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Attn: Mark Wittow
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Administrative Committee on
Renewable Resources Development

October 12, 1977

AVRUM M. GROSS
ATTORNEY GENERAL

Renewable Resources
Funds

By:
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This confirms our recent discussions on this subject.

First, "renewable resources" are whatever the Alaska Supreme Court says they are. It is our best judgment that, as with "capital improvements," the court would not adopt a general definition but rather would judge each proposition on its own merits. Cf., City of Juneau v. Hixson, 373 P.2d 743 (Alaska 1962). As will be explained later, however, we doubt any ruling will ever be made. The administration, however, should use the same ad hoc test as the court would.

Second, investments are governed by the prudent man rule, i.e., to make money. AS 37.11.020, 060 and AS 37.10.070 (investment of surplus funds).

Third, expenditures may be made only by way of the budget-appropriation process. AS 37.11.030, 070.

The Alaska Renewable Resources Development Fund and Permanent Fund are not true dedications of revenues, i.e., there is no fund which is actually dedicated for a special purpose. There is a conditional, standing appropriation of surpluses, if any, from the development fund to the permanent fund. AS 37.11.040, 060. But that merely moves money from one fund to another, without expending it on a special purpose. Except for replacement of losses of principal from fund income (also a conditional, standing appropriation), that is the only source of income for the latter fund. If there is no surplus in a given year, there is no income to the fund for that year. A true dedicated fund has a regular source of income and the authority to expend money, without further appropriation, on its special purpose, e.g., education.

Additionally, there is no legal impediment against any legislature's appropriating from either fund for any public purpose whatsoever, without regard to its contributing to the development or management of a renewable natural resource. No legislature, with an exception not applicable here, may bind another to a given law or policy. With or without an express

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amendment to AS 37.11, any future legislature may appropriate as it sees fit, subject only to an item veto. That includes appropriations from the principal of the permanent fund.

Legally, the funds may be viewed as special accounts to facilitate a legislative policy. So long as succeeding legislatures are in accord with the policy, the funds afford a way of providing fairly substantial amounts of money for the management of renewable natural resources without having to overcome the annual inertial resistance of the budget-appropriation process. The executive is bound by the policy as long as it remains law. But each and every legislature possesses the plenary power to annul the policy -- expressly by repeal or impliedly by not following it.

If the legislature changes the policy by not following it, e.g., appropriates from the development fund to build a road to exploit mineral resources of the Seward Peninsula, we doubt that a court would overturn the legislature's action. We believe, rather, that it would rule that the establishment of the fund and its terms by the Eighth State Legislature does not bind, say, the Eleventh State Legislature. There is a rule to the effect that the constitutional limitation of appropriation bills to appropriations precludes their being used to enact or amend other substantive law. E.g., Opinion to the Governor, 239 So.2d 1, 11 (Fla. 1960). However, we apprehend this rule to apply solely to conditions or restrictions attached to appropriations and not to the appropriations themselves.

Accordingly, it is unlikely -- so long as expenditures require an appropriation -- that the courts will ever rule on what is or is not a "renewable natural resource." Of course, if AS 37.11 were amended so as not to require appropriations for future expenditures, then it probably would be a true dedication of revenues and become unconstitutional. Alaska Const., art. IX, §7; Op. Atty. Gen., Dedication of Revenues Derived from Lease or Sale of State Natural Resources (May 2, 1975).

RWP/pjg

STATE OF ALASKA

DEPARTMENT OF LAW

JAY S. HAMMOND, GOVERNOR

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

May 2, 1975

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: Dedication of Revenues Derived
from the Lease or Sale of
State Natural Resources

Dear Governor Hammond:

You have asked if dedication of the revenues from the lease or sale of state natural resources offends the state constitutional prohibition against dedicated funds. Art. IX, §7, Alaska Constitution.

The short answer is yes.

DISCUSSION

The constitutional prohibition against dedicated funds is as follows:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this constitution by the people of Alaska. Id.

It may be suggested that the phrase "proceeds of any state tax or license" is not ambiguous or doubtful and, there-

fore, is not subject to judicial construction, Application of Babcock, 387 P.2d 694, 696 (Alaska 1963). However, whether the phrase includes royalties from oil and gas leases is a valid question and does require that the phrase be interpreted. 1/ Since there is a valid question as to whether a royalty or a bonus-royalty exacted by the government is a tax or license, an ambiguity or uncertainty exists and we should resort to the records of the Convention to determine intent. Alaska Public Employees Ass'n. v. State, 525 P.2d 12, 1415 (Alaska 1974). By examining this record, we may construe the words used in the Constitution with reference to their purpose and the purpose of Section 7. State v. City of Anchorage, 513 P.2d 1104, 1110 (Alaska 1973).

Section 7 of Article IX had two interrelated purposes: (1) to prevent any future dedication of revenues for special purposes, and (2) to prevent the creation of new special funds separate from the general fund. Public Adm. Sv., Constitutional

1/ 1969 Op. Atty. Gen. No. 3 and No. 5 took the view that the dedication of oil and gas royalty and bonus-related payments was not prohibited by Section 7 of Article IX of the State Constitution. They are expressly overruled insofar as they are inconsistent with this opinion. They erred in relying principally on legal lexicons and prior decisions to define "proceeds", "taxes", and "licenses" and in relying too little on the files and minutes of the Constitutional Convention. Their analysis of dedicated funds is otherwise excellent, and except for their conclusion with respect to revenues derived from the lease or sale of natural resources, they remain excellent statements of the law.

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Studies, v. 3, 2730 (1955); Minutes of Meetings of Com. on Finance & Taxation, Legislative Affairs Agency Files, 211, Constitutional Convention, Nov. 25, 1955 (hereinafter, Files); Preliminary Drafts of Article on Finance & Taxation and Memorandum of the Finance Com., Dec. 4, 1955, Files.

The rationale for the purpose is found in the Constitutional Studies, id., and, more succinctly, in the committee's commentary, 6 MINUTES, CONSTITUTIONAL CONVENTION, App. V, 111 (1956) (hereinafter, MINUTES). In essence, it is that the widespread existence of dedicated revenues lodged in special funds deprives both the governor and the legislature of "any real control over the finances of the state." Id.

The progression of Section 7 from its original draft to final version is worth following. It first appears in the committee minutes of November 24, 1955, as follows:

All tax revenues shall be deposited in a general fund to be established and maintained by the state. This provision shall not prohibit the continuance of any special fund for special purposes existing at the effective date of the constitution. Files.

At the December 2nd meeting of the committee, it was advised of certain requirements for federal funding in fish and wildlife programs which required dedication of license revenues.

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The committee thereupon amended its "tentatively adopted section" to include the phrase:

except as State participation in Federal programs might thereby be denied. Files.

The committee's markup of the December 9th draft shows several changes entered by hand. For one, the word "tax" is deleted as a modifier of the word "revenues". For another, the term "general fund" is deleted and the phrase "in the state treasury wo [without] aloc [allocation] for spec. purposes" is inserted. Files. A subsequent, undated, working draft reads in pertinent part as follows:

All revenues shall be deposited in the State treasury without allocation for special purposes, except where state participation in Federal programs will thereby be denied. Files.

This version was the same as that of December 16, 1955, submitted, December 19, 1955, to the Convention. 6 MINUTES, App. V, 106-07.

Prior to the Convention's consideration and debate of the committee proposal, the committee prepared several changes, one of which was to insert the word "public" after the word "all" so that it would read: "All public revenues shall be deposited" 3 MINUTES 2297.

The purpose of this change was to "eliminate the question regarding such things as donations or bequests . . . that might

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have specific purposes attached to them." Ibid., 2298. With respect to the exception in section 7 (then section 8), the committee spokesman said:

There are some federal participation programs which do require specific things that might conflict with a total prohibition on this subject We have provided that any funds, which are allocated at the time this constitution is approved, do not come under this provision Ibid., 2302.

By express language in the committee proposal and in its explanation, we then had a "total" prohibition on any dedication of any public revenues but for two explicit exceptions. That this included proceeds from the conveyance of state lands or interests in state lands cannot be denied. Indeed, the subject was quickly brought up with respect to school lands. In response to questions, the committee spokesman explained that if Congress made a grant of lands dedicated for school purposes, the federal exception clause would apply and funds could be dedicated. The necessary inference is, of course, that if the land grant were general, the proceeds could not be dedicated. Ibid., 2317-19.

During this colloquy, the chairman remarked of then section 8 (prohibition against dedicated funds) that the committee wished to postpone its consideration by the Convention because it had a number of changes to recommend. Ibid., 2318.

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When the section was brought up the following day, the committee moved to delete the phrase: "All public revenues shall be deposited . . ." and substitute the phrase "The proceeds of any state tax or license . . .". Ibid., 2361. If we use a plain-language rule to interpret this alteration, we must conclude that a substantive change of dramatic proportions was proposed and adopted, i.e., from a broad prohibition against dedicating any revenues to a lesser prohibition against dedicating tax or license revenues. The record, however, indicates nothing of the sort being intended or perceived.

The immediate result was a flurry of questions and subsequent debate over including the proceeds of licenses in the prohibited category. Ibid., 2361-2376. Debate ensued on a motion to strike the word "license". It revealed a strong majority against dedicated funds of whatever kind and a vote against the amendment of 44 to 10. Ibid., 2377. It also revealed, almost certainly, the origins and intent of the committee's amendment from "all public revenues" to "the proceeds of any tax or license."

During the debate, a delegate asked about the use of sinking funds to retire bonds. Answering for the committee, Delegate White responded as follows:

. . . [T]his suggested committee change came about because under the old language where it said 'All revenues shall be deposited without

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allocation . . . ' we ran into a situation where we had listed seven exceptions that we were afraid we were going to have to make. By going to the tax itself and saying that the tax shall not be earmarked, we eliminated all seven of those exceptions. Now in this case the sinking funds for bonds, all this prohibits is the earmarking of any special tax to that sinking fund. You could still set up a sinking fund from the general fund or the state treasury. Ibid., 2363.

The "situation" the committee "ran into" was a memorandum of January 4, 1956, consisting of comments by the consultants from the Public Administration Service (PAS) on the committee's proposal. Files. The comment on dedicated funds is set out in its entirety below:

At the request of the Committee on Finance and Taxation, finance specialists on the Public Administration Service staff in Chicago prepared comments on the Finance Committee proposal. These comments, supplemented as a result of Mr. Sady's discussions with these specialists, follow:

Section 8: The intended purpose of this section to prohibit the earmarking of certain revenues for special purposes is certainly laudable. It is doubtful, however, that a strict interpretation of this provision could be applied. Legal and contractual provisions will require the segregation of certain moneys, e.g., pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts which the state might collect on behalf of local government units.

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This section might be revised by the deletion of the words in brackets and by the addition of the underlined words, as follows:

"Section 8: All public revenues shall be deposited in the State treasury without allocation for special purposes. [; except where state participation in Federal programs will thereby be denied.] This provision shall not prohibit the continuance of any allocation existing upon the date of ratification of this Constitution by the people of Alaska, nor the earmarking of tax revenues and other receipts where necessary to enable the State to participate in Federal programs, to repay public debt, to maintain any individual or corporate or other local government equity therein, or to maintain duly established revolving funds." Ibid.

The jump from the amendments proposed by PAS to those of the committee is not explained in the records of the Convention. But it is clear that the several exceptions listed in the PAS memorandum are those referred to in quotation from the debate, supra, and that the committee proposed its change for no other purpose than meeting the problems raised by the memorandum: "By going to the tax itself and saying that the tax shall not be earmarked, we eliminated all seven of those exceptions." 4 MINUTES, 2363 (1956).

The important thing to note is that no intent was shown to limit the class of revenues which could not be dedi-

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cated. 2/ Rather, the intent of the amendment was to change the language so as to avoid setting forth specific exceptions "[b]y going to the tax itself" Id.

In a later discussion of the article on the initiative and the prohibition there against dedicating any "revenues", Delegate White expressed concern that the Committee on Style and Drafting "retain the idea of dedicating of taxes" when it

2/ The committee's records reveal ample consideration of taxes and licenses but none of other revenues. The committee focus may have inadvertantly led it to an implicit understanding that the phrase "taxes or licenses" covered all governmental revenues. Ironically, by changing the original language: "All public revenues shall be deposited . . . without allocation" to the phrase: "The proceeds of any state tax or license . . . shall not be allocated . . .", the committee (and the Convention) failed to express the intended result. By its plain language, the prohibition on dedications applies to the "proceeds of any tax or license." Contrary to the expressed intent, 4 MINUTES 2363 (remarks of Delegate White), the prohibition is not directed at the tax but, rather, at the proceeds. Since the general fund consists of those proceeds, under the terms of the literal language, one could not "set up a sinking fund from the general fund or the state treasury." Id.

Because interpreting Section 7 by its plain language so as to prohibit sinking funds, retirement funds, and the like, would thwart the expressed will of the Convention, a plain-language interpretation would be improper. Instead, the section should be interpreted to give it its full effect, i.e., to except certain necessary dedications arising from contractual obligations routinely entered into by every state. PAS Memorandum, supra.

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came to the finance article. Delegate Sundborg took this to refer to "taxes" being more limited than "revenues", i.e., not to include more than taxes, but Delegate White stated that the reason was otherwise:

The reason we made the distinction . . . is because all proceeds coming to the state are revenues really, and you have to dedicate or allocate revenues to special purposes, whereas what we are trying to get at is the allocation or dedicating or earmarking of the proceeds of a particular tax to a particular purpose. 4
MINUTES 2969.

In other words, the prohibition of Section 7 was aimed at revenue sources, and the Convention's concern, then, was not to exempt some sources of revenue from the prohibition against dedications but, rather, to exempt certain kinds of necessary dedications of revenues from that prohibition after their receipt. As a sampling of the debates clearly shows, the Convention clearly intended to prohibit any new dedications of any source of revenues:

WHITE: Mr. Emborg, the committee's idea here is to prevent earmarking for anybody except in the case outlined I think I can speak for a majority of the committee in saying that you can go on making exceptions to this for deserving groups ad infinitum. But the committee feels that if you accept the principle of not earmarking, it puts everyone in the same position and that the legislature will then be . . . able to decide each case

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on its own merits. If you go the other route and allow for earmarking . . . you are then back to the situation that most states now find themselves in, where an everincreasing percentage of their revenues are earmarked for special purposes and an everdecreasing amount is available to the general fund . . . So the committee would suggest that the Convention accept the idea of preventing earmarking or reject it. 4 MINUTES, 2364 (emphasis added.)

In response to a typical argument that ". . . unless you have a fair share of earmarked funds for special certain purposes, particularly public works . . . you often times do not get them", the answer was: "They have to sell their viewpoint [to the legislature] along with everybody else." Ibid., 2365, 2367.

The suggestion was raised that a name other than "license" might be used to avoid the prohibition. The committee response was as follows:

AWES: I think. . . the odds are all in favor of the court saying these are all licenses in fact, and bringing them within the restrictions of this section. . . . I think I might give a few indications of the committee's thinking at the time we adopted this proposal. The latest figures that we had before us, about 27 per cent of the funds of Alaska were earmarked and with the figure of 27 per cent, I think Alaska was right among the lowest ranking with the states in the matter of earmarking. Texas . . . 90 per cent . . . the majority . . . around 50 per cent up to 75 per cent of their funds. . . . I

think earmarking is bad; from an accounting standpoint it's bad. It is inefficient, undoubtedly, because it deprives the legislature of that adaptability that you get when you take a certain amount of money with no strings attached and allocate it without limitations. I think inefficiency is one of the big arguments against earmarking. I think the other one is that, eventually, you do get so many funds earmarked that the legislature just does not have the money to work with for current operating expenses The committee felt . . . after seeing the extent to which earmarking is growing in the states and the impossibility of doing away with earmarking once you get it, that the advantage is weighted in favor of limiting earmarking [to certain exceptions] and that is the reason we adopted the provision that we did. Ibid., 2367-68 (emphasis added).

In other words, it mattered little to the committee what name the revenues had, it was prohibiting, subject to certain exceptions, the dedication of sources of revenues. It did not want the legislature's hands tied by any additional dedicated funds. And it felt that "the odds were all in favor of the court" upholding its design if sources of revenue were designated by names other than "tax or license."

Another member of the committee, one who did not originally favor the committee's proposal, saw it as a reasonable compromise:

PERATROVICH: Mr. President . . . I do not say that we should go overboard and earmark all the revenue that we take in . . . but I think . . . there is some good derived from such an [existing] program I was satisfied with the language here. I figure that the compromise, that the allocations that are now in existence would be retained Ibid., 2369-70 (emphasis added).

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The "compromise" was, of course and as stated, that the existing dedications could be retained. But this could be a compromise only if no new dedications of any source of revenue could be created.

Another member of the committee, agreeing on the value of existing dedications for highways, airports, and schools, cautioned on the needs of other programs:

BARR: Mr. President . . . The health program demands an immense amount of money so, therefore, the legislature should have a fair/size sum in the general fund subject to appropriation for those purposes. I am afraid if we had 50 per cent of our funds earmarked, we would have practically nothing left for our health program and things of that sort. Ibid., 2370-71 (emphasis added).

The same member pointed out, in arguing against an amendment to delete the word "license", that the amount of license fees received in fiscal 1954-55 was \$2 million out of a total tax of \$15.7 million. The Convention was unwilling to exempt 13 per cent of the then revenues from the prohibition against dedications (although a substantial percentage of license fees were already dedicated). It hardly seems likely that it intended to exempt the revenues from the leasing of resources. Consider the following from the debate on deleting the word "license":

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AWES: I . . . would like to make a few more comments on the amendment that is now before us. I think the question is much more fundamental, much more basic than just the question of whether we will strike 'or licenses'. The question goes right to the heart of the matter. Do we want earmarking or do we not? Once you strike 'licenses' and then you make this exception and that exception, and what it really amounts to is an admission that you really don't want to do away with earmarking As soon as [additional] exceptions are made to this section, then I think the section should be stricken. Ibid., 2374.

On the motion to strike "or license", the vote was 44 against and 10 for. Ibid., 2377. On a subsequent motion to strike the entire section, the vote was 41 against and 8 for (6 absent). By an overwhelming majority, the Convention wanted no additional exceptions and wanted no additional earmarking. Delegate Herman expressed the sentiment precisely:

HERMAN: I am not opposed to funds for roads . . . and I think the funds that are already earmarked are probably properly earmarked, but I would hate to see the door left open to earmarked additional funds with the probable effect of reducing the general fund to the point where the services to the citizens of the Territory had to be seriously curtailed. I oppose striking section 7. Ibid., 2409 (emphasis added).

Having determined that there would be no additional exceptions and that there would be a prohibition, the Convention then debated whether the existing dedications should also be

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prohibited, i.e., whether the compromise should be retained.

The proposed amendment was moved by Delegate Buckalew.

BUCKALEW: Mr. President I just want to point out to the delegates that the committee has admitted that it is a bad practice to earmark funds; they have admitted that the sensible, sound way to run a state is to abolish this practice which leads to evils as far as the fiscal management of the state is concerned. I ask you to let the new State of Alaska . . . start off with a clean slate and no earmarked funds at all. . . . (emphasis added).

PERATROVICH: I would like to express my view. . . . I, too, felt that after I heard the arguments in the committee, that perhaps it was dangerous to give free rein in the new state in earmarking funds. However, I realize . . . that there was some good being accomplished by those earmarked funds that we have on the books today. . . . [O]ur proposal here is the outcome of compromise. We went both sides . . . perhaps it is a good thing to retain the provisions that we now have on the books but not permit any further earmarking of funds. . . .

* * * *

NERLAND: [I]n spite of a feeling by the committee that earmarked funds, in general, should be frowned upon, it was felt that those now on the statute books should be left in effect as long as the legislature saw fit to leave them there.

* * * *

WHITE: Mr. President I can only say that . . . if this convention decides -- as it apparently has decided -- that earmarked funds are bad, then all earmarked funds are bad and we should . . . wipe them out here and now. . . .

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The proposed amendment failed on a voice vote, and the compromise was retained: No new earmarked funds, but those existing may remain. Ibid., 2413-2416 (emphasis added).

The debates show conclusively (as do the committee records) that the real concern was about earmarked funds, not taxes or licenses, but funds. At one point, the section used the words "all public revenues". This was amended to "proceeds of any tax or license", but the record shows that the purpose of the change was not to reduce the prohibition but, rather, to allow necessary allocation of revenues to reduce the prohibition or to enlarge the exceptions. The committee's amendment from "all public revenues" to "proceeds of any tax or license" was adopted by a vote of 47 to 7. The very same delegates who defeated the efforts to reduce or eliminate the prohibition and who defeated the amendments to enlarge the exceptions were those who voted for the change from "all public revenues" to "proceeds of any tax or license". Indeed, Delegate White, who supported the elimination of all existing dedications, was the principal proponent and committee spokesman for that change. On this record, it is difficult to see how the committee's amendment can reasonably be interpreted as opening the door to create new dedicated funds from resource revenues. On the record, any new dedication is precisely what the Convention overwhelmingly voted to prohibit.

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The 1969 Op. Atty. Gen. No. 5 states that the Convention simply did not consider oil revenues. The record contradicts this. An attempt was made to amend section 7 so as to freeze existing dedications so that they could not be repealed by the legislature. Questions were raised, among them, the following:

STEWART: How would royalties, for instance, on the production of oil be regarded under this provision? Would they be considered taxes or licenses?

PRESIDENT EGAN: Does the Chairman . . . have the answer . . . or anyone on the committee? Mr. Nolan? [member of the committee]

NOLAN: Mr. President, I would imagine that they would just go into the general fund.

STEWART: I was thinking if they were earmarked . . . [before the prohibition took effect] we can see the very, very large revenues deriving from oil lands. If they were earmarking them, for instance, for schools even, it might be that the revenue from those lands would amount to millions and millions a year, far beyond even our requirements for schools.

* * * *

NOLAN: They wouldn't be earmarked because they are not under any existing law now, the earmarking of them, so this section [exceptions] would not apply to it. It would go into the general fund. Ibid., 2381-2382 (emphasis added).

Not only did the Convention consider oil revenues, but it was advised by the committee spokesman that the prohibition

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against dedicating the proceeds of any tax or license would require that, there being no existing dedication, oil revenues be placed in the general fund, i.e., that they could not be dedicated. The committee did not say whether oil revenues were a tax or a license, but it clearly thought they were covered and advised the Convention to that effect. This is, of course, consistent with the similar colloquy concerning school land and general land grants. Revenues from the former could be dedicated (federal requirement) but not from the latter. 3 MINUTES 2317-19. (While this earlier discussion occurred before the amendment from "all revenues" to "proceeds of", the committee had apparently already decided upon that change and the colloquy should be read in that light. See remarks of Delegate Nerland, Ibid., 2318.)

Arguably, the term "any tax or license" is broad enough to include royalties on oil or gas imposed by the state. A "royalty" is a share of the product or profit paid to the owner of the property. Black's Law Dictionary (rev. 4th ed. 1968). And a "royalty bonus" is simply consideration for the mineral lease paid over and above the royalty. Id. Since a "tax" is a pecuniary burden levied on individuals or property to support the government or a ratable portion of the produce of property levied by the sovereign, and since a license (a) generally consists of a charge for engaging in an activity otherwise unlawful or tortious, or (b) is simply another means of raising revenue for the govern-

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ment, or (c) both, id., it is reasonable to suggest that the term as used in section 7 is broad enough to include royalties and royalty bonuses (lease bonuses). As we have seen, no one at the Convention suggested that royalties were not covered by section 7, and a spokesman for the Committee on Finance and Taxation said that they were. All royalties are not taxes; most are payable to private property owners. But when paid to governments, they do not differ substantively from taxes. (Royalties paid by American corporations to foreign governments are treated as taxes under the Internal Revenue Code. Larger fictions exist at law.)

But something more than royalties is at stake here. Suppose Alaska were to produce and sell its own oil and gas, rear and sell fish or shell fish, mine and sell copper or gold. It already sells timber and leases land for farming and grazing. Indeed, the very concept of the land grants to Alaska from Congress was that the new state would become wealthy through the sale of its newly acquired resources. 1958 U.S. Code Cong. & Adm. News 2933, et seq. And the Convention was well aware of this. 3 MINUTES 2319; 4 MINUTES 2449, et seq. Accordingly, a gentle fiction that the term "tax or license" includes royalties does not suffice. Either the Convention prohibited the dedication of any and all additional funds or it did not. The plain language of section 7 says that it did not. The plain language of the

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Convention's debates compels the conclusion that it did:

The question goes right to the heart of the matter. Do we want earmarking or do we not? . . . As soon as exceptions are made to this section, then I think the section should be stricken. Ibid., 2374.

The Convention answered that question with a resounding vote against earmarking and against any exceptions other than those existing and those required by federal law.

That the Convention intended to prohibit any new dedicated funds of whatever description is further demonstrated by the record. A motion was made to change the cut-off date for existing dedications from "the date of ratification" of the Constitution, i.e., 1956, to the "effective date" of the Constitution, i.e., sometime in the indefinite future. 5 MINUTES 3415. Opponents of the motion offered the following:

. . . . It seems to me that if we adopt the provision as it now stands without the amendment, all we are doing is saying 'dedicated funds existing as of April 1956'; that is all we are saying To me it seems vital that this existing language be maintained or that some other language be put in which would freeze the existing earmarked funds. Otherwise, we are opening up ourselves, and not just ourselves but the people of Alaska, up to a race for earmarked funds prior to the date of ratification, and that would seem a most dangerous thing to do. I see no reason why we cannot say, 'as of such and such a date, any funds existing can continue.' Ibid., 3417 (emphasis added).

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* * * *

. . . . In substance, the effect of [the] amendment would be that, until the time that we received statehood, the legislature can go ahead and continue to earmark funds, and all of those earmarked funds then would, in substance, be exempt under the Constitution. . . . We would then be in the identical position of those states that have 90 per cent of their funds earmarked. The intent of this section -- and it is clear and patent and only a sophist could insist that it is something other than what it reads -- is that sometime this year, in the spring, at ~~that~~ date, at a precise date on which this Constitution is ratified, that earmarked funds or dedicated funds existing at that time will at least be permitted to continue under statehood, and it means, in substance, if at that time no limited funds are earmarked, that that is the cut-off date. . . . There will be no more earmarked funds, and earmarked funds which are created by the legislature in future years will not be subject to the [exemption] provisions of this article. If we substitute the words "effective date", it means that the whole validity of section 7 is done away with, because the legislature from year to year to year can and will dedicate more and more funds and, eventually, by the time this Constitution becomes effective, the section will be completely ineffective. . . . [T]he intent of the article would be destroyed by the amendment. Ibid., 3418-3419 (emphasis added).

The proposed amendment failed on a voice vote. Ibid., 3420.

The Convention clearly intended that neither the Governor nor the legislature should be deprived of "real control over the finances of the state." 6 MINUTES, Appendix V, 111. It recognized the need for allocating or earmarking of funds

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Governor

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once received for contractual obligations and the like, supra., pp. 4-7, but it firmly opposed any additional earmarking of revenues for any purpose. E.g., 4 MINUTES 2409. It expressly sought to avoid

. . . the situation that most states now find themselves in, where an ever-increasing percentage of revenues are earmarked for special purposes and an ever-decreasing amount is available to the general fund. . . . Ibid., 2364.

The situation the Convention expressly sought to avoid is precisely the situation that is developing. The renewable resources fund, AS 34.11.010, the proposed Alaska mineral lease bonus fund, CSHB 324, the proposed fund for parks and recreation, SB 147, and the proposed fund for hydro-electric projects, CSHB 171 and SB 185, demonstrate a trend toward "an ever-increasing percentage of revenues" being dedicated to special purposes. In spite of the Convention's clearly expressed intent that "[t]here will be no more earmarked funds. . . .", 4 MINUTES 3419, and in spite of the express command that there will be no new dedications, even of oil and gas royalties, 4 MINUTES 2381-2382, this is precisely what is happening.

The legislature has dedicated 5 per cent of oil and gas bonuses, rentals, and royalties, up to a maximum fund of

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\$250 million in a renewable natural resources development fund. AS 37.11.010. Since the permanent fund arises only from surpluses in the development fund, the maximum might never be reached. Similar schemes are proposed for special funds for parks and recreation (1 per cent), SB 147, and for hydro-electric power (15 per cent), HB 171 and SB 185. 3/ By far the most far reaching proposal to date is the Alaska mineral lease bonus permanent fund, CSHB 324.

With 5 per cent of bonus-royalty (bonus-lease) revenues already dedicated, AS 37.11.010, the proposal for the lease bonus permanent fund would dedicate an additional 90 per cent from which only the income may be expended, thereby effectively dedicating still more revenues and effectively depriving the Governor and the legislature of "any real control over the finances of the state." 6 MINUTES, App. V, 111.

It is well settled that constitutions and legislative acts are to be interpreted in accordance with their purpose.

3/ CSHB 171 deletes the 15 per cent dedication and, instead, establishes a loan fund dependent upon annual appropriations. To this extent, it does not offend the constitutional prohibition. However, those appropriations are to be made from the Alaska mineral lease bonus permanent fund, CSHB 324, which does dedicate revenues and would be unconstitutional.

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Alaska Public Employees Ass'n v. State, 525 P.2d 12 (Alaska 1974). Section 7 of Article IX of the state Constitution can be given its intended effect and serve its repeatedly expressed purpose only if the words "proceeds of any tax or license" are interpreted to mean what their framers clearly intended, i.e., the sources of any public revenues.

Accordingly, it is our conclusion that the dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever is limited by the state Constitution to those existing when the Constitution was ratified or required for participation in federal programs.

Very truly yours,

Avrum M. Gross
Attorney General

AMG:pg:JLH

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

SENATE FINANCE COMMITTEE

February 27, 1979

8:45 a.m.

Vice Chairman Hohman called the meeting to order at 8:45 a.m. Senators Hohman, Dankworth, Bennett, Ray and Hackney were present. Also present were: fiscal analysts Milt Barker and Bob Grogan, Senators Stimson and Kerttula, from the Department of Public Safety Ray Tremblay, Fred Walstad and Jos MaPranath, trustees for the Alaska Renewable Resources Corporation William Spear and Phil Hubbard, and members of the press.

PRESENT

Vice Chariman Hohman advised that the agenda would be as follows: first, hearings on appointment of trustees to the Alaska Renewable Resources Corporation; HB 78 (supplemental appropriation to DOT and Public Facilities for funding of transportation programs during final quarter of FY 79); and operating budget for Natural Resources.

AGENDA

Chairman Hohman introduced fiscal analyst Milt Barker to give the committee information regarding the Renewable Resources Fund and the Renewable Resource Permanent Fund.

RENEW.
RES. FUN

Mr. Barker indicated to the committee that the Renewable Resources fund was established in 1974 with the Renewable Resources Permanent Fund being established after that date. Mr. Barker informed the committee that there has been some question as to whether or not there was a "dedication" of funds. The Renewable Resources fund is funded by 5% of the revenues from the oil and gas royalties.

Last session, Ch. 179 established the Renewable Resources Corporation and changed the dedication of 5% with half of it going to the Renewable Resources Permanent Fund and half of it going to the Renewable Resources Development Fund.

RENEW.
RES. COR

Mr. Barker stated that by statute the operating budget was to be funded by the general fund. This year's Renewable Resources fund has pretty much been absorbed by the Governor, Mr. Barker said, in the Big Delta Agriculture bill, with the operating budget being funded from the Renewable Resources Fund rather than the general fund.

Mr. Bill Spear, recently nominated by the Governor to fill the position of trustee for the Renewable Resources Corporation appeared before the committee to give his statement and answer questions.

BILL
SPEAR

Mr. Spear stated he had requested the appointment and hoped the committee would concur.

Mr. Spear said the Corporation was set up as a venture capital bank. It is not a research and development bank, but one that will try to make existing research feasible. This bank can do any type of financing including grants. It could possibly even get into patents and copyrights. Mr. Spear said the Corporation would not only make money (which, he said, was not necessarily one of its functions, however, it was an implied function) but also create jobs for many Alaskans.

Mr. Spear said the trustees will monitor closely any projects they get into. He said they hope to build a mood or attitude in the state of "earned Alaska". Both small-scale and large-scale ideas will be brought before the Corporation which will require independence from both the Legislature and Administration.

Senator Kerttula asked Mr. Spear for his background - what made him feel he was qualified for the position. Mr. Spear gave a brief summary of his schooling and prior work experience.

There was much discussion back and forth between the committee members and Mr. Spear regarding the determination of who would receive funds. Mr. Spear explained it would be those people with good ideas who would be willing to stick by their ideas for four or five years to see them come to fruition, those with technical skill.

When requested by Senator Bennett to give his list of priorities, Mr. Spear said "That's one of the things we'll have to wrestle with: development of general capital budget, type of financing, questions we'll have to resolve."

Senator Dankworth made numerous references to the fact that Mr. Spear had ruled out timber, bottom fish, agriculture and tourism from any priorities he might have. He said it seemed a little ridiculous to hire four \$50,000 a year employees to head up a corporation without any ideas of what they would do and no funds to do it with. Senator Dankworth suggested instead of a corporation there be a committee formed and pay them each time they met rather than pay the large salary of four trustees. Senator Dankworth asked "Does it really take that many people to look at it?" Mr. Spear responded that the corporation was set up by the Legislature and he supposed that was what they wanted. Senator Dankworth said "the people are paying for it. Let's keep from spending so much of their money."

In response to Senator Ray's question regarding transportation being a form of a renewable resource, Mr. Spear said electric cars could serve 70 to 80% of the needs in

Juneau. He said he felt that form of energy was a renewable resource. He said if you wanted to make alcohol out of Delta barley and run cars off of it, yes, it's a renewable resource.

(Senator Ray left the meeting at this time - 9:43 a.m.)

Senator Hackney remarked that according to the Attorney General's opinion, Mr. Spear and Mr. Hubbard were appearing before the committee only as a courtesy. The Governor could appoint them whether or not they were approved by the Legislature.

At 10:00 a.m. the committee recessed until 10:41 a.m. When the committee reconvened, Senators Hohman, Bennett, Dankworth, Ray, Hackney and Kerttula were present.

Mr Phil Hubbard was introduced to the committee as the other executive appointment to the Board of Trustees of the Alaska Renewable Resources Corporation.

Senator Dankworth asked: "If the Legislature wants to spend \$8 million on agriculture, do you feel it should be in your fund to look after?" Mr. Hubbard responded that if the legislature appropriates the funds, that negates the purpose of the corporation. He said that the legislature requires that the Corporation submit a budget of different types of projects and mechanisms used in that project. The budget is submitted to the legislature so they can redirect their priorities of the Corporation.

Senator Dankworth then questioned: "If you don't see timber and tourism, and the legislature takes care of the agriculture and hydro electric, what do you see as the work that you will be doing?" Mr. Hubbard responded that timber is one of the highest priorities in Southeast at the present time. Timber in Haines is a big need felt by the Corporation. Building hotels and lodges for tourism is being taken care of by business loans.

In response to a question by Senator Bennett regarding would state land be available for use or lease to people for development, Mr. Hubbard said he had not been informed that that would be the case.

Senator Ray stated that he felt the Corporation needed some legal construction and asked Mr. Hubbard for his word that he, Mr. Hubbard, would do what he could do to clean up the Corporation. Mr. Hubbard said "You have my pledge."

Senator Bennett made the remark that loaning money at 5% when inflation is 7%, just didn't make good sense to him. Mr. Hubbard responded that he hoped they weren't in the loan making business. He said he anticipated that much of what they would be doing would be similiar to the Haines project. He said many projects just need a little "umph" behind them to get them going and that the return might be 20 times the investment. "Investments, grants, marketing assistance, etc. is what we will be doing" he said.

Senator Hohman asked Mr. Hubbard if the Board had met. Mr. Hubbard said he and Mr. Spear were the Board. They had been appointed by the Governor on January 15 and had spent time together and also with Speaker Gardiner trying to make sense out of the Corporation. Mr. Hubbard said an Executive Director of the Corporation had been appointed, Mr. Jack Milns from Ketchikan, at a salary of \$4100 per month or \$49,200 per year. There were questions between the committee and Mr. Hubbard regarding the problem of residency with Mr. Milns. Mr. Hubbard assured the committee that Mr. Milns would have resided in Alaska for three years on July 1, 1979, at which time he would become a trustee. Senator Kerttula said "If we're using State funds to pay salaries, we should be able to demand that the residency requirement be upheld.

In answer to Senator Hohman's question regarding the Alaska Housing Finance Corporation, Mr. Hubbard said "The AHFC at \$5 million should not even be considered in the same line as this Renewable Resources Fund."

Senator Hohman asked if Administration had requested any changes in the program that Mr. Hubbard was aware of. Mr. Hubbard responded in the negative. He stated that he would go through it one more time with Speaker Gardiner to see if Mr. Gardiner felt there should be any changes. Senator Hohman said they should be concerned with the attitude of the Attorney General and his opinion on the legality of the Corporation. Mr. Hubbard assured the committee that he would attempt to make whatever changes were necessary to run the Corporation smoothly.

(At this time [11:25 a.m.] Senator Ray left the meeting.)

The committee took up the Natural Resources budget which is continued under Log Notes with today's date.

SF 79-15-2 (46-end)
SF 79-16-1 (1-end)
SF 79-16-2 (1-555)

ARRC Capital Budget

Financing Mechanism	11/15	Resource Sector
---------------------	-------	-----------------

Equity Investments	\$8,100,000	Renewable
--------------------	-------------	-----------

Fisheries							
Salmon		Bottom Fish		Shell Fish		Other	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$3,500,000							

Timber							
Spruce		Cedar		Birch		Hemlock	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$2,000,000							

Agriculture							
Milk		Rape & Barley		Potatoes		Animal Husbandry	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$2,000,000							

Alternate Energy							
Wind		Geo/Ther		Solar		Wood	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$6,000,000 Ag prod.							

- A.
- Pre-Investment Advice
 - Tech. & Mngmnt. Advice
 - Commercial Demonstration
 - New Products
 - identification
 - marketing

ARRC may assist through such financial mechanisms as:

- Corporate finance; (a) common stock (b) preferred stock, (c) convertible prfrd (d) straight debt, (e) convertible debt (f) debt w/warrants
- Municipal Revenue Bond Issues Participation (four types of tax exemp)
- Leveraged Lease Agreements (two types may apply to trust groups)

* P/p = Primary Production S/p = Secondary Processing and Marketing

Grants	\$900,000	Renewable
--------	-----------	-----------

Fisheries							
Salmon		Bottom Fish		Shell Fish		Other	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Timber							
Spruce		Cedar		Birch		Hemlock	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Agriculture							
Milk		Rape & Barley		Potatoes		Animal Husbandry	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Alternate Energy							
Wind		Geo/Ther		Solar		Wood	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$300,000							

- A.
- Research and Development
 - Maximum 10% of appropriation

(GF)

HOUSE FINANCE COMMITTEE REPORT
ON CS HB682 (Finance)

The Renewable Resources Development Fund was established by the legislature in 1974 to provide for the rehabilitation, enhancement, and development of the state's renewable resources. The Fund consists of at least five percent of all mineral lease bonuses and royalties, and rentals from state lands. The proposed legislation establishes the Alaska Renewable Resources Corporation to invest half of the receipts of the Fund in renewable resource-based industries. The other half of the Fund would be saved through the Renewable Resources Investment Fund. The name of the Renewable Resources Permanent Fund (AS 37.11.050) is changed to the Renewable Resources Investment Fund to avoid confusion with the Alaska Permanent Fund (Article 9, section 15 of the Alaska State Constitution).

Investments of the Alaska Renewable Resources Corporation (ARRC) would focus on new products, markets, and technologies which are the key components of expanded renewable resource-based economic activity. Products and markets result from any economic use of the resources, while technologies include the methods for managing, harvesting, processing, or delivering the goods to market. ARRC would also provide funds for the applied research, development and demonstration of new renewable resource-based activities, and the seed capital necessary to introduce them into commercial markets.

For the earliest stages of renewable resource industry development (applied research and development), the Committee does not envision ARRC funding of general or basic research by the university or other scientific research organizations. This type of research is covered by other programs. Rather, ARRC-funded applied research and development activity would utilize the fruits of basic research to develop specific products or processes for commercial purposes.

In addition to stimulation of new economic activity based on the state's renewable resources, investment goals also include the maintenance or expansion of resource productivity, the development of in-state and export markets, and the expansion of resident employment, income, and governmental revenues from renewable resource development.

The term renewable resources is defined in terms of the resource base, which remains relatively constant over time, rather than in terms of economic activity, which changes over time. Accordingly, non-human living organisms, air, land, water, and naturally recurring energy systems are intended as the target of investment activity. In the tourism industry, for example, the Committee contemplates investment in the resources on which the industry is partially based, such as sport fishing, but not such capital components of the industry as hotels and lodging facilities.

An integral part of the bill is the concept of achieving an appropriate use of the resources. As trustees of our renewable resources the state is constitutionally directed to seek the most beneficial uses. ARRC investment decisions should consider both expected financial returns and the effects of resource development on both the target resource and on other resources. Achieving appropriate resource use at the inception of economic activity will greatly benefit the state and its residents by avoiding longer-run regulatory and rehabilitation burdens resulting in more stable economic activity based on all of the state's renewable resources.

In its deliberations, the Committee determined that the most effective method of investment includes both equity and debt secured by a variety of mechanisms to provide a return to the corporation when an investment starts to generate income. Such methods maximize incentives for entrepreneurship through ARRC sharing of the risks inherent in new ventures and imposing no debt service burdens until the enterprise is earning income. The corporation would in turn receive high returns from its successful investments, commensurate with the risks undertaken.

The Committee identified three important types of activity which may have no income producing potential (depending on the specifics of the project) and therefore must be funded by grants. These include applied research (which directs basic research toward specific products and processes for commercial purposes), one-time-only demonstration, and common property resource projects where the benefits accrue to the general public. Funds available for grants are limited to ten percent of the corporation's annual appropriation and to ninety percent of a project's costs.

In addition to the lack of start-up capital, the Committee found that another major obstacle to renewable resource development is a shortage of Alaskans trained in new harvesting, processing, or marketing techniques and business management skills. CS HB682 provides for the corporation to finance technical assistance to supplement the expertise of its applicants. The corporation is specifically forbidden, however, from managing its projects. The costs of this assistance are to be repaid by the borrower.

The flow of funds, as established in AS 37.11 (Renewable Resources Development Fund), begins with the deposit of at least five percent of all mineral lease bonuses and royalties, and rentals from state lands, into the Renewable Resources Development Fund. Under the proposed legislation, half of this amount would be allocated to the ARRC and half would be allocated to the Renewable Resources Investment Fund. Under existing law (AS 37.11.060), only those funds not expended out of the Development Fund would be deposited in the Investment Fund. When the Investment Fund reaches \$250 million, the five percent flow into the Development Fund ceases and the only further source of money under this program is the income from the Investment Fund. The Committee was concerned that this system creates an incentive to spend out of the

Development Fund to prevent the Investment Fund from ever reaching the \$250 million cap. Therefore the fifty-fifty split was devised as a "forced savings" both to remove this incentive to spend and to insure the availability of Investment Fund income in perpetuity.

Investment Fund principle under the bill would be invested by the treasury division of the Department of Revenue in secure investments (under AS 39.35.110). The earnings from these investments would be available for legislative appropriation to programs for the rehabilitation, enhancement, and development of the state's renewable resources. The bill proposes as the primary use of Investment Fund income the restoration of the state's renewable resources. Because restoration of public natural resources in most cases is not a direct profit generating activity, the state must take the lead in performing this essential public purpose. Restoration includes such activities as fish hatcheries, land reclamation and habitat improvement.

The allocation into the corporation would be available for investments or grants as described above. The corporation would be subject to the Executive Budget Act (37.07) and may expend money only as appropriated by the legislature. The earnings from corporation investments, and unexpended or unobligated appropriations from previous fiscal years, may be retained by the corporation for expenditure through subsequent appropriations. The operating budget of the ARRC would come from legislative appropriations from the general fund.

**RENEWABLE RESOURCES
DEVELOPMENT FUND
AS OF JANUARY 31, 1979**

SLA 1978 CHAPTER	DEPT./PROJECT	APPROPRIATED FROM R.R.D. FUND	EXPENDED R.R.D. FUND	FROM: GEN'L FUND	TOTAL RECEIPTS
	<u>Special Appropriations</u>				
163	Comm. & Ec. Dev. -				
	Geothermal	245,000	-0-	-0-	
171	Nat'l Resc.-				
	Big Delta	4,793,000			
	Gov. Ofc.- Spc. Proj.		-0-	3,832,200	
	Comm. & Ec. Dev.		-0-	466,800	
	<u>Gen'l Appropriation Act</u>				
113	Fish & Game -				
	Capital Proj.	1,279,700	738,628	-0-	
	Nat'l Resc. -				
	Homesite Survey	2,027,400	-0-	909,953	
	Nat'l Resc. -				
	Aggie. Loans	200,000	-0-	200,000	
	Revenue - Fish &				
	Aggie. Bk.	2,000,000	-0-	-0-	
	<u>Allocated By Statute</u>				
179	Revenue - R.R. Corp.	299,304 (1)	-0-	-0-	
	<u>Revenue</u>				
	Fund 125 - R.R.D.				5,986,088
	Sub-Totals	\$10,844,404	\$738,628	\$5,408,953	\$5,986,088
SLA 1979	<u>Supplemental Appropriation</u>				
SB62	Gov. Ofc. - Spec.				
	Proj. - Delta	8,070,600	-0-	-0-	
	Totals	<u>\$18,915,004</u>	<u>\$738,628</u>	<u>\$5,408,953</u>	<u>\$5,986,088</u>
			<u>\$6,147,581</u>		

(1) Assumed to be 5% of receipts of the fund;
amount shown is for seven months only.

ROI-025-3500
194133

STATE OF ALASKA
UNRESTRICTED CURRENT YEAR RECEIPT BALANCES
PERIOD 07/01/73 THROUGH 03/31/79

PAGE 10

DEPT NATURAL RESOURCES

PGM MINERAL RESOURCES

DIV MINERAL & ENERGY MGT

.....ESTIMATES RECEIPTS REFUNDS TRANSFERS RECEIVABLES UNREAL-EXCLOS

.....COLLOCATION DESCRIPTION..... FUND ACCT
10-43-4-266 AK RENEW RESOURCES : 125 6200
.....

.....BUDGETARY DESCRIPTION.....
04-43-04-02-00 MINERAL & ENERGY MGT :
..PETROLEUM MGT ..

525 COAL RENTAL LEASE 625.73
527 COAL ROYALTIES 3,269.27
530 OFFSHORE PROSPECT RENT 1,104.85
533 MINERAL LEASE RENT 86,865.82
537 BONUS MINERAL LEASE 25.00
539 ROYALTY GAS PROP 135,904.28
540 OTHER MINERAL ROYALTY 121.85
547 ROYALTY OIL PROD 8,656,848.35

625.73-
3,269.27-
1,104.85-
86,865.82-
25.00-
135,904.28-
121.85-
8,656,848.35-

FORP TOTL AK RENEW RESOURCES : 8,884,785.15

8,884,785.15-

.....COLLOCATION DESCRIPTION..... FUND ACCT
10-43-4-267 ALASKA PERMANENT FND : 726 6200
.....

.....BUDGETARY DESCRIPTION.....
04-43-04-02-00 MINERAL & ENERGY MGT :
..PETROLEUM MGT ..

304 OIL GAS LEASE ROYAL 160,155.64
306 MINERAL RENTALS 4,422.02
525 COAL RENTAL LEASE 3,128.69
527 COAL ROYALTIES 18,124.31
530 OFFSHORE PROSPECT RENT 5,865.00
533 MINERAL LEASE RENT 435,697.49
537 BONUS MINERAL LEASE 447.87
539 ROYALTY GAS PROP 679,521.53
540 OTHER MINERAL ROYALTY 22,818.18
547 ROYALTY OIL PROD 50,415,559.52

160,155.64-
4,422.02-
3,128.69-
18,124.31-
5,865.00-
435,697.49-
447.87-
679,521.53-
22,818.18-
50,415,559.52-

FORP TOTL ALASKA PERMANENT FND 51,743,938.25

51,743,938.25-

.....COLLOCATION DESCRIPTION..... FUND ACCT
10-43-4-268 RES FOR CAP OUTLAY : 100 5518
.....

.....BUDGETARY DESCRIPTION.....
04-43-04-02-00 MINERAL & ENERGY MGT :
..PETROLEUM MGT ..

304 OIL GAS LEASE ROYAL 160,155.64
306 MINERAL RENTALS 4,422.02
525 COAL RENTAL LEASE 2,387.19
527 COAL ROYALTIES 10,055.87
533 MINERAL LEASE RENT 240,254.84
539 ROYALTY GAS PROP 314,709.09
547 ROYALTY OIL PROD 31,315,973.84

160,155.64-
4,422.02-
2,387.19-
10,055.87-
240,254.84-
314,709.09-
31,315,973.84-

FORP TOTL RES FOR CAP OUTLAY 32,047,961.29

32,047,961.29-

FUND NUMBER	PRIOR DAY CASH WITH TREASURY	RECEIPTS TODAY	DISBURSEMENTS TODAY	NET CHANGE TODAY	CURRENT CASH WITH TREASURY	CURRENT INVESTMENT
100	122,150,633.50-	4,865,305.91	23,598,835.95	18,733,530.04-	140,884,163.54-	741,172,201.49
101	0.00	0.00	0.00	0.00	0.00	0.00
102	1,038,726.57	6,302.32	0.00	6,302.32	1,045,028.89	5,000,000.00
120	479,343.07	0.00	0.00	0.00	479,343.07	0.00
121	121,204.00	0.00	0.00	0.00	121,204.00	0.00
123	2,523,038.27	36,679.50	0.00	36,679.50.	2,559,717.77	0.00
124	1,848,886.45	13.00	10,641.72	10,628.72-	1,838,257.73	0.00
125	9,676,310.00	999.98	0.00	999.98	9,677,309.98	0.00
126	673,363.25	0.00	0.00	0.00	673,363.25	0.00
128	1,681,156.62	0.00	0.00	0.00	1,681,156.62	0.00
175	3,559,970.17	0.00	0.00	0.00	3,559,970.17	0.00
199	32,850,000.00-	0.00	0.00	0.00	32,850,000.00-	32,850,000.00
201	0.00	0.00	0.00	0.00	0.00	0.00
202	0.00	0.00	0.00	0.00	0.00	0.00
204	4,008.80	0.00	0.00	0.00	4,008.80	0.00
206	177,918.16	0.00	0.00	0.00	177,918.16	0.00
207	1,510,838.04	0.00	0.00	0.00	1,510,838.04	0.00
208	6,517,435.64	0.00	0.00	0.00	6,517,435.64	0.00
209	13,819,389.80	6.60	401.47	394.87-	13,818,994.93	0.00
210	249,400.00	0.00	0.00	0.00	249,400.00	0.00
240	1,400,988.72	0.00	0.00	0.00	1,400,988.72	0.00
251	0.00	0.00	0.00	0.00	0.00	0.00
252	0.00	0.00	0.00	0.00	0.00	0.00
253	1,360.60	0.00	0.00	0.00	1,360.60	0.00
254	0.00	0.00	0.00	0.00	0.00	0.00
255	2,449,341.92	0.00	0.00	0.00	2,449,341.92	0.00

ALASKA RENEWABLE RESOURCES CORPORATION

BOX 1647

• JUNEAU, ALASKA 99802 •

(907) 465-4616

TO: Governor Jay S. Hammond
Pouch A
Juneau, Alaska 99811

FROM: Phil Hubbard *[Signature]*
Wm. E. Spear

SUBJECT: Budget Amendment
Request FY 80

FY 80 Operating Budget:

The operating budget prepared and submitted by the Department of Revenue has been amended to provide for the staffing, travel and contractual ~~services~~ of the Corporation. The amended request of ~~\$642.4~~ reflects our assesment of the first year's requirements for planning, project analyses and financial strategy development. It is recommended that the funding source be changed to the General Fund in accord with AS 37.12.095(b). *[Handwritten mark]*

FY 80 Capital Budget:

AS 37.12.020(a) and (b) allocate to ARRC five percent of the receipts from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land. Fifty percent of those receipts are to be placed in the Renewable Resources Investment Fund to be invested in perpetuity by the Treasury Division following investment policy consistent with the prudent-man rule.

The remaining fifty percent is allocated to the ARRC Development Fund for investments by the Trustees, subject to appropriation by the legislature. Budgets for the Development Fund are specified by the act to, "include amounts of proposed financial assistance broken down by financing mechanism and resource sector affected..." A maximum of ten percent of the Development Fund may be used for Grants. The stated purpose of ARRC and its budget procedures (AS 37.12.095) do not provide for naming specific projects within its capital request documentation.

FY 80 revenue estimates for the Renewable Resource Development Fund are projected by the Treasury Division to be \$18,000.0. Therefore, \$9,000.0 would be available for the Investment Fund and \$9,000.0 for the Development Fund.

Inasmuch as ARRC was not established during the regular budget-review cycle, it is now recommended that the Governor's request be amended to appropriate to ARRC its \$9,000.0 entitlement.

Limited by statute (AS 37.12.080), ten percent (\$900.0) would be available for grants. The Trustees view the amount as a reasonable sum to be split among four major resource sectors. The four sectors are Fisheries, Timber, Agriculture, and Renewable Energy.

The Trustees feel the investment of the Development Fund in private enterprise is the distinguishing feature of its activities. Therefore, the major emphasis of the Development Fund will be directed for equity investments in the private sector.

This investment activity sets ARRC apart from normal line agencies where resources are expended on government programs and government personnel. Investments in private companies flow directly into the private sector, assisting start up and expansion of business activities.

ARRC has considerable tasks to perform in coming months. With that in mind, the Governor may wish to request partial funding (perhaps 75%) of the capital budget so that the legislature has an opportunity to further evaluate the progress of the corporation in January, 1980. Unless an appropriation is made to ARRC, prospective firms, individuals and ideas are not likely to surface. A budget request amendment by the Governor and an appropriation by the legislature will be indicative of their support for implementing the act.

TO: Senator John Sackett

DRAFT

FROM: Governor Jay S. Hammond

Please amend Executive Budget FY 80 Request to provide for a decrease in the operating budget and a change of funding source for the Alaska Renewable Resources Corporation as follows:

FY 80 Request: \$859.7 Source: Renewable Resource
Development Fund

FY 80 Request

Amended: \$642.4 Source: General Fund

At the request of the Board of Trustees, the Alaska Renewable Resources Corporation has been authorized to prepare an investment budget for immediate submission to the legislature. Time did not permit the corporation to participate in the normal budget process this year and it had been anticipated that its first investment budget would be submitted next year. The trustees have asked for the

opportunity to place a proposed budget before this legislature, and I have conditionally agreed. Their proposal will have my approval if it can be incorporated into the state's budget without exceeding my prescribed ceiling. In other words, for every dollar added to the corporation's investment budget, one must be subtracted from somewhere else.

It is my understanding that the Department of Revenue and the Legislative Affairs Agency are estimating the Renewable Resources Development Fund will accrue \$18,000.0 in FY 80. It is requested, therefore, pursuant to ARRC enabling legislation, that the corporation's capital budget for FY 80 be established at \$9,000.0, representing the fifty per cent entitlement provided for by statute.

ALASKA RENEWABLE RESOURCES CORPORATION

BOX 1647

JUNEAU, ALASKA 99802

(907) 465-4616

To: Honorable John Sackett, Chairman
Senate Finance Committee

From: W.E. Spear
H.P. Hubbard

Subject: FY80 Budget
Request

During the Corporation's initial startup period, well-defined goals, objectives, procedures and financial plans must be developed. Specifically, the Corporation will require active involvement with the private sector and detailed analyses of its enterprises and proposals.

The following changes in the Corporation's FY80 budget request should allow sufficient public contact, as well as project evaluation, and the development of a corporate strategy for reaching its goals:

CODE	FY 80 REQUEST	CHANGE	FY 80 AMENDED
0100	408.5	Delete: Ex. Director 50.3 Grants Off. 28.9 Clerk III 12.7 Acct. IV 25.0 Add: Admin.Asst.III 21.6 122.0 (30.0%)	286.5
0200	48.1	Delete: In-State Trans 4.3 Out-State Trans 7.0 Add: In-State Per diem 2.9 8.4 (17.5%)	39.7
0300	398.0	Delete: Safekeeping 50.0 Audit 25.0 Other Fees 11.9 86.9 (21.8%)	311.1
0400	<u>5.1</u>	(No change)	<u>5.1</u>
Total	859.7	217.3 (25.3%)	642.4

ALASKA RENEWABLE RESOURCES CORPORATION

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0400	5.1	(No change)	5.1
Total	859.7	217.3 (25.3%)	642.4

ARRC Capital Budget

Financing Mechanism	Resource Sector
---------------------	-----------------

Equity Investments	\$8,100,000
--------------------	-------------

Fisheries							
Salmon	Bottom Fish	Shell Fish	Other				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$3,500,000							

Timber							
Spruce	Cedar	Birch	Hemlock				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$2,000,000							

Agriculture							
Milk	Rape & Barley	Potatoes	Animal Husbandry				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$2,000,000							

Alternate Energy							
Wind	Geo/Ther	Solar	Wood				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$600,000							

ARRC may assist through such financial mechanisms as:

I. Corporate finance; (a) common stock (b) preferred stock, (c) convertible preferred (d) straight debt, (e) convertible debt (f) debt w/warrants

II. Municipal Revenue Bond Issues Participation (four types of tax exempt)

III. Leveraged Lease Agreements (two types may apply to trust groups)

* P/P = Primary Production S/P = Secondary Processing and Marketing

Grants	\$900,000
--------	-----------

Fisheries							
Salmon	Bottom Fish	Shell Fish	Other				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Timber							
Spruce	Cedar	Birch	Hemlock				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Agriculture							
Milk	Rape & Barley	Potatoes	Animal Husbandry				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Alternate Energy							
Wind	Geo/Ther	Solar	Wood				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$300,000							

A.
Research and Development
Maximum 10% of appropriation

- A.
- Pre-Investment Advice
- Tech. & Mngmnt. Advice
- Commercial Demonstration
- New Products
 - identification
 - marketing
- B.
Maximum of \$1,500,000
per project: 49% ownership

1979				1980				1981			
1st Qtr	2nd Qtr	3rd	4th	1st Qtr	2nd	3rd	4th	1st Qtr	2nd	3rd	4th
<u>SETTING UP THE CORP.</u> 1. ARTICLES, BY-LAWS. 2. GOALS, STRATEGIES, OBJECTIVES 3. BUDGETS 4. STAFFING & INTERNAL PROCEDURES 5. DISBURSEMENT CRITERIA 6. PLAN FOR YEAR 1				<u>FOLLOW-UP INITIAL PROGRAM</u>							
<u>STARTING INITIAL PROGRAM</u> 1. DEFINING SPECIFIC PROJECTS 2. QUANTIFY CANDIDATE PROJECTS 3. NEGOTIATING THE ARRANGEMENTS 4. PLACE INVESTMENTS & OTHER FUNDS 5. INSTALL MONITORING AND EVALUATION SYSTEM				<u>PLANNING 1980, 81, 82</u> 1. SPECIFIC OBJECTIVES 2. EVALUATE 1979 3. DEFINE SPECIFIC PROJECTS 4. BUDGETS 5. STAFF ACTIVITIES							
				<u>INITIATE 1980 PROGRAM</u> 1. NEGOTIATE THE ARRANGEMENTS 2. PLACE THE INVESTMENTS AND OTHER FUNDS							
				<u>PREP FOR 1981 PROGRAM</u> 1. DEFINE CANDIDATE PROJECTS 2. QUANTIFY CANDIDATE PROJECTS 3. INITIATE NEGOTIATIONS							
				<u>PLAN 1981</u>				<u>PLAN 1982, 83, 84</u> 1. REVIEW GOALS, STRATEGIES & OBJECTIVES 2. REVIEW 1979, 1980 FOR EFFECTIVENESS 3. PLAN CAPITAL AND R.O. I.			

2/27/79
S.N. MINNES

08-02-01-00-00 (02-72-5-02-00-00)

STATE OF ALASKA -- COMPONENT_BUDGET_SUMMARY

13:41

1/23/79

CATEGORY: DEVELOPMENT
AGENCY: DEPARTMENT OF ADMINISTRATIONPROGRAM: SURPLUS PROPERTY
SUB-PROGRAM:

EXPENDITURES & FUNDING	FISCAL YEAR 1980										(12) BILLS	(13) LEG.REC.
	(01) FY78 ACT	(02) FY79 ATH	(03) FY79 YTD	(04) RP & SUP	(05) MAINT	(06) REQUEST	(07) GOV AND	(08) GOVERNOR	(09) HOUSE	(10) SENATE		
01 PERS. SERV.	109.4	204.7		1.6	213.5	213.5			213.5			
02 TRAVEL	.3	1.9			2.0	2.0			2.0			
03 CONTRACTUAL	7.1	24.7			26.2	26.2			26.2			
04 COMMODITIES	5.3	10.2			10.8	10.8			10.8			
05 EQUIPMENT		.2			.2	.2			.2			
06 LANDS/BLDG												
07 GRANTS, CLMS												
08 MISC.												
** TOTAL EXPEND	122.1	241.7		1.6	252.7	252.7			252.7			
09 I-A TRANSFER	1.0											
10 FED. RECEIPT												
11 G. F. MATCH												
12 GENERAL FUND												
13 PGM RECEIPTS												
14 OTHER FUNDS	122.1	241.7		1.6	252.7	252.7			252.7			
15 FULL-TIME	8.1	8.0			8.0	8.0			8.0			
16 PART-TIME												
17 TEMPORARY	2.0	2.0			2.0	2.0			2.0			
18 MAN-MONTHS	109.2	108.0			108.0	108.0			108.0			

REVISED PROGRAMS, GOVERNOR AMENDMENTS, SUPPLEMENTAL & SPECIAL APPROPRIATIONS AND FISCAL NOTES...

08-04-01-00-00 (04-71-1-25-00-00)

STATE OF ALASKA -- COMPONENT BUDGET ANALYSIS

13:41

1/23/79

CATEGORY: DEVELOPMENT
AGENCY: DEPARTMENT OF REVENUEPROGRAM: AK. RENEWABLE RESOURCES CORP.
SUB-PROGRAM:

* * * * GOVERNOR ANALYSIS * * * *

OBJECT GROUP	VARIATION		DESCRIPTION: GOVERNOR VERSUS FY79 ATH
01 PERS. SERV.	216.6	112.9%	FUND 9 POSITIONS FOR FULL YEAR, 216.6 (ADDITIONAL 58.5 MONTHS).
02 TRAVEL	25.1	109.1%	INFLATION, 1.4; COSTS ASSOCIATED WITH ADDITIONAL MAN MONTHS, 23.7.
03 CONTRACTUAL	230.0	136.9%	INFLATION, 10.0; COSTS ASSOCIATED WITH ADDITIONAL MAN MONTHS, 220.0.
04 COMMODITIES	3.0	142.9%	INFLATION, .1; COSTS ASSOCIATED WITH ADDITIONAL MAN MONTHS, 2.9.
05 EQUIPMENT	-15.0	-100.0%	
** TOTAL	459.7	114.9%	

FUNDING SOURCE CHANGED TO ALASKA RENEWABLE RESOURCE FUND.

* * * * PROGRAM DESCRIPTION & PRIOR YEAR INFORMATION * * * *

1978 LEGISLATION - CH. 179 RENEWABLE RESOURCES FUNDS \$400.0 FISCAL NOTE.

UNAUTHORIZED POSITIONS - CH. 179 AUTHORIZED ONLY 6 FULL-TIME POSITIONS.

08-04-01-00-00 (04-71-1-25-00-00)
 CATEGORY: DEVELOPMENT
 AGENCY: DEPARTMENT OF REVENUE

STATE OF ALASKA -- COMPONENT_BUDGET_SUMMARY

13:41

1/23/79

PROGRAM: AK. RENEWABLE RESOURCES CORP.
 SUB-PROGRAM:

EXPENDITURES & FUNDING	FISCAL YEAR 1980												
	(01) FY78 ACT	(02) FY79 ATH	(03) FY79 YTD	(04) RP & SUP	(05) MAINT	(06) REQUEST	(07) GOV AND	(08) GOVERNOR	(09) HOUSE	(10) SENATE	(11) F.C.C.	(12) ATLs	(13) LEG.REC.
01 PERS. SERV.		191.9			408.5	408.5		408.5					
02 TRAVEL		23.0			48.1	48.1		48.1					
03 CONTRACTUAL		168.0			398.0	398.0		398.0					
04 COMMODITIES		2.1			5.1	5.1		5.1					
05 EQUIPMENT		15.0											
06 LANDS/BLDGS													
07 GRANTS, CLMS													
08 MISC.													
** TOTAL EXPEND		400.0			859.7	859.7		859.7					
09 I-A TRANSFER													
10 FED. RECEIPT													
11 G. F. MATCH													
12 GENERAL FUND		400.0			859.7	859.7							
13 PGM RECEIPTS								859.7					
14 OTHER FUNDS													
15 FULL-TIME		9.0			9.0	9.0		9.0					
16 PART-TIME													
17 TEMPORARY													
18 MAN-MONTHS		49.5			108.0	108.0		108.0					

NO

What do they want to do and why?

Should their budget come out of operating revenues?

Gardiner

Review confirmation minutes of Senate finance?

listen to tape

On record - what their budget should be?
what do they want to do?
Why?

Problems with

Governors Office

AG opinion

Request on dedication

9am - Renewable Resource

2:30 pm

Technology

How are they duplicating Economic Ent.
Power Dev. etc.

— Plans for Small Grants Program?

Request
original

Article 4. Recovery of Money or Property Illegally Paid or Diverted.

Section

90. Action by attorney general
100. Costs of action and disposition of amount recovered

Sec. 37.10.090. Action by attorney general. Whenever money, funds, or property of a city, school district, municipal government, or the state are illegally paid or are diverted for an illegal purpose, or paid to a person not authorized by law to receive them, they may be recovered by an action instituted by the attorney general. When it appears to the attorney general that it is more advantageous to begin or conduct the action with additional counsel, he may choose and authorize additional counsel to bring the suit in the name of the proper party. (§ 12-5-1 ACLA 1949)

Am. Jur. reference. — 42 Am. Jur., Public Funds, § 83 et seq.

Sec. 37.10.100. Costs of action and disposition of amount recovered. (a) The necessary and reasonable costs of the suit and of the additional counsel shall be advanced by the state, and a sum recovered in the suit shall be deposited in the state treasury.

(b) However if the sum recovered belongs to a city, school district, or municipal government, the sum shall be transferred to it, less sums advanced by the state in the suit, and not already repaid to it. The Department of Administration may pay to the city, school district or municipal corporation the sums belonging to it, upon warrants drawn as provided by law. The warrants shall be based upon vouchers approved by the attorney general. (§ 12-5-2 ACLA 1949)

Chapter 11. Renewable Resources Funds.

Article

1. Alaska Renewable Resources Development Fund (§§ 37.11.010 — 37.11.040)
2. Alaska Renewable Resources Permanent Fund (§§ 37.11.050 — 37.11.090)
3. Alaska Economic Disaster Impact Fund (§ 37.11.100)

Legislative history report. — For report on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Article 1. Alaska Renewable Resources Development Fund.

Section

10. Alaska renewable resources development fund
20. Fund authorization level

Section

30. Fund utilization
40. Fund balances

Sec. 37.11.010. Alaska renewable resources development fund. There is established as a separate fund the Alaska renewable resources development fund. Funds apportioned by § 20 of this chapter for deposit in the Alaska renewable resources development fund are to guarantee the enhancement and development of the state's renewable resources. (§ 1 ch 130 SLA 1974)

Editor's note. — Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the balance in the Alaska renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000,

AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources development fund (AS 37.11.010) lapses into the general fund."

Sec. 37.11.020. Fund authorization level. Not less than five per cent of the receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be deposited in the Alaska renewable resources development fund. These deposits shall be invested in accordance with AS 37.10.070 (investment of surplus state funds) and the resulting interest shall accrue to the fund. (§ 1 ch 130 SLA 1974)

Editor's note. — Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the balance in the Alaska renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000,

AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources development fund (AS 37.11.010) lapses into the general fund."

Sec. 37.11.030. Fund utilization. Appropriations from this fund shall provide funding for capital and operating expenditures for the rehabilitation, enhancement and development of renewable resources programs. Plans for expenditures from this fund shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of his annual budget presentation to the legislature. (§ 1 ch 130 SLA 1974)

Editor's note. — Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the balance in the Alaska renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000,

AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources development fund (AS 37.11.010) lapses into the general fund."

Sec. 37.11.040. Fund balances. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be transferred

to the Alaska renewable resources investment fund. (§ 1 ch 130 SLA 1974; am § 4 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "investment fund" for "permanent fund" at the end of the section.

Editor's note. — Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the balance in the Alaska

renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000, AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources development fund (AS 37.11.010) lapses into the general fund."

Article 2. Alaska Renewable Resources Permanent Fund.

Section

50. Alaska renewable resources investment fund
60. Fund principal

Section

70. Utilization of fund income
80. Protection of principal
90. Investments

Cross reference. — As to the Alaska Renewable Resources Corporation, see AS 37.12.

Sec. 37.11.050. Alaska renewable resources investment fund. There is established as a separate fund the Alaska renewable resources investment fund. Funds apportioned by § 60 of this chapter for deposit in the investment fund are to be held perpetually in trust for the benefit of both present and future generations of Alaskans. (§ 1 ch 130 SLA 1974; am § 5 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "investment fund" for "permanent fund" in the first and second sentences.

Sec. 37.11.060. Fund principal. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be deposited in the investment fund. These deposits shall be considered fund principal and shall be invested in perpetuity in accordance with § 90 of this chapter. (§ 1 ch 130 SLA 1974; am § 6 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "investment fund" for "permanent fund" at the end of the first sentence and "§ 90 of this chapter" for "AS 37.10.070 (investment of surplus state funds)" at the end of the second sentence.

Sec. 37.11.070. Utilization of fund income. (a) Income received from investment of investment fund principal shall not be held in trust, but shall be used to provide funding for capital and operating appropriations for the rehabilitation, enhancement and development of renewable

resources programs. The primary purpose of the programs shall be to restore the renewable resources of the state for common beneficial uses.

(b) Plans for expenditures from fund income shall be prepared in detail by the cooperative efforts of the Departments of Natural Resources, Fish and Game, Environmental Conservation, and Commerce and Economic Development, and shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of his annual budget presentation to the legislature. Not less than 80 per cent of the total plan submitted each year shall be apportioned for direct capital expenditures or investments (§ 1 ch 130 SLA 1974; am § 7 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment designated provisions of this section as subsection (a), substituted "investment fund" for "permanent fund" in the first sentence of subsection (a), rewrote the second sentence of subsection (a), and added subsection (b).

Sec. 37.11.080. Protection of principal. A transaction involving investment fund principal which results in an actual dollar loss of principal shall be reimbursed in full from fund income before any additional income is expended. (§ 1 ch 130 SLA 1974; am § 8 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "investment fund" for "permanent fund."

Sec. 37.11.090. Investments. Investment responsibility for the Alaska renewable resources investment fund shall reside with the treasury division of the Department of Revenue. The treasury division may invest the Alaska renewable resources investment fund in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule. (§ 9 ch 179 SLA 1978)

Article 3. Alaska Economic Disaster Impact Fund.

Section

100. Alaska economic disaster impact fund

Sec. 37.11.100. Alaska economic disaster impact fund. (a) There is established a separate fund known as the Alaska economic disaster impact fund which shall be administered by the Department of Commerce and Economic Development. Funds designated in this section and apportioned by statute for deposit in the Alaska economic disaster impact fund are for grants or loans to assist economically impacted communities within areas designated by a proclamation under AS 44.33.285. The Department of Community and Regional Affairs, in

consultation with the Department of Fish and Game, shall determine which communities are economically impacted fishing communities.

(b) If the economic disaster is due to a fisheries failure based on consideration of need, the legislature may appropriate to the Alaska economic disaster impact fund from the renewable resource fund (ch. 130, SLA 1974). If there is an insufficient balance in the renewable resource fund to meet emergency needs that may be determined under the provisions of AS 44.33.285, the legislature may appropriate from the general fund. The Alaska economic disaster impact fund balance may not exceed \$5,000,000. The commissioner of revenue, after determining that there is in the Alaska economic disaster impact fund a surplus above an amount sufficient to meet anticipated demands, may invest the surplus as provided in ch. 10 of this title. Interest derived from investment of these surplus funds shall be deposited to the renewable resource fund. If the economic disaster is due to other than a fisheries failure, the legislature may appropriate from the general fund to the Alaska economic disaster fund to meet emergency needs.

(c) Unappropriated or otherwise unencumbered balances remaining in the Alaska economic disaster impact fund at the close of each fiscal year shall not lapse as provided in AS 37.25.010 but shall be available in perpetuity for fund purposes.

(d) Within the first 10 days of each legislative session the commissioner of commerce and economic development shall submit to the legislature a detailed report of all expenditures from the fund and all actions taken under AS 44.33.285. (§ 9 ch 277 SLA 1976)

Chapter 12. Alaska Renewable Resources Corporation.

Section	Section
10. Alaska renewable resources corporation created	70. Powers
15. Purposes	75. Duties
20. Allocation	80. Financial assistance
25. Board of trustees	85. Eligibility for financial assistance
30. Composition of the board of trustees	90. Reports and publications
35. Term of office	95. Budget and appropriations
40. Removal and vacancies	100. Annual audit
45. Qualifications of board members	105. Cooperation with other agencies
50. Quorum	110. Tax exemption
55. Compensation of board members	115. Technical assistance
60. Employment of personnel	120. Public access to information
65. Conflicts of interest	125. Definitions

Cross references. — As to the Alaska Renewable Resources Investment Fund, see AS 37.11.050 et seq. As to termination of the Alaska Renewable Resources Corporation, see AS 44.66.010.

Editor's note. — Section 1, ch. 179, SLA 1978, provides: DECLARATION OF POLICY. It is the policy of the state to

"(1) rehabilitate, enhance, and develop its renewable resources and, insofar as is consistent with sound resource management policies, develop its human resources by providing maximum opportunities for employment and a higher standard of living for its citizens; and

"(2) utilize the funds set aside under ch. 11 of this title to further the (A) development of renewable resources that will contribute to a stable self-sustaining state economy, employment opportunities, and lifestyle alternatives for its citizens, and (B) commercial, traditional, and common uses of the state's renewable resources."

Section 2, ch. 179, SLA 1978, provides: FINDINGS. (a) The legislature finds that Alaska has renewable resources that are not being utilized to their full potential. Many problems which confront the state, including high unemployment and unstable economy, could be mitigated by the expanded use and development of its renewable resources.

"(b) It is further found that Alaska's economy has historically depended upon sporadic and non-stable development.

"(c) It is further found that several key factors have contributed to the slow development of renewable resource industries, including,

"(1) insufficiency of research and development financing and venture capital financing;

"(2) a lack of knowledge within the business and financial communities about conditions affecting renewable resource industrial development in the state and a lack of scientific information concerning many resources; and

"(3) a lack of technology appropriate to Alaska.

"(d) It is further found that the state's policy of assisting the development of viable industries is best accomplished by providing assistance to the private sector to identify and demonstrate new products, markets, and technologies."

Legislative history report. — For report on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Sec. 37.12.010. Alaska Renewable Resources Corporation created. There is created the Alaska Renewable Resources Corporation to carry out the purposes of this chapter. The corporation is a public corporation of the state and an instrumentality of the state within the Department of Revenue, but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.015. Purposes. The purposes of the corporation are to

(1) facilitate the rehabilitation, enhancement, and development of the state's renewable resources so as to strengthen the self-sustaining sectors of the state economy;

(2) sponsor research and development of technologies and innovations for the rehabilitation and enhancement of the state's renewable resources to achieve an appropriate use of the resources;

(3) identify new products, markets, and technologies for renewable resource industries in the state which will constitute an appropriate use of the resources; stimulate the research and development of these products, markets, and technologies; assist in the demonstration of their technical and economic feasibility; and assist in their introduction into

Commercial markets

Sec. 37.12.020. Allocation. (a) There shall be allocated to the corporation from the receipts described in AS 37.11.020 five per cent of the total receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land. Payments of the amount allocated by this section shall be made to the corporation by the Department of Revenue on a monthly basis.

(b) Fifty per cent of all actual receipts of the corporation, from whatever source except receipts from the corporation's investments, shall be deposited into the renewable resources investment fund (AS 37.11.050). (§ 3 ch 179 SLA 1978)

Sec. 37.12.025. Board of trustees. A board of trustees of the corporation is established as its governing body. (§ 3 ch 179 SLA 1978)

Sec. 37.12.030. Composition of the board of trustees. The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. The board shall annually elect a chairman from among its members. A chairman may not succeed himself. (§ 3 ch 179 SLA 1978)

Sec. 37.12.035. Term of office. The members of the board of trustees shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. The initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years. (§ 3 ch 179 SLA 1978)

Sec. 37.12.040. Removal and vacancies. (a) The governor may remove a board member from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a board member may not participate in board business and may not be counted for the purpose of establishing a quorum. A suspended member shall continue to receive his salary as a board member until the legislature in joint session consents to his removal. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the board member shall be reinstated to his position.

(b) A vacancy on the board shall be promptly filled by appointment by the governor and confirmation by a majority of members of the legislature in joint session. An appointee to fill a vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. If a vacancy arises on the board while the legislature is not in session, the governor may appoint an interim board member until the legislature in joint session fails to confirm the interim

(c) A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board. (§ 3 ch 179 SLA 1978)

Sec. 37.12.045. Qualifications of board members. (a) No person may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position, or employment, whether elective or appointive, except as a member of the armed forces of the United States or the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.050. Quorum. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. (§ 3 ch 179 SLA 1978)

Sec. 37.12.055. Compensation of board members. Board members are in the exempt service under AS 39.25 and receive an annual salary within Range 30 of the salary schedule for state employees established by AS 39.27.011. (§ 3 ch 179 SLA 1978)

Sec. 37.12.060. Employment of personnel. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. The executive director and all employees of the board are in the exempt service under AS 39.25. (§ 3 ch 179 SLA 1978)

Sec. 37.12.065. Conflicts of interest. (a) Members of the board of trustees are subject to the provisions of AS 39.50.

(b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, he shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest. (§ 3 ch 179 SLA 1978)

Sec. 37.12.070. Powers. In carrying out the corporate powers of the corporation, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the corporation;
- (4) enter into any agreements necessary to the exercise of its powers and functions;
- (5) accept grants from and contract with the federal government and the state or its political subdivisions and to that end comply with the requirements of federal, state, or local programs where necessary, except

HB 12
(16) make
black grants
to CSUT
for conservation
purposes.

or local government position is funded or partially funded in connection with a project;

(6) accept grants and loans from other sources than those in (5) of this section to be held and used for the purposes of the corporation;

(7) appear in behalf of the corporation before boards, commissions, departments, or other agencies of municipal, state, or federal government;

(8) acquire, hold, use, lease, sell, or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in it;

(9) hold, as a means of securing the providing of financial assistance, patents, copyrights, trademarks, royalties, or any other evidences of protection or exclusivity issued under the laws of the United States or any state or nation;

(10) prepare, publish, and distribute technical studies, reports, bulletins and other materials it considers appropriate;

(11) invest, in such form as it considers appropriate, in projects which are economically viable and income-producing;

(12) provide grants for projects having broad public application which do not have direct income-producing potential;

(13) adopt regulations governing the exercise of its corporate powers;

(14) deposit funds, or invest surplus funds through the treasury division of the Department of Revenue which may invest in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule;

(15) do all acts and things necessary or desirable to carry out the purposes of the corporation. (§ 3 ch 179 SLA 1978)

(16) CS HB12

Sec. 37.12.075. Duties. In carrying out the purposes of this chapter, the board shall

(1) seek to maintain the productivity of healthy renewable resources and expand the productivity of depleted or underutilized renewable resources;

(2) provide financial assistance for projects which the board finds will accomplish the purposes of the corporation as set out in § 15 of this chapter;

(3) promote the utilization of the state's renewable resources in the state and the development of import substitution and export markets;

(4) annually prepare long-range operating and financial plans and the budget for the forthcoming year;

(5) monitor approved projects for compliance with this chapter and provide operational and performance evaluations (post-audits) of projects receiving financial assistance and an overall assessment, expressed in qualitative and quantitative terms, of the degree to which the purposes of the corporation, as set out in § 15 of this chapter, have been achieved; and

(6) attempt to fund activities which will tend to maximize returns to the state and local governments and its citizens in such forms as tax revenues and resident employment and income. (§ 3 ch 179 SLA 1978)

Sec. 37.12.080. Financial assistance. (a) In providing financial assistance, the board shall

(1) consider the proposals of qualified applicants only after the applicant has submitted a detailed proposal in the form prescribed by the board; no assistance may be approved by the board unless it finds, in writing, that

(A) the proposed project, if successful, will further the purposes of the corporation as set out in § 15 of this chapter;

(B) the application contains an adequate plan for project implementation, including, when applicable, a complete business, financial and marketing plan for commercial activities;

(C) sufficient capital is not available from other sources on reasonable terms;

(D) the applicant has agreed that if new renewable resource industrial activity results from the proposed project, his best efforts will be employed to keep that activity in the state for a minimum period of time specified by the board;

(E) the applicant demonstrates that sufficient technical and business expertise to accomplish the objectives of the proposed project is available;

(F) all costs, including additional governmental cost, associated with and ancillary to the project and future obligations generated by the project have been identified, including any necessary operating, maintenance, or other support costs for the life of the project;

(G) potential resource use conflicts that may result from the proposed project are identified and evaluated, and when necessary, plans to mitigate or resolve those conflicts and to preserve for the future options for the use of the state's renewable resources are included in the application;

(2) use the financial mechanism most appropriate to the conditions of the applicant and the proposed project and which will most effectively utilize the funds available; grants may be made by the board of up to 90 per cent of the total project costs for the following purposes:

(A) projects for the applied research and development of products, technologies, or innovations for the rehabilitation, enhancement, or development of the state's renewable resources;

(B) projects for the demonstration, on a one-time basis, of the economic or technical feasibility of a new product, market, or technology involving a renewable resource; or

(C) projects for the rehabilitation, enhancement, or development of a common-property resource where the benefits from the project cannot be captured by any single economic unit;

(3) in evaluating projects, consider the preferences and priorities of the residents of the region in which the project is to be located;

(4) require investments made by the corporation to be secured by means determined to be appropriate by the board.

(5) The board may not

(1) invest or otherwise provide assistance of more than five per cent of the resources of the corporation or \$1,500,000, whichever is less, in a single project or applicant unless the legislature has approved the investment by concurrent resolution;

(2) invest in more than 49 per cent of the outstanding corporate stock or other corporate obligations issued by an applicant unless the legislature has approved the investment by concurrent resolution;

(3) make a loan for a period in excess of 30 years unless the legislature has approved the loan by concurrent resolution;

(4) assume the responsibility for management of any project in which it has invested and may not exercise voting rights for that purpose or for any other purpose which is within the scope of managerial control; or

(5) provide funds to any state agency unless that expenditure is included in the corporation's annual budget;

(6) allocate to grants more than 10 per cent of the annual appropriation of the corporation.

(c) Nothing in this section prevents the board from taking such action and exercising such rights as it considers necessary for the protection of its financial interests in the event of

(1) actual or threatened default on any of the board's investments;

(2) actual or threatened insolvency of a project in which the board has made an investment; or

(3) any other immediate or actual circumstance or event which jeopardizes an investment made by the board.

(d) Projects for which financial assistance is granted shall comply with all applicable provisions of law. (§ 3 ch 179 SLA 1978)

Sec. 37.12.085. Eligibility for financial assistance. The board may provide financial assistance if it finds that an applicant is qualified to receive assistance. An applicant is qualified if

(1) he has submitted a proposal to the board in accordance with § 80(a)(1) of this chapter;

(2) he is a resident of the state for three years or, if the applicant is a partnership, corporation, or other association, the majority interest is beneficially owned by residents of the state and a majority of the owners are residents of the state; and

(3) his projects which have previously received financial assistance from the corporation, if any, have complied with all requirements of that assistance and have performed with sufficient success or promise to

Sec. 37.12.090. Reports and publications. (a) The board shall prepare and distribute in non-technical language materials describing the purposes and activities of the corporation.

(b) The board shall publish an annual report for the governor, the legislature, and the public at the time of submitting its annual budget request. Each annual report shall include financial statements and audit reports, a statement detailing the sources from which the corporation received money, a statement detailing the investments made by the corporation, a summary and evaluation of the data required by § 75(5) and (6) of this chapter, a list of public facilities required by or complementary to the corporation's investment activity, and any other information that the board of trustees believes would be of interest to the recipients of the report. (§ 3 ch 179 SLA 1978)

Sec. 37.12.095. Budget and appropriations. (a) The corporation may expend money only as appropriated by the legislature. The corporation is subject to the Executive Budget Act (AS 37.07) except as provided in (b) and (c) of this section.

(b) The budget of the corporation shall include the categories and amounts of proposed financial assistance broken down by financing mechanism and resource sector affected and all funds received by the corporation whether through allocations made by this chapter, appropriation, or otherwise. The total amount of the corporation's operating budget shall be specified separately in its budget and be appropriated from the general fund.

(c) The unexpended and unobligated portion of the appropriations, other than appropriations for operating expenses, does not lapse into the general fund at the end of a fiscal year, but remains available for appropriation as provided in this section in subsequent fiscal years. (§ 3 ch 179 SLA 1978)

Sec. 37.12.100. Annual audit. The corporation shall have its financial record audited annually by an independent outside auditor. The legislative auditor may prescribe the form and content of the financial record of the corporation and shall have access to these records at any time. (§ 3 ch 179 SLA 1978)

Sec. 37.12.105. Cooperation with other agencies. All departments, agencies, and public corporations of the state shall provide information, services and facilities to the corporation on its request. The corporation shall reimburse the department, agency, or corporation for expenses reasonably incurred on the corporation's behalf. (§ 3 ch 179 SLA 1978)

Sec. 37.12.110. Tax exemption. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state. (§ 3 ch 179 SLA 1978)

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warrant further and.

Sec. 37.12.115. Technical assistance. (a) The corporation may provide financing for pre-investment activities including feasibility studies, when, in its opinion, the proposed project is of high priority and the financing is not available from other sources on reasonable terms and conditions. Amounts so advanced may form a part of a later investment if the enterprise or project is financed by the corporation.

(b) The corporation may provide funding for technical and management advice and assistance to qualified applicants as it considers necessary in the circumstances. (§ 3 ch 179 SLA 1978)

Sec. 37.12.120. Public access to information. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of reports, items, persons, or enterprises. (§ 3 ch 179 SLA 1978)

Sec. 37.12.125. Definitions. In this chapter, unless the context otherwise requires,

(1) "applicant" means a person making application to the corporation for financial assistance;

(2) "board" means the Board of Trustees of the Alaska Renewable Resources Corporation;

(3) "corporation" means the Alaska Renewable Resources Corporation;

(4) "project" means products, markets, innovation, or technological developments for the rehabilitation, enhancement, or development of renewable resources and includes applied research for those products, markets, or technological developments;

(5) "rehabilitation, enhancement, and development" means any activity or program which improves the health and well-being of a renewable resource or renewable resource population leading to an increase in the quality or productivity of the resource and to an increase in the benefits derived from the resource to the citizens of the state;

(6) "renewable resource" means non-human living organisms; natural components of the environment, including the air, land, and water; and energy systems which are naturally recurring or replenished. (§ 3 ch 179 SLA 1978)

Chapter 14. Trust Funds.

Article

1. Mental Health Fund (§§ 37.14.010 — 37.14.050)
2. University Fund (§§ 37.14.060 — 37.14.100)
3. Public School Fund (§§ 37.14.110 — 37.14.150)
4. Custody and Investment of Trust Funds (§§ 37.14.160 — 37.14.170)

A.R.R.C.
MARCH 1989
J.N. Milnes

CRITERIA FOR APPROVAL of PROJECTS

I. DOES IT FIT WITH A.R.R.C.'s MISSION

1. Renewable Resource
2. Self Sustaining
3. Appropriate Use of the Resource
 - Maintenance of a healthy resource
 - Expand productivity of a depleted or underutilized resource
4. Increase Benefits to State's Citizens
 - import substitution
 - employment opportunities
 - higher standard of living
 - lifestyle alternatives
 - Taxes

II Is it a VIABLE BUSINESS

1. Management is sound
2. Markets, Sales - Substantially OK
3. Technology is feasible, pilot work complete
4. Plant and equipment well designed and functional
5. Personnel are experienced and reliable
6. Business plan well thought through
7. No major legal problems
8. Corporate structure is sound

A.R.R.C.
MARCH 1979
J.N. MILNES

III WHAT FINANCING IS NEEDED? AND WHAT IS THE BEST APPROACH FOR A.R.R.C.

1. GRANT
2. EQUITY
3. LOAN
4. TERM
5. TAKE OUT MECHANISM and
TIMING
6. DESIRED LEVERAGE