essentially unprepared to assert its authority and implement the actions necessary for immediate response to the spill.

From both the Cook Inlet spill of last year and the recent Prince William Sound spill, we have learned that human error is an occurrence to be planned for, that accidents do happen, and that when the responsible party is a business entity, they do not demonstrate the State's best interest as their top priority.

We urge you to reinstate to the resource agencies the capability to implement the enforcement, protection and conservation mandates of their governing statutes. Budget IS policy, and money targeted for implementing onsite compliance with resource management stipulations is imperative. We cannot continue to compartmentalize legislation, which fosters development, from State policy, which fosters natural resource stewardship. This results in irresponsible use of both renewable and nonrenewable State resources.

Industries will continue to profit from Alaska's resources in spite of tough laws. The Legislature must: 1) provide a means for the Administration to ensure that resource development occurs in a balanced manner, and 2) demonstrate concern for those industries utilizing renewable resources, such as tourism, commercial fishing and outdoor recreation.

Following are recommendations for legislative action during this 1989 session:

- 1) Increase funding for Department of Environmental Conservation, Department of Fish and Game, and Department of Natural Resources. Specify to the appropriate agency that funds are to be used for: a) development, implementation and enforcement of resource protection stipulations, b) development and maintenance of oil spill contingency plans, and c) purchase and maintenance of containment and cleanup equipment and supplies.

2) Increase funding for the Alaska Seafood Marketing Institute (ASMI) as immediate and long term additional marketing campaigns will be necessary to preserve the quality reputation of Alaska's seafood.

3) Pass a resolution supporting a moratorium on the Bristol Bay OCS Lease Sale 92. As the Cook Inlet and Prince William Sound accidents have shown, oil spills in the marine environment cannot be cleaned up. The potential for damage to renewable resources in Bristol Bay far exceeds that in other areas. Ask Congress for immediate action. (HJR 32/SJR 32)

4) Tighten current oil spill liability legislation to ensure victims receive emergency interim funds and final compensation. (HB 68)

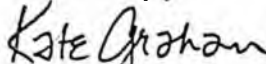
5) Eliminate the \$100,000 ceiling on penalties, as specified in AS 46.03.760 (f), and allow penalty assessment based on value of damages.

6) Review and revise the oil pollution statutes, under AS 46.04 and portions of 46.03 and 45.08, to ensure the State has the authority and funds necessary to protect the public trust.

7) Change the language under AS 46.08.020 regarding funding sources for the "oil and hazardous substance release response fund" from "may" to read: the Legislature "shall" put into the fund any money recovered from the responsible parties for clean-up or penalties.

Time is of essence on these proposed actions. We will be monitoring your actions and support for long term protection and management of Alaska's renewable and nonrenewable resources.

Sincerely,



Kate Graham  
Executive Director

**Historical Note**

As enacted this section read:  
 "Whenever it appears after invest-  
 gation that there is a violation of  
 any rule, regulation, order or license  
 issued by the commission, the com-  
 mission shall proceed in accordance  
 with the provisions of section 451,  
 subsection 2.

"Whoever violates any provisions  
 of this subchapter or any rule, regu-  
 lation or order of the commission  
 made hereunder shall be punished by  
 a fine of not less than \$100 nor more  
 than \$5000. Each day that any vio-

lation shall continue shall constitute  
 a separate offense. The provisions  
 of this section shall not apply to any  
 discharge promptly reported and re-  
 moved by a licensee in accordance  
 with the rules, regulations and or-  
 ders of the commission."

The 1971 amendment substituted  
 "Board of Environmental Protection"  
 for "Environmental Improvement  
 Commission".

The 1977 amendment repealed and  
 replaced the section.

**Library References**

Health and Environment §38.

C.J.S. Health and Environment §§  
 40, 50, 134, 130, 151 to 154, 156.

**§ 551. Maine Coastal Protection Fund**

The Maine Coastal Protection Fund is established to be used by the board as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. The fund shall be limited to \$4,000,000 until July 1, 1978. Thereafter the fund shall be limited to \$6,000,000 and the Board of Environmental Protection shall collect fees in accordance with subsection 4. To this fund shall be credited all license fees, penalties and other fees and charges related to this subchapter, and to this fund shall be charged any and all expenses of the board related to this subchapter, including administrative expenses, costs of removal of discharges of pollutants, and 3rd party damages covered by this subchapter.

Moneys in the fund, not needed currently to meet the obligations of the board in the exercise of its responsibilities under this subchapter shall be deposited with the Treasurer of State to the credit of the fund, and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the Maine Coastal Protection Fund.

1. **Research and development.** The Legislature may allocate not more than \$100,000 per annum of the amount then currently in the fund to be devoted to research and development in the causes, effects and removal of pollution caused by oil, petroleum products and their by-products on the marine environment. Such allocations shall be made in accordance with the provisions of section 555.

2. **Third party damages.** Any person, claiming to have suffered damages to real estate or personal property or loss of

**38 § 551****WATERS AND NAVIGATION****Title 38**

Income directly or indirectly as a result of a discharge of oil, prohibited by section 543, hereinafter called the claimant, may apply within 6 months after the occurrence of such discharge to the board stating the amount of damage alleged to be suffered as a result of such discharge. The board shall prescribe appropriate forms and details for the applications. The board may, upon petition and for good cause shown, waive the 6 months' limitation for filing damage claims.

**A.** If the claimant, the board and the person causing the discharge can agree to the damage claim, or in the case where the person causing the discharge is not known after the board shall have exercised reasonable efforts to ascertain the discharger, if the claimant and the board can agree to the damage claim, the board shall certify the amount of the claim and the name of the claimant to the Treasurer of State and the Treasurer of State shall pay the same from the Maine Coastal Protection Fund.

**B.** If the claimant, the board and the person causing the discharge cannot agree as to the amount of the damage claim, or in the case where the person causing the discharge is not known after the board shall have exercised reasonable efforts to ascertain the discharger, if the claimant and the board cannot agree as to the amount of the damage claim, the claim shall forthwith be transmitted for action to the Board of Arbitration as provided in this subchapter.

**C.** Third party damage claims shall be stated in their entirety in one application. Damages omitted from any claim at the time the award is made shall be deemed waived.

**D.** Damage claims arising under this subchapter shall be recoverable only in the manner provided under this subchapter, it being the intent of the Legislature that the remedies provided in this subchapter are exclusive.

**E.** Awards from the fund on damage claims shall not include any amount which the claimant has recovered, on account of the same damage, by way of settlement with or judgment of the federal courts against the person causing or otherwise responsible for the discharge.

**2-A.** Exceptions; 3rd party damage claims. Subsection 2, 3rd party damages, shall not apply to waters of the State classified under sections 368, 369 and 371, except those waters below head of tide until July 1, 1978.

## Ch. 3

## PROTECTION OF WATERS

## 38 § 551

**3. Board of Arbitration.** The Board of Arbitration shall consist of 3 persons, one to be chosen by the person determined in the first instance by the board to have caused the discharge, one to be chosen by the board to represent the public interest and one person chosen by the first 2 appointed members to serve as a neutral arbitrator. The neutral arbitrator shall serve as chairman. If the 2 arbitrators fail to agree upon, select and name the neutral arbitrator within 10 days after their appointment then the board shall request the American Arbitration Association to utilize its procedures for the selection of the neutral arbitrator.

**A.** No member of the board shall serve as an arbitrator.

**B.** A party determined by the board to have caused a discharge shall appoint an arbitrator within such period of time as the board may by regulation prescribe. In the event that the party shall fail to select its arbitrator within 10 days after receipt of notice from the board that such selection is necessary, the board shall request the American Arbitration Association to select an arbitrator to represent the interest of the party in the arbitration proceedings.

In the case where the person causing the discharge is unknown, the board shall request the American Board of Arbitration to appoint an arbitrator to represent the interest of the unknown party.

**C.** One Board of Arbitrators shall be established for and hear and determine all claims arising from or related to a common single discharge.

**D.** Hearings before Boards of Arbitrators shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. The Board of Arbitration shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them for determination.

**E.** Determinations made by a majority of the Board of Arbitration shall be final, and such determinations may be subject to review by a Justice of the Superior Court but only as to matters relating to abuse of discretion by the Board of Arbitration.

**F.** Representation on the Board of Arbitration shall not be deemed an admission of liability for the discharge.

**38 § 551 WATERS AND NAVIGATION**

Title 28

**4. Funding.**

A. License fees shall be determined on the basis of  $\frac{1}{2}\text{¢}$  per barrel of oil transferred by the licensee during the licensing period and shall be paid monthly by the licensee on the basis of records certified to the board, provided that during such time as any bonds issued pursuant to the private and special laws of 1969, chapter 239, shall remain outstanding and funds made available for interest and debt retirement shall be inadequate for such purpose, the license fee shall be determined on the basis of 1.0¢ per barrel. License fees shall be paid to the board and upon receipt by it credited to the Maine Coastal Protection Fund.

B. Whenever the balance in the fund has reached the limit provided under this subchapter, license fees shall be proportionately reduced to cover only administrative expenses and sums allocated to research and development, provided that the license fees shall continue without reduction during such time as any bonds issued pursuant to the private and special laws of 1969, chapter 239, shall remain outstanding and funds made available for interest and debt retirement thereunder shall be inadequate for such purpose.

C. All sums received by the board when the balance in the fund has reached \$4,000,000 shall, after deduction of administrative expenses and sums allocated to research and development, promptly be remitted to the Treasurer of State to be held distinct from all other moneys of the State for the payment of interest and debt retirement pursuant to the private and special laws of 1969, chapter 239, section 5. When there has been no interest or debt incurred pursuant to the private and special laws of 1969, chapter 239, section 5, or upon payment of all interest and debt so incurred, the Treasurer of State shall credit to the fund all sums received according to this subchapter.

**5. Disbursements from fund.** Moneys in the Maine Coastal Protection Fund shall be disbursed for the following purposes and no others:

A. Administrative expenses, personnel expenses and equipment costs of the board related to the enforcement of this subchapter.

B. All costs involved in the abatement of pollution related to the discharge of oil, petroleum products and their by-products covered by this subchapter.

Ch. 3

PROTECTION OF WATERS

38 § 551

C. Sums allocated to research and development in accordance with this section.

D. Payment of 3rd party claims awarded in accordance with this section.

E. Payment of costs of arbitration and arbitrators.

F. Payment of costs of insurance by the State to extend or implement the benefits of the fund.

G. Payments to Treasurer of State pursuant to subsection 4, paragraph B.

6. **Reimbursements to Maine Coastal Protection Fund.** The board shall seek recovery to the use of the fund all sums expended therefrom, including overdrafts, for the following purposes, unless the board finds the amount involved too small or the likelihood of success too uncertain; provided that recoveries resulting from damage due to an oil pollution disaster declared by the Governor pursuant to section 547 shall be apportioned between the Maine Coastal Protection Fund and the General Fund so as to repay the full costs to the General Fund of any bonds issued as a result of the disaster:

A. All disbursements made by the fund pursuant to subsection 5, paragraphs B, D and E in connection with a prohibited discharge;

B. In the case of a licensee promptly reporting a discharge as required by this subchapter, disbursement made by the fund pursuant to subsection 5, paragraphs B, D and E in connection with any single prohibited discharge including 3rd party claims in excess of \$15,000, except to the extent that the costs are covered by payments received under any federal program;

C. Requests for reimbursement to the fund if not paid within 30 days of demand shall be turned over to the Attorney General for collection; and

D. The board may file claims with appropriate federal agencies to recover for the use of the fund all disbursement from the fund in connection with a prohibited discharge.

7. **Waiver of reimbursement.** Upon petition of any licensee the board may, after hearing, waive the right to reimbursement to the fund if it finds that the occurrence was the result of any of the following:

A. An act of war.

B. An act of government, either State, Federal or municipal, except insofar as the act was pursuant to section 548;

## 38 § 551

## WATERS AND NAVIGATION

## Title 38

C. An act of God, which shall mean an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

Upon such finding by the board immediate credit therefor shall be entered for the party involved. The findings of the board shall be conclusive as it is the legislative intent that waiver provided in this subsection is a privilege conferred not a right granted.

1969, c. 572, § 1; 1971, c. 618, § 12; 1973, c. 625, §§ 276, 279; 1975, c. 379, §§ 1 to 3; 1977, c. 375, §§ 10 to 16.

**Historical Note**

The 1971 amendment substituted "Board of Environmental Protection" for "Environmental Improvement Commission".

The 1973 amendment substituted "Protection" for "Petroleum" in par. A of subsec. 2; and substituted "subchapter" for "article" and "third" for "3rd" in par. B of subsec. 6.

The 1975 amendment added the proviso at the end of the first sentence of par. A, and added the proviso at the end of the first sentence and added the second sentence in par. B in subsec. 4; and added par. G of subsec. 5.

The 1977 amendment deleted "the sum" prior to "\$4,000,000" and "July 1, 1978" thereafter in the second sentence, inserted the third sentence, and substituted "fund" for "sum" where first appearing in the fourth sentence of the first paragraph; in subsec. 2, deleted "petroleum products or their by-products" following "oil", inserted "hereinafter called the claimant" and substituted "alleged to be" for "he claims to have" in the first sentence of the first paragraph, added par. F; and repealed and rewrote pars. A and B, which prior thereto read:

"A. If the claimant, the board and the person causing the discharge can agree to the damage claim, the board shall certify the amount of the claim and the name of the claimant to the Treasurer of State and the Treasurer of State shall pay the same from the Marine Coastal Protection Fund.

"B. If the claimant, the commission and the person causing

the discharge cannot agree as to the amount of the damage claim, the claim shall forthwith be transmitted for action to the Board of Arbitration as provided in this subchapter."

The 1977 amendment also added subsec. 2-A; and repealed and replaced par. B of subsec. 3 which prior thereto read:

"Arbitrators shall be named by their principals within 10 days after the commission receives notice of claims arising from a discharge prohibited by section 543. If either party shall fail to select its arbitrator within the said 10 days the other party shall request the American Arbitration Association to utilize its procedures for the selection of such arbitrator and the 2 arbitrators shall proceed to select the neutral arbitrator as provided in this section."

The 1977 amendment also repealed and replaced subsecs. 4 and 6 which prior thereto read:

**4. Funding.**

"A. Annual license fees shall be determined on the basis of ½ cent per barrel of oil, petroleum products or their by-products transferred by the applicant during the licensing period and shall be paid monthly on the basis of records certified to the board, provided, however, that during such time as any bonds issued pursuant to the private and special laws of 1969, chapter 239 shall remain outstanding and funds made available for interest and debt retirement shall be inadequate for such purpose, such license fee shall be determined

**S B**

**261**

SENATE COMMITTEE REPORT

FURTHER

FIN

DATE TURNED INTO OFFICE

4/18/89

Mr. President:

Resources

Committee considered

SB 261

requiring the Dept. of Environmental Conservation to prepare and to annually review and revise a master oil and hazardous substance discharge and prevention contingency plan for the state and regional oil and hazardous substance discharge and prevention contingency plans for certain and recommended regions of the state, and to implementation of that plan;

- replace with \_\_\_\_\_ CS SB 261 (Resources)  same title
- or adopt \_\_\_\_\_ CS \_\_\_\_\_  new title
- attached amendment(s) and + may do pass  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

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

FISCAL NOTE(S)  zero  fiscal impact  appropriation no FN  
 new  updated  previous  
 same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]  
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 Chairman's signature and recommendation

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STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSSB 261  
PUBLISH DATE: 4-13-89 WORK DRAFT

REQUEST: draft **FISCAL NOTE**

Revision Date: \_\_\_\_\_ Agency Affected: Environmental Conservation  
Title: An Act relating to oil and hazardous substance discharges, etc. BRU: Environmental Quality  
Administrative Services  
Sponsor: Duncan, Kerstula, Szymanski et. Components: Environmental Quality  
Requestor: \_\_\_\_\_ Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		975.0	975.0	975.0	975.0	975.0
TRAVEL		85.0	85.0	85.0	85.0	85.0
CONTRACTUAL		2,595.0	2,595.0	1,370.0	1,370.0	1,370.0
SUPPLIES		275.0	275.0	25.0	25.0	25.0
EQUIPMENT		390.0	390.0	140.0	140.0	140.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>4,320.0</b>	<b>4,320.0</b>	<b>2,595.0</b>	<b>2,595.0</b>	<b>2,595.0</b>

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		4,320.0	4,320.0	2,595.0	2,595.0	2,595.0
<b>TOTAL</b>		<b>4,320.0</b>	<b>4,320.0</b>	<b>2,595.0</b>	<b>2,595.0</b>	<b>2,595.0</b>

POSITIONS:

FULL-TIME		15	15	15	15	15
PART-TIME		-0-	-0-	-0-	-0-	-0-
TEMPORARY		-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

(See Attached)

Prepared by: Dan Easton Phone: 465-2640  
Division: Environmental Quality Date: April 14, 1989

Approved by Commissioner: A.D. Gole Date: 4/14/89  
Agency: Alaska Department of Environmental Conservation

Distribution (by preparer):

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

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

DRAFT

FISCAL ANALYSIS

CSSB 261

(4-14 WORK DRAFT)

April 14, 1989

THE FOLLOWING IS A VERY PRELIMINARY ANALYSIS BASED ON A BRIEF REVIEW OF THE PROPOSED LEGISLATION. THE ANALYSIS AND INCLUDED ESTIMATES WILL BE REFINED DURING THE COMMITTEE PROCESS.

### ESTABLISH DEPOTS AND RESPONSE STATIONS (\$2,000.0)

The Department estimates that \$2,000.0 will be required for each of the first two years to establish and stock depots and response stations at a minimum of two locations: Valdez and on the Kenai Peninsula. Once established, subsequent year costs are expected to decline to \$500.0 for contracted services to maintain inventories and response readiness.

100	\$ -0-
200	\$ -0-
300	\$1,500.0
400	\$ 250.0
500	\$ 250.0
Total	<u>\$2,000.0*</u>

\*includes \$1,500.0 in first- and second-year costs

### PREPARE MASTER AND REGIONAL CONTINGENCY PLANS (\$350.0)

The Department estimates that four technical positions and one clerical position would be required to evaluate the existing state contingency plan, to oversee a contract to expand the existing plan to incorporate the additional items specified by the legislation, to annually review and revise the plan, to annually conduct hearings on the plan, and to develop and revise regional plans. For the first two years, contractual services in the amount of \$125.0 would be required for a consultant to assist in developing the initial plans.

100	\$	235.0
200	\$	20.0
300	\$	65.0
400	\$	5.0
500	\$	25.0
Total	\$	<u>350.0*</u>

\*includes \$125.0 in first- and second-year costs

**ADMINISTER OIL AND HAZARDOUS SUBSTANCE SPILL CONTAINMENT FUND (\$170.0)**

The Department projects the need for an accountant and an accounting technician to set up and administer the fund, and to track and approve payments from the fund (\$120.0).

The Department also foresees a need for \$50.0 in contractual funds to prepare, publish and distribute the annual report on discharges, environmental effects, the operational status of the response corps, and needed changes.

100	\$	80.0
200	\$	5.0
300	\$	60.0
400	\$	5.0
500	\$	20.0
Total	\$	<u>170.0</u>

**ESTABLISH OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE (\$1,800.0)**

The Response Office would consist of a full-time staff of nine agency personnel: a director, six response specialists, one clerk-typist and one administrative assistant. First-year costs to establish and staff the office are estimated at \$700.0. Subsequent year costs are estimated at \$600.0. Other costs include training contracts (\$200.0), contracts with local governments (\$500.0), wages and per diem for volunteer training (\$300.0), and contracts with private response specialists (\$100.0).

100	\$	660.0
200	\$	60.0
300	\$	970.0
400	\$	15.0
500	\$	95.0
Total	\$	<u>\$1,800.0*</u>

\*includes \$100.0 in first- and second-year costs

SUMMARY

	100	200	300	400	500	TOTAL
Depots/Response Stations	-0-	-0-	\$1,500.0	\$250.0	\$250.0	\$2,000.0
Master Contingency Plans	\$235.0	\$20.0	\$ 650.0	\$ 5.0	\$ 25.0	\$ 350.0
Administer Spill Fund	\$ 80.0	\$ 5.0	\$ 60.0	\$ 5.0	\$ 20.0	\$ 170.0
Response Office	\$660.0	\$60.0	\$ 970.0	\$ 15.0	\$ 95.0	\$1,800.0
TOTAL	\$975.0	\$85.0	\$2,595.0	\$275.0	\$390.0	\$4,320.0*

\*includes \$1,725.0 in first- and second-year, one-time costs

6-1161E ✓  
Chenoweth  
4/15/89

Original sponsors: Duncan, Kerttula,  
Szymanski, et al.

1 IN THE SENATE

BY THE SENATE SPECIAL  
COMMITTEE ON OIL AND GAS

2 CS FOR SENATE BILL NO. 261 (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 oil and hazardous substance  
7 discharges, and imposing a fee on certain crude oil;  
8 and providing for an effective date."

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

10 \* Section 1. AS 43 is amended by adding a new chapter to read:

11 CHAPTER 59. FEE ON CRUDE OIL DELIVERED

12 FOR VESSEL TRANSPORTATION.

13 Sec. 43.59.010. FEE LEVIED. Every person who delivers crude oil  
14 to a port for transportation by a vessel that transits the navigable  
15 waters of the state shall pay a fee of \$.05 per barrel of the crude  
16 oil delivered, less royalty oil the ownership or right to which is  
17 exempt from taxation under this title.

18 Sec. 43.59.020. ADMINISTRATION OF THE FEE. (a) The fee on  
19 crude oil shall be paid quarterly. The fee is due on the 20th day of  
20 the month following the close of the calendar quarter on crude oil  
21 delivered to the port during the preceding calendar quarter. If the  
22 fee is not paid before the end of the month in which it becomes due,  
23 the fee becomes delinquent.

24 (b) The fee shall be paid by the person delivering the crude oil  
25 to the port for transportation.

26 (c) In making settlement with the royalty owner the person  
27 paying the fee may deduct the amount of the fee paid on royalty oil,  
28 or may at the time the fee becomes due deduct royalty oil equivalent  
29 in value to the amount of the fee paid.

1 (d) The fee shall be paid to the department, and the person  
2 paying the fee shall file with the department at the time the fee is  
3 required to be paid a report, under oath, on forms prescribed by or  
4 acceptable to the department, giving with other information required,  
5 the following:

6 (1) the name of the person paying the fee;

7 (2) the total volume of the crude oil delivered for trans-  
8 portation; and

9 (3) the name of the first purchaser and the price received  
10 for the crude oil if sold in the state.

11 (e) Reports by or on behalf of the person required to report  
12 under (d) of this section are delinquent the first day following the  
13 day the fee is due. Each person required to report under (d) of this  
14 section is subject to a penalty of \$1,000 a day for each day during  
15 which the report is not filed. The penalty for failure to file a  
16 report is in addition to the penalty for delinquent fees under (h) of  
17 this section, and is a lien against the assets of the person required  
18 to report under (d) of this section.

19 (f) The department may

20 (1) require a person who is obligated to pay the fee due  
21 under this chapter, the agent or employee of the person, or the owner  
22 or former owner of a royalty interest in crude oil, to furnish addi-  
23 tional information that is considered by the department as necessary  
24 to compute the amount of the fee;

25 (2) examine the books, records, and files of a person  
26 identified in (1) of this subsection;

27 (3) conduct hearings and compel the attendance of witnesses  
28 and the production of books, records, and papers of any person identi-  
29 fied in (1) of this subsection; and

1 (4) make an investigation or hold an inquiry that is con-  
2 sidered necessary to a disclosure of the facts as to the volume of  
3 crude oil transported.

4 (g) The department may determine whether or not a report re-  
5 quired under this chapter is correct. If a person makes an untrue or  
6 incorrect report, or fails or refuses to make a report, the department  
7 shall, under regulations prescribed by it, determine the correct  
8 amount of crude oil on which the fee is payable and compute the fee.

9 (h) When the fee provided for in this chapter becomes delin-  
10 quent, it bears interest at the rate prescribed in AS 43.05.225. If a  
11 person fails to make a report required by this chapter within the time  
12 prescribed by law for the report, the department shall examine the  
13 books, records, and files of the person to determine the amount and  
14 value of the crude oil delivered to compute the fee, and the depart-  
15 ment shall add to the fee the cost of the examination, together with  
16 any penalties accrued.

17 (i) In case of overpayment, duplicate payment, or payment made  
18 in error, the department may issue a certificate stating the facts and  
19 the amount of the refund to which the person required to pay the fee  
20 is entitled. Upon presentation of the certificate to the Department  
21 of Administration, the Department of Administration shall issue a  
22 warrant for the refund.

23 (j) The department may adopt regulations for the purpose of  
24 making and filing reports required by this chapter and otherwise  
25 necessary to the enforcement of this chapter. The department may  
26 require a sufficient bond from every person charged with the making  
27 and filing of reports and the payment of the fee. The bond shall run  
28 to the state and shall be conditioned upon the making and filing of  
29 reports as required by law, upon compliance with the regulations of

1 the department, and for the prompt payment, by the principal on the  
2 bond, of all fees due the state by virtue of this chapter.

3 (k) If reports required have not been filed or are insufficient  
4 to furnish the information required by the department, the Department  
5 of Law shall institute, in the name of the state upon relation of the  
6 department, the necessary action or proceedings to enjoin the person  
7 from continuing operations until the reports are filed.

8 Sec. 43.59.030. DISPOSITION OF PROCEEDS OF FEE. (a) The com-  
9 missioner shall deposit the proceeds of the fee into the general fund.

10 (b) The commissioner of administration shall separately account  
11 for all proceeds of the fee deposited into the general fund.

12 Sec. 43.59.040. USE OF REVENUE DERIVED FROM FEE. The legisla-  
13 ture may appropriate the annual estimated balance of the account  
14 established under AS 43.59.030 to the oil and hazardous substance  
15 emergency containment fund under AS 46.04.300.

16 Sec. 43.59.050. SUSPENSION AND REIMPOSITION OF THE FEE. (a)  
17 Not later than 30 days after the end of each calendar quarter, the  
18 commissioner of administration shall determine the cumulative total of  
19 money

20 (1) that has been deposited through that calendar quarter  
21 into the general fund under AS 43.59.030;

22 (2) expended through that calendar quarter from the oil and  
23 hazardous substance emergency containment fund under AS 46.04.300.

24 (b) Within 15 days after making the determinations required by  
25 (a) of this section, the commissioner of administration shall report  
26 to the commissioner the difference between the amount determined under  
27 (a)(1) of this section and amount determined under (a)(2) of this  
28 section.

29 (c) If the commissioner of administration reports that the

1 difference determined under (b) of this section equals or exceeds  
2 \$20,000,000, the commissioner of revenue shall suspend imposition and  
3 collection of the fee levied and collected under AS 43.59.010. Sus-  
4 pension of the imposition and collection of the fee begins on the  
5 first day of the calendar quarter next following the commissioner's  
6 receipt of the commissioner of administration's report under (b) of  
7 this section. Before the first day of a suspension authorized by this  
8 subsection, the commissioner shall make a reasonable effort to notify  
9 all persons who are known to the department to be paying the fee under  
10 this chapter that the fee will be suspended.

11 (d) Except as provided in AS 43.59.060, if the commissioner of  
12 administration reports that the difference determined under (b) of  
13 this section is less than \$20,000,000, the commissioner of revenue  
14 shall require imposition and collection of the fee authorized under  
15 AS 43.59.010. Reimposition of the fee begins on the first day of the  
16 calendar quarter next following the commissioner's receipt of the  
17 commissioner of administration's report under (b) of this section.  
18 Before the first day of reimposition of the fee authorized by this  
19 subsection, the commissioner shall make a reasonable effort to notify  
20 all persons who are known to the department to be required to pay the  
21 fee under this chapter that the fee will be reimposed.

22 Sec. 43.59.060. FEE NOT IMPOSED. The fee authorized by this  
23 chapter is not levied during any fiscal year for which the estimated  
24 revenue from the fee would be sufficient to restore the balance of the  
25 oil and hazardous substance emergency containment fund on the first  
26 day of the fiscal year to at least \$20,000,000, and the legislature  
27 does not, during the regular legislative session preceding the first  
28 day of the fiscal year, appropriate money from the general fund to the  
29 oil and hazardous substance emergency containment fund sufficient to

1 restore the balance of the oil and hazardous substance emergency  
2 containment fund on the first day of the fiscal year to at least  
3 \$20,000,000.

4 Sec. 43.59.100. DEFINITIONS. In this chapter

5 (1) "barrel of oil" has the meaning given in AS 43.55.140;

6 (2) "fee" means the fee levied by AS 43.59.010;

7 (3) "lease or property" has the meaning given in AS 43.55.-  
8 140;

9 (4) "navigable water" has the meaning given in AS 38.05.-  
10 965;

11 (5) "oil" has the meaning given in AS 43.55.140;

12 (6) "ownership or right to which is exempt from taxation"  
13 has the meaning given in AS 43.55.140;

14 (7) "vessel" has the meaning given in AS 46.04.900.

15 \* Sec. 2. AS 46.04.090(a) is amended to read:

16 (a) The department, when feasible, shall enter into contracts  
17 with persons or private organizations to provide the personnel, equip-  
18 ment, or other services or supplies that [WHICH] may be required to  
19 carry out this chapter. Contracts under this section are governed by  
20 AS 36.30 (State Procurement Code). When private contracting is not  
21 feasible, the department shall [MAY] establish and maintain at ports,  
22 harbors, or other locations in the state from which crude oil is  
23 regularly transported by vessel and may establish at other locations  
24 [,] the cleanup personnel, equipment, and supplies that [WHICH], in  
25 its judgment, are necessary to carry out this chapter.

26 \* Sec. 3. AS 46.04.120 is amended by adding a new paragraph to read:

27 (18) "navigable water" has the meaning given in AS 38.05.-  
28 965.

29 \* Sec. 4. AS 46.04 is amended by adding new sections to read:

1           ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE DISCHARGE AND  
2                           PREVENTION CONTINGENCY PLANS.

3           Sec. 46.04.200. STATE MASTER PLAN. (a) The department shall  
4           prepare and annually review and revise a statewide master oil and  
5           hazardous substance discharge and prevention contingency plan.

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

7                   (1) take into consideration the elements of an oil dis-  
8           charge contingency plan approved or submitted for approval under  
9           AS 46.04.030;

10                   (2) clarify and specify the respective responsibilities of  
11           each of the following in the assessment, containment, and cleanup of a  
12           catastrophic oil discharge or of a significant discharge of a hazard-  
13           ous substance into the environment of the state:

14                           (A) agencies of the state;

15                           (B) municipalities of the state;

16                           (C) appropriate federal agencies;

17                           (D) operators of facilities;

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

20                           (F) other parties identified by the commissioner as  
21           having an interest in or the resources to assist in the contain-  
22           ment and cleanup of an oil or hazardous substance discharge;

23                   (3) specify the respective responsibilities of parties  
24           identified in (2) of this subsection in an emergency response; and

25                   (4) identify actions necessary to reduce the likelihood of  
26           catastrophic releases.

27           (c) In preparing and annually reviewing the state master plan,  
28           the commissioner

29                   (1) shall consult with municipal and community officials,

1 and with representatives of affected regional organizations;

2 (2) <sup>shall</sup> ~~may~~ submit the draft plan to the public for review and  
3 comment; and <sup>shall</sup>

4 (3) ~~may~~ require or schedule unannounced oil spill drills to  
5 test the sufficiency of an oil discharge contingency plan approved  
6 under AS 46.04.030 or of the cleanup plans of a party identified under  
7 (b)(2) of this section.

8 Sec. 46.04.210. REGIONAL MASTER PLAN. (a) For any region of  
9 the state, the boundaries of which are determined by the commissioner  
10 by regulation, in which the department is required to review and  
11 approve an oil discharge contingency plan submitted by a person under  
12 AS 46.04.030, the department shall prepare and annually review and  
13 revise a regional master oil and hazardous substance discharge and  
14 prevention contingency plan.

15 (b) The provisions of AS 46.04.200(b) and (c) apply to prepara-  
16 tion and review of a regional master plan under this section.

17 ARTICLE 3. OIL AND HAZARDOUS SUBSTANCE SPILL CONTAINMENT FUND.

18 Sec. 46.04.300. OIL AND HAZARDOUS SUBSTANCE EMERGENCY CONTAIN-  
19 MENT FUND. (a) The oil and hazardous substance emergency containment  
20 fund is established. The fund is a nonlapsing, revolving fund in the  
21 department.

22 (b) The legislature may appropriate to the fund established in  
23 (a) of this section the revenue annually derived from the fee levied  
24 and collected under AS 43.59.

25 Sec. 46.04.310. DUTIES OF COMMISSIONER. The commissioner shall

26 (1) administer the fund;

27 (2) pay from the fund, without regard to fault, all direct  
28 costs of emergency evaluation, containment, and cleanup efforts in-  
29 curred by the state that relate to natural resources of the state

1 caused by discharge of oil or a hazardous substance into the navigable  
2 waters of the state; and

3 (3) make an annual report to the legislature and governor  
4 that

5 (A) describes the quality and quantity of discharges  
6 of oil and hazardous substances into the navigable waters of the  
7 state;

8 (B) relates the costs paid for from the fund;

9 (C) relates the environmental effect on the resources  
10 of the state as a result of the discharges;

11 (D) describes the operational status of the oil and  
12 hazardous substance response office and corps established under  
13 AS 46.08.100 - 46.08.120, the condition of its equipment, and  
14 whether additional personnel, equipment, supplies, or other  
15 materials are required for the oil and hazardous substance  
16 response office and corps to function effectively; and

17 (E) recommends whether there are changes necessary in  
18 the legislation relating to the office, the corps, or the fund.

19 Sec. 46.04.320. USE OF FUND. (a) The commissioner may expend  
20 money from the fund under AS 46.04.310(2) only if

21 (1) the discharge is a catastrophic oil discharge that  
22 constitutes an emergency under AS 46.04.080(a);

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

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

27 (4) the commissioner reasonably believes that there has  
28 been a discharge of oil or a hazardous substance, or that there is a  
29 potential discharge of oil or a hazardous substance, and the discharge

1 may qualify under (1) - (3) of this subsection.

2 (b) Subject to legislative appropriation, the commissioner may  
3 use money in the fund to pay

4 (1) costs of personal services or contracts incurred to  
5 establish and maintain the oil and hazardous substance response of-  
6 fice;

7 (2) expenses incurred by that office for purchases of  
8 necessary equipment, supplies, and transportation;

9 (3) the expenses of the oil and hazardous substance re-  
10 sponse corps established under AS 46.08.110 by that office; and

11 (4) the preparation and annual revision of the state master  
12 plan under AS 46.04.200 and regional master plans under AS 46.04.210.

13 (c) The commissioner may not use money in the fund to

14 (1) make grants; or

15 (2) reimburse parties for expenditures incurred by a person  
16 that did not have the prior approval of the commissioner.

17 \* Sec. 5. AS 46.08 is amended by adding new sections to read:

18 ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE, <sup>Emergency</sup> RESPONSE OFFICE, CORPS ~~AND~~ <sup>GROUPS</sup>

19 *Funding* Sec. 46.08.100. OFFICE ESTABLISHED. (a) There is established in  
20 the department the oil and hazardous substance response office. The  
21 office consists of a director and specialists who are trained in  
22 programs and technologies related to the containment and cleanup of  
23 releases or threatened releases of oil and hazardous substances.

24 (b) The commissioner may establish and maintain the office by  
25 (1) direct employment;  
26 (2) contract with political subdivisions, the University of  
27 Alaska, transporters, and other private persons; or

28 (3) any combination of (1) and (2) of this subsection. ]

29 Sec. 46.08.110. RESPONSE CORPS (a) The office shall establish

1 an oil and hazardous substance response corps.

2 (b) The corps consists of volunteers who register with the  
3 office and agree to be trained by the office in techniques for con-  
4 tainment and cleanup and to be available on short notice to assist the  
5 office in containment and cleanup.

6 (c) Members of the corps are entitled to wages, per diem, and  
7 expenses as determined by the commissioner for training and for days  
8 spent in service to the state in containment and cleanup actions.

9 Sec. 46.08.120. DUTIES OF THE OFFICE. (a) The office shall be  
10 prepared to respond promptly to a discharge of oil or a hazardous  
11 substance into the navigable waters <sup>or on the banks</sup> of the state.

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

14 (1) the oil discharge is a catastrophic oil discharge that  
15 constitutes an emergency under AS 46.04.080(a);

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

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

20 (4) the commissioner reasonably believes that there has  
21 been a discharge of oil or a hazardous substance, or that there is a  
22 potential discharge of oil or a hazardous substance, and the discharge  
23 may qualify under (1) - (3) of this subsection.

24 Sec. 46.08.130. EMERGENCY POWERS. (a) When the office has  
25 reasonable grounds to believe that a release of oil or a hazardous  
26 substance has occurred or is threatened to occur which, in the judg-  
27 ment of its director, presents an imminent or present danger to the  
28 health or welfare of the people of the state or would result in or is  
29 likely to result in irreversible or irreparable damage to the natural

1 resources or environment, and it appears to be prejudicial to the  
2 interest of the people of the state to delay action until an oppor-  
3 tunity for a hearing can be provided, state employees or members of  
4 the corps may, with permission of the director and without prior  
5 hearing, enter private property for the purpose of containment or  
6 cleanup.

7 (b) The property owner affected by a response action taken under  
8 (a) of this section has the right to be heard as soon as practicable  
9 and to present proof to the office that the containment or cleanup  
10 action is unnecessary or that it is not necessary to enter the per-  
11 son's property for the containment or cleanup action.

12 Sec. 46.08.190. DEFINITIONS. In AS 46.08.100 - 46.08.190

13 (1) "corps" means the oil and hazardous substance response  
14 corps;

15 (2) "office" means the oil and hazardous substance response  
16 office.

17 \* Sec. 6. PREPARATION OF INITIAL PLANS. The commissioner of environ-  
18 mental conservation shall present the initial statewide master plan pre-  
19 pared under AS 46.04.200, enacted by sec. 4 of this Act, and any initial  
20 regional master plans required by AS 46.04.210, enacted by sec. 4 of this  
21 Act, to the governor by July 1, 1990.

22 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).  
23  
24  
25  
26  
27  
28  
29

6-1161J ✓  
Chenoweth  
4/20/89

Original sponsors: Duncan, Kerttula,  
Szymanski, et al.

*Dug*

*Sent w/ CSSB 204c  
AS  
As 7th. 1989*

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 261 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act requiring the Department of Environmental  
7 Conservation to prepare and to annually review and  
8 revise a master oil and hazardous substance discharge  
9 and prevention contingency plan for the state and  
10 regional oil and hazardous substance discharge and  
11 prevention contingency plans for certain regions of  
12 the state, and to the implementation of those plans;  
13 and providing for an effective date."

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

15 \* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that the  
16 *March 27, 1989* Exxon Valdez oil spill disaster *in Prince William Sound* demonstrates a need for the state to have  
17 an independent spill containment and cleanup capability in the event of  
18 future discharges of oil or a hazardous substance.

19 (b) It is the purpose of this Act to provide assurance to the people  
20 of the state that their health, safety, and well-being will be protected  
21 from the adverse consequences of oil and hazardous substance releases of a  
22 magnitude that presents a grave and substantial threat to the economy and  
23 the environment of the state.

24 \* Sec. 2. AS 46.04 is amended by adding new sections to read:

25 ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE DISCHARGE AND  
26 PREVENTION CONTINGENCY PLANS.

27 Sec. 46.04.200. STATE MASTER PLAN. (a) The department shall  
28 prepare and annually review and revise a statewide master oil and  
29 hazardous substance discharge and prevention contingency plan.

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

(1) take into consideration the elements of an oil discharge contingency plan approved or submitted for approval under AS 46.04.030;

(2) clarify and specify the respective responsibilities of each of the following in the assessment, containment, and cleanup of a catastrophic oil discharge or of a significant discharge of a hazardous substance into the environment of the state:

(A) agencies of the state;

(B) municipalities of the state;

(C) appropriate federal agencies;

(D) operators of facilities;

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

(F) other parties identified by the commissioner as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance discharge;

(3) specify the respective responsibilities of parties identified in (2) of this subsection in an emergency response; and

(4) identify actions necessary to reduce the likelihood of catastrophic releases.

(c) In preparing and annually reviewing the state master plan, the commissioner shall

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

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

(3) require or schedule unannounced oil spill drills to test the sufficiency of an oil discharge contingency plan approved

*legislative review legislature by the 10<sup>th</sup> day of each annual session*

1 under AS 46.04.030 or of the cleanup plans of a party identified under  
2 (b)(2) of this section.

3 Sec. 46.04.210. REGIONAL MASTER PLAN. (a) For any region of  
4 the state, the boundaries of which are determined by the commissioner  
5 by regulation, in which the department is required to review and  
6 approve an oil discharge contingency plan submitted by a person under  
7 AS 46.04.030, the department shall prepare and annually review and  
8 revise a regional master oil and hazardous substance discharge and  
9 prevention contingency plan.

10 (b) The provisions of AS 46.04.200(b) and (c) apply to prepara-  
11 tion and review of a regional master plan under this section.

12 \* Sec. 3. AS 46.08.040 is amended to read:

13 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use  
14 money from the fund to

15 (1) investigate and evaluate the release or threatened  
16 release of oil or a hazardous substance, and contain, clean up, and  
17 take other necessary action, such as monitoring and [,] assessing, to  
18 address a [INVESTIGATING, AND EVALUATING THE] release or threatened  
19 release of oil or a hazardous substance that poses an imminent and  
20 substantial threat to the public health or welfare, or to the environ-  
21 ment;

22 (2) provide matching funds for participation in federal oil  
23 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-  
24 hensive Environmental Response, Compensation, and Liability Act of  
25 1980); [AND]

26 (3) recover the cost to the state or to a municipality of a  
27 containment and cleanup resulting from the release or the threatened  
28 release of oil or a hazardous substance;

29 (4) prepare, review, and revise

1                    (A) the state's master oil discharge and prevention  
2 contingency plan required by AS 46.04.200; and

3                    (B) a regional master oil discharge and prevention  
4 contingency plan required by AS 46.04.210; and

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

7       \* Sec. 4. PREPARATION OF INITIAL PLANS. The commissioner of environ-  
8 mental conservation shall present the initial statewide master plan pre-  
9 pared under AS 46.04.200, enacted by sec. 2 of this Act, and any initial  
10 regional master plans required by AS 46.04.210, enacted by sec. 2 of this  
11 Act, to the governor by July 1, 1990.

12       \* Sec. 5. APPLICABILITY OF ACT. This Act does not relieve a person  
13 responsible for an oil terminal facility, offshore exploration or produc-  
14 tion facility, or a vessel that transports crude oil, or a person who has  
15 control of a hazardous substance, from the responsibility for containing  
16 and cleaning up a discharge of oil or the hazardous substance as required  
17 by law.

18       \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).  
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# Alaska State Legislature

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



WHILE IN JUNEAU  
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## SENATE SPECIAL COMMITTEE ON OIL AND GAS

To: Members of the Senate Special  
Committee on Oil and Gas

From: Committee staff

Re: SB 261, Sectional Analysis

Date: April 11, 1989

### Section 1. Purpose:

The purpose of this act is to provide the state's residents with assurance that their health and safety needs will be protected from the effects of oil and hazardous substance releases.

### Section 2. AS. 46.04

Chapter 4, Oil Pollution Control, is amended by adding new sections to require oil and hazardous substance discharge and prevention contingency plans.

#### AS 46.04.200. State Master Plans

The Department of Environmental Conservation shall prepare and annually review and revise a statewide master oil and hazardous substance discharge and prevention plan. This plan must consider the elements of the oil discharge contingency plan required to be submitted for oil terminal facilities, offshore exploration or production facilities, or for tank vessels or barges.

The plan should clarify and specify the responsibilities of state, federal and municipal agencies, the operators of facilities and other private parties regarding assessment, containment, and cleanup of a catastrophic oil discharge or a significant discharge. The master plan should specify the responsibilities of the above groups in an emergency response and identify the actions necessary to reduce the likelihood of catastrophic releases.

The commissioner shall consult with local officials and regional representatives of organizations and may submit a draft plan for public review.

#### AS 46.04.210. Regional Master Plan

The department shall prepare and annually review a regional master plan for an area where a oil discharge contingency plan is required. The commissioner will determine the boundaries of the area by regulation. The regional plan is subject to the criteria specified for the master state plan.

#### Section 3. AS 46.08.040. Purposes of the Fund.

This section of existing law, dealing with the uses of the oil and hazardous substance release fund, is amended to include the cost of preparing, revising and reviewing the master and regional oil discharge and prevention contingency plans. It also amends the section to allow restoration of the environment as a purpose for which the fund can be used.

#### Section 4. Preparation of Initial Plans.

The plans should be presented to the legislature and the governor by July 1, 1990.

STATE OF ALASKA  
THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 18, 1989

SUBJECT: Suggested technical changes to  
CSSB 261 (Oil and Gas)

TO: Senator Bettye Fahrenkamp, Chair  
Senate Resources Committee

FROM: Jack Chenoweth  
Legislative Counsel 

I would ask the committee to make the following technical changes and corrections to the Special Oil and Gas Committee-adopted CSSB 261:

Page 2, line 2: Delete "paying" and insert "required to pay"

Page 6, lines 7 and 8: Delete the definition of "lease or property," for we don't use those terms with reference to this tax;

Page 6, line 14: The reference to the definition of "vessel" should be to "AS 46.04.120," not, as in the bill, to "AS 46.04.900."

Page 8, line 17: Delete "SPILL" and insert "EMERGENCY"

JC:gc  
WKG9/083