

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990
6515 SENATE RESOURCES

8672

919

1 identify

2 (1) a planning area consisting of all contiguous land
3 within an entire drainage, subdrainage within a large drainage, or
4 major reach of a larger river, that is owned by a person or a group of
5 persons under common control; and

6 (2) an operating area that includes all current and future
7 harvest areas within the planning area and all trees that could be cut
8 within the harvest areas using conventional logging methods regardless
9 of whether the application of the riparian standards set out in
10 AS 41.17.116(a) would preclude cutting.

11 (b) Once an operating area is designated, timber located in a
12 new operating area within the planning area may not be harvested until
13 the next rotation period, except as provided in (d) of this section.

14 (c) A plan of operations submitted under AS 41.17.090(c) may
15 include timber retention requirements different from those set out in
16 AS 41.17.116(a)(1) only if the timber to be retained in the riparian
17 area pursuant to AS 41.17.116(a)(1), the timber made inoperable by
18 application of AS 41.17.116(a)(1), and the timber left in addition to
19 requirements of AS 41.17.116(a) to protect fish habitat under an
20 agreement with the state forester, would result in retention of more
21 than five percent of the basal area in the operating area. If the
22 state forester determines that those three factors would result in
23 retention of more than five percent of the basal area in the operating
24 area, the state forester shall, within the period specified in
25 AS 41.17.090(e) for reviewing the plan, (1) issue a written decision
26 designating an alternate site specific riparian protection plan that
27 does not require the retention of more than five percent of the basal
28 area and that does not require the retention of timber unnecessary for
29 adequate protection of fish habitat and water quality; (2) agree to

1 the timber retention proposed in the plan of operations; or (3)
2 tender compensation for the timber in excess of five percent of the
3 basal area at the current market value of the trees to be harvested
4 from the operating area. The operator may appeal to the commissioner
5 from a decision designating an alternate site specific riparian pro-
6 tection plan. If different timber retention requirements under this
7 subsection are not included in the plan of operations, the operator
8 shall comply with the timber retention requirements of
9 AS 41.17.116(a)(1).

10 (d) During the same rotation period, an operator may harvest
11 timber from a new operating area within a planning area designated in
12 (a) of this section, regardless of any changes in ownership, only as
13 authorized as follows:

14 (1) If the riparian standards of AS 41.17.116(a) have been
15 met in the original operating area without compensation under (c)(3)
16 of this section, the operator may harvest timber from the new operat-
17 ing area. Timber harvest in the new operating area must comply with
18 AS 41.17.116(a).

19 (2) If the riparian standards of AS 41.17.116(a) have not
20 been met in the original operating area or if compensation has been
21 provided under (c)(3) of this section, the operator may harvest timber
22 from a new operating area only if the operator complies with addition-
23 al timber retention requirements adopted by the commissioner in regu-
24 lation. In the regulations, the commissioner shall require that
25 between seven and one-half percent and ten percent of the basal area
26 of the new operating area must be dedicated to habitat protection or
27 enhancement.

28 Sec. 41.17.118. RIPARIAN STANDARDS FOR STATE LAND. The riparian
29 standards for state land are as follows:

1 (1) On state forest land managed by the department that is
2 located north of the Alaska Range, harvest of timber may not be under-
3 taken within 30 meters immediately adjacent to an anadromous or high
4 value resident fish waterbody unless the division determines that
5 adequate protection remains for the fish habitat. On state forest
6 land managed by the department that is located south of the Alaska
7 Range, harvest of timber may not be undertaken within 30 meters imme-
8 diately adjacent to an anadromous or high value resident fish
9 waterbody; between 30 and 90 meters from the waterbody, any timber
10 harvest must be consistent with the maintenance of important fish and
11 wildlife habitat.

12 (2) The commissioner may impose additional riparian pro-
13 tection standards for timber harvest operations through the adoption
14 of land use plans under AS 38.04.065 and forest management plans and
15 reports under AS 38.05.112 and AS 41.17.230.

16 (3) Nothing in this section alters the terms of any exist-
17 ing contract or the outcome of any pending litigation. An amendment
18 to or renewal of an existing state timber contract must be consistent
19 with this chapter and AS 38.05, as amended by this Act.

20 Sec. 41.17.119. RIPARIAN STANDARDS FOR OTHER PUBLIC LAND. On
21 other public land, timber harvest operations on forest land within 30
22 meters from the shore or bank of any anadromous or high value resident
23 fish waterbody must be sited and designed primarily to protect fish
24 habitat and water quality.

25 * Sec. 20. AS 41.17 is amended by adding a new section to read:

26 Sec. 41.17.125. ENFORCEMENT COORDINATION. All state agencies
27 with enforcement authority over activities subject to regulation under
28 this chapter shall establish a uniform enforcement strategy that
29 avoids duplication and inconsistencies. All participating agencies

1 shall agree to and comply with the contents of that strategy. In
2 developing and implementing the uniform strategy, each state agency
3 retains its authority to determine the appropriate remedies under the
4 statutes and regulations it administers.

5 * Sec. 21. AS 41.17.131 is repealed and reenacted to read:

6 Sec. 41.17.131. PENALTIES FOR VIOLATIONS. (a) An operator,
7 forest landowner, or timber owner who violates or permits a violation
8 of this chapter, a regulation adopted under this chapter, a directive
9 issued under AS 41.17.136, or a stop-work order issued under AS 41.-
10 17.138 is liable, after notice and hearing, for a civil fine in an
11 amount not to exceed \$10,000 to be assessed by the commissioner. In
12 determining the amount of civil fine, the commissioner shall consider:

13 (1) the character and degree of injury to forest resources
14 and values;

15 (2) the degree of intent or negligence of the respondent in
16 causing or permitting the violation;

17 (3) the character and number of past violations caused or
18 permitted by the respondent; and

19 (4) if the information is available, the net economic
20 savings realized by the respondent through the violation.

21 (b) An operator, forest landowner, or timber owner who, with
22 criminal negligence, violates or permits a violation of this chapter,
23 a regulation adopted under this chapter, a directive issued under
24 AS 41.17.136, or a stop-work order issued under AS 41.17.138 is guilty
25 of a class A misdemeanor. As used in this section, "criminal negli-
26 gence" has the meaning given in AS 11.81.900(a).

27 (c) Each day on which a continuing violation occurs constitutes
28 a separate violation for purposes of (a) and (b) of this section.

29 (d) If a respondent violates a directive issued under

1 AS 41.17.136 or a stop-work order issued under AS 41.17.138, the
2 attorney general, at the request of the commissioner, may seek an
3 injunction requiring the respondent to suspend all or part of the
4 operations until the respondent complies with the directive or
5 stop-work order, and requiring the respondent to repair or correct any
6 damage resulting from the violation.

7 (e) If a respondent violates a directive issued under AS 41.-
8 17.136 which requires the respondent to repair or correct damage, the
9 commissioner may proceed to repair or correct the damage using state
10 agency employees or contractors, and the respondent is liable for the
11 cost of the repair after delivery by the commissioner of an itemized
12 statement of expenses incurred.

13 * Sec. 22. AS 41.17 is amended by adding a new section to read:

14 Sec. 41.17.136. DIRECTIVES. (a) Upon a determination that a
15 planned or ongoing activity violates or would violate this chapter or
16 a regulation adopted under it, the state forester shall notify the
17 respondent in writing and direct the respondent to halt or avoid the
18 violation, or to repair or correct any damage resulting from the
19 violation. The written notification must include a summary of the
20 basis for the directive.

21 (b) The respondent either may comply with the directive or may
22 request a hearing under AS 41.17.139 within 15 days. If a hearing is
23 requested, the respondent may continue with the activity unless the
24 state forester also issues a stop-work order under AS 41.17.138. If
25 the directive is affirmed by the hearing officer, the respondent shall
26 cease the activity unless a stay is issued under AS 41.17.143(c) or by
27 the superior court.

28 * Sec. 23. AS 41.17 is amended by adding a new section to read:

29 Sec. 41.17.138. STOP-WORK ORDERS. (a) Upon a determination

1 that a violation of this chapter or a regulation adopted under it is
2 occurring or is likely to occur and that significant harm to public
3 resources is likely to occur if work is not halted before a hearing
4 can be held, the state forester may issue a stop-work order requiring
5 the respondent to stop the violation or otherwise halt the threatened
6 harm. A stop-work order must be in writing and must state the facts
7 on which it is based.

8 (b) The state forester shall immediately refer the matter to a
9 hearing officer for determination of the validity of the stop-work
10 order under AS 41.17.139. The hearing officer shall consider any
11 arguments and evidence presented by the respondent within five work-
12 days after receipt of the stop-work order and shall then make an
13 immediate decision sustaining or reversing the stop-work order. The
14 stop-work order is of no further effect if it is not sustained by the
15 hearing officer within the five-workday period. A stop-work order may
16 be sustained only upon the same grounds on which it was originally
17 issued.

18 * Sec. 24. AS 41.17.139 is amended to read:

19 Sec. 41.17.139. HEARING PROCEDURES. (a) Unless otherwise
20 specified, proceedings under AS 41.17.131 - 41.17.139 are not subject
21 to the Administrative Procedure Act (AS 44.62). A hearing under
22 AS 41.17.136 or AS 41.17.138 [AS 41.17.131 - 41.17.139] shall be held
23 before the state forester, a regional forester, or another employee of
24 the division with similar qualifications [A HEARING OFFICER, APPOINTED
25 BY THE ATTORNEY GENERAL FROM AMONG MEMBERS OF THE ALASKA BAR ASSO-
26 CATION WHO HAVE BEEN NOMINATED BY THE BOARD OF FORESTRY AND WHO ARE
27 KNOWLEDGEABLE AND EXPERIENCED IN THE SUBJECT MATTER]. A hearing on an
28 appeal under AS 41.17.087 or AS 41.17.117(c) and a hearing under
29 AS 41.17.082(b) shall be held before the commissioner or the

1 commissioner's designee. A person who has assisted in the preparation
2 of the division's [STATE'S] case [OR WHO IS A STATE EMPLOYEE] is
3 ineligible. Hearings are not limited by common law, statutory, or
4 judicial rules of evidence; however, the hearing officer may admit
5 only that evidence which appears to be reliable and trustworthy. All
6 hearings shall be open to the public. Written or oral testimony may
7 be submitted. A party to a hearing may make written or oral argument,
8 secure the issuance of a subpoena under AS 44.62.430, offer testimony
9 or other evidence, and cross-examine witnesses. The hearing officer
10 shall endeavor, in conducting any hearing, to ensure that the respon-
11 dent understands the proceedings and that the facts supporting the
12 position of each party have been adequately presented. [HEARINGS
13 SHALL BE HELD AS CLOSE AS PRACTICABLE TO THE LOCATION OF THE ALLEGED
14 VIOLATION. TESTIMONY GIVEN AT THE HEARING SHALL BE RECORDED.]

15 (b) If the respondent notifies the commissioner within five days
16 before the hearing provided for in (a) of this section, the following
17 rules and procedures apply to the hearing:

18 (1) the hearing shall be a nonadversary proceeding, with
19 the hearing officer fully and impartially representing the interests
20 of the state and the respondent;

21 (2) the hearing officer shall thoroughly investigate the
22 facts and circumstances relating to the alleged violation, including
23 taking testimony from appropriate persons, collecting and examining
24 documents and other evidence, and performing other actions consistent
25 with due process of law; and

26 (3) the hearing officer shall issue a decision in accor-
27 dance with the applicable procedures of (a) of this section.

28 (c) The hearing officer shall select the location of the hear-
29 ing, giving consideration to the convenience of the parties and

1 witnesses. The hearing officer may permit witnesses to testify
2 through teleconferencing.

3 * Sec. 25. AS 41.17.143 is repealed and reenacted to read:

4 Sec. 41.17.143. APPEALS AND JUDICIAL REVIEW. (a) A decision by
5 a hearing officer under AS 41.17.136 or 41.17.138 or by the commis-
6 sioner under AS 41.17.082(b), 41.17.087, 41.17.117(c), or 41.17.131(a)
7 constitutes final agency action which may be appealed to the superior
8 court within 30 days after it is issued. Judicial review shall be as
9 provided in AS 44.62.560 and AS 44.62.570.

10 (b) An operator, forest landowner, or timber owner may request
11 the commissioner to reconsider the decision of a hearing officer
12 within 30 days after it is issued. Reconsideration is not a precondition
13 of judicial review under (a) of this section. If reconsideration
14 is requested, the final agency action for purposes of judicial review
15 is a decision by the commissioner to affirm, modify, or reverse the
16 hearing officer or to deny the request for reconsideration.

17 (c) The commissioner may stay or modify a directive or order
18 pending administrative or judicial review. A stay or modification may
19 not be appealed separately from an appeal of the substantive decision.

20 (d) No person, except the aggrieved forest landowner, timber
21 owner, or operator, may maintain any administrative or judicial ap-
22 peal, or other action or proceeding of any kind, challenging any
23 decision or failure to act by the department with respect to the
24 compliance of a timber operation on private forest land with this
25 chapter or a regulation, standard, directive, or order issued under
26 this chapter. Nothing in this subsection prohibits the maintenance of
27 an action

28 (1) for an alleged violation of a constitutional right; or

29 (2) against the department regarding any regulation,

1 standard, or systematic course of conduct that does not involve a
2 challenge to, or attempt to enjoin, stay, modify, or otherwise affect
3 a timber operation on private forest land subject to this chapter.

4 * Sec. 26. AS 41.17.230(f) is repealed and reenacted to read:

5 (f) A management plan prepared by the commissioner shall con-
6 sider and permit the uses described in AS 38.05.112(c). If the com-
7 missioner finds that a permitted use is incompatible with one or more
8 other uses in a portion of a state forest, the commissioner shall
9 affirmatively state in the management plan that finding of incom-
10 patibility for the specific area where the incompatibility is antic-
11 ipated to exist and the time period when the incompatibility is antic-
12 ipated to exist, together with the reasons for each finding.

13 * Sec. 27. AS 41.17.900(b) is repealed and reenacted to read:

14 (b) The degree of resource protection on federal land shall be
15 no less than that provided for by this chapter for state land. How-
16 ever, the specific provisions of this chapter and its implementing
17 regulations are not applicable to federal land either directly or for
18 purposes of compliance with the Coastal Zone Management Act.

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19 * Sec. 28. AS 41.17.900 is amended by adding a new subsection to read:

20 (e) Nothing in this chapter diminishes the rights, privileges,
21 or immunities of Alaska Natives or Alaska Native corporations with
22 respect to land conveyed under 43 U.S.C. 1601 - 1628 (Alaska Native
23 Claims Settlement Act), or to alter or diminish the authority of the
24 Department of Fish and Game under AS 16 or of the Department of En-
25 vironmental Conservation under AS 46 or of any state agency under
26 other laws.

27 * Sec. 29. AS 41.17 is amended by adding a new section to read:

28 Sec. 41.17.910. WILDLIFE HABITAT ON PRIVATE LAND. (a) The
29 Department of Fish and Game and the commissioner shall work

1 cooperatively with private forest landowners and timber owners to
2 protect, maintain, and enhance wildlife habitat to the maximum extent
3 practicable, consistent with the interests of the owners in the use of
4 their timber resources.

5 (b) The Department of Fish and Game shall provide educational
6 and technical assistance and extension services to owners of private
7 forest land or timber to assist in identifying important wildlife
8 habitat and to assist in designing voluntary management techniques
9 that minimize adverse effects on wildlife habitat.

10 (c) The Department of Fish and Game and the landowner shall
11 cooperate in identifying areas of important wildlife habitat on pri-
12 vate forest land and in developing methods for their protection.
13 Methods of protection for wildlife habitat may include, with the
14 agreement of the landowner, the purchase of fee title, purchase of
15 conservation easements, and land exchanges.

16 (d) Nothing in this section alters or diminishes the state's
17 authority and responsibility over wildlife on private land.

18 * Sec. 30. AS 41.17.950 is amended to read:

19 Sec. 41.17.950. DEFINITIONS. In this chapter, unless the con-
20 text otherwise requires,

21 (1) "board" means the Board of Forestry established in
22 AS 41.17.041;

23 (2) "broadcast chemicals" includes pesticides, herbicides,
24 fungicides, fertilizers, poisons, and any other substances

25 (A) used for silvicultural management or related
26 purposes;

27 (B) not native to the ecosystem in which they are
28 being applied; and

29 (C) having a foreseeable adverse impact on the welfare

1 of renewable resources, as determined by the commissioner of
2 environmental conservation;

3 (3) [(5)] "division" means the division of forestry;

4 (4) [(6)] "forest land" means land stocked or having been
5 stocked with forest trees of any size and not currently developed for
6 nonforest use, regardless of whether presently available or accessible
7 for commercial purposes, and includes any such land under state,
8 municipal, or private ownership;

9 (5) [(7)] "forest landowner" means a person who owns forest
10 land, but does not include the owner of mineral or subsurface rights
11 only;

12 (6) [(8)] "multiple use" means

13 (A) the management of all the various resources of
14 forest land so that they are used in the combination that will
15 best meet the needs of the citizens of Alaska, making the most
16 judicious use of the land for some or all of these resources or
17 related values, benefits, and services over areas large enough to
18 provide sufficient latitude for periodic adjustments in use to
19 conform to changing needs and conditions;

20 (B) that some land will be used for less than all of
21 the resources; and

22 (C) harmonious and coordinated management of the
23 various resources, each with the other, without significant
24 impairment of the productivity of the land and water, with con-
25 sideration being given to the relative values of the various
26 resources, and not necessarily the combination of uses that will
27 give the greatest dollar return or the greatest unit output;

28 (7) [(9)] "operations" means timber harvesting or activ-
29 ities associated with timber harvesting or forest development unless

1 exempted under AS 41.17.900(a) - (c);

2 (8) [(10)] "operator" means a person who is engaged in
3 timber harvesting or activities associated with timber harvesting or
4 forest development, or who contracts with others to conduct operations
5 for that person, except a person who is engaged in an operation as an
6 employee with wages or piecework as the sole compensation;

7 (9) "other public land" means state land managed by state
8 agencies other than the department, land owned by a municipality, and
9 land owned by the University of Alaska;

10 (10) [(11)] "person" has the meaning given in AS 01.10.060
11 and also includes a joint venture;

12 (11) "riparian area" means:

13 (A) on private land in the coastal spruce-hemlock
14 forest, the areas specified in AS 41.17.116(a);

15 (B) on private land outside the coastal spruce-hemlock
16 forest, the areas specified in regulations adopted by the commis-
17 sioner under AS 41.17.116(b);

18 (C) on state land managed by the department and on
19 other public land, the area 30 meters from the shore or bank or
20 any anadromous or high value resident fish waterbody;

21 (12) "significant impairment of the productivity of the land
22 and water" means any activity that [WHICH] may foreseeably result in
23 prolonged or substantial damage to renewable resources or prolonged or
24 substantial reduction of the continuing capability of the land or
25 water to produce renewable resources at their natural or historic
26 levels;

27 (13) "silviculture" means the art of producing and tending a
28 forest, the application of the knowledge of silvics in the treatment
29 of a forest, and the theory and practice of controlling and managing

1 forest establishment, composition, and growth;

2 (14) "state forest" means an area designated by the legis-
3 lature and [WHICH IS] retained in state ownership in order to
4 (A) provide a base for sustained yield management of
5 renewable resources; and
6 (B) permit a variety of beneficial uses;

7 (15) "sustained yield" means the achievement and maintenance
8 in perpetuity of a high level annual or regular periodic output of the
9 various renewable resources of forest land and water without signifi-
10 cant impairment of the productivity of the land and water, but does
11 not require that timber be harvested in a non-declining yield basis
12 over a rotation period; [AND]

13 (16) "timber owner" means a person who owns timber on forest
14 land or who has the rights to timber, but does not own the land it-
15 self;

16 (17) ^{3,5,6,7,8,9} "Type A waterbodies" means the following anadromous
17 fish waters:
18 (A) streams or rivers of any size having an average
19 gradient of eight percent or less, banks held in place by vege-
20 tation, channels that are not incised, and a substrate composed
21 of rubble, gravel, sand or silt;
22 (B) wetlands and lakes including their outlets; and
23 (C) estuarine areas delimited by the presence of
24 salt-tolerant vegetation;

25 (18) "Type B waterbodies" means anadromous fish streams and
26 rivers of any size having an average gradient of eight percent or
27 less, a channel that is incised and contained by the geomorphology and
28 not by vegetation, and a substrate that ranges from rubble to bedrock;
29 and

1 (19) "Type C waterbodies" means streams that are tributary
2 to anadromous waters that are incised greater than 28 degrees, have an
3 average gradient of greater than eight percent, are narrower than 20
4 feet between ordinary high water marks, have a substrate of rubble and
5 bedrock, and are mountain slope streams at the upper end of the
6 watershed.

7 * Sec. 31. LEGISLATIVE REVIEW. The legislature acknowledges and recog-
8 nizes that this Act is adopted on an interim basis because it involves a
9 significant increase in agency responsibility, is based on many untested
10 assumptions, and depends for its efficacy on many factors beyond the con-
11 trol of the state. Therefore, it is the intent of the legislature that the
12 operation of this Act and regulations adopted under this Act be fully
13 reviewed and the Act amended as necessary after the second full field
14 season ends in 1991. This period is intended to allow for further re-
15 search, and to gain experience implementing the Act and its regulations.
16 It is the intent of this legislature that a representative group be con-
17 vened for the review, or that it be conducted by the Board of Forestry. In
18 either event, it is the legislature's intent that the review occur with
19 full public input and participation, and its recommendations be forwarded
20 for legislative review, and for any needed changes in legislation. No
21 later than January 1, 1992, the Board of Forestry, the Department of Natu-
22 ral Resources, the Department of Environmental Conservation, and the De-
23 partment of Fish and Game shall submit along with the reports required by
24 AS 41.17.047(d), any proposed amendments to this chapter. The legislature
25 shall hold hearings to consider these or any other amendments and shall
26 take whatever action is required to accomplish the intent and purposes of
27 this Act.

28 * Sec. 32. AS 41.17.133, 41.17.135, 41.17.137, 41.17.141, 41.17.230(e),
29 and 41.17.900(d) are repealed.

1 * Sec. 33. This Act takes effect January 1, 1990.

Bill Analysis
Senate Bill 317

An Act relating to forest resources and practices and to the management of forest lands;
and providing for an effective date

Sec 1 ✓ Section 1: State Timber Planning Process. Title 38 is amended to require additional planning before state timber sales. The division of forestry must prepare a site-specific plan before all state timber sales that fully integrates appropriate resource protection measures into the sale design. This site-specific design would also improve public review of individual timber sales.

The department would also be required to annually prepare a five-year timber schedule of proposed state timber sales. Except for small sales and emergencies such as salvage, a proposed sale would be required to appear on the two five-year schedules preceding the sale. The five-year schedule will inform the public and the timber industry of the state's long-term plans.

✓ Section 2, 3 and 4: Coordinating Overlapping Agency Jurisdiction. These sections coordinate overlapping agency jurisdiction regulating timber harvest activities.

Sec 2 Section 2: DEC. Regulations of the amended forest practices act will serve as timber harvest standards for non-point source pollution under the leadership of DEC.

Section 3: ACMP. The amended forest practices act will serve as the Coastal Management Program for harvest activities on private land.

Section 4: DF&G. Regulations of the amended forest practices act provide the fish habitat protection standards except for those activities subject to AS 16.06.840 and AS 16.05.870.

Sec 5 Section 5: Board of Forestry Membership. The current 13-member board of forestry is restructured to a smaller, more balanced, 7-member board. (See section 7 for duties of the board.) It also details qualifications for board members, staffing requirements, and voting procedures.

29 Section 6: Board of Forestry Terms of Office. The section amends existing terms of office to provide staggered terms of office for the Board of Forestry.

4 Section 7: Powers and Duties of the Board of Forestry. This section amends the duties of the Board of Forestry. Existing duties include only commenting on regulations. New duties are added: providing a forum for discussion for representatives of affected interests to discuss and resolve forestry issues before they become divisive; coordinating an annual survey of research needs; coordinating the monitoring of the implementation and effectiveness of the forest practices program and making recommendations for change; and holding annual hearings in southeast, southcentral, and interior Alaska to take public testimony on the state's forest practices program.

5 Section 8: Technical Change, Coordination with DEC. References to DEC's program for non-point source water pollution are amended to be consistent with the coordination provisions in Section 3.

10 Section 9: Technical Change, Non-point Source Pollution Control. Wording is changed to make clear the meaning of the existing law concerning recognition of environmentally sensitive areas in non-point source pollution control measures.

⁶
Section 10: Standard for Soil Erosion and Mass Wasting. The section provides a standard of minimizing or preventing significant adverse affects of soil erosion and mass wasting.

⁷
Section 11: Standard for Scenic Quality. The existing standard for scenic quality near tourism and recreation areas is amended. The standard applies to state and municipal land only. The standard would be implemented by regulations of the act, and by state and municipal planning for timber harvest.

Section 12: Standard for Important Fish and Wildlife Habitat. A new standard is added that requires planning for harvest allowance be made for important fish and wildlife habitat. The standard applies to state and municipal land only. The standard would be implemented by regulations of the act, and by state and municipal planning for timber harvest.

⁸
Section 13: Records for Public and Agency Review. The division is required to maintain a records of decisions made under the act for use by the public and state agencies in assessing the effectiveness of implementation of the act.

⁹
Section 14: Regulations. This section provides a list of forestry activities subject to regulation under the act; allows the commissioner to establish regions and make appropriate distinctions between public and private land; and directs the commissioner to only adopt those regulations that yield significant benefits.

¹⁰
Section 15: Control of Infestation and Disease. A new section of the act is added that allows the commissioner to take action to control forest infestation and disease outbreaks that threaten forest resources.

¹¹
Section 16: Variation from Requirements of the Act. The state forester is directed to allow variations from forest practice requirements established under this act. The state forester may allow variations to requirements he determines that the harm such as degradation of fish habitat or water quality not likely to occur because of site-specific circumstances of the particular activity. It allows private landowners to appeal an adverse decision by the state forester, but they must conform to the requirement during the period of the appeal.

¹²
Section 17: Review of Private and Municipal Timber Harvest Operations. The section provides an improved process for efficient and detailed review of timber harvest plans. This efficient review allows the timber industry to respond to changing timber markets but ensures that harvest operations conform to forest practices standards and regulations. The section also requires public review of private harvest plans. Review by state agencies may occur in the office or, if necessary, in the field prior to the start of the operations.

¹³
Section 18: Interagency Coordination. Because of overlapping agency expertise for issues concerning timber harvest, this section provides coordination mechanisms for DNR, DF&G, DEC, and where appropriate, coastal districts. The coordination system retains DNR as the lead agency for forest practices but ensures that the appropriate agency expertise from DF&G and DEC is included for forest practice issues that involve their expertise. The section requires that the agencies recognize fish habitat as the primary value within the riparian areas established under the bill.

¹⁴
Section 19: Riparian Management. This section of the bill provides for a streamside management program that strikes a fair balance between the needs of the timber industry and those of fish habitat and water quality protection. It provides for significant timber harvest while providing appropriate protection for public resources. Riparian standards for timber harvest differ depending on land ownership, stream, type, and region. The section also provides the intent of riparian management standards: a list of fish habitat

components that the riparian standards are designed to protect.

On private land in southeast Alaska, streamside areas of up to 30 meters will be managed for the protection of fish habitat and water quality, although timber operators will not be required to leave more than five percent of their timber volume for this purposes. In this way, strong resource protection exists without requiring any one private owner to shoulder an undue portion of the resource protection costs.

On private land outside southeast Alaska, it directs the commissioner to establish riparian protection standards and provides interim standards until regulations are drafted.

On state land north of the Alaska Range, timber harvest within 30-meters of an anadromous or high value resident fish waterbody will be allowed where adequate protection remains for fish habitat.

On state land south of the Alaska Range, no timber harvest is allowed within 30-meters of an anadromous or high value resident fish waterbody. Within the adjacent 60-meters, timber harvest must be consistent with the maintenance of important fish and wildlife habitat.

For municipal and trust lands, timber harvest within 30-meters of an anadromous or high-value resident fish waterbody must be sited and designed primarily to protect fish habitat and water quality.

¹⁵
Section 20: Enforcement Coordination. Because existing overlapping jurisdiction by DEC, DF&G, and the department of law, and because of additional authorities provided DNR by this bill, this section directs the agencies to establish "uniform enforcement strategy." The strategy requires a method of coordinating enforcement that avoids duplicating and inconsistent enforcement by the agencies. All agencies retain existing enforcement authorities.

¹⁶
Section 21: Penalties for Violations. This section amends the act by streamlining existing procedures for levying civil penalties of up to \$10,000 per violation, and adds additional enforcement authorities. Under these additional authorities, the state may issue a citation for a class A misdemeanor for violations of the act, its regulations, agency directives or stop orders; also, DNR may issue remedial orders requiring operators to repair or correct damage resulting from a violation.

¹⁷
Section 22: Directives. This new section provides that DNR may issue enforceable, written orders directing that timber operations that violate or would violate this act or its regulations be changed. These directives may be written as part of the DNR office or field review of private timber operations as provided under Section 17 of the act. Directives may be appealed and operations may continue pending the outcome of the appeal.

¹⁸
Section 23: Stop-work Orders. If the forester determines that a violation of the act or its regulation is occurring or is likely to occur and that significant harm to public resources is likely to occur if work is not halted before a hearing, the state forester may issue a stop-work order. A stop-work order may be written as part of the DNR office or field review of private timber operations as provided under Section 17 of the act. Stop-work orders may be appealed, but the operation must stop pending the outcome of the appeal.

^{19 + 20}
Section 24: Hearing Procedures. This section amends the cumbersome hearing process existing law by deleting the requirement that hearings be held before lawyer appointed by the attorney general. The new process allows the hearing officer to be an employee of the department. The new process will be quicker, and more efficient for both the landowners and the department. It will also be significantly less costly for the department.

21
Section 25: Appeals and Judicial Review. This section provides appeal procedures from department decisions. It provides for appeal of DNR decisions by landowners or timber operators to the state forester, in some cases to the commissioner, and gives the option of going to court. Also it provides that parties other than an aggrieved forest landowner, timber owner, or operator may not receive judicial review of individual timber harvest decisions. Third parties may, however, seek judicial review of regulations, or of a systematic error in DNR decisions.

26
Section 26: State Forest Plans, technical change. This section changes existing law by deleting a list of uses to consider in completing plans; and instead referencing a similar list in Title 38 (section 1 of this bill). It eliminates confusion from two close but not identical lists with similar purposes:

24
Section 27: Affect on Federal Timber Harvest. Other sections of this bill set specific standards for activities on state, municipal, and private land. This section states that the bill's specific resource protection provisions, such as riparian management zones defined for private, state, and municipal lands, do not apply to timber harvest activities on federal land. However, the bill proposes that the federal government achieve a level of resource protection commensurate with that provided for on state lands. This would occur as the federal agency, primarily the Forest Service, proceeds with its normal environmental planning process for timber harvest activities. While this measure does create a broad performance test for operations on federal land, the real effect on Forest Service actions is not considered to be significant, given the generally higher federal requirements for environmental protection.

The bill assures that federal lands will not be subject to the specific forest practice act standards "either directly or for purposes of compliance with the (federal) Coastal Zone Management Act." This statement effectively severs the applicability of the Act's specific standards to National Forests and other federal lands. However, some participants in the forest practices discussions wanted to take the point one step further to resolve a long-standing discussion of what specific environmental protection the state can ask the federal government to provide on National Forest lands through the coastal management consistency process.

The forest practices act discussions did not address federal timber harvest activities in any detail. Therefore, the parties to the consensus decided that the bill was not the appropriate vehicle to include specific environmental protection standards for federal lands, nor address the application of coastal management standards to federal timber harvest activities. Instead, the vehicle to address this question will be through a change to the Alaska Coastal Management Program regulation established for timber harvest and processing by the Alaska Coastal Policy Council (CPC). Following enactment of the forest practices act, the CPC will amend this timber harvest standard as necessary to address lands not covered by the forest practices act, including federal lands. The CPC will provide for the full involvement of the federal government, industry, and the public in drafting the new timber harvest standards.

25 (F)
Section 28: The Act Does Not Alter Other Rights and Jurisdictions. This new section of the act confirms that it does not alter or diminish the authorities of DF&G under title 16, DEC under title 46, or any state agency under other laws. It also confirms that the act does not diminish the rights of Alaska Native or of Alaska Native corporations with respect to the Alaska Native Claims Settlement Act.

26
Section 29: Wildlife on Private Land. This new section provides that state agencies and private landowners will establish cooperative, voluntary processes for protection of wildlife habitat on private land.

²⁷
Section ~~30~~: Definitions, technical changes. This section provides definitions necessary for the act. Few changes are made.

²⁸
Section ~~31~~: Legislative Review. This section provides legislative acknowledgement that this act should be reviewed by the legislature within three years after further research and experience is gained in implementing the act.

^{33, 34}
Section ~~32~~: Repeal of Superseded Sections.

^{35, 36, 37}
Section ~~33~~: Effective Date. An effective Date is provided: January 1, 1990.

S B

318

PHIL R. HOLDSWORTH, P.E.
CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING -- GEOLOGY -- LANDS

PHONE 907-586-1383

326 FOURTH STREET, No. 1009
JUNEAU, ALASKA 99801

January 30, 1990

Comments on SSHB 332 and SB 318
"An Act establishing the Goodnews Bay Critical Habitat Area;
and providing for an effective date."

The following comments are presented on behalf of the Alaska Miners Association. The Goodnews Bay Mining District has provided the only platinum produced in the United States, beginning in 1916 with the annual production increasing to 37,000 ounces in a six-month's operation in 1938 - from a single operator. Production continued until 1975, and all production was from uplands.

Platinum is a critical/strategic metal and 93% of the nation's requirements are imported - from South Africa, the United Kingdom, and Russia. Renewed production from Alaska would certainly reduce the present imbalance of payments in international trade. The U.S. Bureau of Mines and the U.S. Geological Survey have conducted extensive surveys in this mining district in recent years indicating potential reserves, and have published their findings. These reserves are indicated both on-shore and off-shore lands. Renewed interest has been shown by the mining industry in this mining district.

An example of present-day mining technology practiced by the industry is best described by the Bima dredging operation of Westgold off-shore of Nome. Production has been on-going for the past three seasons and has had no adverse effects on the fishery. Environmental consequences of Westgold's Nome Offshore Placer Project after four years of study include:

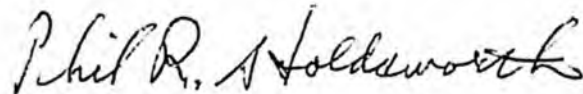
1. After two to three years, substrate types occur in the same proportion as surrounding areas.
2. No change in oxygen concentration in water column.
3. No change in trace metal concentrations of eight priority metals.
4. Within three years recolonization community structure is similar to control areas; community appears to be moving through successional maturation process.
5. No avoidance of mined areas by King Crab.
6. No trace metals being concentrated in king crab, fish or king crab food items.
7. Community recovery based on existing database is estimated at less than five years for sand substrate and seven years for cobble substrates.

January 30, 1990

It should be pointed out that platinum metal does not amalgamate with mercury. Its recovery is simply a gravity concentration process with the concentrates shipped to a refinery.

The Alaska Miners Association is opposed to this type of legislation which, by creating a "Critical Habitat Area" and "closed to mineral entry and mineral leasing", would prevent the production of a critical/strategic metal such as platinum. This is not in the best interest of the state and nation.

Respectfully submitted,

A handwritten signature in cursive script that reads "Phil R. Holdsworth". The signature is written in dark ink and is positioned below the typed name.

Phil R. Holdsworth



SB318

FAIRBANKS GOLD LTD.

2100 Marine Building, 355 Burrard St., Vancouver, B.C., Canada V6C 2G8
Tel: (604) 640-6714 Telecopy: (604) 687-7140

VIA COURIER

March 22, 1990

Senator Bettye M. Fahrenkamp
Alaska State Legislature
State Capital Building, Room 125-C
Juneau, Alaska 99811
U.S.A.

Dear Bettye:

It was a pleasure meeting with you yesterday concerning the Goodnews Bay Critical Habitat bill and its effect on our proposed platinum mining operations. We greatly appreciate your help on this matter.

For your information, I am enclosing the corporate information package describing Fairbanks Gold Ltd. and our operations on the Fort Knox Property. Eric Friedland, the Chairman of Fairbanks Gold Ltd., Hank Giegerich and I plan to travel to Alaska sometime in the middle to end of April, and we will make a point of seeing you in Juneau.

Once again, thanks for all your help.

Very truly yours,

FAIRBANKS GOLD LTD.

Harris Saxon
Executive Vice President

Calista Corporation

601 West Fifth Avenue Anchorage, Alaska 99501
(907) 279-5516, FAX (907) 272-5060

Comments on SSHB 332 and SB 318

"An Act establishing the Goodnews Bay Critical Habitat Area; and
providing for an effective date"

Calista Corporation is one of the regional native corporations set up pursuant to the Alaska Native Claims Settlement Act. The Calista region includes a major portion of southwest Alaska and Calista represents roughly 13,000 shareholders, some of whom live in the villages of Platinum and Goodnews.

Calista views this issue as involving four factors.

- The right of local people to control the resource they use.
- The desire to protect the fishery resource
- The sometimes legitimate threat people feel from change.
- And finally the need to preserve long term economic opportunities in a region that is one of the poorest in the State.

It is Calista's position that in the rush to exert local control and to protect the commercial and subsistence resources within Goodnews Bay that an eye be kept to the economic future of the Goodnews-Platinum area. This is a complicated issue. This bill may not provide a clear cut protection for the lifestyle and well being of the Platinum and Goodnews people. Indeed this bill as written may constitute a threat to the economic opportunities and future of the Goodnews area and to Southwest Alaska in general.

First, let me address the issues inside the Bay. Calista recognizes that Goodnews Bay is the front and back yards of the villages of Goodnews and Platinum. As you know, Goodnews Bay is host to major salmon and herring runs which, in addition to public assistance programs, are the current base for the local cash and subsistence economies. Calista supports the reasoned protection of this resource.

But let us remember that historically the local fish harvest has been the victim of competition from outside fisherman and from the reluctance of fish processors to send tenders to this remote location. It is clear that the commercial and subsistence fishery can be threatened by high seas

Changes to the Goodnews Bay Critical Habitat Bill

and False Pass intercept fisheries far beyond the impact of an offshore **exploration** effort.

There are other 'inside the bay' issues which concern Calista. The critical habitat designation will add an entire new and distinct layer of regulation. Specifically, what will the impact of this designation be on future dock and harbor facilities?

-What is the impact of this bill on the barge traffic and the moorage of those barges which serve the local community?

-What impact will this designation have on the future of fish processing plants and possible mariculture ventures?

Additionally, the village of Goodnews is home to a quarry which in the past has provided jobs and local revenue. This quarry is the only source of rock in the entire region. Goodnews rock has been designated by the Corps of Engineers as the preferred material for the future Bethel sea wall. The rock has been used in Mekoryuk, Amautlauk, Kipnuk, Nunapitchuk and Bethel. Gravel has been shipped from Platinum to Bethel and Kipnuk. Will the Critical Habitat designation impinge upon the access to or the extraction of this important regional resource? If commercial hydrocarbons are located elsewhere in southwest Alaska or if large capitol projects are funded it will be these locations that supply the rock and gravel needed for those activities.

Calista asks that these questions be specifically addressed in the bill so that these possible activities are not limited by a future rigorous interpretation of the Critical Habitat designation.

We are also worried that the added level of regulation, protection and bureaucratic oversight will adversely impact the existing and future platinum placer and lode platinum exploration efforts in the Salmon River Drainage and gold exploration in the Upper Goodnews River tributaries. We have all seen how the consequences of over regulation can choke the opportunities and limit the economic choices of an area. The Calista Region and Southwest Alaska is already protected by some of the largest Wildlife Refuges in the world, the 26 million acre Yukon Delta National Wildlife Refuge and the 4.7 million acre Togiak National Wildlife Refuge.

On the technical side, the Platinum and Goodnews area is also a unique geologic environment. Due to the unique character of the ultra-mafic intrusive rocks (iron and magnesium rich) in this area there is simply no other place in North America which rivals this area for past platinum production or for the potential for additional placer and lode reserves. In

Changes to the Goodnews Bay Critical Habitat Bill

addition, the offshore area west and south of Red Mountain has the potential to host significant marine placer platinum reserves.

Calista has participated in lode and placer exploration. I have personally reviewed all the data available on the nature and distribution of the offshore platinum resource. In this context, we have reviewed the results of previous exploration by Inlet Oil in Goodnews Bay. Based on review of the sampling and the spurious analytical methods used, we feel that this program was without merit and there is no creditable evidence that there is recoverable platinum resources inside Goodnews Bay.

There is, however, a considerable body of data from government and private geologic investigations which indicates that recoverable resources of platinum may exist directly west and south of Red Mountain. This area is well outside the eel grass beds of Goodnews Bay.

I would like to draw an important distinction here between exploration (drilling of shallow, widely spaced 6 inch diameter holes) and development (dredging large volumes of seabed). As the offshore operation at Nome has demonstrated, no short or long-term environmental consequences are associated with marine placer exploration. Although a dredging operation disturbs the seabed to a greater degree than simple exploration; the recently concluded studies by the Federal Mineral Management Service (MMS) and Battelle Corporation indicate, the operation of the Bima dredge has had no adverse effects on the commercial or subsistence fisheries at Nome.

There will be a great deal of discussion about the blue mussel bed offshore of Flat Cape. Let's be serious here. Blue mussel beds occur with regularity along the coast; they can not be characterized as unique or threatened. The exhaustive studies from the Nome operation indicate that re-colonization can be expected within a few years of dredging. These beds would be unaffected by exploration efforts.

Other impacts of offshore exploration and development should also be considered. The Nome experience has demonstrated that year round jobs, technical training, and the diversification of the economy can have a positive effect on a community. It is Calista's view that the possible benefits and economic opportunities such operations can create should not be dismissed lightly. We believe this is particularly true in area like Southwest Alaska where year round jobs are scarce (especially for young men); where many are not fortunate enough to hold fishing permits; and

Changes to the Goodnews Bay Critical Habitat Bill

where a staggering percentage of people and families must rely on federal and state assistance to make it through the year.

Calista does not support the Critical Habitat designation because of all the uncertainties it creates and additionally because we feel that alternative options to a Critical Habitat designation have not been fully explored. If the decision is made to proceed with a Critical Habitat designation then Calista Corporation asks that the bill specifically mention future harbor improvements, barge transport of gravel and rock, on shore mining, and fish processing facilities as compatible activities with the Critical Habitat designation.

We request that the Critical Habitat be limited to Goodnews Bay and the area at the mouth of the Bay. We ask that the scope of the bill be limited to areas within **Township 12s and 13s and Ranges 73, 74, 75, 76**. We strongly advise the committee that the areas west and south of Red Mountain be eliminated from this bill.

One additional clarification should be made at this time in subsections (a) (1) and (2). We feel some confusion is possible over the area covered by this bill. The beginning of each of those subsections should be changed to read: "The State tideland, submerged land, water of the State below the mean high tide line..." . This would clearly remove fresh water bodies within those sections of land identified in subsections (1) and (2) and above the mean high tide line from inclusion within the Critical Habitat area. We don't believe this was the intent of the bill and this would provide clarification to agency personnel interpreting and applying the new law. *We would have some very serious concerns if the intent of the bill was to expand well above tide water.*

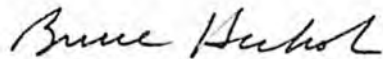
We propose that the bill be amended so that State lands and waters below mean high tide and within Goodnews Bay and the areas immediately west and north of the village of Platinum be withdrawn from mineral entry [Townships 12s and 13s and Ranges 73, 74, 75, 76]. This bill would then specifically prohibit mineral exploration and mineral extraction in these State waters.

We further propose that the Critical Habitat designation be removed from the bill. A Critical Habitat designation simply has too many uncertain ramifications and possibly negative consequences to be applied to this important area.

Changes to the Goodnews Bay Critical Habitat Bill

We propose that the area south and west of the Village of Platinum and south and west of Red Mountain be removed from consideration by this bill. The Department of Natural Resources would be left to determine how best to manage these waters and resources.

We believe that this approach best suits the present and future needs of the local people. On the behalf of Calista Corporation I thank you for the opportunity to discuss this very complicated issue. Please feel free to contact us if we may be of any assistance. Thank You.



Bruce Hickok
Geologist and Subsurface Lands Manager

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Sb321

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

February 15, 1990

The Honorable Jack Coghill
Alaska State Senator
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

Subject: Senate Bill 321, relating to forest stewardship agreements.

Position: The Department of Natural Resources currently does not support the establishment of stewardship management agreements. As you may know, the state's resource inventory and management infrastructure is insufficient to support this type of agreement. Other management options should be explored first.

Background: The State of Alaska, Department of Natural Resources, Division of Forestry is responsible for forest management on ten million acres of forest lands. Most of these lands lie between Anchorage and Fairbanks and contain large quantities of both hard and soft woods. Much of the forested land is inaccessible and inadequately inventoried. The state is currently using small short-term sales for the sale of fuelwood, house logs, and salvage logging. Longer term sales have been used to market larger volumes.

Forest stewardship agreements or forest management agreements have been suggested as a means to encourage the development of a stable forest industry. An agreement may be a long-term negotiated contract where some of the terms require the contractor to provide for the management and reforestation of an area. In return the contractor is guaranteed a long-term source of timber.

The possibility of using forest agreements to promote a stable industry while providing acceptable forest management has been explored by the department and by the 15th and 16th Legislatures.

The following points are in support of forest stewardship agreements:

- 1) These agreements promote a stable forest products industry. Industry must have a long-term assured supply of raw material. A long-term contract would provide stability and an assured resource.
- 2) These agreements may provide cost savings to the state because management expenses are borne by the contractor.
- 3) These agreements may not always show a substantial return to the state but may provide steady employment and help establish a stable economy.

The following points are in opposition to forest stewardship agreements:

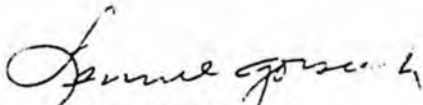
- 1) While a contractor would presumably bear the cost for forest management, the state would still be responsible for overseeing the contract and enforcing its terms. This would require additional staff and considerable expense on the part of the state. Many people experienced with forest agreements assert there are no savings to the government.
- 2) Once a forest stewardship agreement is established it is highly unlikely it would be terminated even if there were a substantial breach of the contract.
- 3) These agreements commit large amounts of land and resources to one contractor. If that contractor fails, the contract fails and the entire economy built on this one long-term contract would collapse.
- 4) The existing infrastructure (i.e., transportation, access, and facilities) is inadequate to meet the needs of a developing forest industry. But who will develop, fund, and maintain the necessary infrastructure?
- 5) These agreements eliminate competitive bidding for the state's forest resources, raising substantial policy questions for decision makers.

6) These agreements transfer management of state multiple use land to private contractors who manage forests primarily for timber harvest.

Recommendation: As funding permits, the Division of Forestry will begin an evaluation of the existing land base to provide a current inventory by species and volume, long-term timber production potential, and timber sales options.

Please let me or State Forester Bob Dick know if you would like additional forest management information.

Sincerely,



Lennie Gorsuch
Commissioner

cc: Bill Sponsor
Committee Members
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Bob Dick, Director
Division of Forestry
Department of Natural Resources

FISCAL NOTE

REQUEST:

Revision Date: 2/9/90
Title: An Act related to Forest Stewardship Agreements
Sponsor: Senator Coghill
Requestor: Senator Coghill

Agency Affected: Natural Resources
BRU: Forest Management
Components: Forest Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	154.7	154.7	196.8	202.7	226.7	233.5
TRAVEL	21.0	21.0	16.0	16.0	15.0	15.0
CONTRACTUAL	22.5	27.0	20.0	15.0	15.0	15.0
SUPPLIES	2.5	2.5	2.5	3.0	40.0	3.5
EQUIPMENT	28.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	228.7	205.2	235.3	236.7	296.7	267.0

CAPITAL			100.0			
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	228.7	205.2	335.3	236.7	296.7	267.0
FEDERAL FUNDS						
OTHER						
TOTAL	228.7	205.2	335.3	236.7	296.7	267.0

POSITIONS:


FULL-TIME	3.0		1			
PART-TIME					1	
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached.

Prepared by: George K. Hollett
Division: Forestry

Phone: 762-2503
Date: 2/7/90

Approved by Commissioner: 
Agency: Department of Natural Resources

Date: _____

Distribution (by preparer):

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

SENATE BILL 321 ANALYSIS

Assumptions: The following list of assumptions have a direct effect on the required funding during the first five years after passage of the bill: 1) DNR will offer two FSA's encompassing 200,000 to 400,000 acres within five years; 2) Infrastructure is required including annual plan review; 3) 20% of the FSA set aside for harvesting by others; 4) The State will handle the regeneration; 5) Do a continuing timber growth inventory every four years; 6) Some capital improvement costs will have to be reimbursed; 7) Current forest quality and quantity inventories will be needed before additional FSA's are offered; 8) Prepare list of areas that can be offered every two years; and 9) As acres are put into Forest Management Agreements there will be a needed increase in people and funding.

Program Summary: After passage of the bill a set of regulations must be developed. This will take one full time Natural Resource Manager I based in Anchorage six to eight months to complete. Agency and public review of these regulations will be required. Upon completion of the regulations this position will begin the process of development of one FSA within the Southcentral Region. At this same time one Natural Resource Manager I based in Fairbanks will begin the planning process for development of one FSA in the Northern Region. Involvement of the public is necessary during the planning process which requires travel to the communities and holding of public meetings.

One full time Forest Engineer position will be working with the two NRM I's on development of conceptual transportation plans that will be needed in the development of appraisal and contract information. This position will work out of Anchorage but will also cover the Northern Region's FSA work.

In order for the State Forest Nursery to provide an additional 800,000 seedlings one full time Forest Technician IV will be needed

in year three. As production gets into full swing one seasonal Forest Technician I will be needed in year five. As acres in need of reforestation increase there will be needed capital funding to build additional greenhouses.

Travel to many communities between Fairbanks and Anchorage will be necessary as regulations and plans are developed for the proposed FSA areas. Many public meetings and information sessions will be held. A well informed public is necessary to have acceptance of the program.

On site inspection of the areas for preparation of appraisals and contracts will be necessary. The NRM I's as the future state managers of the FSA's must know what is on the ground and what problems an operator is going to be expected to overcome. Snow machines and pickup trucks are needed for this phase of the operation at a cost of \$28.0.

In year three a \$100.0 contract for timber inventory on the next purposed FSA area will have to go out to bid. The inventory data is needed to develop the required annual allowable harvest of each unit. This will be a private sector contract put out for bid by General Services. The Division of Forestry will develop the specifications.

In year four nursery supplies of \$37.4 will be purchased so that additional seedlings will be grown in year five to be ready after the first year of logging.

Development of new forest industries will have good effects on the State's economy by bringing in additional stumpage revenue and creation of jobs. The local governments will also receive benefits in added taxes and increased demand for other products and supplies.

1.	POSITION TITLE Natural Resource Manager I				RANGE/STIP 18/A	DEPT. UNIT GG	PAGE/LINE	GOV.	APPROV.	DISAPP	
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 20	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION:						
4.	TYPE OF EXPENDITURE			ADDITION	X						
	1			2		3					
	PERSONAL SERVICES										
5.	Salary 12 x 3237			38.8							
6.	Benefits 12 x 1194			14.3							
7.	Supplemental Benefits										
8.	Fixed Benefits										
9.	TOTAL PERSONAL SERVICES			01	53.1						
10.	Travel			02	8.0						
11.	Contractual			03	10.0						
12.	Commodities			04	1.0						
13.	Equipment			05	10.0						
14.	Other										
15.	TOTAL COST			82.1							
	RECEIPT CODE			FUNDING SOURCE							
16.				Federal Receipts 1002							
17.				G.F. Hatch 1003							
18.				General Funds 1004		82.1					
19.				I-A Receipts 1005							
20.				Program Receipts 1028							
21.				Other							
FOR B&M USE ONLY											
KEY NUMBER - - - - -											

JUSTIFICATION:

This position will help develop the required regulations and take them through the public review process in the Fairbanks Area.

Prepare a plan for administration oversight of a FSA within the Northern Region and take it to the affected state agencies.

Develop actions necessary to prepare one FSA and take it through the review process to completion.

Work with Logging Engineer and Southcentral NRM I in developing the required contract and any additional plans that must be developed.

REQUEST FOR
NEW POSITION

AGENCY Natural Resources

BRU Forest Management

COMPONENT Forest Management

FY 91

Page 1 of 1

Revised Date

4 of 6

1.	POSITION TITLE Natural Resource Manager I				RANGE/STEP 18/A	BARG. UNIT CG	PAGE / LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION:					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position will be the lead person responsible for drafting required regulations and taking through the public review process with the Anchorage Area.</p> <p>Prepare a plan for administration oversight of a FSA within the Mat-Su Valley and take it to the affected state agencies.</p> <p>Develop actions necessary to prepare one FSA and take it through the review process to completion.</p> <p>Work with logging Engineer and Northern NRM I in developing the required contract and any additional plans that must be developed.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary 12 x 3113		37.4							
6.	Benefits 12 x 1119		13.4							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01	50.8						
10.	Travel		02	8.0						
11.	Contractual		03	10.0						
12.	Commodities		04	1.0						
13.	Equipment		05	10.0						
14.	Other									
15.	TOTAL COST			79.8						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Hatch .003								
18.		General Funds 1004		79.8						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
	FOR B&M USE ONLY									
	KEY NUMBER									

REQUEST FOR
NEW POSITION

AGENCY Natural Resources

BRU Forest Management

COMPONENT Forest Management

FY 91

Page 1 of 1

Revised Date

5 of 6

1.	POSITION TITLE Logging Engineer				RANGE/STEP 18/A	BARG. UNIT GG	PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7	LEG.		
3.	CONTINUATION LEVEL									
4.	TYPE OF EXPENDITURE									
	1				2		3			
	PERSONAL SERVICES									
5.	Salary 12 x 3113		37.4							
6.	Benefits 12 x 1119		13.4							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01		50.8					
10.	Travel		02		5.0					
11.	Contractual		03		2.5					
12.	Commodities		04		0.5					
13.	Equipment		05		8.0					
14.	Other									
15.	TOTAL COST				66.8					
	RECEIPT CODE		FUNDING SOURCE							
16.			Federal Receipts 1002							
17.			G.F. Match 1003							
18.			General Funds 1004		66.8					
19.			I-A Receipts 1005							
20.			Program Receipts 1028							
21.			Other							
FOR B&M USE ONLY KEY NUMBER - - - - -										

JUSTIFICATION:

This position will be the Division of Forestry field Engineer. In order to know what can and what can not be done in road development the position will be working on the ground with the NRM I's. Transportation information is needed to work into the appraisals and will be necessary for the agency and public review.

Access development is necessary in any areas that may be proposed as FSA's and will become a part of the selection process of a concessionaire. The Division does not have this capability at present.

REQUEST FOR
NEW POSITION

AGENCY Natural Resources

BRU Forest Management

COMPONENT Forest Management

FY 91

Page 1 of 1
Revised Date

6 of 6

S B

329

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: SB 329 Addition of Powder
Island
 Sponsor: Szymanski
 Requestor: Senate CSPA

Agency Affected: Department of Natural Resource
 BRU: Parks Management

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

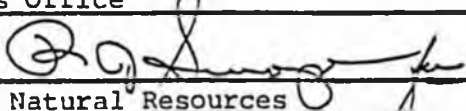
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lawrence Z. Ostrovsky
 Division: Commissioner's Office

Phone: 465-2400
 Date: 3/27/90

Approved by Commissioner: 
 Agency: Department of Natural Resources

Date: 3/27/90

Distribution (by preparer):

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

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

March 27, 1990

The Honorable Mike Szymanski
Alaska State Senator
P.O. Box V
Juneau, Alaska 99811

Dear Senator Szymanski:

Subject: SB 329, Addition of Powder Island to Kachemak Bay State Park

Background: SB 329 would add Powder Island in Seldovia Bay to Kachemak Bay State Park. Powder Island consists of 11.9 acres located on the east side of Seldovia Bay about 3/4 mile south of the Seldovia small boat harbor. The island is one of two tracts of public land on Seldovia Bay, the other being Outside Beach north of Seldovia.

Powder Island consists of three wooded knolls with primarily steep rocky shorelines, separated by two low grassy areas with sandy beaches. There are two unauthorized cabins on the island. The island is included in the pool of state land identified for possible trade to the Seldovia Native Association (SNA) in order to acquire SNA's land in Kachemak Bay State Park. A 1989 appraisal valued the island at \$165,000.

Position: At this time there is an existing written agreement with SNA which requires us to keep this parcel available for possible exchange. There will soon be a legislative proposal to acquire SNA's land in Kachemak Bay State Park via purchase at fair market value, in which case this parcel would not be needed for the exchange. However, until the future of the SNA land trade is decided, DNR has a Preliminary Exchange Agreement that reserves this land for possible exchange. Powder Island is one of the parcels of state land that is of greatest interest to SNA.


Senator Mike Szymanski

-2-

March 27, 1990

If included in a land exchange with SNA, DNF proposes to retain a one acre public use easement on the island.

Sincerely,


Lennie Gorsuch
Commissioner

cc: Committee Members
Denby Lloyd, Special Staff Assistant
Office of the Governor
Gary Gustafson, Director
Division of Land and Water Management
Neil Johannsen, Director
Division of Parks and Outdoor Recreation

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: SB 329 Addition of Powder
Island
Sponsor: Szymanski
Requestor: Senate CSPA

Agency Affected: Department of Natural Resources
BRU: Parks Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

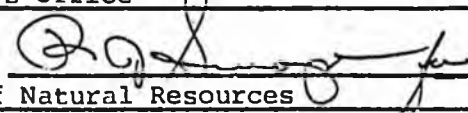
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lawrence Z. Ostrovsky
Division: Commissioner's Office

Phone: 465-2400
Date: 3/27/90

Approved by Commissioner: 
Agency: Department of Natural Resources

Date: 3/27/90

Distribution (by preparer):

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

JUNE 30, 1989

ATTACHMENT B

SELDOVIA NATIVE ASSOCIATION / STATE OF ALASKA
LAND EXCHANGE ADL 224612

POWDER ISLAND IN SELDOVIA BAY

<u>Parcel</u>	<u>Legal</u>	<u>Approx Acres</u>
No. 1	T9S, R14W, SM SEC 6: LOT 4	11.9

- One acre public use site easement (for day use only) to be reserved on the nob at the west end of the island, along with the beach between this nob and the larger nob to the east.

FORMER PLO 316 - JAKOLOF BAY

<u>Parcel</u>	<u>Legal</u>	<u>Approx Acres</u>
No. 1	T8S, R13W, SM: A PORTION OF TRACT "A" WITHIN SECS. 20, 29 AND 30 DESCRIBED BY METES AND BOUNDS IN PLO 316. PARCEL APPROX. 2640' x 5280' FRONTING ON JAKOLOF BAY; ACQUIRED UNDER MENTAL HEALTH GRANT MH-128.	320

- ADL 39029 - Letter of non-objection to public utility right-of-way fifty (50') feet in width for existing power line constructed by Homer Electric Association, Inc.
- ADL 37929 - Letter permit for a public access road right-of-way 200 feet in width along existing roadway from Seldovia to Jakolof Bay through subject parcel.
- ADL 39789 - Letter permit issued for an access road 100 feet in width (Alaska Project No. S-1190)
- ADL 224138- Upland lease authorization (lease application) for approximately 0.25 acres at the end of Jakolof Bay airstrip to support mariculture activities associated with Tideland Use Permit ADL 224137 (Southcentral Region Finding and Decision dated October 31, 1988).

Subject to valid existing rights (airstrip identified on state tidelands adjacent to parcel) and subject to a public use easement under AS 38.05.127.

- ATTACHMENT B -



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4978

Interim:
3111 C Street, Suite 310
Anchorage, Alaska 99503
(907) 561-7617
or
165 E. Parks Highway
Wasilla, Alaska 99687
(907) 376-6453

SPONSOR STATEMENT

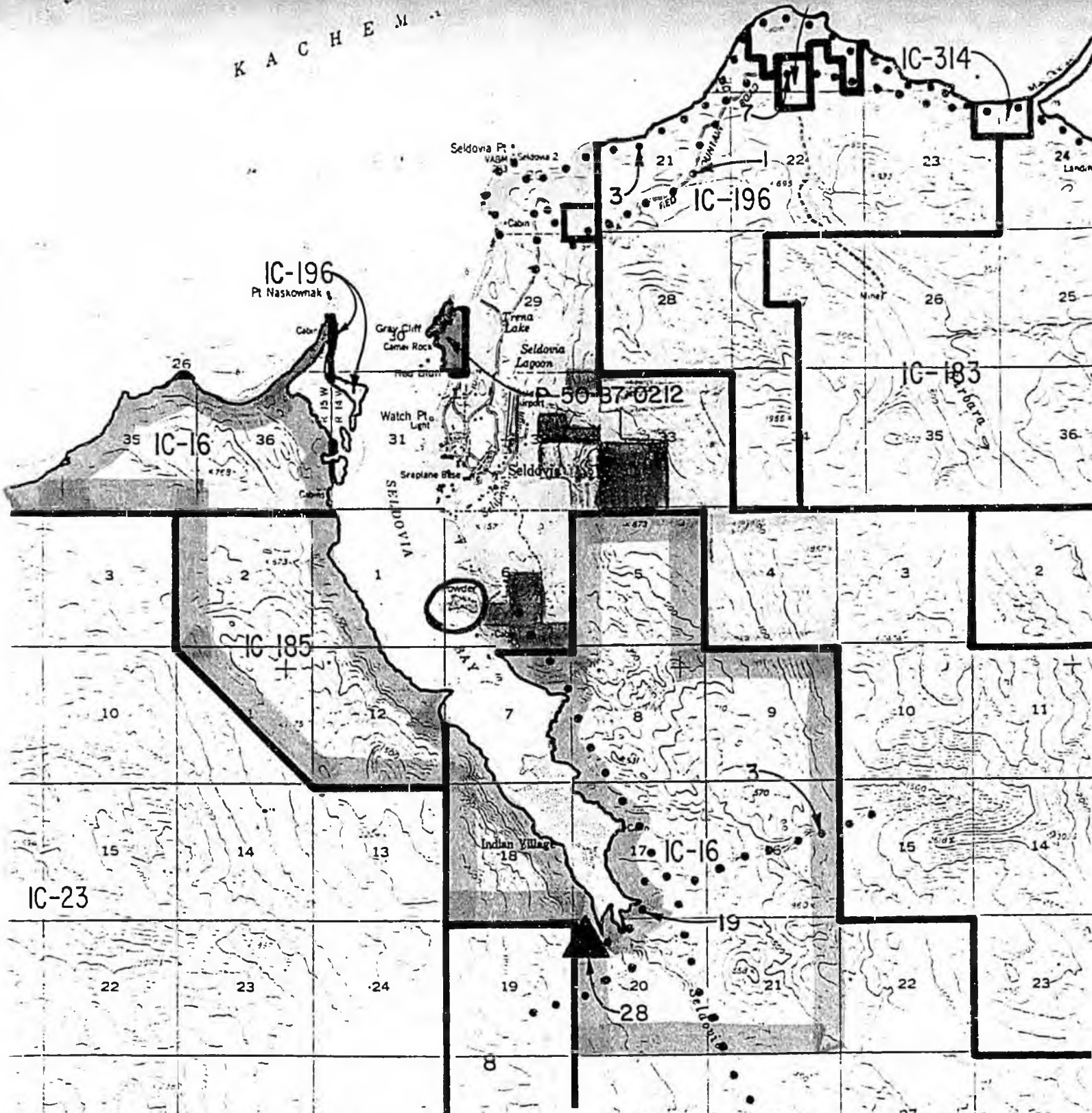
Last year, the Department of Natural Resources began working on a land exchange to trade state lands for parcels held by the Seldovia Native Association within Kachemak Bay State Park. When DNR presented its proposal to SNA, Powder Island was included in the proposed package of state lands to be traded. At that time, I introduced Senate Bill 329 as a measure to add Powder Island to Kachemak Bay State Park and preserve the island for public access and use. Currently, the land trade negotiations are stalled and a new plan to purchase SNA's lands within Kachemak Bay State Park is being developed by the Administration. Since a land purchase arrangement would remove Powder Island from the bargaining table, I would like to see Powder Island kept in the public domain.

In reviewing the attached map, it is obvious that the only remaining public land within Seldovia Bay is Powder Island. Seldovia Bay is an extremely popular and well utilized recreational boating area which provides sheltered moorage that is not available anywhere else in the surrounding area. Relinquishing this public land to the Seldovia Native Association, the major land holder in Seldovia Bay, or to any other private entity, will preclude public access and recreational usage of Seldovia Bay. Of course, the tidelands are available for public use, but they are not particularly appropriate or convenient for camping, picnicking or hiking.








I feel that it is not in the public's best interest to eliminate Seldovia Bay as a public recreational use area. While we cannot reverse past land decisions, we can certainly retain state ownership of the last remaining parcel of public land by including it in the Kachemak Bay State Park system.

Senate District E

Mat-Su Borough • Sitka • Anchorage • Bristol Bay • Chukotka • Copper River • Delta • Egegik • Girdwood • Nikiski • Cooper Landing • Hope • Seward • Prince William Sound



SELDOVIA BAY LAND STATUS - February, 1989

-  State Land
-  State Land - borough selected
-  University Land
-  Native Corp. Land (with some private inholdings)
-  Other Private Land
-  One Acre Campground Easement
-  ANCSA 17(b) Trail Easements



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4978

Interim:
3111 C Street, Suite 510
Anchorage, Alaska 99503
(907) 561-7617
or
165 E. Parks Highway
Wasilla, Alaska 99687
(907) 376-6453

April 25, 1990

MEMORANDUM

TO: Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee

FROM: Senator Mike Szymanski *Mike*

RE: Request for Hearing

I respectfully request that you schedule SB 329, adding Powder Island to Kachemak Bay State Park, at the earliest possible date.

Thank you for your consideration.

S B

339



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:


P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 455-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Bettye Fahrenkamp
Chair
Senator Resources Committee

FROM: Senator Fred F. Zharoff 

DATE: January 11, 1990

RE: Senate Bill 339 -- "An Act relating to damage to, interference with, and tampering with subsistence fishing or subsistence hunting gear; and providing for an effective date."

SB 339 is designed to discourage the destruction of subsistence fishing and subsistence hunting gear. The bill establishes class A misdemeanor penalties for individuals who recklessly damage, interfere with or tamper with subsistence gear. If convicted of a class A misdemeanor, an individual is subject to a fine of up to \$5,000 and imprisonment for up to a year.

SB 339 was introduced in response to concerns about user group conflicts in regions where there is increasing pressure on wildlife and fisheries populations. I know of incidents in the Bristol Bay region where individuals have set up their subsistence fishing gear, left for a period of time, and have come back to find it wrecked.

These incidents of destruction are much more serious than ordinary crimes against property because they threaten an individual's or a family's ability to obtain the food they need to survive through the winter. For this reason, the bill includes a paragraph that provides for restitution, including compensation for the fish and game that otherwise would have been caught by the subsistence gear.

Your consideration of this bill would be greatly appreciated.

Attachments

Collateral references. — 52 Am. Jur. 2d, Malicious Mischief, § 1 et seq.

Sec. 11.46.487. Forfeiture of property upon conviction. Firearms and other personal property, except a motor vehicle, used in aid of a violation of AS 11.46.460, 11.46.462, or 11.46.484(a)(7) may be forfeited to the state upon conviction of the offender for the crime. (§ 3 ch 52 SLA 1988)

Sec. 11.46.488. Littering. [Repealed, § 3 ch 149 SLA 1980. For current law, see AS 46.06.080.]

Sec. 11.46.490. Definitions. In AS 11.46.400 — 11.46.490, unless the context requires otherwise,

- (1) "highway" has the meaning given in AS 19.45.001;
- (2) "motor vehicle" has the meaning given in AS 28.40.100;
- (3) "official traffic control device" means a traffic control device that has been placed on a highway by authority of a state or municipal agency, a utility, or a contractor employed by a state or municipal agency or a utility;
- (4) "oil or gas pipeline or supporting facilities" means real property or tangible personal property used in the exploration for, production or refining of, or pipeline transportation of oil, gas, or gas liquids, except for property used solely in the retail distribution of oil or gas;
- (5) "tamper" means to interfere with something improperly, meddle with it, or make unwarranted alterations to its existing condition;
- (6) "traffic control device" includes a sign, signal, road marker, barricade, flare, warning light, reflector, railroad sign or signal, shield, insignia, milepost, or similar device intended to warn, inform, or control the flow of pedestrian, equestrian, bicycle, or motor vehicle traffic;
- (7) "utility" means an enterprise, whether publicly or privately owned or operated, which provides gas, electric, steam, water, sewer, or communications service, and any common carrier;
- (8) "widely dangerous means" means any difficult-to-confine substance, force, or other means capable of causing widespread damage, including fire, explosion, avalanche, poison, radioactive material, bacteria, collapse of a building, or flood. (§ 4 ch 166 SLA 1978; am § 4 ch 52 SLA 1988)

Reviser's notes. — Reorganized in 1988 to alphabetize the defined terms.

Cross references. — For definition of terms used in this chapter, see AS 11.46.990; for definition of terms used in

this title, see AS 11.81.900.

Effect of amendments. — The 1988 amendment added paragraphs (1)-(3) and inserted paragraph (6).

result (AS 11.81.630), and second-degree murder is an offense in which the culpable mental state pertaining to the result ("death") is imputed to be recklessness. *Neitzel v. State*, 655 P.2d 325 (Alaska Ct. App. 1982).

Nor to be considered in determining recklessness of conduct. — Due process is not violated by the provision in AS 11.81.900(a)(3) that intoxication is not to be considered in determining recklessness with regard to circumstances surrounding one's conduct. *Neitzel v. State*, 655 P.2d 325 (Alaska Ct. App. 1982).

Assault with a dangerous weapon. — The supreme court declined to hold that intoxication ought to be considered with respect to the general criminal intent necessary to the commission of the former crime of assault with a dangerous weapon. *Menard v. State*, 578 P.2d 966

(Alaska 1978). (Decided under former AS 11.70.030.)

Failure to remain at scene of accident. — Trial court did not err in instructing the jurors that they could not consider defendant's intoxication in deciding whether he acted knowingly with regard to the offenses of failing to remain at the scene of an accident and failing to render assistance to an injured person. *Williams v. State*, 737 P.2d 360 (Alaska Ct. App. 1987).

Applied in *Fox v. State*, 685 P.2d 1267 (Alaska Ct. App. 1984); *Abruska v. State*, 705 P.2d 1261 (Alaska Ct. App. 1985).

Cited in *Baden v. State*, 667 P.2d 1275 (Alaska Ct. App. 1983); *Brown v. State*, 739 P.2d 182 (Alaska Ct. App. 1987); *Stevens v. State*, 748 P.2d 771 (Alaska Ct. App. 1988).

Collateral references. — Drunkenness as affecting murder in second degree, 8 ALR 1052.

Intoxication as affecting deliberation, 79 ALR 904.

Modern status of rules as to voluntary intoxication as defense to criminal charge, 8 ALR3d 1236.

Drug addiction or related mental state as defense to criminal charge, 73 ALR3d 16.

When intoxication deemed voluntary so as to constitute a defense to criminal charge, 73 ALR3d 195.

Sec. 11.81.640. Application of AS 11.81.600 — 11.81.630. AS 11.81.600 — 11.81.630 apply only to this title. (§ 10 ch 166 SLA 1978)

NOTES TO DECISIONS

Stated in *Neitzel v. State*, 655 P.2d 325 (Alaska Ct. App. 1982).

Cited in *Brown v. State*, 739 P.2d 182 (Alaska Ct. App. 1987).

Article 6. Definitions.

Section 900. Definitions

Sec. 11.81.900. Definitions. (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when

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the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;



(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(b) In this title, unless otherwise specified or unless the context requires otherwise,

(1) "affirmative defense" means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the defendant has the burden of establishing the defense by a preponderance of the evidence;

(2) "benefit" means a present or future gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary;

(3) "building", in addition to its usual meaning, includes any propelled vehicle or structure adapted for overnight accommodation of persons or for carrying on business; when a building consists of separate units, including apartment units, offices, or rented rooms, each unit is considered a separate building;

(4) "cannabis" has the meaning ascribed to it in AS 11.71.900(10), (11), and (14);

(5) "conduct" means an act or omission and its accompanying mental state;

(6) "controlled substance" has the meaning ascribed to it in AS 11.71.900(4);



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Subsistence	BILL NUMBER SB 339	SPONSOR Zharoff
SHORT TITLE OF BILL Interfering with Subsistence Hunting and Fishing Gear			
DEPARTMENT POSITION Neutral			
PREPARED BY Robert Bosworth	DATE 1-17-90	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 1/17/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Public Safety Law	CONSTITUENT GROUP(S) AFFECTED BY BILL Subsistence
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL Unkown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
Informal communication with constituents have suggested that interference with subsistence gear has occurred. The likelihood of such interference is expected to diminish with the passage of the bill, which makes such interference a misdemeanor.

ANALYSIS OF BILL PROGRAM EFFECTS
The effect of the bill would be to provide special protection for gill nets, crab pots, traplines, fish wheels, etc., all of which, at one time or another, no doubt have been subject to interference. Subsistence harvesters are among those least able to suffer such losses. Compensation for losses due to interfering with gear could be a problem, due to difficulty in determining the amount of the loss.

AMENDMENTS PROPOSED
The bill could be clarified with language specifying specific gear types (or examples: gill nets, traplines, fish wheels, crab pots, ect.). An affidavit from the victim should be acceptable as a basis for restitution. Interference may need to be better defined.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Damage to Subsistence Gear
Sponsor: Zharoff
Requestor: _____

Agency Affected: Public Safety, ADF&G
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact in FY90.

Prepared by: Warren W. Wiley
Division: Commissioner's Office
Approved by Commissioner: *Warren W. Wiley*
Agency: ADF&G

Phone: 465-4100
Date: 1/17/90
Date: Jan 17 1990

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: Interfering With Subsistence BRU: Fish and Wildlife Protection
Gear
 Sponsor: Senators Zharoff, Kelly Component: Enforcement
 Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

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

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
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 fiscal impact is anticipated.

Prepared by: Captain Conrad G. Seibel
 Division: Fish & Wildlife Protection

Phone: 269-5509
 Date: 1/12/90

Approved by Commissioner: A. H. English
 Agency: Department of Public Safety

Date: 1-17-90
 Page 1 of 1

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to... interference
 ...subsistence fishing or... hunting gear..."
 Sponsor: Sen. Zharoff
 Requestor: Senate Resources

Agency Affected: Department of Law
 BRU: Prosecution
 Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 19, 1990
Richard I. Pegues / FOR /
 Approved by Commissioner: Douglas B. Baily, Attorney General Date: January 19, 1990
 Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 339

This bill amends AS 16.05 by adding a new section that provides that a person who recklessly damages, interferes with, or tampers with the subsistence fishing or subsistence hunting gear of another person is guilty of a class A misdemeanor. The new section also provides that a court shall order a person convicted of this offense to make restitution to the victim under AS 12.55.045, including compensation for actual expenses incurred by the victim to replace or substitute for fish and game that may otherwise have been caught.

Data is not available that would indicate to what extent interference with subsistence hunting and fishing occurs. It is the department's view that such occurrences probably also constitute the offense of criminal mischief in the fourth degree, under AS 11.46.486, which is a class B misdemeanor. Consequently, the bill will have the effect of raising this offense from a class B misdemeanor to a class A misdemeanor. Because the level of the offense is changed, and not the number of offenses, there should not be a fiscal impact for the Department of Law.

S B

359

STATE OF ALASKA
THE LEGISLATURE

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

SB 359

Senate Resources Committee

3/12/90

SB 359

SENATE BILL NO. 359 by Senators Szymanski and Adams, entitled:

"An Act concerning the exercise of authority by the state and its municipalities in matters relating to environmental conservation, to state assistance to municipalities and village councils for expenses relating to prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; and providing for an effective date."

was read the first time and referred to the Resources Committee, the Senate Special Committee on Oil and Gas and the Finance Committee.

SB 359

President Kelly stated the Resources Committee and the Senate Special Committee on Oil and Gas referrals on SENATE BILL NO. 359 (An Act concerning the exercise of authority by the state and its municipalities in matters relating to environmental conservation, to state assistance to municipalities and village councils for expenses relating to prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; and providing for an effective date) would be reversed.

SENATE BILL NO. 359 was referred to the Senate Special Committee on Oil and Gas, the Resources Committee and the Finance Committee.

SB 359

Senator Zharoff moved and asked unanimous consent that he be shown as a co-sponsor on SENATE BILL NO. 359 (An Act concerning the exercise of authority by the state and its municipalities in matters relating to environmental conservation, to state assistance to municipalities and village councils for expenses relating to prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; and providing for an effective date). Without objection, it was so ordered.

SB 359

Senator Faiks moved and asked unanimous consent that she be shown as a co-sponsor on SENATE BILL NO. 359 (An Act concerning the exercise of authority by the state and its municipalities in matters relating to environmental conservation, to state assistance to municipalities and village councils for expenses relating to prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; and providing for an effective date.) Without objection, it was so ordered.

SB 359

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 by Senators Szymanski, Adams, Zharoff, entitled:

"An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and village councils in matters relating to environmental conservation; relating to state assistance to municipalities and village councils for expenses for

SB 359 cont'd

prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; and providing for an effective date."

was read the first time and referred to the Senate Special Committee on Oil and Gas, the Resources Committee and the Finance Committee.

January 31, 1990

SENATE JOURNAL

p. 2285

SB 359

Senator Faiks moved and asked unanimous consent that her name be withdrawn as a co-sponsor on SENATE BILL NO. 359 (An Act concerning the exercise of authority by the state and its municipalities in matters relating to environmental conservation, to state assistance to municipalities and village councils for expenses relating to prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; and providing for an effective date). Without objection, it was so ordered.

March 7, 1990

SENATE JOURNAL

p. 2753

SB 359

The Senate Special Committee on Oil and Gas considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 (An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and village councils in matters relating to environmental conservation; relating to state assistance to municipalities and village councils for expenses for prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of

SB 359 cont'd

Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; and providing for an effective date) and a majority of the committee recommended it be replaced with

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL
NO. 359 (O&G), entitled:

"An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and villages in matters relating to environmental conservation; relating to state assistance to municipalities and villages for expenses for prevention and abatement of environmental degradation; authorizing the commissioner of community and regional affairs to make grants from the oil and hazardous substance release response fund to assist in costs relating to a disaster emergency; and providing for an effective date."

and do pass. The report was signed by Senator Pearce, Chair, and concurred in by Senators Halford, Fischer and Kelly.

Zero fiscal notes from Department of Administration and Department of Revenue, Treasury Division and fiscal notes from Department of Community and Regional Affairs, Department of Environmental Conservation and Department of Revenue, Oil and Gas Division, for SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 published today. Fiscal note from Department of Community and Regional Affairs for the Committee Substitute published today. Fiscal notes for the Committee Substitute forthcoming from Department of Environmental Conservation, Department of Revenue, Treasury Division, Department of Revenue, Oil and Gas Division, and Department of Law.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 was referred to the Resources Committee.

March 13, 1990

SENATE JOURNAL

p. 2823

SB 359

Corrected fiscal note for Committee Substitute for Sponsor Substitute for Senate Bill No. 359 (O&G) (An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and villages in matters relating to environmental conservation; relating to state assistance to municipalities and villages for expenses for

SB 359 cont'd

prevention and abatement of environmental degradation; authorizing the commissioner of community and regional affairs to make grants from the oil and hazardous substance release response fund to assist in costs relating to a disaster emergency; and providing for an effective date), as referenced on page 2754, published today from Department of Community and Regional Affairs.

Forthcoming fiscal note for the Committee Substitute, as referenced on page 2754, published today from Department of Environmental Conservation. Forthcoming zero fiscal notes for the Committee Substitute, as referenced on page 2754, published today from Department of Revenue, Treasury Division and Oil and Gas Division, and Department of Law.

Zero fiscal note for the Committee Substitute published today from Department of Administration.

March 21, 1990

SENATE JOURNAL

p. 2964

SB 359

Senator Kerttula moved and asked unanimous consent that he be shown as a co-sponsor on SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 (An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and village councils in matters relating to environmental conservation; relating to state assistance to municipalities and village councils for expenses for prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; and providing for an effective date). Without objection, it was so ordered.

April 7, 1990

SENATE JOURNAL

p. 3284

SB 359

The Resources Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 (An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and village councils in matters relating to environmental conservation; relating to state assistance to municipalities and village councils for expenses for

SB 359 cont'd

prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; 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 2753 be adopted and do pass. The report was signed by Senator Fahrenkamp, Chair, and concurred in by Senators Sturgulewski, Kerttula and Zharoff. Senators Halford, Frank and Eliason signed "no recommendation."

Previous fiscal note and zero fiscal notes.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 was referred to the Finance Committee.

April 23, 1990

SENATE JOURNAL

p. 3525

SB 359

The Finance Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 (An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and village councils in matters relating to environmental conservation; relating to state assistance to municipalities and village councils for expenses for prevention and abatement of environmental degradation, and to state review of oil discharge contingency plans; establishing an oil and hazardous substance municipal impact fund in the Department of Community and Regional Affairs; and amending provisions applicable to the suspension and reimposition of the oil and gas production tax oil surcharge to provide money to that fund; and providing for an effective date) and recommended it be replaced with

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 (Finance), entitled:

"An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and villages in matters relating to environmental conservation; relating to state assistance to municipalities and villages for expenses for prevention and abatement of environmental degradation; and providing for an effective date."

Senators Binkley and Uehling, Co-Chairs, signed "no recommendation." Senators Pearce and Zharoff signed "do pass." Senator Fischer signed "do pass (with reduced fiscal note)."

Zero fiscal notes published today from Department of Administration, Department of Revenue (two) and Department of Law.

Indeterminate fiscal note published today from Department of Community and Regional Affairs.

Fiscal note forthcoming from Department of Environmental Conservation.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 359 was referred to the Rules Committee.

April 24, 1990 .

SENATE JOURNAL

p. 3548

SB 359

Forthcoming fiscal note for Committee Substitute for Sponsor Substitute for Senate Bill No. 359 (Finance) (An Act concerning the exercise of authority and recovery of damages by the state and its municipalities and villages in matters relating to environmental conservation; relating to state assistance to municipalities and villages for expenses for prevention and abatement of environmental degradation; and providing for an effective date), as reference on page 3526, published today from Department of Environmental Conservation.

FISCAL NOTE

REQUEST:

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

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

* environmental conservation

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

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

Administration Municipal Grants Program

Prepared by: Mike Maher

Phone: 465-2277

Division: Administrative Services

Date: 01/17/90

Approved by Commissioner: Frank S. Baxter

Date: 1/19/90

Agency: Department of Administration

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

Changes in SSSB 359 (Fin)
have no fiscal impact.
This fiscal note is
appropriate. 4/23/90

FISCAL NOTE

REQUEST:

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

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	*	*	*	*	*	*
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

There is no fiscal effect for FY 90.

*Please see attachment.

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
Division: Municipal & Regional Assistance Date: _____

Approved by Commissioner: John Cowie, DC, CRA Date: 9/11/90
Agency: Department of Community & Regional Affairs

Distribution (by preparer):

Legislative Finance Changes in CS 595B 359 (Fin)
Legislative Sponsor have no fiscal impact.
Requestor This fiscal note is
Office of Management and Budget appropriate. 4/23/90
Impacted Agency(ies)

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

Bill Number: CS SS for Senate Bill 359

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

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

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

**Request For
New Position**

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

Page 3 of 5
 Revised Date

FY 91

Position Title Grant Administrator II		No. of Positions 1	Range/Step 17A	Barg. Unit GGU
Time Status Temporary	Staff Months 12 Months	Location Anchorage/Juneau		Election District
Type of Expenditure		Justification		
1	2	3		
Salary	35.0	During the recent oil spill, DCRA administered an oil spill grant program of \$1,160,000. Based on experience with this program, one temporary position to prepare grant/contractual documents will be needed during program activity. This position would be responsible for developing the agreement, reviewing payment requests, monitoring the project until completion, then finally closing out the grant. This position is budgeted here at salary for 12 months funded from the amount designated in the bill. Actual staff months worked depends on extent of disaster.		
Benefits	12.2			
Premium Pay				
Other				
Total Personal Services	47.2			
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost	47.2			
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1006			
CIP Receipts	1061			
Other		47.2		

**Request For
New Position**

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

Page 4 of 5
 Revised Date

FY 91

Position Title <u>Accountant II</u>		No. of Positions <u>1</u>	Range/Step <u>16A</u>	Barg. Unit <u>GGU</u>
Time Status <u>Temp</u>	Staff Months <u>12 Months</u>	Location <u>Juneau</u>		Election District
Justification				
Type of Expenditure		Amount		
<u>1</u>	<u>2</u>	<u>3</u>		
Salary	<u>32.4</u>			
Benefits	<u>11.9</u>			
Premium Pay				
Other				
Total Personal Services		<u>44.3</u>		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		<u>44.3</u>		
Funding Source for Total Cost				
Federal Receipts	<u>1002</u>			
G. F. Match	<u>1003</u>			
General Fund	<u>1004</u>			
I-A Receipts	<u>1006</u>			
CIP Receipts	<u>1061</u>			
Other		<u>44.3</u>		

An Accountant II will be needed to respond to the increased activity that would be generated by a program of this size. Staff in the fiscal section of DCRA are presently working to capacity due to addition of new and expanded programs in recent years. This position would be temporary during the time of highest fiscal activity. The position is described as 12 months but may be of shorter duration.

This position would have fiscal oversight of all billings, entries on the state accounting systems and report preparation for management.

Funding source would be part of a percent of total funds available.

**Request For
New Position**

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

Page 5 of 5
 Revised Date

FY 91

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 359 (Finance)(C)
PUBLISH DATE: 4/24/90

FISCAL NOTE

REQUEST:

Revision Date: 4/23/90
Title: An act concerning municipal assistance/oil spill fund
Sponsor: Senator Szymanski
Requestor: Senate Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	115.1	144.0	144.0	144.0	144.0	144.0
TRAVEL	7.5	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	20.0	24.0	24.0	24.0	24.0	24.0
SUPPLIES	2.5	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	12.5	15.0	15.0	15.0	15.0	15.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	9.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	157.6	196.0	196.0	196.0	196.0	205.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	157.6	196.0	196.0	196.0	196.0	196.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	157.6	196.0	196.0	196.0	196.0	196.0

POSITIONS:

FULL-TIME	2.0	3.0	3.0	3.0	3.0	3.0
PART-TIME	1.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Lynn Kent
Division: Environmental Quality

Phone: 465-2630
Date: 4/23/90

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

Date: 4/23/90

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

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ANALYSIS FOR CSSB 359 (Finance) FISCAL NOTE

Section 1-4

Sections 1-4 provide that municipalities exercising extraterritorial jurisdiction be consistent in their actions and ordinances with regional contingency plans for response. This ensures a coordinated effort. To accomplish this, the Department will work with communities on development of any ordinances and will review those that are adopted.

Section 5

Section 5 establishes authority in the Department of Community and Regional Affairs for community assistance grants for secondary social and economic assistance. These grants are funded from the existing Oil and Hazardous Substance Release Response Fund. Up to \$10 million from the Fund may be used for these grants. While there is no direct financial impact on the department's budget from this provision, it reduces the amount available for emergency first response, by either the state or communities, by up to \$10 million.

Section 10

Section 10 requires the department to consult with municipalities in developing agreements with federal agencies on response mechanisms and related topics. This will impose an increased workload upon the department.

Section 13

Section 13 authorizes the Commissioner of Community and Regional Affairs to spend an undefined amount of the Response Fund for "impact assessment." This will also reduce the amount available for emergency first response by the amount devoted to this task.

Section 14

Authorizes the Department to advance funds to communities for emergency first response, as provided in an agreement with the department. It also adds villages to the list of entities that may sign agreements for emergency first response with the department. This will increase the number of parties that may request agreements.

ANALYSIS FOR CSSB 359 (SENATE FINANCE) FISCAL NOTE (PAGE 3 OF 3)

The following positions are needed to carry out these efforts. The Ecologist positions are funded at 6 months and 12 months for the first year and fully funded for subsequent years.

FY 91

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist III (6 months)	28.8	2.5	4.0	.5	2.5	38.3
Ecologist III (8 months)	57.7	5.0	8.0	1.0	5.0	76.7
Clerk Typist III	28.6	7.5	8.0	1.0	5.0	42.6
Totals	115.1		20.0	2.5	12.5	157.6

FY 92

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist III	57.7	5.0	8.0	1.0	5.0	76.7
Ecologist III	57.7	5.0	8.0	1.0	5.0	76.7
Clerk Typist III	28.6		8.0	1.0	5.0	42.6
Totals	144.0	10.0	24.0	3.0	15.0	196.0

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Revenue
 Title: Municipal Assistance: Oil BRU: Treasury
 Response Fund: _____
 Sponsor: Szymanski Components: _____
 Requestor: Senate Oil & Gas

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: attach a separate page for analysis.

Fiscal year 1990 effect is zero.

Prepared By: Milt Barker MB
 Division: Treasury

Phone: 465-2350
 Date: February 1, 1990

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

Date: 2/1/90

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

Changes in CS 358359 (Fin)
 have no fiscal impact.
 This fiscal note is
 appropriate. 4/23/90 [Signature]

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

Bill Number: Sponsor Substitute for Senate Bill 359

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

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

DCN

2072

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Revenue
 Title: Municipal Oil Spill Fund BRU: Oil & Gas Audit Division
 Sponsor: Szymanski, Adams, Zharoff Components: _____
 Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page for analysis.

Prepared By: Charles L. Logsdon Phone: 277-5627
 Division: Oil & Gas Audit Division Date: March 12, 1990

Approved by Commissioner: Hugh Malone Date: 3/12/90
 Agency: Department of Revenue

Distribution (by preparer):

Legislative Finance Changes in CS 99 98 359 (Fin)
 Legislative Sponsor have no fiscal impact.
 Requestor This fiscal note is
 Office of Management and Budget appropriate. 4/23/90 -244-
 Impacted Agency(ies)

CS SS SB 359
Fiscal Note Analysis

The bill leaves the cap under which the \$.05/bbl oil surcharge is levied at \$50 million. The zero revenues shown on the fiscal note show that the cap is unchanged. Collections of the surcharge through December amounted to \$11 million. The balance in the hazardous spill fund was \$32 million effective January 1990. (FY 90 collections were for 11 months of the year.)

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

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

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

* Excludes NGLs.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act... recovery of damages... state and its municipalities and villages..."
Sponsor: Senate Oil and Gas
Requestor: Senate Oil and Gas

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollar)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: March 7, 1990
Approved by Commissioner: Richard A. Pegues /FOR/ Date: March 7, 1990
Agency: Department of Law Attorney General

Distribution (by preparer):

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

Changes in CS SSSB 359 (Fin)
have no fiscal impact.
This fiscal note is
appropriate. 4/23/90

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 359 (Oil and Gas)

The committee substitute for SB 359 amends AS 29 to provide for a state assistance grant program for municipalities and villages, from the oil and hazardous substance release response fund, for the containment and cleanup of oil and hazardous substance spills. Although the Department of Law may be involved in providing legal advice to the Departments of Community and Regional Affairs and Environmental Conservation, in respect to implementing the bills provisions, the department would not ordinarily be involved in the assistance program and fiscal note funds are therefore not required.