

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 28, 2006

8:02 a.m.

MEMBERS PRESENT

Representative Kurt Olson, Co-Chair
Representative Bill Thomas, Co-Chair
Representative Pete Kott
Representative Gabrielle LeDoux
Representative Mark Neuman
Representative Sharon Cissna
Representative Woodie Salmon

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 171(FIN)(efd fld)

"An Act amending the National Petroleum Reserve - Alaska special revenue fund; and establishing the Special Legislative Oil and Gas NPR-A Development Impact Review Committee and defining its powers and duties."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 171

SHORT TITLE: NPR-A COMMUNITY GRANT PROGRAM

SPONSOR(S): SENATOR(S) WILKEN

04/12/05	(S)	READ THE FIRST TIME - REFERRALS
04/12/05	(S)	CRA, FIN
04/20/05	(S)	CRA AT 1:30 PM BELTZ 211
04/20/05	(S)	Heard & Held
04/20/05	(S)	MINUTE(CRA)
04/22/05	(S)	CRA AT 1:30 PM BELTZ 211
04/22/05	(S)	Moved SB 171 Out of Committee
04/22/05	(S)	MINUTE(CRA)
04/25/05	(S)	CRA RPT 3DP
04/25/05	(S)	DP: STEVENS G, WAGONER, STEDMAN
04/26/05	(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/26/05	(S)	Heard & Held

04/26/05	(S)	MINUTE(FIN)	
01/26/06	(S)	FIN AT 9:00 AM SENATE FINANCE 532	
01/26/06	(S)	Heard & Held	
01/26/06	(S)	MINUTE(FIN)	
02/01/06	(S)	FIN RPT CS FORTHCOMING 4DP 2DNP	
02/01/06	(S)	DP: WILKEN, GREEN, BUNDE, DYSON	
02/01/06	(S)	DNP: HOFFMAN, OLSON	
02/01/06	(S)	FIN AT 9:00 AM SENATE FINANCE 532	
02/01/06	(S)	Moved CSSB 171(FIN) Out of Committee	
02/01/06	(S)	MINUTE(FIN)	
02/03/06	(S)	FIN CS RECEIVED	TECH
		TITLE CHANGE	
02/16/06	(S)	ENGROSSED	
03/01/06	(S)	TRANSMITTED TO (H)	
03/01/06	(S)	VERSION: CSSB 171(FIN)(EFD FLD)	
03/01/06	(H)	READ THE FIRST TIME - REFERRALS	
03/01/06	(H)	CRA, FIN	
03/28/06	(H)	CRA AT 8:00 AM CAPITOL 124	

WITNESS REGISTER

SENATOR GARY WILKEN
 Alaska State Legislature
 Juneau, Alaska
 POSITION STATEMENT: Spoke as the sponsor of SB 171.

ACTION NARRATIVE

CO-CHAIR BILL THOMAS called the House Community and Regional Affairs Standing Committee meeting to order at [8:02:32 AM](#). Representatives Thomas, Olson, LeDoux, Neuman, and Salmon were present at the call to order. Representatives Kott and Cissna arrived as the meeting was in progress.

SB 171-NPR-A COMMUNITY GRANT PROGRAM

[8:02:42 AM](#)

CO-CHAIR THOMAS announced that the only order of business would be CS FOR SENATE BILL NO. 171(FIN)(efd fld), "An Act amending the National Petroleum Reserve - Alaska special revenue fund; and establishing the Special Legislative Oil and Gas NPR-A Development Impact Review Committee and defining its powers and duties."

[8:03:17 AM](#)

SENATOR GARY WILKEN, Alaska State Legislature, sponsor, informed the committee that the committee packet should include the sponsor statement, a sectional analysis, a PowerPoint presentation, and the "National Petroleum Reserve-Alaska (NPR-A) Impact Mitigation Grant Program" report from the Department of Commerce, Community, & Economic Development. Senator Wilken explained that SB 171 attempts to correct two problems that were created in 1980 by an insertion in federal legislation having to do with the leasing of NPR-A. The federal legislation put in front of the permanent fund dividend any revenues that come from NPR-A and thus most believe that 25 percent of the funds from the NPR-A are deposited into the permanent fund dividend account. However, that isn't the case. Back in 1980 a grant program was created and the revenue stream from NPR-A is just beginning to flow. The lack of attention to the grant program has highlighted the need to make some changes. Therefore, this legislation attempts to address the aforementioned by a creating a priority that "steps in front of the permanent fund" and establishing some objectivity with the grant program and spread the wealth of NPR-A throughout Alaska rather than just one area of the state.

SENATOR WILKEN turned attention to the PowerPoint presentation on which the first page relates the quote from Judge Walter Carpeneti in the Barrow v. State case, as follows: "The duty imposed by the federal government ultimately falls upon the Alaska Legislature ...". He then turned to slide 1, which highlights Article 9, Section 15, of the Alaska State Constitution, which read:

Alaska Permanent Fund. At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.

SENATOR WILKEN explained that in order for the aforementioned to be correct today the language ", except those from NPR-A" would need to be inserted because currently the revenue is intercepted from NPR-A by certain communities in the state prior to it reaching the permanent fund. The aforementioned is coming to

light due to the revenue coming from the NPR-A over the last few years. Senator Wilken informed the committee that since 1980 \$167.6 million has come from NPR-A, although only 15 percent has been deposited into the permanent fund to date. Therefore, the question becomes: where did the money go. Senator Wilken then drew attention to slide 4, which specifies how the half that's state money was allocated from 1983 to 2006 and 2000 to 2006 with the largest percentage going to NPR-A community grants during both time periods. He then reminded the committee that NPR-A money is half federal money and half state money. Clearly, the pie charts on slide 4 illustrate that the 6 percent that went to the permanent fund in 2000-2006 is in violation of the constitution, which requires 25 percent of these funds be placed in the permanent fund. Those who believe the general fund (GF) will benefit from NPR-A are wrong, he opined, as the pie charts on slide 4 illustrate that no funds from NPR-A have gone to the GF while 75 percent went to the North Slope.

SENATOR WILKEN then turned the committee's attention to slide 5. He informed the committee that if last year's appropriation was for \$24.7 million in grant funds and if the aforementioned was awarded on a per person basis in the North Slope, it would amount to \$4,400 [per person]. Under the per person basis, Anchorage would receive a check for \$1.2 billion while Fairbanks would receive \$380 million. "Wouldn't all of our communities like to have grants such as that," he queried. He then moved on to slide 6, which illustrates that next fiscal year there should be about \$50 million in NPR-A grant funds to distribute. He related that NPR-A is expected to be a mega giant oil field that could hold 10 billion barrels and thus the funds are expected to climb. Therefore, it's important to address the problem with NPR-A. He highlighted slides 9-10, which detail the four communities and borough that have benefited from the monies from NPR-A. Slide 10 also relates the distance from which the communities sit from oil and gas development.

[8:14:50]

SENATOR WILKEN related the history of NPR-A, which is specified on slide 11. He then pointed out that under federal law, as highlighted on slide 12, there is a priority use of NPR-A funds by the communities most directly or severely impacted by the development of oil and gas within NPR-A. At that time the legislature didn't have a state law on the books and decided to protect the permanent fund and deposit the remainder in the GF. However, the North Slope Borough disagreed with the aforementioned and brought forth a suit in which Judge Carpeneti

said that automatic deposits into the permanent fund violate the federal law. Judge Carpeneti also said that the state has a mandatory duty to address NPR-A development-related impact needs because the federal law trumps the state constitution. Furthermore, Judge Carpeneti specified that the duty imposed by the federal government ultimately falls upon the Alaska State Legislature, which is the goal of SB 171.

SENATOR WILKEN moved on to slide 14, which provides a flow chart of the process by which the impacted communities submit requests to DCCED [Department of Commerce, Community, & Economic Development] for impact grants. He noted that the [committee packet] should include a listing of the grants that have been funded. The legislature is only involved in the process at the capital budget level. He then highlighted slide 15, which specifies the federal and state laws as well as the corresponding regulations. He then turned the committee's attention to the term "impact" and explained that under SB 171 "impact is the threshold across which one must pass in order to be considered for any sort of funding." However, that's not how it has been handled, which has led to confusion as related in the varying point assignments to impact as specified in slide 16. He then offered examples which he indicated weren't [reasonably attributable to oil and gas development within NPR-A]. For example, in fiscal year (FY) 06 the legislature was asked to fund a \$525,000 lagoon boat launch in Wainwright as related on slide 17. The application merely said, "Construction of the oil production infrastructure and pipeline has driven up the growth of population." However, he refuted that and informed the committee that over that time period the population of Wainwright has increased from 492 to 546. With regard to the impact on social and cultural values, the grant application specified the following: "The social disruption prompted by oil and gas development affects many traditional activities." However, Wainwright is located 220 miles away from NPR-A development. He then turned attention to an application for the \$63,000 renovation of a roller rink in Barrow, which is located 160 miles from Alpine. Senator Wilken respectfully suggested that there is no impact on the borough.

[8:23:15 AM](#)

SENATOR WILKEN then turned attention to other concerns that are specified on slide 19. For instance, grants have been funded as capital projects with no lapse date. However, the majority of the grants are for operating expenses, which typically have a one-year life. He opined that there is very little

accountability as illustrated with the 2000 approval of a grant for the construction of a cultural center in Nuiqsut. In 2002 \$300,000 was [approved] for the operation of the Nuiqsut cultural center, although to date no foundation has been dug. Senator Wilken then pointed out that positive impacts of NPR-A activities aren't considered. For instance, the people of Nuiqsut are going to have free natural gas. Moreover, [NPR-A activities] provide jobs and an income. Therefore, it's time to change and thus SB 171 establishes a special legislative impact review committee in a conference committee structure. He highlighted Judge Carpeneti's remarks in the Barrow V. State case as follows: "The duty imposed by the federal government ultimately falls upon the Alaska Legislature and it includes the duties to examine the claimed needs of the subdivisions arising from oil and gas development impacts, to evaluate them and, if the claimed needs are found to exist, to rate them in order of priority, and to meet them out of NPR-A revenues."

SENATOR WILKEN explained that SB 171, as related in slide 22, establishes a special legislative impact review committee consisting of three members from the Senate Finance Committee and three members from the House Finance Committee. Under the legislation, the process will work the same save that the legislature has inserted itself through the committee, as illustrated on slide 22. He then moved on to slide 23, which highlights that "impact" is the first criteria for which the application is reviewed before moving through the funding process. The reason to do the aforementioned is to fix the current process, which he characterized as broken. He reminded the committee that this is the only program that stands in front of the permanent fund and thus it's necessary to take extraordinary measures to address the situation. He then reviewed the advantages of the process proposed in SB 171. Under SB 171 those making the decisions will be elected officials acting in an open process with public decisions and thus the committee will be accountable to the public. The aforementioned is in contrast to the current process, which is a closed process performed by state employees who are only accountable to their boss.

[8:30:40 AM](#)

SENATOR WILKEN continued with slide 25, which reviews the path of the money under SB 171. He acknowledged that some will say that the proposed committee is a politically driven group that will "short the impacts, ... not define them properly, and not give the impact to communities that are just due" because of the

desire to have more money for the GF, permanent fund, or specific areas. With regard to that, Senator Wilken pointed out that legislators are accountable to those who elected them. He also pointed out that legislators must work under the laws and regulations in place. The proposed committee, he explained, will determine where the money goes. In complying with the Alaska State Constitution, 25 percent of NPR-A funds will go to the permanent fund and .5 percent to a school trust. Currently, the 25 percent is taken off the net. He explained that money comes to the state, goes to the grants, and 25 percent of what is left [after the grants are taken] is placed in the permanent fund. However, sometimes after the grants there isn't enough money to take the 25 percent. Under SB 171, the impact draws are taken and 25 percent of what's left is placed in the permanent fund. When there isn't enough money after the grants to satisfy the 25 percent requirement, a provision similar to that of the constitutional budget reserve comes into play. If there is money left over after the grants and the 25 percent for the permanent fund have been paid, then any leftover debt is satisfied after which support is given to the power cost equalization (PCE) program, and then the GF. Senator Wilken concluded as follows: "Senate Bill 171 is a method to fairly allocate the financial benefits of NPR-A to all Alaskans while, at the same time, mitigate the direct impact of development on certain communities as required by federal law."

[8:34:57 AM](#)

REPRESENTATIVE LEDOUX inquired as to the percentage of NPR-A funds that would be allocated to the North Slope Borough as compared to the current percentage the borough receives. In other words, she inquired as to how much [money] the North Slope Borough would lose under SB 171.

SENATOR WILKEN said that it's difficult to determine. He used last year as an example. Last year \$32 million was available and there was \$54 million in requests. The calculation was made in regard to what was necessary for PCE and the remainder [of the requests] were approved with grants, which he opined was built backwards. Furthermore, no consideration was given for the impact of the projects. Currently, \$4 million can be allocated. Senator Wilken turned to the question as to what it costs to alleviate impact of NPR-A development, which isn't answered today because under the current situation "we build backwards on what's available and we fund up to a certain amount that's calculated by somebody."

8:36:53 AM

REPRESENTATIVE CISSNA related her understanding that Senator Wilken makes a case with regard to the need to review the disbursement methods, but she questioned why the legislation doesn't open up a process to really analyze such. She expressed concern with having Finance committee members on this proposed committee because they are the very people who will know of lots of needs for the funds. Furthermore, their hunger for their own area will be greater and thus Finance committee members are biased. She asked if the sponsor reviewed other possible methods with regard to the disbursal of these NPR-A monies.

SENATOR WILKEN acknowledged that this proposal is a bit cumbersome, although it's the most public and accountable method he found. He further acknowledged that there is always the tension [for members to] take home what they need. However, the NPR-A funds realize that a certain area of the state is impacted [by the NPR-A development] and those funds are used to mitigate those impacts. Therefore, the question is whether the requests for mitigation are logical and sustainable. Whatever the case, the law has to be followed.

8:41:11 AM

REPRESENTATIVE CISSNA noted that there have been studies on the subject of impacted communities, one of which found that local communities tend not to be adequately mitigated for the impacts they suffer. She inquired as to why the sponsor chose public hearings rather than a much larger arena.

SENATOR WILKEN said that he would be open to any thoughts to make the process more public, manageable, and accountable. He commented, "I've done the best I can to come up with what I consider to be a accountable, manageable, public group to decide what impact is and then spread the wealth of NPR-A across the rest of the state; that's the purpose of this bill."

8:44:02 AM

CO-CHAIR OLSON characterized accountability as the key issue and asked if the sponsor would agree.

SENATOR WILKEN replied yes.

CO-CHAIR OLSON, drawing from his experience as a staffer and a legislator, recalled seeing communities in the state request

good and bad projects and he assumed that the impacted villages would have the same opportunity. He then opined that it appears that the problem with accountability lays at the step of DCCED rather than with the impacted villages.

8:45:09 AM

CO-CHAIR OLSON specified that the impacted villages and the North Slope Borough are doing everything that all other communities in the state are. However, they have "a pie" to which they have quicker access. The problem, he reiterated, is the lack of oversight of one state agency, DCCED.

SENATOR WILKEN noted his agreement and emphasized the need to fix it now before "the money gets so big that it just overwhelms us."

8:46:36 AM

REPRESENTATIVE NEUMAN inquired as to the response of DCCED regarding the lack of accountability.

SENATOR WILKEN answered that the department asked what the legislature would like it to do. Currently, there is no structure and it's very loose because no one has delineated any operating rules.

REPRESENTATIVE NEUMAN referred to slide 19 and the example of the cultural center that received grants, although it was never constructed. He inquired as to how that could occur.

SENATOR WILKEN echoed his earlier statements that SB 171 attempts to bring accountability to these decisions and establish fairness to the federal legislation.

8:48:50 AM

REPRESENTATIVE LEDOUX asked whether a significant amount of the problem is that DCCED isn't giving enough weight to the impact. She questioned whether it would be simpler to state in law that "impact" with a specified amount of points is the highest priority. She suggested that such would eliminate a lot of the problems.

SENATOR WILKEN said Representative LeDoux is correct, but noted that her suggestion lacks accountability for the only program

that comes before the permanent fund. He opined that the level of scrutiny for this program should be higher.

REPRESENTATIVE LEDOUX surmised that the sponsor is almost assuming that under SB 171 there wouldn't be enough grants going to the North Slope Borough and they would go elsewhere.

SENATOR WILKEN reminded that the committee that the laws in place must be followed.

[8:51:53 AM](#)

REPRESENTATIVE SALMON referred to slide 25 with regard to PCE, which the Senate doesn't seem to support.

[8:52:41 AM](#)

CO-CHAIR THOMAS recalled giving Senator Wilken's staff legislation regarding the University of Alaska potentially being in line for impact aid due to the NPR-A. If so, he asked if the sponsor would want any impact aid to the university to be treated in the same manner as proposed under SB 171.

SENATOR WILKEN related his understanding that there has been discussion with regard to the Southeast corner of NPR-A being set aside and the revenues from which would go to the university. However, he said he didn't know what the split would be. Furthermore, he said he wasn't sure that impact would be included in that discussion. He informed the committee that it's federal legislation that he understands is languishing.

CO-CHAIR THOMAS related his belief that Fairbanks is the community most impacted by oil.

[8:54:23 AM](#)

CO-CHAIR THOMAS recalled the sponsor saying that the NPR-A is the only impact aid monies, but he pointed out that the Tongass forest receipts are in the direct impact aid grant process. He related his difficulty with impact funds because it seems that those areas with boroughs receive more funding rather than the areas that face the most impact. He then inquired as to why no money was taken for the PFD from the Tongass forest receipts. He then requested the total capital GF monies that the North Slope Borough has received over the last six years. He then inquired as to whether the department can fix this in-house without this legislation.

SENATOR WILKEN informed the committee that he has data with regard to forest receipts and past capital expenditures, and the draw the North Slope Borough makes on 43.56 properties that it can supply the committee and compare with the information provided by DCCED.

[SB 171 was held over.]

[8:57:39 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at [8:57:45 AM](#).