SCOMM

45:4

Free Conference CS for Senate Joint Resolution No. 4
Definitions Needed

1. "appropriations of revenue bond proceeds" (p. 1; l. 12-13)

2. "appropriations of money received from a non-State source in trust for a specific purpose" (p. 1; l. 14-15)

3. "including revenues of a public enterprise or public corporation of the State that issues revenue bonds," (p. 1; l. 15-17)

4. "appropriations from the treasury" (p. 1; l. 17)

5. "the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981." (p. 1; l. 18-20)

6. "capital projects and loan appropriations." (p. 1; l. 21)

7. "bills for appropriations for capital projects, whether of bond proceeds or otherwise," (p. 1; l. 23-24)

8. "approved by the voters as prescribed by law." (p. 1; l. 27-28)

9. "Each bill for appropriations for capital projects in excess of the limit" (p. 1; l. 28-29)

10. "capital projects of the same type," (p. 1-2; l. 29-1)

11. "as provided by law, be informed of the cost of operations and maintenance of the capital projects." (p. 2; l. 1-2)

12. "state of disaster declared by the governor as prescribed by law" (p. 2; l. 4)

13. "unexpended and unappropriated balance" (p. 2; l. 5)

Dona Lehr suggested adding:
"Alaska permanent fund dividends" does it include alternatives to the dividend
"general obligation bonds" does it include defeasance

Original sponsor: Rules/Governor Offered: 7/14/81

IN THE SENATE BY THE 2d FREE CONFERENCE COMMITTEE

FREE CONFERENCE CS FOR SENATE JOINT RESOLUTION NO. 4

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SPECIAL SESSION

Proposing amendments to the Constitution of the State of Alaska relating to limiting increases in appropriations.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. Article IX, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 16. APPROPRIATION LIMIT. Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed $2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the

same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

* Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding new sections to read:

SECTION 26. APPROPRIATIONS FOR RELOCATION OF THE CAPITAL. If a majority of those voting on the question at the general election in 1982 approve the ballot proposition for the total cost to the State of providing for relocation of the capital, no additional voter approval of appropriations for that purpose within the cost approved by the voters is required under the 1982 amendment limiting increases in appropriations (art. IX, sec. 16).

SECTION 27. RECONSIDERATION OF AMENDMENT LIMITING INCREASES IN APPROPRIATIONS. If the 1982 amendment limiting appropriation increases (art. IX, sec. 16) is adopted, the lieutenant governor shall cause the ballot title and proposition for the amendment to be placed on the ballot again at the general election in 1986. If the majority of those voting on the proposition in 1986 rejects the amendment, it shall be repealed.

SECTION 28. APPLICATION OF AMENDMENT. The 1982 amendment limiting appropriation increases (art. IX, sec. 16) applies to appropriations made for fiscal year 1984 and thereafter.

* Section 3. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

RECEIVED
DEC 7 1981
BUDGET/AUDIT
COMMITTEE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

December 4, 1981

SUBJECT: Change to resolution proposing a constitutional amendment

TO: Senator Arliss Sturgulewski
Attn: Margo Waring

FROM: Billy G. Berrier BGB
Director
Division of Legal Services

You have asked whether a resolution proposing a constitutional amendment adopted during a special session of a legislature may be repealed or changed during the following second session and if so what would be the mechanism.

Section 1 of Article XIII of the Constitution of the State of Alaska provides:

> Amendments to this constitution may be proposed by a two-thirds vote of each house . . .

The mechanism for implementing this power is established by AS 24.30.130(a) which provides:

> (a) The legislature may propose amendments to the state constitution through the adoption of a joint resolution by an affirmative vote of two-thirds of the membership of each house. Resolutions proposing constitutional amendments shall be treated as bills.

and by Rule 49(a)(5) and (b) of the Uniform Rules which provide:

> "(5) A joint resolution is the most formal type of resolution and is adopted by both houses and then signed by the governor as a ministerial formality. The joint resolution is treated in all respects as a bill but it is not subject to veto. It is usually reserved

for addressees outside the state. This resolution is used mainly to express the view or wish of the legislature to the President, the Congress or agencies of the United States Government or the governments of other states. It is required for proposing or ratifying amendments to the U.S. Constitution, proposing amendments to the State Constitution under provisions of Sec. 1, Art. XIII, of the State Constitution, and for disapproval of local government boundary changes recommended by the Local Boundary Commission under provisions of Sec. 12, Art. X, of the State Constitution. Approval of a joint resolution requires a majority vote of the full membership of each house.

"(b) All resolutions passed by one or both houses are sent to the governor as a matter of information and for permanent filing with the li utenant governor. The lieutenant governor sends enrolled copies of joint resolutions to the federal and other state officers, agencies and jurisdictions. The transmittal of copies of all other resolutions to designated addressees is the responsibility of the Legislative Affairs Agency."

The obvious reason for using a resolution which is treated as a bill rather than using a bill is that a bill is subject to veto by the Governor and he is given no role by the constitution in proposing amendments to the constitution.

In my opinion the power to propose an amendment includes the power to withdraw the proposal prior to it being acted on by the voters. There seems to be no reason that this would be an exception to the general rule that a body has power to repeal that which it has power to enact.

There has been substantial scholarly discussion on whether a state may withdraw a resolution calling for an amendment to the United States Constitution. The comment made by the Special Constitutional Convention Study Committee of the American Bar Association in its 1974 study Amendment of the Constitution by the Convention Method under Article V (1974) that:

"There is no law dealing squarely with the question of whether a state may withdraw an application seeking a constitutional convention, although some commentators have suggested that a withdrawal is of no effect.

* * *

> "Since a convention should reflect a 'contemporaneously-felt need' that it take place, we think there should be no such limitation. In view of the importance and comparatively permanent nature of an amendment, it seems desirable that state legislatures be able to set aside applications that may have been hastily submitted or that no longer reflect the social, economic and political factors in effect when the applications were originally adopted. We believe Congress has the power to so provide."

appears well founded.

In addition this is an internal matter to the state not affecting Congress or the other states.

The only method I can think of for withdrawing a proposal for a constitutional amendment would be by adoption of a joint resolution withdrawing the amendment since it would appear that the formalities necessary to adopt the proposal apply equally to withdrawing it.

BGB:jdn

September 2, 1981

Wilson L. Condon
Attorney General
Department of Law
Pouch
Juneau, Alaska 99811

Dear Mr. Condon:

The Free Conference Committee Substitute for SJR 4, proposing amendments to the constitution of the State of Alaska relating to limiting increases in appropriations, will undoubtedly need statutory language to carry out certain provisions, as several phrases seem in need of interpretation.

With that view in mind, I would appreciate some advice from you regarding:

1. the meaning of the term "capital projects"

2. the meaning of the term "loan appropriations"

3. the meaning of the clause "public corporations of the State that issues revenue bonds." Specifically, for this item, I am concerned whether to be eligible under this exemption the corporation needs statutory authority to issue revenue bonds or whether it must actually issue such bonds.

4. the application of the clause, "appropriation of money received from a non-state source in trust for a specific purpose" (emphasis added). A question has been raised whether this language covers the assessments made for the non-profit fish hatcheries.

Your attention to this matter will be appreciated. If there are any questions, please contact Margo Waring of my staff (3818).

Sincerely,

Senator Arliss Sturgulewski, Chairman
Legislative Budget and Audit Committee

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

November 17, 1981

John K. Norman, President
Common Sense for Alaska, Inc.
P.O. Box 4-1104
Anchorage, AK 99509

Dear Mr. Norman:

Thank you for your letter and survey form of November 10, 1981. As you may know, I have had several discussions with individual Common Sense for Alaska board members regarding spending limits in general and FCCSLTBA in particular. I am delighted to learn that you are pursuing this very important matter.

Before I share with you some of my concerns with FCCSLTBA, I would like to mention a few items which I think may be of interest to you and the organizations cooperating with Common Sense. First, as you know, the administration is currently developing next year's budget. The Governor has instructed his administration to prepare that budget as if the spending limit in FCCSLTBA were in effect, both as a means of holding down state spending and as a test of the bill itself. There may be interesting things to learn from that experience.

The administration has not completed the FY 83 budget, so they are waiting for an Attorney General's opinion regarding statutory obligations in FCCSLTBA. Shortly after the special session, I requested an Attorney General's opinion on a list of confusing terms used in FCCSLTBA. For example, it is unclear what definition should be given to the terms "capital projects," "loan appropriations," "issuance of a public enterprise. . . that issues revenue bonds," among others. It is similarly unclear whether the exemption for "general obligation bonds (item 13-14)" includes refunding bonds and whether the exemption of "Alaska permanent fund dividends" includes alternatives to the dividend, in case the Supreme Court rules against the State. There are several other questions which may be made of terms whose definitions are open to question. When I receive the Attorney General's opinion, I will be glad to send you a copy.

Unfortunately, it is not clear whether amendments to FCCSSJR4 can be made. I have asked both the Attorney General and Legislative Legal Counsel to issue an opinion on the matter of whether FCCSSJR4 can be amended or whether an entirely new bill would have to be passed in order to effect changes in FCCSSJR4. Again, I will be glad to send you a copy of these legal opinions as soon as I receive them.

During the past session and the special session, I assigned staff to work on the issue of spending limits and proposed bill versions different than SJR4. During that process, we collected a considerable research file. If members of your task force would find it helpful, I would be glad to make that information available.

Let me say again that I am delighted that you are looking at this matter and look forward to being of assistance and to learning the results of your task force's efforts.

Sincerely,

Arline Sturgulewski
Senator, District 10-H

COMMON SENSE FOR ALASKA, INC.

P.O. Box 4-1104 Anchorage, Alaska 99509 907-276-7648

dese w/ mailer
Ltd number
delegates being
pursued (cont)

November 10, 1981

Dear Legislator:

Last summer during the Special Session, legislators passed a government spending limitation Resolution by the required 2/3 vote which will put the measure on the ballot next fall.

Meanwhile, the Governor, joined by others throughout the state, has indicated that the measure is insufficient and should be modified.

Common Sense for Alaska has formed a task force consisting of representatives from the Alaska State Chamber of Commerce, Anchorage Chamber of Commerce, Associated General Contractors, Commonwealth North, P.A.S.I.T., and Resource Development Council. Some preliminary research has been done to compare our state's proposed limitation with those employed by other states. As part of our research efforts, we would like to respectfully request your answers to the attached questionnaire and return by November 20.

We will thereby coordinate input from legislators with the material gained from other sources as we develop our task force position.

Your consideration is appreciated.

Sincerely yours,

John K. Norman
President
Common Sense for Alaska, In

cc: Executive Committee
Task Force Members

Enclosure

Marge-
I'll be at AK Council on Econ Dev.'s
would like to talk to
you re responding to this
We can do by telephone Monday

COMMON SENSE FOR ALASKA, INC.

P.O. Box 4-1104 Anchorage, Alaska 99509 907-276-7648

Legislators: We ask you to sign your name so that we may be back in touch with you for coordinating purposes, if necessary. However, your comments will be kept confidential and not released to the public.

o Are you in favor of strengthening the existing resolution during the coming legislative session?

Yes _____

No _____

Other _____

_____

o What improvements would you suggest be made to improve the existing resolution (FSS-FCCSSJR4)?

_____

_____

_____

_____

_____

_____

_____

Name: _____

_____

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

MEMORANDUM

September 21, 1981

TO: SENATOR ARLISS STURGULEWSKI
FROM: MARGO W. WARING

RE: LOANS AND THE SPENDING LIMIT

Glenn said that you were interested in the question, "do all loan funds go to the voters as capital items?" As he described the background, apparently, Jerry Reinwand has been saying that $500 million in loans would be under the spending lid as capital items--both the subsidy and the appropriation.

Before I discuss this question, let me refer you to the legal opinions that we requested from both Billy Berrier and Wilson Condon: in both we requested an opinion of what was meant by "loan appropriation." We have had no response to date.

Attached you will find a copy of FCCSSJR 4 as passed by the special session. I have highlighted the key phrases that create the differing opinions on which loan funds fit where. They are:

a) "appropriation of revenue bond proceeds" (line 12)
b) "revenues of a public enterprise or public corporation of the State that issues revenue bonds" (line 16-17
c) "Within this limit, at least one-third shall be reserved for capital projects and loan appropriations." (Line 20-21)

First, the bill appears to make a distinction between "loan appropriations" and "capital projects." This would indicate that the process proscribed for voter approval only applies, as it states, to "appropriations for capital projects." (line 23-24). However, if our information about what Jerry is saying is correct, he is interpreting "capital projects" to include "loan appropriations."

Secondly, there is the question about the meaning of "loan appropriations" in lines 20-21. Some have taken this to mean all moneys appropriated for loans. Others have taken it to mean only those sums (subsidy) that need to be appropriated to make up the difference between the return to the state and the total sum.

There may be some evidence to support this second reading. Most of the loan funds (but by no means all loan funds) are funds which are held by "public enterprises or public corporations." Their "revenues" (loan repayments?) are exempted from the limitation. "Appropriations of revenue bond proceeds" are also exempted from the spending limitation. This would seem to indicate that when, for example, AIDA or AHFC, sells bonds the total of the bonded amount does not fall under the lid--or that the loan repayments also would not fall under the lid., or both.

The case regarding direct state loans would be different, apparently. Since neither bonds are sold or revenues collected by public corporations, it would appear that loans made by the state would come under the lid, with the discussion above regarding "loan appropriations" excepted.

Since there is no free conference committee report, we cannot go to "committee intent" for resolution of this issue, and have to rely on the meaning of the words and their relationship to each other. This is, however, no simple task.

STATE OF ALASKA

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

ROOM 508
CAPITOL BUILDING
POUCH V
JUNEAU, ALASKA 99811

907-465-3818
907-465-3810

M E M O R A N D U M September 16, 1981

TO: Wilson L. Condon
Attorney General

FROM: Senator Arliss Sturgulewski, Chairman
Legislative Budget and Audit Committee

RE: Free Conference Committee Substitute for SJR 4

The Free Conference Committee Substitute for SJR 4, proposing amendments to the constitution of the State of Alaska relating to limiting increases in appropriations, will undoubtedly need statutory language to carry out certain provisions, as several phrases seem in need of interpretation.

With that view in mind, I would appreciate some advice from you regarding:

1) the meaning of the term "capital projects"

2) the meaning of the term "loan appropriations"

3) the meaning of the clause "public corporations of the State that issues revenue bonds." Specifically, for this item, I am concerned whether to be eligible under this exemption the corporation needs statutory authority to issue revenue bonds or whether it must actually issue such bonds.

4) the application of the clause, "appropriation of money received from a non-state source in trust for a specific purpose" (emphasis added). A question has been raised whether this language covers the assessments made for the non-profit fish hatcheries.

Your attention to this matter will be appreciated. If there are any questions, please contact Margo Waring of my staff (3818).

9/24/81
talked to Glen.
OK but needs to
be in letter form
9



Sullivan hits campaign trail for Project 80s

Metro, Page C-1



Clipping coupons cuts food costs

Living, Page D-1

Steinbrenner sees change for Yankees

Sports, Page B-1



Anchorage Daily News

VOL.XXVI, NO.265, 60 PAGES — ANCHORAGE, ALASKA, THURSDAY, SEPTEMBER 24, 1981 — PRICE 25 CENTS

Hammond to limit spending next session

By PETE SPIVEY
Daily News reporter

Gov. Jay Hammond said Wednesday that he plans to oversee spending in the next legislative session as if a proposed constitutional spending limit up for voter consideration next November were already in place.

Hammond said that means he won't allow state spending next year to grow by more than 12 percent, capping expenditures at about $2.8 billion. He plans to use the proposed spending limit's forumla, budgeting two-thirds — about $1.9 billion — to run the bureaucracy and reserve the remaining one-third, or $900 million, for capital projects and loan programs.

☐ State officials again have cut a previous estimate of oil revenue the state will receive this fiscal year by $370 million. Page A-12.

Hammond said after accounting for inflation and population growth, government would grow by only 2.8 percent in real terms next year. And he said he's not merely suggesting the legislature live within those figures — he hinted he would veto any appropriations that exceeded his cap.

"I think we'll get a cooperative effort out of the legislature," he said. "But if they throw this out the window and ignore it, I do have the capability to use the line item veto."

Hammond said the legislature will have about $4 billion for fiscal 1983 spending when the session opens in January. Under the capital and operating budget limits he's setting, that would leave a surplus of about $1.2 billion.

He said he probably would propose splitting the surplus evenly between a permanent fund deposit and additional capital projects, making both expenditures subject to voter approval. But he warned that even though the limit on bricks-and-mortar projects can be exceeded, they'll have to be projects without expensive operational costs.

"There is no provision for exceeding the operating budget limits, so projects with high operating costs are going to have to be absorbed at the local level," he said. "We're going to have to try to screen out projects with high downstream costs and make sure the voters know what they're in for as

See Back Page, HAMMOND

Hammond says he will limit spending

Continued from Page A-1

they consider each of these projects."

Hammond said operating under the restraints during the 1982 session would give critics of the limit a chance to prove it won't work — an obvious indication that he believes adhering to the limit now would have just the opposite effect.

"I've heard from several conservative legislators that they don't believe in the limit and that they intend to campaign against it next year," he said. "Well, let's try it for year, and then let them show something that would work better."

Hammond won the proposed spending limit from the legislature this year, but it wasn't easy. When the marathon regular session failed to produce a limit, he called weary legislators back to Juneau for a special session in July with that as the sole agenda item. Senate passage was no problem, but the House presented stiff opposition and finally passed the limit by the bare minimum number of votes required to put the proposal before the voters next November.

Senate President Jalmar Kerttula, D-Palmer, could not be reached for comment on Hammond's plans. House Speaker Joe Hayes, R-Anchorage, said he supports Hammond's effort to adhere to the spending limit next year, but he's not so sure about the governor's plans for the surplus.

"I think using the limit now is a good idea, because it gives both the governor and the legislature a chance to see if we can live within its parameters," Hayes said. "But I think before we say what we're going to do with the surplus, we should see what the state's needs are going to be next year."

M E M O R A N D U M 17 July 1981

TO: B.G. Garrier
Director, Legal Services Division

FROM: Senator Arliss Sturgulewski

RE: Free Conference CS for SJR 4

The Free Conference CS for SJR 4 proposing amendments to the constitution of the State of Alaska relating to limiting increases in appropriations will undoubtedly need statutory language to carry out certain provisions. With that view in mind, I would appreciate some advice from you regarding the use of the terms "capital projects" and "loan appropriations". I am interested in determining if there are definitions of these two items in current law that would give direction in implementing the constitutional spending limit. I would also be interested in knowing whether or not there is case law as to definitions that would assist in developing legislation governing the parameters of these two items.

Without question, legislation will also be needed in the area of federal indices relating to population and inflation. I would appreciate your advice if you see other possible needs for legislation to define terms used in the spending limitation.

I look forward to your reply.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

October 6, 1981

SUBJECT: Constitutional spending limit -- FCCSSJR 4

TO: Senator Arliss Sturgulewski, Chairman
Legislative Budget and Audit Committee

FROM: James H. Lear
Legislative Counsel JL

You have asked for advice regarding the terms "capital projects" and "loan appropriations" as used in the FCCSSJR 4, proposing amendments to the Constitution of the State of Alaska relating to limiting increases in appropriations. The two terms are not defined in either the Alaska Statutes or the Constitution of the State of Alaska. However, there is a statute, AS 44.42.080, which offers guidelines for capital projects funds. That section creates within the Department of Transportation and Public Facilities the following funds:

(1) educational, cultural and related facilites;
(2) transportation and related facilities;
(3) public institutions and related facilities;
(4) public safety, justice, and related facilities;
(5) health and related facilities;
(6) natural resource development facilites; and
(7) general purpose facilities.

Such a broad interpretation of the term "capital projects" appears to be consistent with the intent of the legislature as evidenced in the transcript of proceedings of the Free Conference Committee hearing on SJR 4, Constitutional Spending Limit, July 13, 1981. At page 9 of the transcript, Representative Malone uses the terms "capital projects" and "capital improvements" interchangeably. He later declares, as indicated on page 18, beginning at line 11,

> "I'm not quite sure we know what capital projects are because we don't have a definition of those here. . ."

In an exchange with Representative Malone, Representative Halford states, on page 19 beginning at line 6,

> "The reaction that I get from the constituency is it's the operating budget that they object to. They still would like to see the roads, the bridges, the hydropower, the infrastructure to develop the state and they'd like to see at least some legislative prerogative protected there to respond to those needs as well as the prerogative to exceed the limit."

The items enumerated by Representative Halford would come within the scope of (2) transportation and related facilities and (6) natural resource development facilties of AS 44.42.080. The transcript showed that the conferees intended the term "capital projects" to be broadly employed. Representative Malone, struggling with the term's lack of focus, laments at page 21, line 17, ". . . You know, capital projects is a . . . " at which point Senator Ray interjects, "misnomer" and Representative Malone responds,

> "Yeah, well, it's been used a lot in these constitutional resolutions, but what is a capital project? I saw some things in a, say, a budget submitted by the governor, the D-2 budget, I couldn't tell the difference between a capital project and an operating project in that budget, for example."

Senator Ray responded,

> "Capital projects are what the definitive judgment of the majority of the legislature are -- determines there [sic] are.

Representative Malone then declared, "That's what they think of it too, Mr. Chairman". In addition to the foregoing opportunities given the conferees to focus on the term "capital projects" they had the opportunity to respond to the following question from Mr. Pegues, beginnning at page 61, line 24 of the transcript,

> ". . . When we speak in terms of the one-third shall be reserved for capital projects and loan appropriations, we're using the terms [sic] capital projects which pretty much means the capital budget-areas where you are dealing with capital investment or long term financing and the bulk of your spending. That's a broader term than capital improvement. The terms [sic] that was used for going over the limit, at one point, capital improvement, and I wonder if this change here is a conscious change. Do we want it -- make it that looser all more inclusive capital projects. . . "

The record indicates no response by the conferees to the question. The answer then must lie in the fact that the conferees approved the final draft of the bill with the term "capital projects" with the knowledge that it would be a broader term than "capital improvements".

There are no Alaska cases construing the term capital projects. The cases from other jurisdictions are few in number and appear to be limited to the issue of whether or not a particular project fits within the scope of the term capital project without giving insight as to the range of projects contemplated by the respective legislatures. One case in particular, State v. County of Dade, 250 S.2d 875 (Fla. 1971), makes reference to a tax exemption for revenue bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants in sec. 10(c) of Article VII of the 1968 Florida Constitution. The Florida legislature implemented this provision by enactment of the Florida Industrial Development Financing Act, Chapter 69-104, Laws of Florida, Fla. Stat. secs. 159.25, et seq. Sec. 159.27 F.S.A., a definition section, states in paragraph (5) that,

> "Project" means any capital project comprising an industrial or manufacturing plant, research and development park, or pollution control facility, including one or more buildings and other structures, whether or not on the same site or sites; any rehabilitation, improvement, renovation, or enlargement of, or any addition to, any buildings or structures for use as a factory, mill, processing plant, assembly plant, fabricating plant, industrial distribution center, repair, overhaul, or service facility, test facility or pollution control facility, and other facilities,

> including research and development, for manufacturing, processing, assembling, repairing, overhauling, servicing, testing, or handling of any products or commodities embraced in any industrial or manufacturing plant, in connection with the purposes of a research and development park, or for controlling pollution; and including also the sites thereof and other rights in land therefore whether improved or unimproved, machinery, equipment, site preparation and landscaping, and all appurtentances and facilities incidental thereto, such as warehouses, utilities, access roads, railroad sidings, truck docking and similar facilities, parking facilities, dockage, wharfage, and other improvements necessary or convenient for any manufacturing or industrial plant, research and development park, or pollution control facility.

This section illustrates the specificity that may be employed in defining capital projects.

Now in regard to the term "loan appropriations", as indicated above it is not defined in the Alaska Statutes or Constitution of the State of Alaska. Additionally, there are no Alaska court decisions defining this term. Similarly, the words "loan" and "appropriations" are not defined by Alaska Statutes, constitution, or case law. However, these two terms enjoy relatively universal interpretation. Within the context of SJR 4 the loan refers to loan of money. According to 54 CJS Loan at page 653,

> The conception of lending money is well understood both in the popular and technical usage. Generally it is the payment of money by one to another to be repaid at some future date. A loan of money has been defined as a contract by which one delivers a sum of money to another and the latter agrees to return at a future time a sum equivalent to that which he borrows; the delivery by one party and the receipt by the other party of a given sum of money, on an agreement, express or implied, to repay the sum lent, with or without interest; a sum of money lent at interest; money borrowed to be repaid at all event; an advancement of money on a contract or stipulation, express or implied, to repay at some future date. Also a loan of money has been defined by statute.

Such a statutory definition is referred to at page 372 of Farmers' State Bank v. Youngers, 227 N.W. 371, 56 S.D. 7:

> A loan of money is a contract by which one delivers a sum of money to another, who agrees at a future time to return an equivalent sum.

The courts of Louisiana and Nevada offer the following simple definitions of "appropriation". In Fuselier v. State Market Commission, 238 S.2d 243, (La.App. 1970), at page 245, the court rejected the defendants argument that the authorization for the legislature to make "appropriations" to the state market commission includes the right to authorize bond issues and deliver the proceeds to the state agency. The court stated,

> An appropriation is an authorization by the legislature to draw available money from the State Treasury for a specified purpose. . . . (Emphasis supplied)

In the City of Reno v. McGowan, 439 P.2d 985 (1968), at page 986, the Supreme Court of Nevada stated,

> An "appropriation" is the legislative sanction for disbursement of public revenue

You may wish to note that the word appropriation is defined at page 73, of the Basic Budget Manual for Legislators, prepared by the staff of the Legislative Affairs Agency in 1976 as follows:

> Appropriation -- an amount which is the maximum funds available for expenditure for a stated purpose set out in an appropriations act. It permits state agencies, groups or an individual to spend and to commit public monies for a broad purpose. It is limited in amount and has a time limit within which it must be spent or committed.

As for the intent of the legislature in adopting SJR 4, Representative Halford stated in the Free Conference Committee hearing on SJR 4, as recorded at page 15, line 10 of the transcript of proceedings,

> ". . . The intent of the word loan appropriations is that portion that is either in a direct loan fund or that is a subsidy that is appropriated from the general fund. But the intent is not to include the bond authorization, for example, to AHFC."

You also asked if there were other terms in the spending limitation of SJR 4 that might need to be defined by the legislature. Although it may not need implementing legislation, you may wish to note that in the exception language of the appropriation limit,

> . . . including revenues of a public enterprise or public corporation of the state that issues revenue bonds . . .

the phrase "that issues revenue bonds" does not refer to those public enterprises or public corporations that are authorized to issue revenue bonds but do not in fact issue revenue bonds.

In all likelihood it will be necessary to adopt legislation:

(1) setting forth the procedure by which voters may approve appropriations in excess of the spending limitations;

(2) describing the "capital projects of the same type" to which appropriations for capital projects in excess of the limit are to be confined;

(3) setting forth the procedure by which voters are to be informed of the cost of operation and maintenance of the capital projects;

(4) setting forth the procedure by which the governor may declare a state of disaster enabling appropriations in excess of the limit; and

(5) clarifying the terminology "unexpended and unappropriated balance".

JHL:ljb

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

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 15, 1981

MEMORANDUM

TO: Representative Don Clocksin

FROM: Ira Winograd I.W.
Issues Analyst

RE: Education Endowment Fund
Research Request 81-108

You requested information concerning states which have permanent education endowment funds. We conducted a survey of the eleven western states: Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, and New Mexico, and have ascertained that each one has a permanent education endowment fund, except Colorado.[1] We have also surveyed three central states: Texas, Minnesota and Wisconsin and they also have permanent school funds. It is likely that additional central states have permanent education funds.

The federal government administered the lands of each western territory prior to statehood and federal regulations required dedication of a portion of each township for public education. Although the regulations differed for each territory, they were similar to the land dedication provisions of the N.W. Ordinance governing settlement of the mid-west and great lakes states. When western territories gained statehood many of them adopted a constitutional amendment dedicating their territorial education lands to a permanent education fund.

The constitutional amendments creating permanent education funds in each of the surveyed states contain similar provisions (see attachment A). In each case, earnings derived from the sale or lease of dedicated lands are deposited into the principal of the permanent fund; the principal is invested and the earnings are allocated to the operating budgets of local public schools.

The surveyed permanent education funds are similar to the original Alaska public school fund. The major difference between the surveyed

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[1] Washington Common School Fund, Oregon Common School Fund, Idaho Public School Income Fund, Nevada Permanent School Fund, Utah Perpetual Fund, Arizona Permanent Endowment Fund, Montana Public School Fund, Wyoming Permanent Land Income Fund, New Mexico Permanent School Fund.

funds and the original Alaska public school fund is that the surveyed funds are constitutionally mandated while the Alaska fund was established by territorial legislation.

In 1978, the Alaska public school fund, AS 37.14, was amended changing the source of revenues from dedicated education lands to one half of one percent of total receipts derived from management of all state lands. Additions to the fund's principal no longer depend on revenues derived from lands dedicated to public schools. The revised Alaska public school fund is different from most permanent school funds in this respect.

We were able to locate only one permanent school fund whose principal receives revenues which do not derive entirely from the earnings of dedicated lands. In 1980, Oregon voters adopted a 6% severance tax on oil and gas, with the revenue going into the Common School Fund, a permanent education fund which was established in 1859.

The proposed Alaska Education Endowment Fund, H.B. 84 and 85, differs from the surveyed permanent education funds in two ways: the principal does not contain revenues derived from land or tax dedications, and there is no provision for automatic increases in the size of the principal. The fund would be created by cash appropriations from the general fund during the first three years of operation and there is no provision to increase the size of the principal after the first three years.

We were able to locate one fund, the Texas Permanent School Fund, which received a cash allocation to initiate its principal. However, there is no precedent for an education endowment fund whose principal is entirely derived from a cash allocation.

There are several states which have dedicated sources of revenue for education but the revenue is expended in the fiscal year in which it is collected. Typical sources of dedicated revenues include: public lotteries in New York and New Hampshire, sales taxes in North Carolina and Alabama, and taxes on alcohol and tobacco (sin taxes) in several states and units of local government.

Dedicated revenues are controversial in several states. Objections have been raised on the basis that dedications limit legislative ability to change budget priorities. In Alabama, for example, the Governor is attempting to eliminate dedicated revenues; however, his efforts to date have been unsuccessful. Permanent education funds do not appear to be controversial. We are not aware of any attempt to revoke a permanent education fund.

SUMMARY OF LARGEST FUNDS

Texas and New Mexico are the only two states whose education endowment funds have a principal of over one billion dollars. We have described the following characteristics of each fund: (1) legal standing - the legal origin of the fund; (2) management - how the fund is operated; (3) allocation - how the earnings are used; (4) funding - the source of the principal; (5) earnings - the source of revenues; (6) performance - the rate of return on the principal; and (7) outlook - the projected performance.

Texas Permanent School Fund

(1) Legal Standing. The 1854 State Constitution endowed all land previously appropriated to the public schools and the entire unappropriated public domain, except forest land, to the Texas Permanent School Fund. (See attachment B.) A constitutional amendment created the available school fund which receives the earnings from the principal of the permanent school fund. A separate permanent fund was created for the University of Texas.

(2) Management. The fund is supervised by the Board Investment Committee, a subcommittee of the State Board of Education. The Texas Education Agency (Texas department of education) employs an investment staff to manage the day to day operations of the fund. The Chief Investment Officer of the investment staff is directly responsible to the Board Investment Committee and the Deputy Commissioner of Education for Program Administration and Finance. External review of general investment policies is provided by a five member Investment Advisory Committee which is appointed by the State Board of Education. Specific review of investment transactions is provided by a private investment counseling firm recommended by the Board Investment Committee and retained by the State Board of Education.

(3) Allocation. All permanent fund income, except capital gains, is transferred to the available school fund. The available school fund also receives one quarter of the revenue derived from state gasoline excise taxes. The available school fund is allocated to each school district in proportion to the size of its enrollment.[2]

(4) Funding. In 1854, the Texas Legislature deposited $2 million to the principal of the fund. For the fiscal year ending August 31, 1980 the principal contained $2.5 billion which is a 19.5 per

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[2] Previously this formula had been quite complex, involving a weighted average of property value, income and other social and economic factors.

cent increase over the previous fiscal year. Oil and gas royalties, leases and bonuses added nearly $400 million to the principal during fiscal year 1980. Royalties from sulphur, coal and other hard minerals also accrue to the fund and their combined contribution during fiscal 1980 was approximately $10 million.

(5) Investments. In 1961, the State Board of Education was authorized to invest in corporate securities. Approximately 45 percent of assets are held in corporate stocks and 55 percent in bonds. The fund cannot be invested in real estate, commodities, precious metals, or foreign investments.

(6) Performance. The overall rate of return for fiscal 1980 was 7.92% based on a 6.7% return on equities, 8.9% return on corporate bonds, and 8.7% return on U.S. government obligations. The earnings on equities does not count capital gains. Since 1961, capital gains have added $10 million to the principal of the fund. In fiscal year 1980 the fund provided $64.26 per pupil from earnings of $166 million.

(7) Outlook. The funds Chief Investment Officer, Jay Hooks, expects a yield of $3 to $4 billion over the next ten years. By the end of 1983, the fund is expected to provide $100 per pupil for over 2.5 million pupils. The return on investment is expected to improve as $250 million in low yielding treasury bonds reach maturity. In fiscal year 1981, low yielding bonds worth nearly $50 million will mature and be rolled over into high yield investments.

New Mexico Permanent School Fund

(1) Legal Standing. The Permanent School Fund was established by the original New Mexico State Constitution which endowed the proceeds of land sales of sections two, sixteen, thirty-two, and thirty-six in each township to the public schools. The Constitution created a current school fund to receive the earnings of the permanent fund and a constitutional amendment directed the State Investment Officer to invest the principal of the fund. (See Attachment C.)

(2) Management. The State Investment Council is responsible for the management of the fund.[3] The council is composed of three elected officials (Governor, Lands Commissioner, and Treasurer), Secretary

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[3] The Constitution and statutes vary in their concept of the Investment Council. Legislation, 6-8-1, 6-8-16 reduces the function of the council to that of an advisory group, 1957-58 Op. Att'y Gen. No. 58-10.

of the Department of Finance, Secretary of the Department of Administration, and four citizens appointed by the Governor. A State Investment Officer is appointed by the Governor and serves as director of the Investment Division of the Department of Education. He is responsible for the daily supervision of the fund. There are two investment strategy committees providing advice to the Investment Officer, the equity advisory committee and the fixed income advisory committee.

(3) Allocation. Local public schools own 83% of all trust lands, and the remaining 17% is divided among 19 public beneficiaries including hospitals and correctional facilities. A separate account is kept for each beneficiary and permanent fund income attributable to public school lands, except capital gains, is transferred to the current school fund. The current school fund also receives all fines and forfeitures collected under general law. The fund is allocated to each school district in proportion to its enrollment.

(4) Funding. The principal of the fund is valued at $1.2 billion. Oil and gas royalties account for the largest share of the principal. Royalties are also received from uranium, pot ash and other minerals. The initial dedication of territorial education lands was mandated by the Federal Government under the Ferguson Act of 1898.

(5) Investments. Allowable investments include bonds, stocks (up to 50% of principal), and notes securing loans to New Mexico businesses or organizations which are obligated to use the loan proceeds within New Mexico. The principal is primarily invested in fixed income securities; 60% of fixed income securities are government obligations and 40% are corporate obligations. Only 10% of the principal is invested in equities.

(6) Performance. The earnings rate is slightly over 10% and the fund provides nearly $400 per pupil per year.

We can provide a more detailed analysis of any of the permanent education funds which are discussed in this memorandum and we can assist in developing a research design for evaluating the possible establishment of an Alaska Permanent Education Endowment Fund. Do not hesitate to contact us if you have any questions or would like additional information.

IW/bf
Attachments

ARTICLE VIII
EDUCATION AND SCHOOL LANDS

Sec. 1. Superintendent of Public Instruction
2. Common School Fund
3. System of common schools
4. Distribution of school fund income
5. State Land Board; land management
6. Qualifications of voters in school elections

Section 1. Superintendent of Public Instruction. The Governor shall be superintendent of public instruction, and his powers, and duties in that capacity shall be such as may be prescribed by law; but after the term of five years from the adoption of this Constitution, it shall be competent for the Legislative Assembly to provide by law for the election of a superintendent, to provide for his compensation, and prescribe his powers and duties.—

Section 2. ~~Common School Fund.~~ (1) The sources of the Common School Fund are:

(a) The proceeds of all lands granted to the state for educational purposes, except the lands granted to aid in the establishment of institutions of higher education under the Acts of February 14, 1859 (11 Stat. 383) and July 2, 1862 (12 Stat. 503).

(b) All the moneys and clear proceeds of all property which may accrue to the state by escheat or forfeiture.

(c) The proceeds of all gifts, devises and bequests, made by any person to the state for common school purposes.

(d) The proceeds of all property granted to the state, when the purposes of such grant shall not be stated.

(e) The proceeds of the five hundred thousand acres of land to which this state is entitled under the Act of September 4, 1841 (5 Stat. 455).

(f) The five percent of the net proceeds of the sales of public lands to which this state became entitled on her admission into the union.

(2) All revenues derived from the sources mentioned in subsection (1) of this section shall become a part of the Common School Fund. The State Land Board may expend moneys in the Common School Fund to carry out its powers and duties under subsection (2) of section 5 of this Article. Unexpended moneys in the Common School Fund shall be invested as the Legislative Assembly shall provide by law. Interest derived from the investment of the Common School Fund shall be applied to the support of primary and secondary education as provided under section 4 of this Article.

[Constitution of 1859; amendment proposed by H.J.R. No. 7, 1967, and adopted by people May 28, 1968]

Section 3. System of common schools. The Legislative Assembly shall provide by law for the establishment of a uniform, and general system of Common schools.

Section 4. Distribution of school fund income. Provision shall be made by law for the distribution of the income of the common school fund among the several Counties of this state in proportion to the number of children resident therein between the ages, four and twenty years.—

Section 5. State Land Board; land management. (1) The Governor, Secretary of State and State Treasurer shall constitute a State Land Board for the disposition and management of lands described in section 2 of this Article, and other lands owned by this state that are placed under their jurisdiction by law. Their powers and duties shall be prescribed by law.

(2) The board shall manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.

[Constitution of 1859; Amendment proposed by H.J.R. No. 7, 1967, and adopted by people May 28, 1968]

Section 6. Qualifications of voters in school elections. In all school district elections every citizen of the United States of the age of twenty-one years and upward who shall have resided in the school district during the six months immediately preceding such election, and who shall be duly registered prior to such election in the manner provided by law,

a larger amount, but not exceeding five per centum additional for supplying such city or town with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the municipality and (b) any school district with such assent, may be allowed to become indebted to a larger amount but not exceeding five per centum additional for capital outlays. [AMENDMENT 27, 1951 House Joint Resolution No. 8, p 961. Approved November 4, 1952.]

Provisions of Art. 7 § 2 (Limitation on Levies) also subject to limitations contained in Art. 8 § 6: Art. 7 § 2 (b).

Original text——Art. 8 § 6 LIMITATIONS UPON MUNICIPAL INDEBTEDNESS——*No county, city, town, school district or other municipal corporation, shall for any purpose become indebted in any manner to an amount exceeding one and one-half percentum of the taxable property in such county, city, town, school district or other municipal corporation, without the assent of three-fifths of the voters therein, voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness at any time exceed five per centum on the value of the taxable property therein, to be ascertained by the last assessment for state, and county purposes previous to the incurring of such indebtedness; except that in incorporated cities the assessment shall be taken from the last assessment for city purposes; Provided, That no part of the indebtedness allowed in this section, shall be incurred for any purpose other than strictly county, city, town, school district, or other municipal purposes. Provided further; that any city or town, with such assent may be allowed to become indebted to a larger amount but not exceeding five per centum additional for supplying such city or town with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the municipality.*

§ 7 CREDIT NOT TO BE LOANED. No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation.

§ 8 PORT EXPENDITURES——INDUSTRIAL DEVELOPMENT——PROMOTION. The use of public funds by port districts in such manner as may be prescribed by the legislature for industrial development or trade promotion and promotional hosting shall be deemed a public use for a public purpose, and shall not be deemed a gift within the provisions of section 7 of this Article. [AMENDMENT 45, 1965 ex.s. Senate Joint Resolution No. 25, p 2819. Approved November 8, 1966.]

§ 9 STATE BUILDING AUTHORITY. The legislature is empowered notwithstanding any other provision in this Constitution, to provide for a state building authority in corporate and politic form which may contract with agencies or departments of the state government to construct upon land owned by the state or its agencies, or to be acquired by the state building authority, buildings and appurtenant improvements which such state agencies or departments are hereby empowered to lease at reasonable rental rates from the Washington state building authority for terms up to seventy-five years with provisions for eventual vesting of title in the state or its agencies. This section shall not be construed as authority to provide buildings through lease or otherwise to nongovernmental entities. The legislature may authorize the state building authority to borrow funds solely upon its own credit and to issue bonds or other evidences of indebtedness therefor to be repaid from its revenues and to secure the same by pledging its income or mortgaging its leaseholds. The provisions of sections 1 and 3 of this article shall not apply to indebtedness incurred pursuant to this section. [AMENDMENT 51, 1967 Senate Joint Resolution No. 17. Approved November 5, 1968.]

Note: This section which was adopted as Sec. 8, is herein renumbered Sec. 9, to avoid confusion with Sec. 8, supra.

ARTICLE IX
EDUCATION

§ 1 PREAMBLE. It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.

§ 2 PUBLIC SCHOOL SYSTEM. The legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may hereafter be established. But the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools.

§ 3 FUNDS FOR SUPPORT. The principal of the common school fund as the same existed on June 30, 1965, shall remain permanent and irreducible. The said fund shall consist of the principal amount thereof existing on June 30, 1965, and such additions thereto as may be derived after June 30, 1965, from the following named sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state when the purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of stone, minerals, or property other than timber and other crops from school and state lands, other than those granted for specific purposes; all moneys received from persons appropriating stone, minerals or property other than timber and other crops from school and state lands other than those granted for specific purposes, and all moneys other than rental recovered from persons trespassing on said lands; five per centum of the proceeds of the sale of public lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union as approved by section 13 of the act of congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been, and hereafter may be granted to the state for

the support of common schools. The legislature may make further provisions for enlarging said fund.

There is hereby established the common school construction fund to be used exclusively for the purpose of financing the construction of facilities for the common schools. The sources of said fund shall be: (1) Those proceeds derived from the sale or appropriation of timber and other crops from school and state lands subsequent to June 30, 1965, other than those granted for specific purposes; (2) the interest accruing on said permanent common school fund from and after July 1, 1967, together with all rentals and other revenues derived therefrom and from lands and other property devoted to the permanent common school fund from and after July 1, 1967; and (3) such other sources as the legislature may direct. That portion of the common school construction fund derived from interest on the permanent common school fund may be used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools.

The interest accruing on the permanent common school fund together with all rentals and other revenues accruing thereto pursuant to subsection (2) of this section during the period after the effective date of this amendment and prior to July 1, 1967, shall be exclusively applied to the current use of the common schools.

To the extent that the moneys in the common school construction fund are in excess of the amount necessary to allow fulfillment of the purpose of said fund, the excess shall be available for deposit to the credit of the permanent common school fund or available for the current use of the common schools, as the legislature may direct. [AMENDMENT 43, 1965 ex.s. Senate Joint Resolution No. 22, part 1, p 2817. Approved November 8, 1966.]

Original text——Art. 9 § 3. FUNDS FOR SUPPORT. *The principal of the common school fund shall remain permanent and irreducible. The said fund shall be derived from the following named sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state when the purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of timber, stone, minerals, or other property from school and state lands, other than those granted for specific purposes; all moneys received from persons appropriating timber, stone, minerals or other property from school and state lands other than those granted for specific purposes, and all moneys other than rental recovered from persons trespassing on said lands; five per centum of the proceeds of the sale of public lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union as approved by section 13 of the act of congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been, and hereafter may be granted to the state for the support of common schools. The legislature may make further provisions for enlarging said fund. The interest accruing on said fund together with all rentals and other revenues derived therefrom and from lands and other property devoted to the common school fund shall be exclusively applied to the current use of the common schools.*

§ 4 SECTARIAN CONTROL OR INFLUENCE PROHIBITED. All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.

§ 5 LOSS OF PERMANENT FUND TO BECOME STATE DEBT. All losses to the permanent common school or any other state educational fund, which shall be occasioned by defalcation, mismanagement or fraud of the agents or officers controlling or managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the particular fund sustaining such loss, upon which not less than six per cent annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized and limited elsewhere in this Constitution.

Investment of permanent school fund: Art. 16 § 5.

ARTICLE X
MILITIA

§ 1 WHO LIABLE TO MILITARY DUTY. All able-bodied male citizens of this state between the ages of eighteen (18) and forty-five (45) years except such as are exempt by laws of the United States or by the laws of this state, shall be liable to military duty.

§ 2 ORGANIZATION——DISCIPLINE——OFFICERS——POWER TO CALL OUT. The legislature shall provide by law for organizing and disciplining the militia in such manner as it may deem expedient, not incompatible with the Constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the legislature shall from time to time direct and shall be commissioned by the governor. The governor shall have power to call forth the militia to execute the laws of the state to suppress insurrections and repel invasions.

§ 3 SOLDIERS' HOME. The legislature shall provide by law for the maintenance of a soldiers' home for honorably discharged Union soldiers, sailors, marines and members of the state militia disabled while in the line of duty and who are *bona fide* citizens of the state.

§ 4 PUBLIC ARMS. The legislature shall provide by law, for the protection and safe keeping of the public arms.

§ 5 PRIVILEGE FROM ARREST. The militia shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters and elections of officers, and in going to and returning from the same.

§ 6 EXEMPTION FROM MILITARY DUTY. No person or persons, having conscientious scruples against bearing arms, shall be compelled to do militia duty in time of peace: *Provided*, such person or persons shall pay an equivalent for such exemption.

ments for pupils in absence of specific statutory authority, 78 A. L. R. 2d 1021.

Constitutionality and construction of statutes in relation to admission of nonresident pupils to school privileges, 72 A. L. R. 499, 113 A. L. R. 177.

Determination of residence or nonresidence for purpose of fixing tuition fees or the like in public school or college, 83 A. L. R. 2d 497.

Sectarian control: see entries under sec tions 12 and 13 of this article.

Law Reviews.

Higher Education and the Utah Consti tution, Jerry R. Andersen, 1966 Utah L Rev. 371.

School Boards, School Books and th Freedom to Learn, 59 Yale L. J. 928.

Sec. 2. [Defining what shall constitute the public school system.]

The public schools system shall include kindergarten schools; common schools, consisting of primary and grammar grades; high schools, an agricultural college; a university; and such other schools as the Legis lature may establish. The common schools shall be free. The othe departments of the system shall be supported as provided by law. (As amended November 6, 1906, effective January 1, 1907; November 8, 1910 effective January 1, 1911.)

Compiler's Notes.

The 1906 amendment empowered the legislature to authorize the use of state school funds to assist in supporting high schools.

The 1910 amendment was proposed by House Joint Resolution No. 14, Laws 1909, p. 350, to become effective January 1, 1911. This amendment deleted provisions concerning maintenance of free high schools.

Nonresident fees.

Children, resident in county school district, could not attend city high school and junior high school without payment of nonresident fees under provision of this section that the common schools shall be free, since "common schools" means only first to eighth grades, inclusive. Logan City School Dist. v. Kowallis, 94 U. 342, 77 P. 2d 348.

Where county school district provide adequate schools and facilities, equal t those of city, which were open and fre and reasonably convenient for attendanc to all children within district, no chil in such district had legal right to insis upon attendance at high school or junio high school in city without payment o nonresident fees. Logan City School Dist v. Kowallis, 94 U. 342, 77 P. 2d 348.

Collateral References.

Schools and School Districts 78 C.J.S. Schools and School District § 13.

47 Am. Jur. 297, Schools § 2 et seq.

What is common or public school withi contemplation of constitutional or statu tory provision, 113 A. L. R. 697.

Sec. 3. [Proceeds of lands and other property—Per cent of proceeds—Perpetual fund.]

The proceeds of the sales of all lands that have been or may here after be granted by the United States to this state, for the support of th common schools, and five per centum of the net proceeds of the sales o United States public lands lying w ..in the states and sold by the Unite States subsequent to the admission of this state into the Union, shall b and remain a permanent fund, to be called the State School Fund, th interest of which only, shall be expended for the support of the commo schools. The interest on the State School Fund, the proceeds of a property that may accrue to the state by the escheat or forfeiture, a unclaimed shares and dividends of any corporation incorporated und the laws of this state, the proceeds of the sales of timber, and the proceed of the sale or other disposition of minerals or other property from scho

and state lands, other than those granted for specific purposes, shall, with such other revenues as the Legislature may from time to time allot thereto, constitute a fund to be known as the Uniform School Fund, which Uniform School Fund shall be maintained and used for the support of the common and public schools of the state and apportioned in such manner as the Legislature shall provide. The provisions of Section 7, Article XIII of this Constitution shall be construed as a limitation in the rate of taxation on tangible property for district school purposes and not on the amount of funds available therefor and, further, no moneys allocated to the Uniform School Fund shall be considered in fixing the rates of taxation specified in Section 7 of Article XIII. (As amended November 8, 1910, effective January 1, 1911; November 4, 1930, effective January 1, 1931; November 8, 1938, effective January 1, 1939.)

Compiler's Notes.

The 1910 amendment was proposed by House Joint Resolution No. 14, Laws 1909, p. 350, to become effective January 1, 1911. Prior to this amendment the section provided for the permanent fund only.

The 1930 amendment was proposed by House Joint Resolution No. 3, Laws 1929, p. 225, to become effective January 1, 1931. This amendment added a provision for apportionment of funds derived from state tax for high schools.

The 1938 amendment was proposed by House Joint Resolution No. 5, Laws 1937, p. 284, to become effective January 1, 1939. This amendment placed the section in its present form.

Cross-References.

Land grants to schools, Enabling Act, § 6 et seq.

Uniform school fund, 53-7-1 et seq.

Adverse possession of school lands.

Land granted to state by the Enabling Act for support of common schools could not be acquired by defendants by adverse possession although state had sold land in controversy to plaintiff. Van Wagoner v. Whitmore, 58 U. 418, 199 P. 670.

This provision was not impinged by the quieting of title in one claiming, by adverse possession, land which was granted to the state by the federal government for the use of an agricultural college, where the state had received the purchase price long before the claimant's entry and state denied interest in the land, even though purchaser and his successors had not demanded or received the patent. Minersville Land & Livestock Co. v. Staten, 7 U. (2d) 331, 325 P. 2d 260.

Escheat.

Under 75-12-27, property may escheat for benefit of school fund notwithstanding existence of heirs, where no claim is made within five years of intestate's death, as therein provided. In re Apostolopoulos' Estate, 68 U. 344, 250 P. 469, 253 P. 1117, 48 A. L. R. 1322.

Statutes relating to the subject of escheats, roughly speaking, are divided into three classes: (1) Those that provide for the disposition of decedents' estates who die without heirs; (2) those that provide for the disposition of bank deposits or other property where the owners have departed from the town, city, or state wherein the property is located or the deposits were made, and where the whereabouts of such owners is unknown and it is not known or cannot be ascertained whether they are living or dead; and (3) those where the death of the owner is known and his death has been judicially established and the estate has in due course been administered, but no claimant has appeared to claim succession within the period of time fixed by statute. In re Apostolopoulos' Estate, 68 U. 344, 250 P. 469, 253 P. 1117, 48 A. L. R. 1322; In re Montello Salt Co., 88 U. 283, 287, 53 P. 2d 727.

This is not a self-executing provision. In re Montello Salt Co., 88 U. 283, 53 P. 2d 727.

Unclaimed funds ordered to be distributed to persons named as stockholders of a dissolved private corporation, but who had not appeared to receive or claim the said funds, are neither a share nor a dividend of a corporation in the sense used in this section of the Constitution, and therefore are not subject to escheat. In re Montello Salt Co., 88 U. 283, 53 P. 2d 727.

Exemption from taxation.

Proceeds from sale of lands granted by federal government to the state of Utah for the support of the common schools are exempt from taxation. Duchesne County v. State Tax Comm., 104 U. 365, 140 P. 2d 335.

70 C.J.S. Paupers §§ 3, 67; 81 C.J.S. Social Security and Public Welfare, §§ 1, 2.

Reimbursement of public for financial assistance to aged persons. 29 ALR 2d 731.

Requisite residence for purpose of old age assistance. 43 ALR 2d 1427.

ARTICLE XI

EDUCATION

Section 1. It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform and thorough system of public, free, common schools.

Classification of School Districts for the Election of Trustees Does Not Violate This Provision

This section does not prohibit the enactment of a law classifying school districts for the purposes of the election of trustees according to population, so long as the law provides for a reasonable classification and is reasonable and uniform in its operation and effect upon all districts within the same classification—although, at the time of the passage of the act, only a few districts would be included within the law. State ex rel. Bray v. Long, 21 M 26, 30, 52 P 645.

"Education" Defined

"Education" in its broadest and best sense embraces mental, moral and physical powers or faculties, within the meaning of section 1, article XI of the constitution, declaring that it shall be the duty of the legislature to establish and maintain a general, uniform and thorough system of public, free, common schools. McNair v. School District No. 1, 87 M 423, 427, 288 P 188.

Operation and Effect

The fact that state tax imposed on foreign corporation's freight cars in state went into state common school income and interest fund did not remove it from constitutional limitation on levies for state purposes. State v. North American Car Corp., 118 M 183, 164 P 2d 161, 167.

Purpose of This Provision

This section and section 11 of this article are not exclusive so as to limit the legislative power to the establishment and maintenance of common schools and state institutions only. The purpose of this section is to insure a system of common schools, but there is nothing in it which limits the power of the legislature to provide for other schools. The section is not a limitation upon the legislative power, but is a solemn mandate to the legislature. Evers v. Hudson, 36 M 135, 150, 92 P 462.

The clear intent of section 1, article XI of the constitution, imposing upon the legislature the duty of establishing and maintaining a general, uniform and thorough system of public, free, common schools is that adequate facilities for the education of all children shall be furnished. Grant et al. v. Michaels et al., 94 M 452, 464, 23 P 2d 266.

The primary purpose underlying constitutional provisions under which the legislature is charged with the duty of maintaining a general, uniform and thorough system of free public schools and providing sufficient funds, etc. is the promotion of the general intelligence of the people constituting the body politic and thereby to increase the usefulness and efficiency of the citizens upon which the government of society depends. State ex rel. Lien v. School District No. 73, 106 M 223, 226, 7[illegible] P 2d 330.

Uniform Text Books Not Requ[illegible] by This System

While the legislative assembly has th[illegible] power to establish a series of text book[illegible] for use in the public schools of the stat[illegible] this section does not require the adoptio[illegible] of a uniform series of text books throug[illegible] out the state by that body. Campana [illegible] Calderhead, 17 M 548, 550, 44 P 83.

References

Cited in State ex rel. Shapley v. Boa[illegible] of Commrs. of Yellowstone County, [illegible] M 503, 506, 31 P 78; State ex rel. He[illegible] derson v. Dawson County, 87 M 122, 13[illegible] 286 P 125; Perkins v. Trask et al., 95 [illegible] 1, 7, 23 P 2d 982; State ex rel. Gebhar[illegible] v. City Council of the City of Helena, 1[illegible] M 27, 40, 55 P 2d 671; State ex rel. Schc[illegible] District No. 29 v. Cooney, 102 M 521, 5[illegible] 59 P 2d 48; Rhoades v. School District [illegible] 9, 115 M 352, 359, 142 P 2d 890; Ea[illegible] man v. School District No. 1, 20 M [illegible] 180 P 2d 472, 480.

Collateral References

Schools and School Districts⊂⊃9-11.

78 C.J.S. Schools and School Distri[illegible] § 13.

Sectarianism in schools. 5 ALR 866 and 141 ALR 1144.

Schools: extent of legislative power with respect to attendance and curriculum. 39 ALR 477 and 53 ALR 832.

Schools: free text books and other school supplies for individual use of pupils. 67 ALR 1196.

Power of municipal or school authorities to prescribe vaccination or other health measure as a condition of school attendance. 93 ALR 1413.

What is common or public school within contemplation of constitutional or statutory provisions. 113 ALR 697.

Title to buildings when school lands revert for nonuse for school purposes. 28 ALR 2d 564.

Racial segregation in schools. 38 ALR 2d 1189.

Sec. 2. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the state by the general government known as school lands; and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the state from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates, or distributive shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all other grants, gifts, devises or bequests made to the state for general educational purposes.

Consideration and Effect

Neither this provision nor that contained in section 1 of article XVII deals with the subject of the capacity of the state to acquire property. Both are limitations upon the power of disposal by the legislature. They also embody an express injunction upon the legislature that the property with which they deal must be devoted exclusively to the purposes for which it has been or may be acquired. In re Beck's Estate, 44 M 561, 576, 121 P 784.

The provisions of section 7 of ordinance No. 1, with relation to grants of land made by the United States to the state; of section 1, article XVII of the constitution, providing the manner of disposal of such land, and of sections 2 and 12, article XI, providing that the school fund derived from the proceeds of such land shall be guaranteed against loss or diversion, are limitations upon the power of disposal of school land by the legislature. Newton v. Weiler, 87 M 164, 286 P 133.

Sections 91-519 et seq., prohibiting inheritance by alien heirs whose country does not permit inheritance by residents of this state creates an escheat. The above constitutional provision requires all escheated estates or distributive shares of escheated estates to go to the public school fund of the state, and the legislature had no power to direct that such property go to either the county general fund or the general fund of the state. Bottomly v. Meagher County et al., 114 M 220, 224, 133 P 2d 770.

The provision of section 91-523 before amendment providing for delivery to county general fund of all property of decedent's estate which would have vested in his nonresident alien next of kin but for other provisions of the statute was invalid as violating this constitutional provision placing in state public school fund all escheated estates and escheated interests in estates. In re Nielsen's Estate, 118 M 304, 165 P 2d 792, 794.

What Part of Estate Escheats to State

Held, that both under section 91-420 and chapter 104, Laws of 1939 (91-519 to 91-522), if all nonresident alien heirs of a decedent are disqualified from sharing in an escheated estate the entire estate is taken, and if only a part of the heirs are disqualified only their interests are taken, since this provision speaks of "estates, or distributive shares of estates." Bottomly v. Meagher County, 114 M 220, 230, 133 P 2d 770.

References

Cited or applied in State ex rel. Knight v. Cave, 20 M 468, 471, 52 P 200; State ex rel. Evans v. Stewart, 53 M 18, 23, 161 P 309; School District No. 1 v. City of Helena, 87 M 300, 307, 287 P 164; Toole County Irrigation District v. State, 104 M 420, 432, 67 P 2d 980; cited or applied in dissenting opinion in State ex rel. Dickgraber v. Sheridan, 126 M 447, 254 P 2d 390, 403; In re Stolan's Estate, 128 M 52, 269 P 2d 1085, 1091.

ARTICLE 7. EDUCATION; STATE INSTITUTIONS; PROMOTION OF HEALTH AND MORALS; PUBLIC BUILDINGS

Public Schools and School Funds

Sec.

1. Legislature to provide for public schools.
2. School revenues.
3. Other sources of school revenues.
4. Restriction in use of revenues.
5. Fines and penalties to belong to public school fund.
6. State to keep school funds; investment.
7. Application of school funds.
8. Distribution of school funds.
9. Taxation for schools.
10. No discrimination between pupils.
11. Textbooks.
12. Sectarianism prohibited.
13. Land commissioners. [Superseded.]
14. Supervision of schools entrusted to state superintendent of public instruction.

The University

15. Establishment of university confirmed.
16. Tuition free.
17. Government of university.

Charitable and Penal Institutions

18. Establishment; supervision by state board of charities and reform.
19. Territorial institutions pass to state.

Public Health and Morals

20. Duty of legislature to protect and promote health and morality of people.

Public Buildings

21. Buildings and property of territory pass to state.
22. Construction and supervision.
23. Permanent location.

Public Schools and School Funds

§ 1. Legislature to provide for public schools.

The legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the state allow, and such other institutions as may be necessary.

Cross reference. — For other provisions concerning education, see art. 1, § 23, and art. 21, § 28, Wyo. Const., and title 21.

Delegation of legislative function held valid. — While establishment of school districts and changes therein is a legislative function under this section, legislative delegation of such duty to district boundary boards in each county has been held valid. Chicago, B. & Q.R.R. v. Byron School Dist. No. 1, 37 Wyo. 259, 260 P. 537 (1927).

"Such other institutions as may be necessary" includes community colleges. — In giving consideration to the various categories of schools referred to in this section, it is entirely clear that community colleges can only come under the category of "such other institutions as may be necessary." Goshen County Community College Dist. v. School Dist. No. 2, 399 P.2d 64 (Wyo. 1965).

Agricultural college. — The legislature could repeal an act establishing the agricultural college, which was located by a vote of the people. State ex rel. Wyoming Agr'l. College v. Irvine, 14 Wyo. 318, 84 P. 90 (1906), aff'd, 206 U.S. 278, 27 S. Ct. 613, 51 L. Ed. 1063 (1907).

A high school is a component part of a school district. Ericksen v. School Dist. No. 2, 67 Wyo. 216, 217 P.2d 887 (1950).

School bond elections. — Statute requiring payment of realty tax as a qualification to vote at a school bond election was invalid. West v. School Dist. No. 9, 37 Wyo. 36, 258 P. 583 (1927).

Cited in Gale v. School Dist. No. 4, 49 Wyo. 384, 54 P.2d 811 (1936).

Law review. — For comment, "Equal Protection and the Financing of Public Education in Wyoming," see 8 Land & Water L. Rev. 273 (1973).

§ 2. School revenues.

The following are declared to be perpetual funds for school purposes, of which the annual income only can be appropriated, to wit: Such per centum as has been or may hereafter be granted by congress on the sale of lands in this state; all moneys arising from the sale or lease of sections number sixteen and thirty-six in each township in the state, and the lands selected or that may be selected in lieu thereof; the proceeds of all lands that have been or may hereafter be granted to this state, where by the terms and conditions of the grant, the same are not to be otherwise appropriated; the net proceeds of lands and other property and effects that may come to the state by escheat or forfeiture, or from unclaimed dividends or distributive shares of the estates of deceased persons; all moneys, stocks, bonds, lands and other property now belonging to the common school funds. Provided, that the rents for the ordinary use of said lands shall be applied to the support of public schools and, when authorized by general law, not to exceed thirty-three and one-third ($33^1/_3$) per centum of oil, gas, coal, or other mineral royalties arising from the lease of any said school lands may be so applied. (As amended by Laws 1923, Senate Joint Resolution No. 7, p. 225.)

Cross references. — As to state tax to support schools, see art. 15, § 15, Wyo. Const. For provision that unexpended income or interest shall be added to and become part of perpetual school fund, see art. 18, § 6, Wyo. Const.

Amendment. — Laws 1923, Senate Joint Resolution No. 7, p. 225, authorized the submission of a proposed amendment of this section, which was adopted by vote of the people at the general election held November 4, 1924, and was proclaimed in effect December 10, 1924.

The 1924 amendment added the second sentence.

Bequests to state. — Where property is bequeathed to the state with an annual income payable to a legatee out of income, the property cannot be considered "not otherwise appropriated" and must be added to the common school fund. Bond v. State ex rel. Wilson, 45 Wyo. 133, 16 P.2d 53 (1932).

Contract with an expert to investigate leases of state lands and ascertain if correct accounting was being made, and if not, to assist in recovering amount due state, on contingent basis, is not violative of constitution as depleting school funds, as moneys so recovered are a new fund brought into existence through the investigation. Bourne v. Cole, 53 Wyo. 31, 77 P.2d 617 (1938).

Supreme court's duty. — It is bounden duty of supreme court, insofar as possible, to carry provisions that permanent school funds shall remain forever inviolate and undiminished into force and effect. Alamo Drainage Dist. v. Board of County Comm'rs, 60 Wyo. 177, 148 P.2d 229 (1944).

Quoted in Oregon Basin Oil & Gas Co. v. Ohio Oil Co., 70 Wyo. 263, 248 P.2d 198 (1952).

§ 3. Other sources of school revenues.

To the sources of revenue above mentioned shall be added all other grants, gifts and devises that have been or may hereafter be made to this state and not otherwise appropriated by the terms of the grant, gift or devise.

Bequests to state. — Where property is bequeathed to the state with an annual income payable to a legatee out of income, the property cannot be considered "not otherwise appropriated" and must be added to the common school fund. Bond v. State ex rel. Wilson, 45 Wyo. 133, 16 P.2d 53 (1932).

Cited in In re Board of Comm'rs, 4 Wyo. 133, 32 P. 850 (1893).

§ 4. Restriction in use of revenues.

All money, stocks, bonds, lands and other property belonging to a county school fund, except such moneys and property as may be provided by law for current use in aid of public schools, shall belong to and be invested by the several counties as a county public school fund, in such manner as the legislature shall by law provide, the income of which shall be appropriated exclusively to the use and support of free public schools in the several counties of the state. (As amended by Laws 1969, Senate Joint Resolution No. 3, p. 494.)

Amendment. — Laws 1969, Senate Joint Resolution No. 3, p. 494, authorized the submission of a proposed amendment of this section, which was adopted by vote of the people at the general election held November 3, 1970, and was proclaimed in effect December 3, 1970.

The 1970 amendment deleted "securely" preceding "invested," substituted "by" for "and sacredly preserved in" following "invested" and inserted "in such manner as the legislature shall by law provide."

Taxing district responsibility. — It is competent for the state to make taxing district responsible as principal debtor for its quota of state tax assessed within it. State v. Board of County Comm'rs, 8 Wyo. 104, 55 P. 451 (1898).

§ 5. Fines and penalties to belong to public school fund.

All fines and penalties under general laws of the state shall belong to the public school fund of the respective counties and be paid over to the custodians of such funds for the current support of the public schools therein.

Stated in Wyoming Disct. Corp. v. Lamar, 444 P.2d 620 (Wyo. 1968).

Cited in State v. Board of County Comm'rs, 8 Wyo. 104, 55 P. 451 (1898).

§ 6. State to keep school funds; investment.

All funds belonging to the state for public school purposes, the interest and income of which only are to be used, shall be deemed trust funds in the care of the state, which shall keep them for the exclusive benefit of the public schools. The legislature shall provide by law for the investment of such trust funds. (As amended by Laws 1915, House Joint Resolution No. 2, p. 264; Laws 1969, Senate Joint Resolution No. 4, p. 492.)

Cross reference. — As to investment of permanent state funds, see §§ 9-7-1001 to 9-7-1006.

Amendments. — Laws 1915, House Joint Resolution No. 2, p. 264, authorized the submission of a proposed amendment of this section, which was adopted by vote of the people at the general election held November 7, 1916, and was proclaimed in effect December 22, 1916.

The 1916 amendment rewrote the second sentence.

Laws 1969, Senate Joint Resolution No. 4, p. 492, authorized the submission of a proposed amendment of this section, which was adopted by vote of the people at the general election held November 3, 1970, and was proclaimed in effect December 3, 1970.

The 1970 amendment deleted "and shall make good any losses that may in any manner occur, so that the same shall remain forever inviolate and undiminished" following "schools" at the end of the first sentence and rewrote the second sentence.

A high school is a component part of a school district. Ericksen v. School Dist. No. 2, 67 Wyo. 216, 217 P.2d 887 (1950).

Contract with an expert to investigate leases of state lands and ascertain if correct accounting was being made, and if not, to assist in recovering amount due state, on contingent basis, is not violative of constitution as depleting school funds, as moneys so recovered are a new

fund brought into existence through the investigation. Bourne v. Cole, 53 Wyo. 31, 77 P.2d 617 (1938).

Unauthorized contract. — Contract whereby land commissioners authorized auditing company to investigate debts due state under mineral leases was void as delegating discretionary power. MacDougall v. Board of Land Comm'rs, 48 Wyo. 493, 49 P.2d 663 (1935).

Supreme court's duty. — It is bounden duty of supreme court, insofar as possible, to carry provisions that permanent school funds shall remain forever inviolate and undiminished into force and effect. Alamo Drainage Dist. v. Board of County Comm'rs, 60 Wyo. 177, 148 P.2d 229 (1944).

Cited in Oregon Basin Oil & Gas Co. v. Ohio Oil Co., 70 Wyo. 263, 248 P.2d 198 (1952).

§ 7. Application of school funds.

The income arising from the funds mentioned in the preceding section, together with all the rents of the unsold school lands and such other means as the legislature may provide, shall be exclusively applied to the support of free schools in every county in the state.

Bequests to state. — Where property is bequeathed to the state with an annual income payable to a legatee out of income, the property cannot be considered "not otherwise appropriated" and must be added to the common school fund. Bond v. State ex rel. Wilson, 45 Wyo. 133, 16 P.2d 53 (1932).

Cited in State v. Board of County Comm'rs, 8 Wyo. 104, 55 P. 451 (1898); Oregon Basin Oil & Gas Co. v. Ohio Oil Co., 70 Wyo. 263, 248 P.2d 198 (1952).

§ 8. Distribution of school funds.

Provision shall be made by general law for the equitable distribution of such income among the several counties according to the number of children of school age in each; which several counties shall in like manner distribute the proportion of said fund by them received respectively to the several school districts embraced therein. But no appropriation shall be made from said fund to any district for the year in which a school has not been maintained for at least three months; nor shall any portion of any public school fund ever be used to support or assist any private school, or any school, academy, seminary, college or other institution of learning controlled by any church or sectarian organization or religious denomination whatsoever.

Cross references. — As to distribution to counties for use of public schools, see § 21-13-301. As to distribution by county treasurer to school districts, see § 21-13-302. As to distribution of funds from foundation program account, see §§ 21-13-313 and 21-13-314.

School bond elections. — An act requiring payment of tax as a qualification to vote on the question of a school bond issue is unconstitutional. West v. School Dist. No. 9, 37 Wyo. 36, 258 P. 583 (1927).

Law review. — For article, "Through the Front Door," see 19 Wyo. L.J. 164 (1965).

of sovereignty, are declared to possess the ultimate property, in and to all lands within the jurisdiction of the state; and all lands the title to which shall fail from a defect of heirs shall revert or escheat to the people.

ARTICLE X.

EDUCATION.

Superintendent of public instruction. SECTION 1. [*As amended Nov. 1902*] The supervision of public instruction shall be vested in a state superintendent and such other officers as the legislature shall direct; and their qualifications, powers, duties and compensation shall be prescribed by law. The state superintendent shall be chosen by the qualified electors of the state at the same time and in the same manner as members of the supreme court, and shall hold his office for four years from the succeeding first Monday in July. The state superintendent chosen at the general election in November, 1902, shall hold and continue in his office until the first Monday in July, 1905, and his successor shall be chosen at the time of the judicial election in April, 1905. The term of office, time and manner of electing or appointing all other officers of supervision of public instruction shall be fixed by law. [*1899 J.R. 16, 1901 J.R. 3, 1901 c. 258, vote Nov. 1902*]

School fund created; income applied. SECTION 2. The proceeds of all lands that have been or hereafter may be granted by the United States to this state for educational purposes (except the lands heretofore granted for the purposes of a university) and all moneys and the clear proceeds of all property that may accrue to the state by forfeiture or escheat, and all moneys which may be paid as an equivalent for exemption from military duty; and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys arising from any grant to the state where the purposes of such grant are not specified, and the five hundred thousand acres of land to which the state is entitled by the provisions of an act of congress, entitled "An act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights," approved the fourth day of September, one thousand eight hundred and forty-one; and also the five per centum of the net proceeds of the public lands to which the state shall become entitled on her admission into the union (if congress shall consent to such appropriation of the two grants last mentioned) shall be set apart as a separate fund to be called "the school fund," the interest of which and all moneys thereto derived from the school lands shall be exclusively applied to the following objects, to wit:

1. To the support and maintenance of common schools, in each school district, and the purchase of suitable libraries and apparatus therefor.

2. The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable libraries and apparatus therefor.

Section 59.20 (8), as to retention of 50% of traffic fines and forfeitures is valid. State ex rel. Comrs. of Pub. Lands v. Anderson, 56 W (2d) 666, 203 NW (2d) 84.

The clear proceeds of fines imposed (at least 50% under 59.20 (8)) after the accused forfeits a deposit by nonappearance must be sent to the state treasurer for the school fund. 58 Atty. Gen. 142.

See note to 177.18, citing 61 Atty. Gen. 208.

District schools; tuition; sectarian instruction; released time. SECTION 3. [*As amended April 1972*] The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours. [*1969 J.R. 37, 1971 J.R. 28, vote April 1972*]

The constitution does not require that school districts be uniform in size or equalized valuation. Larson v. State Appeal Bd. 56 W (2d) 823, 202 NW (2d) 920.

Establishment of a kindergarten for 4 and 5-year old children is not required, but the statutes establish December 1 as the date on which a child must be 5 years old in order to enter kindergarten, and the age must be uniform throughout the state. Pacyna v. Board of Education, 57 W (2d) 562, 204 NW (2d) 671.

Public schools may sell or charge fees for the use of books and items of a similar nature when authorized by statute without violating sec. 3. Bd. of Education v. Sinclair, 65 W (2d) 179, 222 NW (2d) 143.

Use of the word "shall" in 118.155, making cooperation by school boards with programs of religious instruction during released time mandatory rather than discretionary does not infringe upon the inherent powers of a school board. State ex rel. Holt v. Thompson, 66 W (2d) 659, 225 NW (2d) 678.

School districts are not constitutionally compelled to admit gifted four-year old children into kindergarten. Zweifel v. Joint Dist., No. 1, Belleville, 76 W (2d) 648, 251 NW (2d) 822.

The state and its agencies, except the department of public instruction, constitutionally can deny service or require the payment of fees for services to children between 4 and 20 who seek admission to an institution or program because school services are lacking in their community or district. 58 Atty. Gen. 53.

VTAE schools are not "district schools" within meaning of this section. 64 Atty. Gen. 24.

Intrastate inequalities in public education; the case for judicial relief under the equal protection clause. Silard, White, 1970 WLR 7.

The constitutional mandate for free schools. 1971 WLR 971.

Annual school tax. SECTION 4. Each town and city shall be required to raise by tax, annually, for the support of common schools therein,

a sum not less than one-half the amount received by such town or city respectively for school purposes from the income of the school fund.

Income of school fund. SECTION 5. Provision shall be made by law for the distribution of the income of the school fund among the several towns and cities of the state for the support of common schools therein, in some just proportion to the number of children and youth resident therein between the ages of four and twenty years, and no appropriation shall be made from the school fund to any city or town for the year in which said city or town shall fail to raise such tax; nor to any school district for the year in which a school shall not be maintained at least three months.

State university; support. SECTION 6. Provision shall be made by law for the establishment of a state university at or near the seat of state government, and for connecting with the same, from time to time, such colleges in different parts of the state as the interests of education may require. The proceeds of all lands that have been or may hereafter be granted by the United States to the state for the support of a university shall be and remain a perpetual fund to be called "the university fund," the interest of which shall be appropriated to the support of the state university, and no sectarian instruction shall be allowed in such university.

Vocational education is not exclusively a state function. West Milwaukee v. Area Bd. Vocational, T. & A. Ed. 51 W (2d) 356, 187 NW (2d) 387.

See note to art. I, sec. 18, citing 63 Atty. Gen. 374, concerning lease of space to church.

Commissioners of public lands. SECTION 7. The secretary of state, treasurer and attorney general, shall constitute a board of commissioners for the sale of the school and university lands and for the investment of the funds arising therefrom. Any two of said commissioners shall be a quorum for the transaction of all business pertaining to the duties of their office.

Sale of public lands. SECTION 8. Provision shall be made by law for the sale of all school and university lands after they shall have been appraised; and when any portion of such lands shall be sold and the purchase money shall not be paid at the time of the sale, the commissioners shall take security by mortgage upon the lands sold for the sum remaining unpaid, with seven per cent interest thereon, payable annually at the office of the treasurer. The commissioners shall be authorized to execute a good and sufficient conveyance to all purchasers of such lands, and to discharge any mortgages taken as security, when the sum due thereon shall have been paid. The commissioners shall have power to withhold from sale any portion of such lands when they shall deem it expedient, and shall invest all moneys arising from the sale of such lands, as well as all other university and school funds, in such manner as the legislature shall provide, and shall give such security for the faithful performance of their duties as may be required by law.

Legislature may direct public land commissioners to invest monies from sale of public lands in student loans under 39.32 but may not direct a specific investment. 65 Atty. Gen. 28.

State reservation of land and interests in lands under ch. 452, laws of 1911, 24.11 (3) and Art. X, sec. 8 discussed. 65 Atty. Gen. 207.

ARTICLE XI.

CORPORATIONS.

Corporations; how formed. SECTION 1. Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the legislature at any time after their passage.

499.02 (4), providing that the Solid Waste Recycling Authority's existence may not be terminated while it has outstanding obligations, does not violate the Wisconsin Constitution's reserved power provisions because: (1) The Authority is not a corporation created pursuant to section 1, and section 1 is directed only to laws enacted under the provisions of that section; and (2) any attempt to terminate the Authority while it has outstanding obligations would contravene the impairment of contract clauses of both the United States and Wisconsin Constitutions. Wisconsin Solid Waste Recycling Auth. v. Earl, 70 W (2d) 464, 235 NW (2d) 648.

Property taken by municipality. SECTION 2. [*As amended April 1961*] No municipal corporation shall take private property for public use, against the consent of the owner, without the necessity thereof being first established in the manner prescribed by the legislature. [*1959 J.R. 47, 1961 J.R. 12, vote April 1961*]

Municipal home rule; debt limit; tax to pay debt. SECTION 3. [*As amended Nov. 1874, Nov. 1912, Nov. 1924, Nov. 1932, April 1951, April 1955, Nov. 1960, April 1961, April 1963 and April 1966*] Cities and villages organized pursuant to state law are hereby empowered, to determine their local affairs and government, subject only to this constitution and to such enactments of the legislature of state-wide concern as shall with uniformity affect every city or every village. The method of such determination shall be prescribed by the legislature. No county, city, town, village, school district or other municipal corporation may become in-

stice according to law and evidence. No person
rence of two-thirds of the senators present.

achment; grounds; judgment. The governor, sec-
orney general and the judges of the supreme and
corrupt conduct in office or for crimes and mis-
tend further than to removal from office and dis-
office of honor, trust or profit in this state. The
to indictment, trial, judgment and punishment ac-

shall exercise the duties of his office after he has
tal.

papers. No person shall be tried on impeach-
a copy thereof at least 20 days previous to the

ers. The legislature of this state may provide for
alfeasance or nonfeasance in the performance of

RTICLE IX

TO THE CONSTITUTION

ion. A majority of the members elected to each
e amendments to this constitution. Proposed
he laws passed at the same session and submit-
rejection at a general election. If a majority of
vote to ratify an amendment, it becomes a part
nendments are submitted at the same time, vot-
rately.

n. Two-thirds of the members elected to each
to the electors at the next general election the
se this constitution. If a majority of all the elec-
convention, the legislature at its next session,
convention. The convention shall consist of as
of the house of representatives. Delegates shall
mbers of the house of representatives and shall
election. Section 5 of Article IV of the constitu-
onvention.

onstitution drafted at convention. A convention
submit any revision to the people for approval
n held not less than 90 days after submission of
lectors voting on the question vote to ratify the
of the state of Minnesota.

RTICLE X

AXATION

mptions; legislative powers. The power of tax-
ended or contracted away. Taxes shall be uni-
nd shall be levied and collected for public pur-
blic school houses, public hospitals, academies,
learning, all churches, church property, houses
c charity, and public property used exclusively
t from taxation except as provided in this sec-
ation personal property not exceeding in value
r head of a family, and household goods and
mines. The legislature may authorize municipal
sments for local improvements upon property
h valuation. The legislature by law may define
s section other than churches, houses of wor-
cational purposes by academies, colleges, uni-

Sec. 2. Forestation. To encourage and promote forestation and reforestation of lands whether owned by private persons or the public, laws may be enacted fixing in advance a definite and limited annual tax on the lands for a term of years and imposing a yield tax on the timber and other forest products at or after the end of the term.

Sec. 3. Occupation tax; ores. Every person engaged in the business of mining or producing iron ore or other ores in this state shall pay to the state an occupation tax on the valuation of all ores mined or produced, which tax shall be in addition to all other taxes provided by law. The tax is due on the first day of May in the calendar year next following the mining or producing. The valuation of ore for the purpose of determining the amount of tax shall be ascertained as provided by law. Funds derived from the tax shall be used as follows: 50 percent to the state general revenue fund, 40 percent for the support of elementary and secondary schools and ten percent for the general support of the university.

Sec. 4. Motor fuel taxation. The state may levy an excise tax upon any means or substance for propelling aircraft or for propelling or operating motor or other vehicles or other equipment used for airport purposes and not used on the public highways of this state.

Sec. 5. Aircraft. The legislature may tax aircraft using the air space overlying the state on a more onerous basis than other personal property. Any such tax on aircraft shall be in lieu of all other taxes. The legislature may impose the tax on aircraft of companies paying taxes under any gross earnings system of taxation notwithstanding that earnings from the aircraft are included in the earnings on which gross earnings taxes are computed. The law may exempt from taxation aircraft owned by a nonresident of the state temporarily using the air space overlying the state.

Sec. 6. Taconite taxation. Laws of Minnesota 1963, Chapter 81, relating to the taxation of taconite and semi-taconite, and facilities for the mining, production and beneficiation thereof shall not be repealed, modified or amended, nor shall any laws in conflict therewith be valid until November 4, 1989. Laws may be enacted fixing or limiting for a period not extending beyond the year 1990, the tax to be imposed on persons engaged in (1) the mining, production or beneficiation of copper, (2) the mining, production or beneficiation of copper-nickel, or (3) the mining, production or beneficiation of nickel. Taxes imposed on the mining or quarrying of taconite or semi-taconite and on the production of iron ore concentrates therefrom, which are in lieu of a tax on real or personal property, shall not be considered to be occupation, royalty, or excise taxes within the meaning of this amendment.

Sec. 7. [Repealed November 5, 1974]

ARTICLE XI

APPROPRIATIONS AND FINANCES

Section 1. Money paid from state treasury. No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law.

Sec. 2. Credit of the state limited. The credit of the state shall not be given or loaned in aid of any individual, association or corporation except as hereinafter provided.

Sec. 3. Internal improvements prohibited; exceptions. The state shall not be a party in carrying on works of internal improvements except as authorized by this constitution. If grants have been made to the state especially dedicated to specific purposes, the state shall devote the proceeds of the grants to those purposes and may pledge or appropriate the revenues derived from the works in aid of their completion.

Sec. 4. Power to contract public debt; public debt defined. The state may contract public debts for which its full faith, credit and taxing powers may be pledged at the times and in the manner authorized by law, but only for the purposes and subject to the conditions stated in section 5. Public debt includes any obligation payable directly in whole or in part from a tax of state wide application on any class of property, income, transaction or privilege, but does not include any obligation which is payable from revenues other than taxes.

Sec. 5. Public debt and works of internal improvement; purposes. Public debt may be contracted and works of internal improvements carried on for the following purposes:

(a) to acquire and to better public land and buildings and other public improvements of a capital nature and to provide money to be appropriated or loaned to any agency or political subdivision of the state for such purposes if the law authorizing the debt is adopted by the vote of at least three-fifths of the members of each house of the legislature;

(b) to repel invasion or suppress insurrection;

(c) to borrow temporarily as authorized in section 6;

(d) to refund outstanding bonds of the state or any of its agencies whether or not the full faith and credit of the state has been pledged for the payment of the bonds;

(e) to establish and maintain highways subject to the limitations of article XIV;

(f) to promote forestation and prevent and abate forest fires, including the compulsory clearing and improving of wild lands whether public or private;

(g) to construct, improve and operate airports and other air navigation facilities;

(h) to develop the state's agricultural resources by extending credit on real estate security in the manner and on the terms and conditions prescribed by law; and

(i) as otherwise authorized in this constitution.

As authorized by law political subdivisions may engage in the works permitted by (f) and (g) and contract debt therefor.

Sec. 6. **Certificates of indebtedness.** As authorized by law certificates of indebtedness may be issued during a biennium, commencing on July 1 in each odd-numbered year and ending on and including June 30 in the next odd-numbered year, in anticipation of the collection of taxes levied for and other revenues appropriated to any fund of the state for expenditure during that biennium.

No certificates shall be issued in an amount which with interest thereon to maturity, added to the then outstanding certificates against a fund and interest thereon to maturity, will exceed the then unexpended balance of all money which will be credited to that fund during the biennium under existing laws. The maturities of certificates may be extended by refunding to a date not later than December 1 of the first full calendar year following the biennium in which the certificates were issued. If money on hand in any fund is not sufficient to pay all non-refunding certificates of indebtedness issued on a fund during any biennium and all certificates refunding the same, plus interest thereon, which are outstanding on December 1 immediately following the close of the biennium, the state auditor shall levy upon all taxable property in the state a tax collectible in the ensuing year sufficient to pay the same on or before December 1 of the ensuing year with interest to the date or dates of payment.

Sec. 7. **Bonds.** Public debt other than certificates of indebtedness authorized in section 6 shall be evidenced by the issuance of bonds of the state. All bonds issued under the provisions of this section shall mature not more than 20 years from their respective dates of issue and each law authorizing the issuance of bonds shall distinctly specify the purposes thereof and the maximum amount of the proceeds authorized to be expended for each purpose. The state treasurer shall maintain a separate and special state bond fund on his official books and records. When the full faith and credit of the state has been pledged for the payment of bonds, the state auditor shall levy each year on all taxable property within the state a tax sufficient with the balance then on hand in the fund to pay all principal and interest on bonds issued under this section due and to become due within the ensuing year and to and including July 1 in the second ensuing year. The legislature by law may appropriate funds from any source to the state bond fund. The amount of money actually received and on hand pursuant to appropriations prior to the levy of the tax in any year shall be used to reduce the amount of tax otherwise required to be levied.

Sec. 8. Permanent school fund; source; investment; board of investment. The permanent school fund of the state consists of (a) the proceeds of lands granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, (c) all cash and investments credited to the permanent school fund and to the swamp land fund, and (d) all cash and investments credited to the internal improvement land fund and the lands therein. No portion of these lands shall be sold otherwise than at public sale, and in the manner provided by law. All funds arising from the sale or other disposition of the lands, or income accruing in any way before the sale or disposition thereof, shall be credited to the permanent school fund. Within limitations prescribed by law, to secure the maxi-

The investment earnings distributed from the permanent school fund in FY81 were about $21,000,000. The portfolio for the fund on April 30 1981 was:

Stocks: $51,370,627
Bonds: 225,271,021
Short term: 13,754,584
$290,396,232

ublic land and buildings and other public improve-
rovide money to be appropriated or loaned to any
the state for such purposes if the law authorizing
at least three-fifths of the members of each house

ss insurrection;

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ds of the state or any of its agencies whether or not
has been pledged for the payment of the bonds;

ighways subject to the limitations of arucle XIV;

prevent and abate forest fires, including the com-
vild lands whether public or private;

perate airports and other air navigation facilities;

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subdivisions may engage in the works permitted
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e during that biennium.

in an amount which with interest thereon to matu-
certificates against a fund and interest thereon to
pended balance of all money which will be credited
nder existing laws. The maturities of certificates
date not later than December 1 of the first full cal-
n which the certificates were issued. If money on
pay all non-refunding certificates of indebtedness
m and all certificates refunding the same, plus in-
g on December 1 immediately following the close
hall levy upon all taxable property in the state a
ufficient to pay the same on or before December 1
the date or dates of payment.

her than certificates of indebtedness authorized in
issuance of bonds of the state. All bonds issued
shall mature not more than 20 years from their re-
authorizing the issuance of bonds shall distinctly
e maximum amount of the proceeds authorized to
state treasurer shall maintain a separate and spe-
ooks and records. When the full faith and credit of
ayment of bonds, the state auditor shall levy each
the state a tax sufficient with the balance then on
al and interest on bonds issued under this section
nsuing year and to and including July 1 in the sec-
y law may appropriate funds from any source to
money actually received and on hand pursuant to
the tax in any year shall be used to reduce the
be levied.

d; source; investment; board of investment. The
consists of (a) the proceeds of lands granted to
hools within each township, (b) the proceeds of
the state, (c) all cash and investments credited to
he swamp land fund, and (d) all cash and invest-
ovement land fund and the lands therein. No pro-
rwise than at public sale, and in the manner pre-
m the sale or other disposition of the lands or
the sale or disposition thereof, shall be credited to
limitations prescribed by law, to secure the maxi-

mum return thereon consistent with the maintenance of the perpetuity of the fund, and with the approval of the board of investment, the fund may be invested in: (1) interest bearing fixed income securities of the United States and of its agencies, fixed income securities guaranteed in full as to payment of principal and interest by the United States, bonds of the state of Minnesota or its political subdivisions or agencies, or of other states, but not more than 50 percent of any issue by a political subdivision shall be purchased; (2) stocks of corporations on which cash dividends have been paid from earnings for five consecutive years or longer immediately prior to purchase, but not more than 20 percent of the fund shall be invested therein at any given time nor more than one percent in stock of any one corporation, nor shall more than five percent of the voting stock of any one corporation be owned; (3) bonds of corporations whose earnings have been at least three times the interest requirements on outstanding bonds for five consecutive years or longer immediately prior to purchase, but not more than 40 percent of the fund shall be invested in corporate bonds at any given time. The percentages referred to above shall be computed using the cost price of the stocks or bonds. The principal of the permanent school fund shall be perpetual and inviolate forever. This does not prevent the sale of any public or private stocks or bonds at less than the cost to the fund; however, all losses not offset by gains shall be repaid to the fund from the interest and dividends earned thereafter. The net interest and dividends arising from the fund shall be distributed to the different school districts of the state in proportion to the number of students in each district between the ages of 5 and 21 years.

A board of investment consisting of the governor, the state auditor, the state treasurer, the secretary of state, and the attorney general is hereby constituted for the purpose of administering and directing the investment of all state funds. The board shall not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or his agent.

Sec. 9. **Investment of permanent university fund; restrictions.** The permanent university fund of this state may be loaned to or invested in the bonds of any county, school district, city or town of this state and in first mortgage loans secured upon improved and cultivated farm lands of this state, but no such investment or loan shall be made until approved by the board of investment; nor shall a loan or investment be made when the bonds to be issued or purchased would make the entire bonded indebtedness exceed 15 percent of the assessed valuation of the taxable property of the county, school district, city or town issuing the bonds; nor shall any farm loan or investment be made when the investment or loan would exceed 30 percent of the actual cash value of the farm land mortgaged to secure the investment; nor shall investments or loans be made at a lower rate of interest than two percent per annum nor for a shorter period than one year nor for a longer period than 30 years.

Sec. 10. **Exchange of public lands; reservation of rights.** As the legislature may provide, any of the public lands of the state, including lands held in trust for any purpose, may be exchanged for lands of the United States or privately held lands with the unanimous approval of the governor, the attorney general and the state auditor. Lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject. The state shall reserve all mineral and water power rights in lands transferred by the state.

Sec. 11. **Timber lands set apart as state forests; disposition of revenue.** School and other public lands of the state better adapted for the production of timber than for agriculture may be set apart as state school forests, or other state forests as the legislature may provide. The legislature may also provide for their management on forestry principles. The net revenue therefrom shall be used for the purposes for which the lands were granted to the state.

Sec. 12. **County, township or municipal aid to railroads limited.** The legislature shall not authorize any county, township or municipal corporation to become indebted to aid in the construction or equipment of railroads to any amount that exceeds five per cent of the value of the taxable property within that county, township or municipal corporation. The amount of taxable property shall be determined by the last assessment previous to the incurring of the indebtedness.

Sec. 13. **Safekeeping state funds; security; deposit of funds; embezzlement.** All officers and other persons charged with the safekeeping of state funds shall be required to give ample security for funds received by them and to keep an accurate entry of each sum received and of each payment and transfer. If any person converts to

ment indicating the employee's physical fitness for the resumption of regular duties.

(e) An employee returning to active duty after a leave of absence for temporary disability shall be entitled to an assignment at the school where the employee formerly taught, subject to the availability of an appropriate teaching position. In any event, the employee shall be placed on active duty no later than the beginning of the next term.

(f) The length of a leave of absence for temporary disability shall be granted by the superintendent as required by the individual employee. The governing board of a school district may establish a maximum length for a leave of absence for temporary disability, but in no event shall that maximum be set at less than 180 days.

[Acts 1973, 63rd Leg., p. 1276, ch. 470, § 1, eff. June 14, 1973.]

CHAPTER 14. SCHOLASTIC CENSUS [REPEALED]

Chapter 14, Scholastic Census, was repealed by Acts 1975, 64th Leg., p. 6, ch. 4, § 1.

§§ 14.01, 14.02. Repealed by Acts 1975, 64th Leg., p. 6, ch. 4, § 1, eff. Feb. 13, 1975

§§ 14.03 to 14.06. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

§§ 14.07 to 14.09. Repealed by Acts 1975, 64th Leg., p. 6, ch. 4, § 1, eff. Feb. 13, 1975

CHAPTER 15. STATE FUNDS FOR THE SUPPORT OF PUBLIC SCHOOLS

Section

15.01. Composition of the Public School Funds.
15.02. Investment of Permanent School Fund.
15.03. Purchase and Sale or Exchange of Securities.
15.04. Treatment of Premium and Discount.
15.05. Prepayment of Certain Bonds Held by the Permanent School Fund.
15.06. Default of School District Securities Held by the Permanent School Fund.
15.07. Authorized Refunding of Defaulted School Bonds.
15.08. Refunding Other Defaulted Obligations.
15.09. Jurisdiction.
15.10. Duties of the State Comptroller of Public Accounts.
15.11. Duties of the State Treasurer.
15.12. Use of Available School Fund.
15.13. Use of Commercial Banks as Agents for Collection of Income from Permanent School Fund Investments.
15.14. Participation in Fully Secured Securities Loan Programs.

§ 15.01. Composition of the Public School Funds

(a) The permanent school fund, which shall constitute a perpetual endowment for the public free schools of this state, shall consist of:

(1) all land appropriated for the public schools by the constitution and laws of Texas;

(2) all the unappropriated public domain remaining in Texas, including all land recovered by the state by suit or otherwise except pine forest land as defined in Section 12, Article 2613, Revised Civil Statutes of Texas, 1925, as amended; [1]

(3) all proceeds from the authorized sale of permanent school fund land, or any portion thereof, surveyed or unsurveyed;

(4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;

(5) all investments (authorized in Section 15.02 of this code) of properties belonging to the permanent school fund; and

(6) all income from the mineral development of land constituting the permanent school fund, including income from mineral development of riverbeds and other submerged land.

(b) The available school fund, which shall be apportioned annually to the several counties of Texas according to the scholastic population of each, shall consist of:

(1) the interest and dividends arising from any securities or funds belonging to the permanent school fund;

(2) all interest derivable from the proceeds of the sale of land set apart for the permanent school fund;

(3) all money derived from the lease of land belonging to the permanent school fund;

(4) all revenue collected by the state from an annual state ad valorem tax of an amount not to exceed 35 cents on the $100 valuation, exclusive of delinquencies and cost of collection;

(5) one-fourth of all revenue derived from all state occupation taxes, exclusive of delinquencies and cost of collection;

(6) $1 dollar from each poll tax collected by the state, exclusive of cost of collection;

(7) one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and

(8) all other appropriations to the available school fund as made or may be made by the legislature for public free school purposes.

(c) The term "scholastic population" in Subsection (b) of this section, and when and wherever found in the several laws governing the apportionment, distribution, and transfer of the state available school fund, is hereby defined to mean and include all pupils within scholastic age enrolled in average daily attendance the next preceding scholastic year in the public elementary and high school grades of school districts within or under the jurisdiction of a county of this state. The basis provided herein for the apportionment, distribution, and transfers of the

state available school fund shall be applicable to such fund to be apportioned for the year beginning September 1, 1969, and annually thereafter.

[Acts 1969, 61st Leg., p. 2798, ch. 889, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1489, ch. 405, § 17, eff. May 26, 1971.]

[1] Repealed; see, now, § 88.111.

§ 15.02. Investment of Permanent School Fund

(a) In compliance with provisions of this section, the State Board of Education is authorized and empowered to invest the permanent school fund in the types of securities, which must be carefully examined by the State Board of Education and be found to be safe and proper investments for the fund as specified below:

(1) securities, bonds, or other obligations issued, insured, or guaranteed in any manner by the United States Government or any of its agencies; and in bonds issued by the State of Texas;

(2) obligations and pledges of The University of Texas;

(3) corporate bonds, debentures, or obligations, of United States corporations of at least "A" rating;

(4) bonds issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank of Reconstruction and Development (the World Bank), and the Asian Development Bank;

(5) bonds of counties, school districts, incorporated cities or towns, road precincts, drainage, irrigation, navigation, and levee districts in Texas, under the following rules and regulations:

(A) such securities, prior to their purchase, must have been diligently investigated by the attorney general of Texas both as to their form and as to their legal compliance with applicable laws;

(B) the attorney general's certificate of validity procured by the party offering such bonds, obligations, or pledges must accompany these securities when they are submitted for registration to the state comptroller, who must preserve the certificates;

(C) these public securities, if purchased, and when certified and registered as specified above, shall be incontestable unless issued fraudulently or in violation of a constitutional limitation, and the certificates of the attorney general shall be prima facie evidence of the validity of the bonds and coupons thereto; and

(D) after the issuing political subdivision of Texas has received the proceeds from the sales of such public securities, the issuing agency shall be estopped to deny their validity, and the same shall be held to be valid and binding obligations;

(6) preferred stocks and common stocks as to the State Board of Education may deem to be proper investments for the permanent school fund, under the following rules and regulations:

(A) in making all such investments the State Board of Education shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital;

(B) stocks eligible for purchase are restricted to stocks of companies incorporated within the United States which have paid dividends for five consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors;

(C) not more than one percent of the permanent school fund may be invested in stock issued by one corporation nor shall more than five percent of the voting stock of any one corporation be owned;

(D) at the discretion of the State Board of Education, corporate securities of the permanent school fund may be sold and the proceeds reinvested for the fund under the terms of this code; and

(7) notwithstanding any other law or provisions in this code, first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States,[1] as amended from time to time, or in any other first lien real estate mortgage securities guaranteed in whole or in part by the United States Government or any agency thereof.

(b) to (g) Repealed by Acts 1979, 66th Leg., p. 1537, ch. 661, § 2, eff. June 13, 1979.

[Acts 1969, 61st Leg., p. 2799, ch. 889, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1490, ch. 405, § 18, eff. May 26, 1971; Acts 1971, 62nd Leg., p. 1668, ch. 472, § 3, eff. Aug. 30, 1971; Acts 1977, 65th Leg., p. 1957, ch. 779, § 1, eff. June 16, 1977; Acts 1979, 66th Leg., p. 1535, ch. 661, §§ 1, 2, eff. June 13, 1979.]

[1] 12 U.S.C.A. § 1701 et seq.

§ 15.03. Purchase and Sale or Exchange of Securities

(a) The State Board of Education may authorize the purchase of all of the types of securities in which it is authorized by law to invest the permanent school fund in either registered or negotiable form; and it may authorize the reissue of such securities held at any time for the account of the permanent school fund in either registered or negotiable form. The State Board of Education may authorize the sale of any of the securities held for the account of the permanent school fund and reinvest the proceeds of sale for the fund; and it may authorize the exchange of any of the securities held for the account of the permanent school fund.

(1) None may be sold for a price less than the actual amount of money of the permanent school fund invested in it;

(2) None may be exchanged for a public security having a principal value less than the principal value of the security exchanged; and

(b) In making each and all of such purchases, sales, exchanges and reissues the State Board of Education shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

(c) When any securities are sold, reissued, or exchanged as provided in Subsection (a) of this section, the custodian of such securities shall make delivery of the securities sold, reissued, or exchanged in accordance with the directions of the State Board of Education.

[Acts 1969, 61st Leg., p. 2801, ch. 889, § 1, eff. Sept. 1, 1969; Acts 1977, 65th Leg., p. 1958, ch. 779, § 2, eff. June 16, 1977; Acts 1979, 66th Leg., p. 1537, ch. 661, § 3, eff. June 13, 1979.]

§ 15.04. Treatment of Premium and Discount

(a) If the State Board of Education authorizes the payment of a premium out of the permanent school fund in the purchase of any bond, obligation, or pledge as an investment for that fund, then the principal of such securities and an amount of the interest first accruing thereon equal to the premium so paid shall be treated as principal in such investment, and when the first interest is collected, the amount of the premium shall be returned to the permanent school fund.

(b) If the State Board of Education authorizes the purchase of a public security at less than par, the discount received in the purchase shall be paid to the available school fund when the bonds, obligations, or pledges are paid off and discharged.

[Acts 1969, 61st Leg., p. 2802, ch. 889, § 1, eff. Sept. 1, 1969.]

§ 15.05. Prepayment of Certain Bonds Held by the Permanent School Fund

(a) The State Board of Education may authorize the governing body of any school district or political subdivision in Texas to pay off and discharge, at any interest paying date whether the bonds are matured or not, all or any part of any outstanding bond indebtedness now owned or hereafter to be owned by the permanent school fund, under the rules and regulations of this section.

(b) The governing body of the respective political subdivision desiring to pay off and discharge any such bonded indebtedness owned by the fund shall make such desire known by direct application in writing to the State Board of Education, at least 30 days before any interest paying date on the bonds, describing the bonds or part thereof it desires to pay off and discharge. The application shall be accompanied by an affidavit stating that only such tax money as may be collected by virtue of tax levy made for the specific purpose of providing a sinking fund and paying interest on the particular bonds to be redeemed shall be expended in the redemption, taking up, or paying off the bonds.

(c) The State Board of Education upon receipt of such application and affidavit shall take action on them in such manner as it may deem best and notify the applicant whether the application is refused or granted in whole or in part.

(d) It shall be unlawful for any person on whom any duty rests in carrying out the provisions of this section to give or receive any commission, premium, or compensation for the performance of such duty.

(e) Only such tax money as had been collected by virtue of tax levies made for the specific purpose of providing a sinking fund and paying interest on the particular bonds to be redeemed shall be expended in the redemption, taking up, or paying off of such bonds as provided in this section, unless such bonds are being redeemed for the purpose of being refunded.

[Acts 1969, 61st Leg., p. 2802, ch. 889, § 1, eff. Sept. 1, 1969.]

§ 15.06. Default of School District Securities Held by the Permanent School Fund

(a) If interest and/or principal has not been paid for two years or more on any bonds issued by any school district (city controlled or otherwise) and held by the permanent school fund, the State Board of Education shall have the authority described in this section.

(b) The State Board of Education may compel any such school district to levy a tax sufficient to meet the interest and principal payments as then or later due.

(c) If any such district furnishes to the State Board of Education satisfactory proof that its taxing ability is insufficient, the State Board of Education may require the district to exhaust all legal remedies in collecting taxes then delinquent, and to levy a tax at the maximum lawful rate on the bona fide valuation of taxable property located in the district.

(d) Revenue collected by either method specified in Subsections (b) and (c) of this section shall be distributed proportionately to all owners of the defaulted securities and shall be in compliance with the following rules:

(1) The proportionate share for each owner will be based on the interest and principal requirements of the original security before authorized refunding; and

(2) Prior acceptance of refunding securities will not reduce an owner's proportionate share.

(e) As long as any such school district is delinquent in its payments of principal and/or interest on any of its bonds owned by the permanent school fund, the State Board of Education shall have the authority to specify the method of crediting payments to the state made by the district as to principal and interest.

(f) The comptroller of public accounts shall not issue any warrant from the foundation school fund to or for the benefit of any district which has been for as long as two years in default in the payment of principal or interest on any security owned by the permanent school fund unless and until the State Board of Education certifies that the district has satisfactorily complied with the appropriate provisions of this section, in which event the comptroller shall resume making payments to or for the benefit of the district, including the making of pretermitted payments.

[Acts 1969, 61st Leg., p. 2803, ch. 889, § 1, eff. Sept. 1, 1969.]

§ 15.07. Authorized Refunding of Defaulted School Bonds

(a) In compliance with the provisions of this section, the State Board of Education is authorized to revise, readjust, modify, refinance, or refund defaulted bonds issued by any school district in Texas and owned by either the permanent school fund or the available school fund.

(b) Application must be made to the State Board of Education by the district which issued the bonds and must show that:

(1) delinquent interest totals at least 50 percent of the principal amount of the bonds; and

(2) taxable valuation has decreased to such an extent that a full application of the proceeds of the voted authorized tax authorized to be levied on the $100 taxable property valuation will not meet interest and principal annually maturing on the bonds.

(c) The State Board of Education may effect a refunding of the debt due and to become due only if the board finds that:

(1) the district is unable to pay the sums already matured and the sums contracted to be paid as they mature by paying annually to the State Board of Education the full proceeds of a 50-cent tax levy on the $100 of all taxable valuation of property within the district;

(2) the taxable valuation of property in the district has decreased at least 75 percent since the bonds were issued and that the decrease was not caused by the district or any of its officials;

(3) the district for a period of at least five years before applying to the State Board of Education for refunding has levied a tax of 50 cents on the $100 of taxable valuation of property in the district, and that despite such levies, the aggregate amount due the State Board of Education exceeds the aggregate amount due at the beginning of the period;

(4) no additional bonds of the district have been authorized and sold during the five-year period immediately preceding the application; and

(5) the district has in good faith endeavored to pay its debt in accordance with the contract evidenced by the bonds held for the account of the permanent school fund or the available school fund.

(d) If the conditions specified in Subsection (c) of this section are found to exist, the district shall, for the purposes of this section, be deemed to be insolvent, and the State Board of Education may exchange the bonds, interest coupons, and other evidences of indebtedness for new refunding bonds of the district issued in compliance with the following regulations:

(1) The principal amount of the refunding bonds shall not be less than the total amount of the bonds, matured interest coupons, accrued interest, and interest on delinquent interest then actually due to the permanent school fund and/or the available school fund;

(2) The rate of interest to be borne by the refunding bonds may be lower than that borne by the bonds to be refunded if in consideration of the interest reduction the district agrees to levy a tax each year for a period of 40 years at a rate sufficient to produce annually a sum equal to 90 percent of the amount that can be calcu-

lated by the levy of a tax at the rate of 50 cents on the $100 of taxable valuation of property as determined by the latest approved tax roll of the district, and in determining the rate of interest to be borne by the refunding bonds, the State Board of Education shall be governed by the following:

(A) The State Board of Education is authorized to require the rate to be such percent per annum as in its judgment will represent the maximum rate that can be paid by the district and still permit an orderly and certain retirement of the refunding bonds within 40 years from their date;

(B) The interest rate of refunding bonds to be received in exchange for bonds owned by the permanent school fund shall not be less than the minimum rate at which bonds may then be purchased as investments for the permanent school fund; and

(C) The rate of interest of refunding bonds to be received in exchange for bonds owned by the available school fund may be set by the State Board of Education at any rate which it deems feasible, and such refunding bonds may, at the discretion of the State Board of Education, be made non-interest bearing to such date as may be fixed by the board.

(e) No revision, readjustment, modification, refinancing, or refunding shall be made by the State Board of Education that will release or extinguish any debt or obligation then due and payable to the permanent school fund or to the available school fund.

(f) Except as otherwise provided or permitted by this section, the refunding of the bonds of school districts herein authorized shall be in compliance with the general provisions with regard to the refunding of school district bonds as specified in this code.

[Acts 1969, 61st Leg., p. 2803, ch. 889, § 1, eff. Sept. 1, 1969.]

§ 15.08. Refunding Other Defaulted Obligations

(a) Defaulted obligations (other than bonds of school districts as provided in Section 15.07 of this code) due the available school fund may be refinanced or refunded with the approval of the State Board of Education in compliance with the provisions of this section.

(b) "Defaulted obligations," as used herein, shall include delinquent interest whether represented by coupons or not, interest on delinquent interest, and any other form of obligation due the available school fund.

(c) The obligor must make application to the State Board of Education and show:

(1) that the obligations due the available school fund have been in default in whole or in part for a continuous period of at least 15 years; and

(2) that the obligor is not in default in the payment of the principal of any bonds owned by the permanent school fund.

(d) If the State Board of Education finds that the above-specified requirements have been met, it may approve a refinancing or the issuance of refunding bonds on the conditions:

(1) that the refunding bonds must mature serially in not exceeding 40 years from the date of issuance;

(2) that the principal amount of the refunding bonds shall be not less than the total amount of the obligations then in default and due the available school fund;

(3) that the refunding bonds shall bear interest at such rate or rates as may be determined by the State Board of Education to be for the best interest of the available school fund.

(e) The State Board of Education in its discretion is authorized to accept refunding bonds in lieu of either matured or unmatured bonds held for the benefit of the permanent school fund, provided that the rate of interest on the new refunding bonds is at least the same rate as that of the bonds being refunded.

(f) Refunding bonds issued with the approval or pursuant a refunding agreement with the State Board of Education in compliance with either this section or Section 15.07 shall, on the order of the State Board of Education, be exchanged by the state treasurer for the defaulted obligations they have been issued to refund.

[Acts 1969, 61st Leg., p. 2805, ch. 889, § 1, eff. Sept. 1, 1969.]

§ 15.09. Jurisdiction

The district courts of Travis County shall have jurisdiction of any suit on bonds or obligations belonging to the permanent school fund, or purchased therewith, concurrent with that of any other court having jurisdiction in said case.

[Acts 1969, 61st Leg., p. 2806, ch. 889, § 1, eff. Sept. 1, 1969.]

§ 15.10. Duties of the State Comptroller of Public Accounts

(a) On or before July 1 of each year, the comptroller of public accounts shall estimate the amount of the available school fund receivable from every source during the coming scholastic year and report this estimate to the State Board of Education.

(b) On or before the meeting of each regular session of the legislature, the comptroller of public accounts shall report to the legislature an estimate of the amount of the available school fund to be received for the succeeding two years, and the several sources from which the same accrues, and which may be subject to appropriation for the establishment and support of public schools.

(c) On or before the first working day of each month, the comptroller shall certify to the state commissioner of education the total amount of money collected from every source during the preceding month and on hand to the credit of the available school fund.

(d) On receipt of certificates issued to him by the commissioner of education, the comptroller shall draw his warrants on the state treasurer and in favor of the treasurer (depository) of the available school fund of each school district for the amounts stated in the certificates. All such warrants shall be registered and transmitted to the state treasurer. [Acts 1969, 61st Leg., p. 2806, ch. 889, § 1, eff. Sept. 1, 1969.]

§ 15.11. Duties of the State Treasurer

(a) At least 30 days before each regular session of the legislature and 10 days before any special session at which there can be legislation respecting the public schools, the state treasurer shall report to the governor the condition of the permanent school fund and the available school fund, the amount of each and the manner of its disbursement.

(b) The treasurer shall provide the State Board of Education with the reports specified in Subsection (a) of this section, and with such additional reports as to those funds which the State Board of Education may request.

(c) The treasurer shall see to it that no portion of either the permanent school fund or the available school fund is used to pay any warrant drawn against any other fund.

(d) The treasurer shall receive and hold in a special deposit and keep account for all properties belonging to the available school fund. All warrants drawn on this fund by the comptroller of public accounts pursuant to certificate of the state commissioner of education must be registered by the state treasurer and then transmitted to the commissioner of education; and when properly endorsed shall be paid by the treasurer in the order of their presentation.

(e) On order of the State Board of Education, the treasurer shall exchange or accept refunding bonds in lieu of:

(1) either matured or unmatured bonds held for the benefit of the permanent school fund, which are being refunded under the terms of this chapter;

(2) defaulted obligations held for the benefit of the available school fund, provided that the refunding bonds are issued in compliance with Section 15.08 of this code;

(3) defaulted obligations of any school district of Texas held for the benefit of the permanent school fund or the available school fund, provided the refunding bonds are issued in compliance with Section 15.07 of this code;

(4) refunding bonds of any school district of Texas for school bonds not matured held by the state treasurer for the permanent school fund, when such new refunding bonds are issued by the school district in compliance with this code.

(f) The state treasurer shall be the custodian of all securities enumerated in Subdivision (5) of Subsection (a) of Section 15.02 of this code and of such other securities as may be designated from time to time by the State Board of Education in which the school funds of the state have been or may hereafter be invested, and shall keep these securities in his custody until paid off, discharged, delivered as required by the State Board of Education, or otherwise disposed of by the proper authorities of the state, and on the proper installment of any interest or dividend, shall see that the proper credit is given, and the coupons on bonds, when paid, shall be properly separated therefrom and cancelled by the treasurer.

[Acts 1969, 61st Leg., p. 2806, ch. 889, § 1, eff. Sept. 1, 1969; Acts 1979, 66th Leg., p. 1537, ch. 661, § 4, eff. June 13, 1979.]

§ 15.12. Use of Available School Fund

(a) All available public school funds of Texas shall be appropriated in each county for the education of its children.

(b) No part of the permanent school fund or the available school fund shall be appropriated or used for the support of any sectarian school.

(c) Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.

[Acts 1969, 61st Leg., p. 2807, ch. 889, § 1, eff. Sept. 1, 1969; Acts 1975, 64th Leg., p. 2378, ch. 734, § 3, eff. June 21, 1975; Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.]

§ 15.13. Use of Commercial Banks as Agents for Collection of Income from Permanent School Fund Investments

(a) The State Board of Education is authorized and empowered to contract with a commercial bank or banks to receive payments of dividends and interest on securities in which the state permanent school funds are invested and to transmit such money with identification of their source to the state treasurer

for the account of the available school fund by the fastest available means.

(b) In choosing each commercial bank or banks with which to contract as authorized in Subsection (a) of this section, the State Board of Education shall assure itself of:

(1) the financial stability of such commercial bank;

(2) the location of such commercial bank with respect to its proximity to the banks upon which checks are drawn in payment of dividends and interest on securities of the permanent school fund;

(3) the experience and reliability of such commercial bank in acting as agent for others in the similar collection and expeditious remittance of money; and

(4) the reasonableness of such commercial bank's charges for such services, both in amount of such charges and in relation to the increased investment earnings of the available school fund which will result from speedier receipt by the state treasurer of such money.

[Acts 1979, 66th Leg., p. 1538, ch. 661, § 5, eff. June 13, 1979.]

§ 15.14. Participation in Fully Secured Securities Loan Programs

(a) The State Board of Education is authorized and empowered to contract with a commercial bank or banks to serve both as a custodian of securities in which the state permanent school funds are invested and to lend these securities, under the conditions set out in Subsection (b) of this section, to securities brokers and dealers on short-term loan.

(b) The State Board of Education may contract with a commercial bank or banks pursuant to this section only in accordance with the following requirements:

(1) the bank shall be located in a city having a major stock exchange;

(2) the bank shall be experienced in the operation of a fully secured securities loan program;

(3) the bank shall have adequate capital in the prudent judgment of the State Board of Education to assure the safety of the securities entrusted to it as a custodian;

(4) the bank shall require of any securities broker or dealer to which it lends securities owned by the state permanent school fund that such broker or dealer deliver to it cash collateral for such loan of securities, which cash collateral shall at all times be not less than 100 percent of the market value, from time to time, of such securities lent;

(5) the bank shall execute an indemnification agreement, satisfactory in form and content to the State Board of Education, fully indemnifying the permanent and available school funds against loss resulting from the bank's service as custodian of securities of the permanent school fund and its operation of a securities loan program using securities of the permanent school fund;

(6) the bank shall speedily collect and remit on the day of collection by the fastest available means to the state treasurer any dividends and interest collectible by it on securities held by it as custodian together with identification as to source; and

(7) the bank or banks chosen shall be the bank or banks agreeing to pay to the available school fund the largest sum or highest percentage of the income derived by it from use of the securities of the permanent school fund in the operation of a securities loan program.

[Acts 1979, 66th Leg., p. 1538, ch. 661, § 6, eff. June 13, 1979.]

CHAPTER 16. FOUNDATION SCHOOL PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Section
16.001. State Policy.
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SUBCHAPTER B. REQUIREMENTS FOR DISTRICT PARTICIPATION IN THE FOUNDATION SCHOOL PROGRAM FUND

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16.101. Personnel Support: General Rules.
16.102. Education Program Personnel.
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SUBCHAPTER D. CURRENT OPERATING COST COMPONENT

16.151. Operating Cost Allotment.
16.152. Use of Operating Allotment.

This section invested in Legislature full power to do whatever is necessary to establish and maintain an "efficient" system of public free schools, and Legislature had authority to delegate to districts such power as may be necessary to accomplish end intended. Id.

Legislature has wide constitutional authority in establishing and maintaining a system of public free schools and is free to change or constitute school districts or validate changes after they have been made. Live Oak County Bd. of School Trustees v. North Common School Dist., Civ.App., 195 S.W.2d 436, affirmed 145 T. 251, 199 S.W.2d 764.

Legislature has power to validate independent school district even if district was invalid in its creation. Id.

Where a school district is performing some function, the duty of which is placed on it by law, and which is for the welfare of the public at large, and one not voluntarily assumed and merely for benefit of people in some particular locality, such function is "governmental" in character and not "proprietary", and school district is not required to respond in damages for negligence of its agents, servants and employees, in absence of statute. Treadaway v. Whitney Independent School Dist., Civ.App., 205 S.W.2d 97.

Though a school district is local in territorial limits, it is an integral part of the vast school system which is coextensive with the confines of the state, and therefore the activities of a school district are "governmental". Id.

Independent school districts have no authority to spend local tax moneys for the purpose of conducting classes for adults over 21 years of age. Op.Atty.Gen., 1939, No. 1676.

Property of independent school district was not exempt from taxation, where it was not being used for public purposes. Op.Atty.Gen., 1940, No. 0-2506.

The county boards of school trustees have legal discretionary power to sponsor and administer schools organized by state board for vocational education in cooperation with Veterans' Administration for purpose of providing vocational educational training for World War II veterans. Op.Atty.Gen., 1947, No. V-51.

7. Colleges

The North Texas State Teachers College is a "state governmental agency" within meaning of that term as used in Acts Dec. 22, 1944, ch. 665, § 4, 58 Stat. 889, 16 U.S.C.A. § 460d, and is thus able to obtain special consideration in leasing of federal lands. Op.Atty.Gen., 1946, No. 0-7049.

8. Fraternities and sororities

Order of school board requiring all junior and senior high school students to sign pledge cards pledging that they are not and will not become a member of any fraternity, sorority or secret organization, not approved by principal, as a prerequisite to becoming eligible to participate in extra-curricular activities is authorized by this section. Wilson v. Abilene Independent School Dist., Civ.App., 190 S.W.2d 406, ref. w. m.

School board did not abuse its discretion in passing order requiring all junior and senior high school students to sign a pledge card pledging that they are not and will not become a member of any fraternity, society or secret organization, not approved by principal, as a prerequisite to becoming eligible to participate in extra-curricular activities, except as it sought to extend such regulation to the vacation period which to that extent was invalid as invasion of parental authority. Id.

9. Curative legislation

Although proceeding of county school trustees in abolishing school district and transferring territory to other district was unauthorized, Legislature could enact curative legislation. Cowan v. Clay County Board of Education, Civ.App., 41 S.W.2d 513.

10. Appropriations

Salaries of employees of department of education employed to administer national school lunch program and school plant division of department for inspecting school plans and plants for architectural and engineering safety, who have not been paid their salaries, may be paid by an appropriation to be contained in the miscellaneous claims bill, if allowed and included therein by legislature. Op.Atty.Gen., 1947, No. V-113.

§ 2. Perpetual school fund

Sec. 2. All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain

of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual public school fund.

INTERPRETIVE COMMENTARY

Although public education led a precarious existence throughout the early history of Texas, nonetheless, vast tracts of land were set aside to establish a permanent source of revenue for the educational system. As early as 1839, the Republic passed a law providing that three leagues of public domain (13,284 acres) should be surveyed and set apart in each county for the purpose of establishing a primary school system (2 Gammel's Laws of Texas, pp. 134–136). In 1840 a fourth league was added (2 Gammel's Laws of Texas, pp. 320–322); the original three leagues could only be leased while the fourth could be sold by the county to defray school expenses. Thus in a two-year period the Republic had granted 4,209,413 acres of land to endow the educational system. The funds obtained from these lands were handed over unconditionally to the counties, congress reserving no supervisory powers thereover. The benefits of these early grants were reaped much later, for by the year 1855 but 41 of the then existing 99 counties had completed their surveys.

By the treaty of annexation between the United States and Texas, the federal government acquired no part or interest in the public lands of Texas, save for certain key locations on the Gulf of Mexico for public defense. The balance of the public domain was retained by the state to pay off the indebtedness of the Republic which the Federal government preferred not to assume. The first state constitution provided that all public lands granted in the past or future for public schools could not be alienated and could only be leased for 20 years. Such counties as had not received school lands were declared entitled to the same quantity appropriated by the Republic to other counties (Art. 10, Const.1845).

"There have always existed with the people of this State three prominent objects which, through their constitution and laws, they have worked to accomplish by means of the public domain. These objects were to secure immigration, promote education, and to encourage the construction of railroads." (Galveston, H. & S. A. Ry. Co. v. State, 77 Tex. 367, 12 S.W. 988.) And it might be added that education and railroads were often closely entwined. In 1854 the legislature passed "An act to encourage the construction of railroads in Texas by donation of lands" (3 Gammel's Laws of Texas, p. 1178) which provided that whenever a company had completed 25 miles of roadbed it should be entitled to receive 16 sections of land of 640 acres a section. The land was to be surveyed by the company at its own expense in double the amount it was entitled to receive, each

alternate section so surveyed being set aside for the state. The 1866 Constitution provided that all the alternate sections of land reserved by the state out of previous or future grants to railroads or other corporations were to be set aside as a part of the perpetual school fund. (Art. 10, Sec. 3, Const.1866). The wording was somewhat changed but the idea of reserving public lands and creating therefrom a vast public trust fund for the benefit of education was continued in the 1869 Constitution (Art. 9, Sec. 4) and also in the present constitution, which added to the fund one-half of the remaining unreserved portion of the public domain. It was discovered in 1898 that the then remaining unappropriated public domain was insufficient to satisfy the claims of the public school fund for its half of the unreserved lands as provided by the Constitution. The Texas Supreme Court, in Hogue v. Baker, 92 T. 58, 45 S.W. 1004 (1898), barred further locations on the public domain. The accounting made between the State and the school fund the following year, 1899, disclosed a shortage to the school fund of 5,902,076 acres. The remaining public domain was discovered to consist of 5,167,075 acres, 1,722,880 acres of which was in lakes, bays, islands, etc., leaving the total for the school fund at 4,444,195 acres. To satisfy the balance, the legislature made a cash settlement of $17,180 for the difference (11 Gammel's Laws of Texas, pp. 14–15).

Of the 42,549,000 acres of land Texas appropriated to the permanent school fund over the years, only one million acres remains, the rest having been sold for the benefit of the fund. It is estimated that at present the fund has a potential value of $400,000,000 n counting the public domain as encompassed in the off-shore lands.

Historical Note

Earlier Constitutions:

Const.1845, art. X, § 2.
Const.1861, art. X, §§ 2, 3.
Const.1866, art. X, § 2.
Const.1869, art. IX, §§ 1-9.

Cross References

Permanent and available school funds, see section 5 of this article.

Notes of Decisions

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1. Construction and application

The words "public domain," as here used, meant simply that one-half of the public domain then unappropriated to some use by the constitution, or some precedent obligation, should be so appropriated. It makes that which, in a general sense, was public domain, and that which was unappropriated public domain to the named extent, with other things named, the aggregated perpetual school fund formed from funds all of which were in a general sense public domain; some, however, already appropriated, and others unappro-

priated, until this was done by the express declaration that "one-half of the public domain of the state * * * shall constitute a perpetual school fund." Day Land and Cattle Co. v. State, 88 T. 526, 4 S.W. 865.

Acts 1929, 41st Leg. 3d C.Sess. c. 14, providing for promotion of public school interest of rural schools, and equalizing educational opportunities afforded by state to all children, held not to violate this section. Marrs v. Mumme, Civ.App., 25 S.W.2d 215, error denied 120 T. 333, 40 S.W.2d 31.

Vernon's Ann.Civ.St. art. 5414b, held in violation of this section. Armstrong v. Walker, 123 T. 503, 73 S.W.2d 520.

2. Lands constituting funds

The effect of this section was not to vest in the school fund an individual half of all the public domain unappropriated at the time of its adoption, but to vest title in half of such public land as should remain unappropriated for the other purposes enumerated in the Constitution. Galveston H. & S. A. R. Co. v. State, 77 T. 367, 12 S.W. 988.

The school fund in addition to alternate sections granted to the state is not entitled to one-half of the other sections. Schley v. Maddox, Civ.App., 22 S.W. 998.

The plain purpose of the section is to declare what shall be the school fund. Lands theretofore set apart to that fund are preserved to it, and it is further declared that one-half of the public domain shall constitute a part of the constitutional dedication. In our opinion it fixed the right of the school fund in one-half of the unappropriated public domain, but left the legislature with extended authority over the segregation of that interest by partition of the lands, or of their proceeds. It gave to the school fund the right to an equitable half of the public domain, and in doing so this provision executed itself. The mode of partition, or of the segregation of that half, except as to alternate certificates granted to railroad companies and other corporations, was left wholly to legislative control; and it seems to us that if the legislature had made a partition, or provided a mode of segregation, its action would have been conclusive. Hogue v. Baker, 92 T. 63, 45 S.W. 1004.

Under this section public lands remaining after appropriation of more than one-half of the public domain existing at the time of the adoption of the Constitution to purposes other than the school funds constitutes a part of the lands belonging to the public school fund which the commissioner of the general land office is empowered to lease and one holding the lease is entitled to possession as against one having shown no title other than possession. Hall v. Rushing, 21 C.A. 631, 54 S.W. 30.

Act Feb. 3, 1833, § 1, provides that all public lands surveyed for the benefit of the public schools by virtue of any certificate shall belong to the public schools. Land was located and surveyed in 1861 under a railroad land grant, the alternate sections being reserved to the state under this section one of which was sold by the state in 1898 to defendant after it had been patented to plaintiff. Held that the lands were school lands subject to sale and not to patent, though the land grant under which the survey was made was invalid. Mills v. Needham, 28 C.A. 547, 67 S.W. 1097.

Rev.St.1879, art. 4167, relating to railroad rights of way over state lands when construed in the light of Const. art. 7, §§ 4, 5, and this section, does not embrace the public free school lands. T. C. Ry. Co. v. Bowman, Civ.App., 75 S.W. 556.

Under this section and Rev.St.1895, art. 4265, any mistake of the land commissioner in failing to charge such lands to the school fund in the adjustment on the partition between the state and the permanent school fund of the lands jointly owned by the state and that fund as provided by law cannot affect the character of the lands as school lands. Eyl v. State, 37 C.A. 297, 84 S.W. 607.

Under Rev.St.1895, art. 4269, and this section, a location of school land for the state will prevail over a subsequent location of county school land although a patent is first issued on the county location. Ellwood v. Stallcup, Civ.App., 122 S.W. 906.

Unless, when the judgment was rendered, more than half the public domain had been exhausted by grants and patents from the state for the benefit of others than the public free school fund, land covered by a patent issued by the state did not at once by virtue of a judgment in favor of the state canceling the patent become the property of such school fund under this section. State v. Powell, Civ. App., 134 S.W. 746.

Under this section upon the segregation of the land by survey the right of the school fund attaches and the state becomes trustee to dispose of it for the benefit of such fund without the power to divert it to other purposes. Post v. Embry, Civ. App., 205 S.W. 514.

Constitutional provision held not to appropriate to school fund land held adversely until actually recovered through suit by state or otherwise. State v. Bradford, Civ.App., 25 S.W.2d 706, affirmed in part and reversed in part on other grounds 121 T. 515, 50 S.W.2d 1065.

3. State's ownership and control

The provision setting apart the alternate sections of land reserved and all money from the sale thereof, for the support of the public schools, does not constitute the relation of trustee on the part of the state seized of the lands for the use of another with power of sale added. The dedication simply withdraws from the Legislature the power to appropriate the land to any other purpose. Smisson v. State, 71 T. 222, 9 S.W. 112.

Notwithstanding art. 7, §§ 4, 5, and this section the legislature to facilitate the sale of school lands and to enhance their value may grant an easement on the lands for dam and reservoir sites for water for irrigation, such power being inherent in the sovereign government and growing out of necessity. Imperial Irrigation Co. v. Jayne, 104 T. 395, 138 S.W. 575, Ann.Cas. 1914B, 322.

Public school lands belong to state as fully as before they were appropriated for that purpose. State v. Bradford, Civ.App., 25 S.W.2d 706, affirmed in part and reversed in part on other grounds 121 T. 515, 50 S.W.2d 1065.

Under Relinquishment Act, state held entitled to one-half of any bonus or delay rentals under oil and gas lease exceeding 10 cents per acre. Empire Gas & Fuel Co. v. State, 121 T. 138, 47 S.W.2d 265.

4. Proceeds of lands sold

Under art. 7, §§ 1, 3, 5, 6, 8, and this section, where the commissioners' court has paid the proceeds of the school fund received by it to the county treasurer as provided in Rev.St.1895, art. 3935, it has discharged its duty, and the county cannot be held liable for the failure of the county superintendent to make the apportionment required by law, since such apportionment is a function assumed by the state to be discharged by officer acting for it. Webb County v. Board of School Trustees, 95 T. 131, 65 S.W. 878.

Rev St.1895, art. 4207, providing that one-half of the proceeds of the sale of public school land shall go to the permanent school fund compiled with this section, the constitution not requiring a division of the whole, but leaving the mode of division to the legislative discretion with certain exceptions. Tatum v. Kincannon, 54 C.A. 633, 119 S.W. 113.

5. River beds

Where school fund had no vested interest in beds of stream, state, as owner, through Legislature, had power to determine disposition it would make of beds of statutory navigable streams, including minerals found therein. State v. Bradford, Civ.App., 25 S.W.2d 706, affirmed in part and reversed in part on other grounds 121 T. 515, 50 S.W. 2d 1065.

Statute adjusting account between public school fund and public domain did not appropriate river beds to public free school fund. State v. Bradford, 121 T. 515, 50 S.W.2d 1065.

Constitutional provision held not to automatically place one-half of public domain, including beds of navigable streams, in permanent school fund. Id.

The diversion of water of navigable stream into a new channel on authority given by state to city and county of levee improvement district, with result that part of old river bed was no longer a part of the navigable river bed, was not such an "abandonment" of any of the land involved, as would, without specific legislation, authorize its sale either as part of the "unappropriated public domain" or as "unsurveyed school land". Ray v. State, Civ.App., 153 S.W.2d 660, error refused.

Realty which was formed when navigable stream was, on authority given by the state, diverted to a new channel, was not "unappropriated public domain" belonging to the "permanent school fund" or "unsurveyed school land" subject as such to sale, since the realty remained a part of the bed of the navigable stream and title was in the state for the benefit of the public at large, since the beds and channels of navigable streams are no part of the permanent school fund. Id.

Though former river bed left after diversion of navigable stream be deemed an abandoned river bed, still it was not subject to sale either as unappropriated public domain or as unsurveyed school land in absence of legislation authorizing such sale. Id.

6. Interest

Accrued uncollected interest on bonds owned by permanent school fund of a county is the property and a part of permanent school fund until collected and is not the property and a part of the available school fund until such collection. Op.Atty.Gen., 1940, No. 0-2271.

7. Diversion of fund

Under art. 7, § 4, and this section a patent as a homestead donation of land reserved as school land is void. Williamson v. Brown, 49 C.A. 402, 109 S.W. 412.

Vernon's Ann.Civ.St. arts. 5367-5382, held not void, as gift or diversion of school fund. Greene v. Robison, 117 T. 516, 8 S.W. 2d 655; McDaniel v. Robison, 117 T. 544, 8 S.W.2d 663; Bowen v. Robison, 117 T. 546, 8 S.W.2d 664; McDaniel v. Robison, 117 T. 539, 8 S.W.2d 666.

8. Supervision of funds

Under Vernon's Ann.Civ.St. art. 1467, providing that it shall be the duty of the

auditor to have a general oversight of all the books and records of all the officers of the county, district, or state who are authorized or required by law to receive or collect any money, funds, fees, or any other property for the use of or belonging to the county, a county auditor has no supervision of the funds of a common school district of the county, a supervision which is given school officers, such as trustees, superintendents, etc., named in the general statute governing the public free schools of the state; funds of a school district not being "funds for the use or belonging to the county." Houston Nat'l Exchange Bank v. School Dist. No. 25, Civ. App., 185 S.W. 589.

9. Leases

Under this section a lease of public lands by the land commissioner is not invalidated by the fact that the lands are designated as unsurveyed school lands, even though the lands may not belong to the school fund. Harrington v. Blankenship, Civ.App., 52 S.W. 585.

10. Location of certificates

Under this section and the Act of Feb. 4, 1856, providing for the incorporation of the Memphis, El Paso & Pacific Railroad Co., and the Act of March, 1873, requiring all certificates issued to any railroad company should be located in alternate sections, the survey of an alternate section for the state, when the certificate was located outside of the reservation was authorized. Williams v. Finley, Civ.App., 87 S.W. 736, 737.

11. Investments

Commissioners' court cannot legally invest permanent school fund of county in such bonds as boards of school trustees are authorized to issue under Vernon's Ann. Civ.St. art. 2802—1. Op.Atty.Gen., 1940, No. 0-2796.

Investments of permanent university fund may be made in bonds of common and independent school districts in State. Op. Atty.Gen., 1950, No. V-1052.

12. Exchange of bonds

Board of Education would be without authority to exchange bonds of Cisco Independent School District for refunding bonds bearing a lower rate of interest. Op.Atty.Gen., 1946, No. 0-6933.

13. School boards

A rule of the school board requiring vaccination, but providing for exceptions where the health of the pupils was such that it could not be done, does not violate art. 7, §§ 1, 3, 5, or this section, authorizing the Legislature to provide for the support and maintenance of public schools. Zucht v. San Antonio School Board, Civ. App., 170 S.W. 840.

Resolution of board of education for exclusion from schools of unvaccinated children held not in violation of Const. art. 7, §§ 1, 3-5, and this section or Vernon's Ann. Civ.St. arts. 2901, 2902 as to public free schools. Staffel v. San Antonio School Board of Education, Civ.App., 201 S.W. 413.

§ 3. Taxes for benefit of schools; school districts

Sec. 3. One-fourth of the revenue derived from the State occupation taxes and poll tax of one dollar on every inhabitant of the State, between the ages of twenty-one and sixty years, shall be set apart annually for the benefit of the public free schools; and in addition thereto, there shall be levied and collected an annual ad valorem State tax of such an amount not to exceed thirty-five cents on the one hundred ($100.00) dollars valuation, as with the available school fund arising from all other sources, will be sufficient to maintain and support the public schools of this State for a period of not less than six months in each year, and it shall be the duty of the State Board of Education to set aside a sufficient amount out of the said tax to provide free text books for the use of children attending the public free schools of this State; provided, however, that should the limit of taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the State and the Legislature may also provide for the formation of school district by general laws; and all such school districts may embrace parts of two

Marriage or pregnancy of public school student as ground for expulsion or exclusion or restriction of activities, 11 A.L.R.3d 996.

78 C.J.S. Schools and School Districts § 13; 79 C.J.S. Schools and School Districts § 445.

Sec. 2. [Permanent school fund.]

The permanent school fund of the state shall consist of the proceeds of sales of Sections Two, Sixteen, Thirty-Two and Thirty-Six in each township of the state, or the lands selected in lieu thereof; the proceeds of sales of all lands that have been or may hereafter be granted to the state not otherwise appropriated by the terms and conditions of the grant; such portion of the proceeds of sales of land of the United States within the state as has been or may be granted by congress; also all other grants, gifts and devises made to the state, the purpose of which is not otherwise specified.

Constitution confirms Enabling Act grants. — Provisions of constitution confirm grants made to state under Enabling Act (June 20, 1910, 36 Stat. 557, ch. 310, §§ 6 to 10, set out in Pamphlet 3). 1935-36 Op. Att'y Gen. 84.

Land exchanges with United States proper. — Under this section and the Enabling Act (set out in Pamphlet 3), the state may relinquish title to United States to school lands for other lands taken in lieu thereof. 1933-34 Op. Att'y Gen. 141.

Under Taylor Grazing Act (43 U.S.C. § 315 et seq.), state may exchange its lands where title is vested in it for other lands of federal government through secretary of the interior, who has power to exchange such lands in same manner as provided for exchange of privately-owned lands. 1935-36 Op. Att'y Gen. 84.

Rent for national forest lands applied to current fund. — Money received from United States from rental of school lands in the national forest, in accordance with Enabling Act (set out in Pamphlet 3), should be applied to state current school fund. 1912-13 Op. Att'y Gen. 140.

Comparable provisions. — Idaho Const., art. IX, §§ 3, 4.
Montana Const., art. XI § 2.
Utah Const., art. X, § 3.
Wyoming Const., art. VII, § 2.

Am. Jur. 2d and C.J.S. references. — 68 Am. Jur. 2d Schools § 86.

78 C.J.S. Schools and School Districts § 18.

Sec. 3. [Control of constitutional educational institutions; use of state land proceeds and other educational funds.]

The schools, colleges, universities and other educational institutions provided for by this constitution shall forever remain under the exclusive control of the state, and no part of the proceeds arising from the sale or disposal of any lands granted to the state by congress, or any other funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university.

I. General Consideration.
II. State Control.
III. No Support of Private Schools.

I. GENERAL CONSIDERATION.

Cross-references. — For provisions establishing freedom of religion, see N.M. Const., art. II, § 11, and art. XII, § 9. For general prohibition of aid to charities, see N.M. Const., art. IV, § 31. As to prohibition of aid to private enterprise, see N.M. Const., art. IX, § 14.

Purpose of this section is to insure exclusive control by state over public educational system and to insure that none of state's public schools ever become sectarian or denominational. Prince v. Board of Educ., 88 N.M. 548, 543 P.2d 1176 (1975).

Private schools not "rural school rooms". — Private or denominational schools are not "rural school rooms under the jurisdiction of the county school superintendent" for purposes of determining salary of county school superintendent under 73-5-1, 1953 Comp. (now repealed). Thomson v. Board of County Comm'rs, 66 N.M. 159, 344 P.2d 171 (1959).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 68 Am. Jur. 2d Schools §§ 95, 299, 311.

Religious meeting in schoolhouse, 5 A.L.R. 886; 141 A.L.R. 1153; 75 A.L.R.2d 742.

Schoolhouse as a "public building," 19 A.L.R. 545.

Pledge or mortgage of property or income therefrom, power as to, 71 A.L.R. 828.

Hiring or leasing schoolhouse to private persons for occasional use, 86 A.L.R. 1175.

Lease of school property, power of school or local authorities as to grant of, 111 A.L.R. 1051.

Sectarianism in schools, 141 A.L.R. 1144.

Inclusion of period of service in sectarian school in determining public schoolteachers' seniority, salary or retirement benefits, as violation of constitutional separation of church and state, 2 A.L.R.2d 1033.

Bible distribution in public schools, 45 A.L.R.2d 742.

Wearing of religious garb by public school teachers, 60 A.L.R.2d 300.

Use of public school premises for religious purposes during nonschool time, 79 A.L.R.2d 1148.

Public payment of tuition, scholarship or the like, to sectarian school, 81 A.L.R.2d 1309.

Prayer in public schools, 86 A.L.R.2d 1304.

Furnishing free textbooks to sectarian school or student therein, 93 A.L.R.2d 986.

Use of school property for other than school or religious purposes, 94 A.L.R.2d 1274.

Lease or sublease of school property, power of municipal corporations as to, 47 A.L.R.3d 19.

78 C.J.S. Schools and School Districts §§ 5, 19.

II. STATE CONTROL.

"Control" construed. — "Control" means control over curriculum, disciplinary control, financial control, administrative control and, in general, control over all affairs of the school. Prince v. Board of Educ., 88 N.M. 548, 543 P.2d 1176 (1975).

Leasing school lands from Navajos does not prevent state control. — Fact that some schools to be constructed from proceeds of bond issue would be located on reservation lands leased from Navajo tribe would not prevent state from exercising exclusive control over such schools. Prince v. Board of Educ., 88 N.M. 548, 543 P.2d 1176 (1975).

Nor contract for medical training in Colorado. — Contract entered into by university of New Mexico regents for medical training for limited number of students to be taught at university of Colorado would be valid and would not contravene constitution or laws of New Mexico if said contract would be so drawn as to withhold in New Mexico and the university such control as would not contravene this section. 1951-52 Op. Att'y Gen. No. 5334.

But city ordinances inapplicable to university land. — Ordinances of city of Albuquerque dealing with crimes do not apply to land under control of board of regents of university of New Mexico, except for traffic offenses as provided in 35-14-2 NMSA 1978. 1969 Op. Att'y Gen. No. 69-48.

Proper to regulate teachers who are members of religious orders. — Members of religious orders who are employed as public school teachers must refrain from teaching sectarian religion and doctrines and from disseminating religious literature during such time, and wearing of religious garb and insignia must be barred during time members of religious orders are on duty as public school teachers. Teachers must be under actual control and supervision of responsible school authorities. Zellers v. Huff, 55 N.M. 501, 236 P.2d 949 (1951).

And to bar disobedient from teaching in public schools. — Barring certain members of religious order from again teaching after they had knowingly taught sectarian religion in public schools during regular school hours was not improper. Zellers v. Huff, 55 N.M. 501, 236 P.2d 949 (1951).

But state may not bar prayers at university functions. — State educational institution may neither order nor ban prayers at university functions. To do either act would violate constitutional duty of strict neutrality in church-state relations. 1970 Op. Att'y Gen. No. 70-27.

III. NO SUPPORT OF PRIVATE SCHOOLS.

Section forbids disbursement of public money to nonpublic schools. — New Mexico Const., art. IV, § 31, art. IX, § 14 and this section would be violated if public money was disbursed to nonpublic schools in order to purchase secular education service. 1969 Op. Att'y Gen. No. 69-6.

But voucher system would aid children, not schools. — Under a voucher system for exceptional children, parents would apply for money already allocated to their children and would use that money to purchase educational services at a private school. The money, therefore, is used for children and not for schools. The "support," if any, of private schools is only an indirect consequence. The prohibition in this section is limited to direct support of private schools, and thus voucher system would not be in violation of that provision. 1976 Op. Att'y Gen. No. 76-6.

Public school trucks may not be used to transport pupils of private schools. 1921-22 Op. Att'y Gen. 92.

Driver of school bus can legally refuse to transport school children attending Catholic school, for county board of education is prohibited from using public school funds for benefit of sectarian schools. 1931-32 Op. Att'y Gen. 36.

But statute allowing transportation of students compelled to attend school proper. — Section 73-7-36, 1953 Comp. (now repealed), extending scope of school bus transportation by allowing transportation of all pupils attending school in compliance with compulsory school attendance laws under certain conditions does not violate constitution of New Mexico. 1951-52 Op. Att'y Gen. No. 5339.

No religious instruction in public school buildings without payment. — In the absence of payment for such use, public school buildings may not be used for religious instruction. 1969 Op. Att'y Gen. No. 69-16.

But noninterfering use of gymnasium proper. — School board may permit students from parochial schools to use gymnasiums or other school facilities if such use does not interfere with regular school activities, but they may not use public school property and funds for support of parochial schools. 1937-38 Op. Att'y Gen. 36.

Salary to public school teacher not aid to religion. — Since salaries of members of religious orders who serve as teachers are the same as those of other teachers, this is not aid to religion or to the church denounced by federal and state constitutions. Zellers v. Huff, 55 N.M. 501, 236 P.2d 949 (1951).

Sec. 4. [Current school fund.]

All fines and forfeitures collected under general laws; the net proceeds of property that may come to the state by escheat; the rentals of all school lands and other lands granted to the state, the disposition of which is not otherwise provided for by the terms of the grant or by act of congress; and the income derived from the permanent school fund, shall constitute the current school fund of the state. (As amended November 2, 1971.)

The 1971 amendment, which was proposed by S.J.R. No. 30 (Laws 1971) and adopted at the special election held on November 2, 1971, by a vote of 43,139 for and 28,945 against, deleted everything after the first sentence. The deleted provisions related to the school tax, distribution of the current school fund and the minimum school year.

Compiler's notes. — An amendment to this section proposed by S.J.R. No. 10 (Laws 1961), which would have provided for deduction of administrative costs from fines and forfeitures before transmission to current school fund, was submitted to the people at a special election held on September 19, 1961. It was defeated by a vote of 20,780 for and 28,202 against.

House J.R. No. 3 (Laws 1969) proposed the repeal of this section but provided that the proposal would not be submitted to the people if the constitutional convention submitted a new constitution or an amendment to repeal this section. A proposed constitution was submitted to the voters and rejected on December 9, 1969.

House J.R. No. 3 (Laws 1970), which proposed the repeal of this section, was submitted to the people at the general election held on November 3, 1970. It was defeated by a vote of 60,531 for and 68,720 against.

Amendments considered in even-numbered years. — Eight amendments to the constitution were proposed by 1970 session of legislature although attorney general has stated that constitutional amendments may not be considered in even-numbered years (1969-70 Op. Att'y Gen. No. 69-151; 1965-66 Op. Att'y Gen. No. 65-212).

Special election. — Laws 1971, ch. 308, §§ 1 and 2, provides that all constitutional amendments proposed by the thirtieth legislature be voted upon at a special election on the first Tuesday of November, 1971, unless otherwise specified, and appropriates $171,000 for election expenses.

"Common school fund" appropriate name. — Although this section provides that school funds shall be kept in the "current school fund," the "common school income fund" created by 19-1-17 NMSA 1978 shall be carried in the treasurer's books and funds shall be transferred to the "common school fund." 1912-13 Op. Att'y Gen. 104.

County taxes for school maintenance valid. — Taxes levied in county for school maintenance under Laws 1917, ch. 105 (now repealed), were county taxes levied for a public purpose and did not violate this section. Raynolds v. Swope, 28 N.M. 141, 207 P. 581 (1922).

Section does away with previous statutory provisions on disposition of fines. — All fines must go into state treasury to credit of current school fund. This section does away with all previous statutory provisions on the subject. 1912-13 Op. Att'y Gen. 112.

Disposition of fines under game and fish law unconstitutional. — Laws 1912, ch. 85, § 49 (now repealed), which provided that fines collected for violations of act for protection of game and fish should be sent to state treasurer and by him set aside to the "game protection fund," and § 50 (now repealed), which provided that one-half of fines collected should go to state treasurer and be credited by him as aforesaid and the other half should go to persons instituting prosecution were unconstitutional insofar as they related to disposition of fines, being in direct conflict with this section requiring all fines collected under general laws to be credited to current school fund. 1915-16 Op. Att'y Gen. 14.

Medical licensing fines go into current school fund. — Fines collected under Laws 1907, ch. 34 (superseded by 61-6-1 NMSA 1978 et seq., relating to licensing of doctors and surgeons), go into current school fund by virtue of this section. 1912-13 Op. Att'y Gen. 195.

Proper disposition of fines levied by justices of the peace. — Justices of the peace should collect their own fines and report them to board of county commissioners who should see that such fines are paid to state treasurer for current school fund. 1937-38 Op. Att'y Gen. 137.

Costs not part of fine. — Section 53-1-10, 1953 Comp. (now repealed), relating to state game commission, is constitutional as it imposes costs in criminal cases which are not part of fine. 1931-32 Op. Att'y Gen. 101.

Payment made upon forfeiture of bond was properly sent to state treasury. 1915-16 Op. Att'y Gen. 251.

Fines exempt from referendum. — Under this section all fines collected by the state go to maintenance of public schools, thus falling within exemption from referendum provided in N.M. Const., art. IV, § 1. 1955-56 Op. Att'y Gen. No. 6268.

Proper disposition of escheated property. — Net proceeds of property that comes to state by escheat go into current school fund, and after expiration of a year, which is given to permit claims or administration of estate, such proceeds should be remitted to state treasurer. 1937-38 Op. Att'y Gen. 173.

Rental income from school lands goes into fund. — State superintendent of schools may no longer use income from rental, sale or lease of common school lands, but such funds must go into current school fund. 1912-13 Op. Att'y Gen. 209.

Delinquent taxes provision subject to this section. — Section 72-7-32, 1953 Comp. (now repealed), providing for 10% of delinquent taxes to be paid into tax commission fund, cannot divest taxes from levies for state current school fund, which must be used as provided in this section. 1939-40 Op. Att'y Gen. 44.

Constitution does not require distribution of current school funds on any certain day. 1961-62 Op. Att'y Gen. No. 61-19 (opinion rendered prior to 1971 amendment).

Time for opening and closing schools. — County boards of education may set time for opening and closing of schools provided they comply with provisions of this section and 73-13-13, 1953 Comp. (now repealed), requiring that school be maintained for at least seven months each year. 1949-50 Op. Att'y Gen. No. 5318 (opinion rendered prior to 1971 amendment).

Comparable provisions. — Idaho Const., art. IX, § 4.
Montana Const., art. X, §§ 2, 3.
Utah Const., art. XIII, § 7.
Wyoming Const., art. VII, § 3.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 68 Am. Jur. 2d Schools §§ 79, 86, 91 to 95.

Injunction against enforcement of illegal school tax, upon joinder of several affected thereby, 32 A.L.R. 1273; 156 A.L.R. 319.

Recovery of tax illegally exacted, judgment in favor of taxpayer for, as subject to provisions of statute regarding substance and form, manner of collection or enforcement of judgment against political unit, 101 A.L.R. 800.

Common or public school, what is, within contemplation of constitutional or statutory provisions as to taxation, 113 A.L.R. 715.

Right of other governmental unit, or officers thereof, to compensation for collecting or disbursing special school taxes levied by school district, 114 A.L.R. 1098.

Kinds or types of contractual obligations within general terms "contracts," "obligations," etc., or specific terms "bonds," "notes," etc., in statute validating or legalizing obligations of public bodies, 128 A.L.R. 1411.

Rescission of vote authorizing school district bond issue, expenditure or tax, 68 A.L.R.2d 1041.

Amount of property which may be condemned for public school, 71 A.L.R.2d 1071.

Determination of school attendance, enrollment or pupil population for purpose of apportionment of funds, 80 A.L.R.2d 953.

78 C.J.S. Schools and School Districts §§ 18, 21; 79 C.J.S. Schools and School Districts § 377.

may require that such routes be established to serve both local districts and municipal or independent school district, and in such case boards of county and municipal or independent district to be served have right to establish them with approval of state board. But if boards could not agree, state board, under its authority and responsibility created by constitution, must establish routes when satisfactory ones are not proposed by August 15 of each year. 1939-40 Op. Att'y Gen. 109.

And to approve proper high school budget estimates. — It is mandatory on state board of education and superintendent of public instruction to approve proper budget estimates for high schools. 1931-32 Op. Att'y Gen. 158.

But power to hire and fire in municipal boards. — Power to employ and discharge teachers and other school employees was reposed in municipal boards of education. Bourne v. Board of Educ., 46 N.M. 310, 128 P.2d 733 (1942).

State board only has jurisdiction over teacher where teacher appeals to board from adverse ruling by local board of education. Amador v. State Bd. of Educ., 80 N.M. 336, 455 P.2d 840 (1969).

Board without authority to manage private schools. — Legislature has constitutional authority to invest state board with power to approve courses of instruction in private schools, but 22-12-2 NMSA 1978 does not extend to board authority to supervise or exercise control or management over private schools. Santa Fe Community School v. State Bd. of Educ., 85 N.M. 783, 518 P.2d 272 (1974).

Board lacks exclusive power to remove district board members. — State board did not have exclusive power to remove member of district board of education. State ex rel. Hannah v. Armijo, 37 N.M. 423, 24 P.2d 274 (1933).

Board action not within purpose of its authority. — Suspension of teacher for incompatibility with membership on the state board of education does not fall within purpose of insuring high quality of public instruction. Amador v. State Bd. of Educ., 80 N.M. 336, 455 P.2d 840 (1960).

Teacher's salary cannot be based upon residence within district. — No school board may lawfully increase or decrease a teacher's salary solely upon basis of residence or nonresidence within school district. 1963-64 Op. Att'y Gen. No. 64-85.

III. MEMBERSHIP OF BOARD.

Members of state board of education are state officers and not local officers. State ex rel. Apodaca v. State Bd. of Educ., 82 N.M. 558, 484 P.2d 1268 (1971).

No right to elect board members from district where child attends school. — Although nothing in constitution or statutes prohibits school district from crossing either county or judicial district boundaries, and there is no requirement that children attend public schools within judicial district where they reside, yet there is nothing in N.M. Const., art. VII, §§ 1 and 3, which suggests that there is conferred on a qualified elector the right to cast his vote for a candidate for state board of education from judicial district in which elector's child attends public school. Rather, his right is to vote for the candidate of his choice, to be elected from the judicial district in which he has voting residence. State ex rel. Apodaca v. State Bd. of Educ., 82 N.M. 558, 484 P.2d 1268 (1971).

State board member appealing from local board action. — If teacher who is also member of state board should appeal from action of local board, the teacher would simply refrain from acting as member of the board in his case, just as would a member of any other trade or profession who appealed to board of which he was member. Amador v. State Bd. of Educ., 80 N.M. 336, 455 P.2d 840 (1969).

Board member's right to vote. — Ex-officio officers and members of state boards have right to vote unless that right is specifically denied them by constitution or statute. 1951-52 Op. Att'y Gen. No. 5408.

Sec. 7. [Investment of permanent school fund.]

The principal of the permanent school fund, and other permanent funds, shall be invested by a state investment officer in accordance with policy regulations promulgated by a state investment council. The legislature may by a three-fourths vote of the members elected to each house provide that said funds may be invested in interest-bearing or other securities. All losses from such interest-bearing notes or securities which have definite maturity dates shall be reimbursed by the state.

The state investment officer, in order to realize increased income, may, with the approval of the state investment council, sell interest-bearing notes or securities at less than their original acquisition cost, providing the proceeds are immediately reinvested in sufficiently higher yielding interest-bearing notes or securities, to provide for a portion of the increased interest income to be amortized over the life of the new investment which will restore to the corpus of the fund the amount of the capital loss realized on the sale of the original investment.

In making investments, the state investment officer, under the supervision of the state investment council, shall exercise the judgment and care under the circumstances then prevailing which businessmen of ordinary prudence, discretion and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital; provided, not more than fifty percent of the permanent school fund or other permanent fund, shall be invested at any given time in corporate stocks and bonds nor shall more than ten percent of the voting stock of a corporation be held; and provided further, stocks eligible for purchase shall be restricted to those stocks of businesses

incorporated within the United States which have paid dividends for ten consecutive years or longer immediately prior to the date of purchase and which are listed upon a national stock exchange. (As amended November 4, 1958 and September 28, 1965.)

I. General Consideration.
II. Investments Generally.
III. Reimbursement of Losses.
IV. Sale at Loss with Reinvestment.

I. GENERAL CONSIDERATION.

Cross-reference. — For statutes establishing state investment council, see 6-8-1 to 6-8-16 NMSA 1978.

The 1958 amendment, which was proposed by S.J.R. No. 12 (Laws 1957) and adopted at the general election held on November 4, 1958, with a vote of 56,877 for and 26,332 against, completely rewrote the section, which prior to amendment had read: "The principal of the permanent school fund shall be invested in the bonds of the state or territory of New Mexico, or of any county, city, town, board of education or school district therein. The legislature may by three-fourths vote of the members elected to each house provide that said funds may be invested in other interest-bearing securities. All bonds or other securities in which any portion of the school fund shall be invested must be first approved by the governor, attorney general and secretary of state. All losses from such funds, however occurring, shall be reimbursed by the state."

The 1965 amendment, which was proposed by H.J.R. No. 12 (Laws 1965) and adopted at a special election held on September 28, 1965, by a vote of 27,687 for and 22,502 against, designated the former second paragraph as the present third paragraph, increased therein the maximum investment in corporate stocks and bonds from 25% to 50% and inserted the present second paragraph.

Comparable provisions. — Idaho Const., art. IX, § 3.
Montana Const., art. X, § 3.
Utah Const., art. X, § 7.
Wyoming Const., art. VII, § 6.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 68 Am. Jur. 2d Schools § 88.

Particular purposes within contemplation of statute authorizing issuance of bonds or use of funds by school district for special purposes, 124 A.L.R. 883.

Stock of private corporation, constitutional or statutory provision prohibiting school districts from acquiring or subscribing to, 152 A.L.R. 495.

78 C.J.S. Schools and School Districts § 20.

II. INVESTMENTS GENERALLY.

Investment officer to exercise sovereign power. — Constitution contemplates that state investment officer, in determining investments to be made, will be exercising portion of sovereign power of state. 1957-58 Op. Att'y Gen. No. 58-10.

Constitution and statutes vary in concepts of investment council. — The entire concept of the activities of the investment council, as reflected in act establishing council (6-8-1 to 6-8-16 NMSA 1978) appears at variance with concept reflected in this section. The constitution apparently visualizes the independent exercise of delegated sovereign power by the investment council acting as public officers. The legislation apparently reduces the function of the council to that of an advisory group. 1957-58 Op. Att'y Gen. No. 58-10.

Investment officer may use service of investment counselor or other sources of advice to aid in making an investment policy recommendation to investment council. 1959-60 Op. Att'y Gen. No. 59-21.

Council regulations likely to restrict scope of investments. — This section provides that investment council may prescribe policy regulations with respect to investment of permanent funds. Such regulations, in prescribing classifications of permissible investment, will necessarily restrict scope of investment authority to extent that by silence they exclude investments which might otherwise be permissible under the constitution. 1957-58 Op. Att'y Gen. No. 58-10.

Debentures to anticipate proceeds of gasoline excise tax proper investment. — Debentures to anticipate proceeds of gasoline excise tax, authorized by Laws 1927, ch. 20 (now repealed), were eligible as an investment for permanent school fund, by virtue of 11-2-13, 1953 Comp. (now repealed), even though the provisions of Laws 1927, ch. 20, to render them so eligible failed of passage by vote of three-fourths of members elected to each house, as required by this section. State v. Graham, 32 N.M. 485, 259 P. 623 (1927).

But not bank deposit. — This provision expressly limits the class of securities in which permanent school fund might be invested, until the legislature should otherwise provide. Joint R. No. 14 (Laws 1913), insofar as it required deposit of those funds in banks, was beyond legislative power and void, for such deposits were investments. State v. Marron, 18 N.M. 426, 137 P. 845, 50 L.R.A. (n.s.) 274 (1913).

Nor mutual fund or investment trust. — State treasurer cannot invest moneys of educational retirement fund (a permanent fund) in shares of mutual funds or investment trusts. 1957-58 Op. Att'y Gen. No. 57-279.

"Securities" construed. — Term "securities," as used in constitution, is used in technical sense; it applies to obligations such as mortgage or pledge given by debtor in order to make sure the payment or performance of his debt. In this technical sense, the term refers to interest-bearing obligations which are more than mere naked promises of liability by debtor. 1957-58 Op. Att'y Gen. No. 57-279.

III. REIMBURSEMENT OF LOSSES.

Purpose of loss reimbursement provision. — Loss provision of constitution and detailed statutory provisions under which council operates (6-8-1 to 6-8-16 NMSA 1978) were conceived out of jealous regard by constitutional framers and members of legislature for the safekeeping of permanent funds held in trust for school children. 1961-62 Op. Att'y Gen. No. 62-46.

Reimbursement requirement not self-executing. — This section is not self-executing insofar as loss requirement is concerned. 1961-62 Op. Att'y Gen. No. 62-46.

"Loss" in this section refers to entire sale or transaction rather than to individual securities or to securities of a corporation or to securities of a certain type. 1971 Op. Att'y Gen. No. 71-113.

Exchange is distinct from separate sale and purchase. — "Exchange" is a term of art of precise import, meaning the giving of one thing for another and excluding transactions into which money enters

either as consideration or as a basis of measure. 1961-62 Op. Att'y Gen. No. 62-46.

Separate transactions will not be construed together. — Placing together two money transactions so as to create a fiction that no loss occurred from the sale and purchase would be opening the door to eventual nullification of the constitutional requirement of loss reimbursement. A subsequent transaction cannot affect the fact of loss in any single transaction. 1961-62 Op. Att'y Gen. No. 62-46.

Effect of 1965 amendment on offsetting gains and losses. — See same catchline in notes under analysis line IV.

IV. SALE AT LOSS WITH REINVESTMENT.

"Capital loss" means the difference between the original acquisition cost of bonds to be sold and the proceeds of sale. 1968 Op. Att'y Gen. No. 68-3.

Loss determined by sale transaction alone. — Whether capital loss will be realized and amount of the loss must be determined by considering sale of the bonds alone, without reference to higher-yielding bonds which will subsequently be purchased. 1968 Op. Att'y Gen. No. 68-3.

"Increased interest income" means annual income rather than total income. 1968 Op. Att'y Gen. No. 68-62.

Loss must be restored from income accruing from new investment in insured loans, and that income accruing from investment of recoveries of principal cannot be used to restore capital loss. 1968 Op. Att'y Gen. No. 68-62.

Loss must be amortized from portion of the increased interest income only. 1968 Op. Att'y Gen. No. 68-62.

New investment must yield increase in income after capital loss is restored to corpus of permanent fund. 1968 Op. Att'y Gen. No. 68-62.

Effect of 1965 amendment on offsetting gains and losses. — Since 1965 amendment to this section, the investment council has not had power to sell common stocks realizing a capital gain and to use such gain to offset loss taken on sale of fixed income security. 1968 Op. Att'y Gen. No. 68-116. But see notes under analysis line III.

Sec. 8. [Teachers to learn English and Spanish.]

The legislature shall provide for the training of teachers in the normal schools or otherwise so that they may become proficient in both the English and Spanish languages, to qualify them to teach Spanish-speaking pupils and students in the public schools and educational institutions of the state, and shall provide proper means and methods to facilitate the teaching of the English language and other branches of learning to such pupils and students.

Meaning of section. — This section does not require that all teachers in the state be proficient in both English and Spanish or that all teachers who teach Spanish-speaking pupils be proficient in both English and Spanish. The clear intent is to teach English to Spanish-speaking students and to assure that the Spanish and English languages will always be available to prospective teachers in the teachers' colleges and that Spanish-speaking pupils will be provided the means and methods to learn the English language as well as other subjects of learning. 1968 Op. Att'y Gen. No. 68-15.

This section is a mandate to the legislature to provide teachers proficient in both English and Spanish to teach Spanish-speaking pupils; it does not require all teachers to have this proficiency. 1971 Op. Att'y Gen. No. 71-102.

Law reviews. — For student symposium, "Constitutional Revision — Constitutional Amendment Process," see 9 Nat. Resources J. 422 (1969).

For comment, "Education and the Spanish-Speaking — An Attorney General's Opinion on Article XII, Section 8 of the New Mexico Constitution," see 3 N.M. L. Rev. 364 (1973).

For note, "Bilingual Education: Serna v. Portales Municipal Schools," see 5 N.M. L. Rev. 321 (1975).

Am. Jur. 2d and C.J.S. references. — 68 Am. Jur. 2d Schools § 283.

78 C.J.S. Schools and School Districts § 169; 79 C.J.S. Schools and School Districts § 485.

Sec. 9. [Religious tests in schools.]

No religious test shall ever be required as a condition of admission into the public schools or any educational institution of this state, either as a teacher or student, and no teacher or student of such school or institution shall ever be required to attend or participate in any religious service whatsoever.

Cross-references. — For provisions guaranteeing freedom of religion, see N.M. Const., art. II, § 11, and art. XXI, § 1. As to excusing students from school for religious instruction, see 22-12-3 NMSA 1978.

Sister teaching in public school entitled to salary. — Under this section and N.M. Const., art. II, § 11, there can be nothing in the law prohibiting payment of Sisters who are qualified and employed to teach in public schools. Such a law would result in making their religious life or religious vows a test of their admission as teachers to our public schools contrary to the constitution. 1939-40 Op. Att'y Gen. 35.

There is no objection to reading portions of Bible without comment in public school assembly. 1921-22 Op. Att'y Gen. 150.

Court may properly enjoin dissemination of sectarian literature in schoolrooms. Miller v. Cooper, 56 N.M. 355, 244 P.2d 520 (1952).

Comparable provisions. — Idaho Const., art. IX, § 6.

6-8-2. State investment council.

There is created in the department a "state investment council." The investment council shall be composed of:

A. the governor, who shall be an ex-officio member;

B. the state treasurer;

C. the commissioner of public lands;

D. the secretary, who shall vote only in case of tie;

E. four public members appointed by the governor; and

F. the state investment officer, who shall be a nonvoting member of the council.

The chairman of the council shall be the secretary.

All actions of the council shall be by majority; at least three public members must be present to constitute a quorum.

Members of the council, except the state treasurer, the commissioner of public lands and the secretary shall be reimbursed per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978].

History: 1953 Comp., § 11-2-8.5, enacted by Laws 1957, ch. 179, § 2; 1977, ch. 247, § 96; 1979, ch. 273, § 1.

The 1979 amendment substituted "per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act" for "for necessary expenses, incurred by attending meetings of the council, by amounts determined and approved by the council" at the end of the last paragraph.

6-8-9. Securities and investment.

Cross-reference. — As to investment in severance tax bonds, see 7-27-19 NMSA 1978.

ARTICLE 10

Public Money

Sec.
6-10-10. Deposit and investment of funds.
6-10-11. Approval of investment of state funds.
6-10-26. Quarterly reports of funds on demand deposit; investment in interest-bearing deposits and securities.
6-10-50. Loss of money deposited in qualified banks; treasurers relieved of liability.

6-10-10. Deposit and investment of funds.

A. Upon the certification or designation of any bank or savings and loan association whose deposits are insured by an agency of the United States, to receive public money on deposit, the state treasurer, and the several county or municipal treasurers, who shall then have on hand any public money by virtue of their several offices, shall make deposit of such money in the bank or banks whose deposits are insured by an agency of the United States, and savings and loan association whose deposits are insured by an agency of the United States, designated, by the authority authorized by law to so designate, to receive such deposits of all money thereafter received or collected by them.

B. The several county or municipal treasurers may deposit money in one or more accounts with any such bank or insured savings and loan association located in their respective counties but no county or municipal treasurer, in any official capacity, shall deposit money in any one such insured savings and loan association the aggregate of which would exceed the amount of federal savings and loan insurance corporation insurance for a single public account.

C. The state treasurer may deposit money in one or more accounts with any such bank or insured savings and loan association but the state treasurer, in any official capacity, shall not deposit money in any one such insured savings and loan association the aggregate of which would exceed the amount of federal savings and loan insurance corporation insurance for a single public account.

6-7-3. [Expenditure of funds; manner.]

The moneys appropriated by this act [6-7-1 to 6-7-3 NMSA 1978] shall be expended for disaster relief for any disaster declared by the governor to be of such magnitude as to be beyond local control and requiring the resources of the state. Such funds shall be expended by the governor or any agent or agency designated by him for such purposes, either as a state project, or for securing matching federal funds. Said moneys shall be paid out upon warrants drawn by the state auditor upon vouchers approved by the governor or such agent or agency designated by him for such purpose.

History: 1953 Comp., § 11-7-3, enacted by Laws 1955, ch. 185, § 3.

ARTICLE 8

Investment of Public Money

Sec.
6-8-1. Definitions.
6-8-2. State investment council.
6-8-3. Council terms and qualifications.
6-8-4. Investment division; state investment officer; terms.
6-8-5. Bond; staff; budget.
6-8-6. Transfer of investment powers.
6-8-7. Powers and duties of investment officer; investment policy.
6-8-8. Compromise; adjustment.
6-8-9. Securities and investment.
6-8-10. Investment standards.
6-8-11. Custody of securities.
6-8-12. Collection of income and principal; availability of income and proceeds for investment.
6-8-13. Record of investments.
6-8-14. Monthly reports.
6-8-15. Post-audit.
6-8-16. Annual report.
6-8-17. Purpose of act.
6-8-18. Permanent funds; investment in interest-bearing time deposits.

6-8-1. Definitions.

As used in Sections 6-8-1 through 6-8-16 NMSA 1978:

A. "secretary" means the secretary of finance and administration;

B. "department" means the department of finance and administration; and

C. "permanent fund" means those funds derived from lands under the direction, control, care and disposition of the commissioner of public lands conferred by Article 13, Sections 1 and 2 of the constitution of the state of New Mexico.

History: 1953 Comp., § 11-2-8.4, enacted by Laws 1957, ch. 179, § 1; 1977, ch. 247, § 95.

The 1977 amendment rewrote Subsection A which read: " 'Financial officer' means the state comptroller, or the director of the state department of finance and administration if that office or department is subsequently created; and," rewrote Subsection B which read: " 'Finance department' means the office of the state comptroller, or the department of finance and administration if that office is subsequently established" and substituted "means" for "shall mean" in Subsection C.

The restrictions specified in this article are valid and constitutional. 1957-58 Op. Att'y Gen. No. 58-10.

6-8-2. State investment council.

There is created in the department a "state investment council." The investment council shall be composed of:

A. the governor, who shall be an ex-officio member;

B. the state treasurer;

C. the commissioner of public lands;

D. the secretary, who shall vote only in case of tie;

E. four public members appointed by the governor; and

F. the state investment officer, who shall be a nonvoting member of the council.

The chairman of the council shall be the secretary.

All actions of the council shall be by majority; at least three public members must be present to constitute a quorum.

Members of the council, except the state treasurer, the commissioner of public lands and

the secretary shall be reimbursed for necessary expenses, incurred by attending meetings of the council, by amounts determined and approved by the council.

History: 1953 Comp., § 11-2-8.5, enacted by Laws 1957, ch. 179, § 2; 1977, ch. 247, § 96.

Cross-reference. — As to investment advisory service to educational retirement board, see 22-11-13 NMSA 1978.

The 1977 amendment deleted "Composition — Quorum — Expenses" from the catchline, deleted "finance" preceding "department" in the introductory phrase and substituted "secretary" for "financial officer."

Powers and rights of council limited to those granted by constitution and statute. — The investment council is a creature of statute, being unknown at common law, and has only those powers and rights granted to it by the constitution and legislative enactment. 1961-62 Op. Att'y Gen. No. 61-49.

Members of council are employees and not officers. — The constitutional provision relative to the investment council does not explicitly provide for the term of the position created, the method of appointment or the specific duties of the position. These matters are left to the legislature, acting within its powers subject to constitutional restrictions. Accordingly, members of the investment council are public employees and not public officers. 1957-58 Op. Att'y Gen. No. 58-10.

6-8-3. Council terms and qualifications.

Public members of the council shall be appointed by the governor for terms of five years; provided, however, that for the first appointments the terms shall be for two, three, four and five years respectively. Members of the council shall serve until their successors are appointed and have qualified.

The public members of the council shall be qualified by competence and experience in the field of investment or finance. During tenure, a member of the council shall not be engaged in the sale of securities to the state; nor shall a member benefit directly or indirectly from a transaction entered into by the state investment officer. A council member shall not hold an office, position or employment in a political party.

A member of the council may be removed from office by the governor, for cause, after notice and opportunity to be heard at a public hearing. A vacancy in the membership of the council occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

History: 1953 Comp., § 11-2-8.6, enacted by Laws 1957, ch. 179, § 3.

6-8-4. Investment division; state investment officer; terms.

There is established in the department an "investment division." The director of the division shall be known as the "state investment officer."

The state investment officer shall be appointed by the governor. Recommendations as to his appointment shall be made to the governor by the secretary and the investment council. If within sixty days after a vacancy an appointment is not made, the power of appointment shall vest in the investment council. The state investment officer shall devote his entire time and attention to the duties of his office, shall not engage in any other occupation or profession, nor shall he hold any other public office, appointive or elective. He shall be a person qualified, by training and investment experience, to direct the work of the investment division. He shall receive a salary to be determined by the investment council, but in no case less than twelve thousand five hundred dollars ($12,500) annually.

The investment officer shall serve without term but may be removed from office by the governor for cause, or upon recommendation of the council, after notice and opportunity to be heard at a public hearing.

History: 1953 Comp., § 11-2-8.7, enacted by Laws 1957, ch. 179, § 4; 1977, ch. 247, § 97.

Cross-references. — As to appointment of director, see 9-6-5 B(10) NMSA 1978. As to investment advisory service to educational retirement board, see 22-11-13 NMSA 1978.

The 1977 amendment substituted "investment division" for "division of investment" in the catchline, rewrote the first two sentences which formerly read: "There is established in the finance department a 'division of investment,' which shall be under the immediate supervision of a person designated 'state investment officer,'" substituted "secretary" for "financial officer" in the fourth sentence and deleted

"after the effective date of this act, or" following "days" in the fifth sentence.

6-8-5. Bond; staff; budget.

A. Before the state investment officer, or other responsible employee of the investment division, shall enter upon his duties, the secretary shall require an individual bond, or shall include the state investment officer and other responsible employees under a blanket bond, for an amount and for a coverage deemed best to protect the state's interest. The bond premiums shall be paid by the state.

B. The state investment officer shall, annually, prepare a budget which shall be reviewed by the council and the secretary. Any funds provided for the operating budget of the division shall be appropriated from earnings on investments of permanent funds before distribution to the income funds as authorized by law.

C. The state investment officer shall appoint all employees of the investment division.

History: 1953 Comp., § 11-2-8.8, enacted by Laws 1957, ch. 179, § 5; 1976, ch. 6, § 1; 1977, ch. 247, § 98.

The 1976 amendment substituted "Bond; staff; budget" for "Bonds of investment officer and employee — Staff" in the catchline, added subsection designations before each paragraph, substituted "division of investment" for "division of finance" in the first sentence of Subsection A, inserted "state" preceding "investment officer" in the first sentence of Subsection A and added the last sentence to Subsection B.

The 1977 amendment substituted "investment division" for "division of investment" in Subsections A and C and "secretary" for "financial officer" in Subsections A and B.

Effective date. — Laws 1976, ch. 6, § 2, makes the act effective on July 1, 1976.

6-8-6. Transfer of investment powers.

The functions, powers and duties, vested by law relating to the investment or reinvestment of moneys and the purchase, sale or exchange of investments or securities of the permanent fund are transferred to the state investment officer under the supervision of the secretary. The state treasurer shall maintain custody of the state permanent fund but shall at all times render the fund or any part of it available for investment in accordance with the provisions of Sections 6-8-1 through 6-8-16 NMSA 1978.

Any provision of existing law requiring or designating an elected state official to serve by virtue of his office in an active or advisory capacity, concerning the investment of the state permanent fund shall be inoperative.

History: 1953 Comp., § 11-2-8.9, enacted by Laws 1957, ch. 179, § 6; 1977, ch. 247, § 99.

Cross-reference. — As to investment responsibility of state investment council for "public buildings at capitol, permanent fund," see 19-1-19 NMSA 1978.

The 1977 amendment substituted "secretary" for "financial officer" and deleted "from the effective date of this act" at the beginning of the last sentence.

Limitation on investment of "permanent fund". — This section limits the power of the state investment officer to investment of those funds which are in the "permanent fund." 1961-62 Op. Att'y Gen. No. 62-76.

6-8-7. Powers and duties of investment officer; investment policy.

Subject to the limitations, conditions and restrictions contained in policy-making regulations or resolutions promulgated by the council with the approval of the secretary, and subject to prior authorization by the council, the state investment officer shall have the power to make purchases, sales, exchanges, investments and reinvestments of the permanent state fund. The state investment officer is charged with the duty of seeing that moneys invested are at all times handled to the best interests of the state.

Securities or investments purchased or held may be sold or exchanged for other securities and investments; provided, however, that no sale or exchange shall be at a price less than the going market at the time the securities or investments are sold or exchanged.

In purchasing bonds the state investment officer shall require a certified or original written opinion of a reputable bond attorney or the attorney general of the state certifying the legality of the bonds to be purchased; provided, however, this written opinion may be the approving legal opinion ordinarily furnished with the bond issue.

The state investment officer shall formulate and recommend to the investment council, for approval, investment regulations or resolutions pertaining to the kind or nature of investments and limitations, conditions and restrictions upon the methods, practices or procedures for investment, reinvestment, purchase, sale or exchange transactions which should govern the activities of the investment division.

The council shall meet at least once each month, and as often as exigencies may demand, to consult with the state investment officer concerning the work of the investment division. The council shall have access to all files and records of the investment division and may require the investment officer to report and provide information necessary to the performance of council functions.

History: 1953 Comp., § 11-2-8.10, enacted by Laws 1957, ch. 179, § 7; 1977, ch. 247, § 100.

Cross-reference. — For constitutional provision as to duties of state investment officer relative to permanent school fund, see N.M. Const., art. XII, § 7.

The 1977 amendment substituted "secretary" for "financial officer" in the first sentence, "investment division" for "division of investment" in the fifth sentence and "division" for "department" in the last sentence.

Investment officer has only powers granted by constitution or statute. — The investment officer is a creature of statute, being unknown at common law, and has only those powers and rights granted to him by the constitution and legislative enactment. 1961-62 Op. Att'y Gen. No. 61-49.

Requirements for exchange of securities. — The requirement of this section, as it pertains to an exchange, is that the securities which are to be received in the exchange must have an aggregate price which is equal to or in excess of the market price of the securities which are to be given by the state. 1959-60 Op. Att'y Gen. No. 60-9.

Determination of "market price". — The term "market price" has been the subject of many comments by the courts of the several states. The generally accepted definition or meaning indicates that the words imply price or value in an open market where one desires but is not compelled to buy and one is willing but not compelled to sell. In order for an item to have a market price, the same or similar items must have been sold enough times so that the items obtain a somewhat fixed price or value to purchasers. 1959-60 Op. Att'y Gen. No. 60-9.

The mere combining of funds from several trusts for investment does not violate the intermingling rule. 1959-60 Op. Att'y Gen. No. 60-9.

Investment officer may sell or exchange securities originally held in state portfolio. — This section confers upon the investment officer the power to sell and exchange securites originally held in the state portfolio. 1959-60 Op. Att'y Gen. No. 60-9.

And is not limited to current funds. — The primary purpose for the creation of the investment council was to improve the position of the permanent fund in regard to its investments generally, and specifically, its return on the funds invested, keeping in mind the preservation of the principal. This goal could not be accomplished if the powers of the council were limited to investing only current funds. 1959-60 Op. Att'y Gen. No. 60-9.

Capital gains from sale of common stock may not be used to offset loss on sale of fixed income security. — Since the 1965 amendment to N.M. Const., art. XII, § 7, the state investment council has not had the power to sell common stocks realizing a capital gain and use such gain to offset a loss taken on the sale of a fixed income security. 1968 Op. Att'y Gen. No. 68-116.

The investment council can make a definite commitment for the purchase of Capehart mortgages prior to the actual investment in them. 1959-60 Op. Att'y Gen. No. 59-160.

Employment of management company constitutes unlawful delegation of powers of investment officer. — If a management company is to be of any real value to the investment council, it must by the very nature of its duties possess a portion of the decision-making powers of the investment officer. Unless the management company is to be nothing more than a firm of bookkeepers or a firm merely to collect funds for the investment officer, it must have some power to act in certain situations on its own initiative. When a default occurs, the management company must have some freedom of action in supervising the servicer in handling the matter. In reaching a decision of whether any specific mortgage meets the standards of the council, the company is exercising some of the decision-making powers granted only to the investment officer. This is an unlawful delegation of the investment power of the investment officer. 1961-62 Op. Att'y Gen. No. 61-49.

6-8-8. Compromise; adjustment.

In the event of default in the payment of principal, or interest on, an investment made, the secretary is authorized to institute proper proceedings to collect matured interest and principal; the secretary may, with the consent of the governor, after consultation with the investment council, accept for exchange purposes refunding bonds or other evidences of indebtedness at interest rates to be agreed upon with the obligor. The secretary with the approval of the governor and after consultation with the council is authorized to adjust past-due interest or principal in default.

History: 1953 Comp., § 11-2-8.11, enacted by Laws 1957, ch. 179, § 8; 1977, ch. 247, § 101.

The 1977 amendment substituted "secretary" for "financial officer."

6-8-9. Securities and investment.

Moneys made available for investment for a period in excess of one year may be invested in the following classes of securities and investments:

A. bonds, notes or other obligations of the United States, or those guaranteed by, or for which the credit of, the United States is pledged for the payment of the principal and interest or dividends thereof;

B. bonds, notes or obligations of a municipal or political subdivision of this state, issued pursuant to a law of this state; provided, that the issuer has not, within ten years prior to the making of the investment, been in default for more than three months in the payment of any part of the principal or interest on any debt evidenced by its bonds, notes or obligations; and provided further, if the bonds are city or county utility, or utility-district revenue bonds, the revenues of such utility, other than for payment of operation and maintenance expenses, are pledged wholly to the payment of the interest on and principal of such indebtedness and the utility project has been completely self-supporting for a period of five years next preceding of [sic] the investment;

C. bonds, debentures or other obligations issued by a federal land bank, or by a federal intermediate credit bank, or banks for cooperatives under the acts of congress of June 27, 1934, known as the Federal Farm Loan Act, as amended, and the Farm Credit Act of 1933, as amended;

D. bonds, debentures or other obligations issued or guaranteed by any national mortgage association under the act of congress of June 27, 1934, known as the National Housing Act, as amended;

E. bonds, notes, debentures, car-trust certificates or other certificates of interest or indebtedness, preferred stock, or common stock of any corporation organized and operating within the United States; provided that it shall have minimum net assets of ten million dollars ($10,000,000) and securities listed on one or more national stock exchanges; and provided further that the combined funds of the state shall not at any one time own more than ten percent of the voting stock of a company, and provided further that in the investment of the moneys of any one state fund or account, not more than fifty percent of the total of such fund or account shall at any time be invested in the securities of this class. Preferred and common stocks purchased by the investment officer shall be held for the long-range possibility of reasonable cash dividends and growth of the capital investment. Preferred and common stocks may be sold only because of a fundamental change in their investment quality and not because of the vagaries of the market;

F. industrial revenue bonds issued pursuant to the Industrial Revenue Bond Act [3-32-1 to 3-32-16 NMSA 1978], where both the principal and interest of the bonds are fully and unconditionally guaranteed by a lease agreement, executed by a corporation organized and operating within the United States and which has net assets of at least ten million dollars ($10,000,000) and has issued securities traded on one or more national stock exchanges and where the senior securities of the guaranteeing corporation would have the equivalent of a BAA rating;

G. notes or obligations securing loans to New Mexico businesses made by banks and savings and loan associations pursuant to the Act of Congress of July 30, 1953, known as the Small Business Act of 1953, as amended from time to time, only to the extent that both principal and interest are guaranteed by the United States government. The applicant bank or savings and loan association shall be required to enter into an indemnity agreement, which meets the approval of the investment officer, to pay off the investments, together with interest and any unpaid costs and expenses in connection therewith, in the event the United States government refuses to honor its guarantee. The state investment officer may enter into conventional agreements for the servicing of the loans and the administration of the receipts therefrom. Any servicing agreement may contain such reasonable and customary provisions as the state investment officer may deem advisable and as may be agreed upon;

H. notes or obligations securing loans or participation in loans to business concerns

or other organizations which are obligated to use the loan proceeds within New Mexico, to the extent the loans are secured by first mortgages on real estate located in New Mexico and are further secured by an assignment of rentals, the payment of which is fully guaranteed by the United States in an amount sufficient to pay all principal and interest of the mortgage;

I. notes or obligations securing loans issued by banks and savings and loan associations pursuant to Title IV of the Act of Congress of November 8, 1965, known as the Higher Education Act of 1965, as amended from time to time, only to the extent that both principal and interest are guaranteed unconditionally by the United States government. The applicant banks or savings and loan associations shall enter into an indemnity agreement to pay off the investments, together with interest and any unpaid costs and expenses in connection therewith, according to the terms under which they are made, in a form which meets the approval of the state investment officer. The state investment officer may enter into conventional agreements for the servicing of the loans and the administration of the receipts therefrom. Any servicing agreement may contain such reasonable and customary provisions as the state investment officer may deem advisable and as may be agreed upon;

J. obligations secured by mortgages constituting a first lien upon real estate located within the state of New Mexico, which are fully insured or guaranteed as to the payment of the principal and interest thereof by the government of the United States or by any authorized agency thereof, including mortgages securing loans insured under the National Housing Act or the Farmers' Home Administration Act, as amended from time to time. The state investment officer may enter into conventional agreement for the servicing of such loans and the administration of the receipts therefrom, and any such servicing agreement may contain such reasonable and customary provisions as the state investment officer may deem advisable and as may be agreed upon, with respect to such matters as the taking and holding of title in the name of the servicing agent for the benefit of the state investment officer; the physical custody of the obligations and mortgages serviced by the servicing agent; the deduction of the servicing agent's fee (in the amount which shall not annually exceed one-half of one percent of the principal balance of the obligations serviced from time to time outstanding) by the servicing agent, prior to remittance of the proceeds; the periodic remittance of the net proceeds received in payment on all obligations so secured to the state treasurer as custodian of the permanent fund; the authority and duty of the servicing agent with respect to the collection of any such obligation in default; and the effectuation of the applicable federal insurance or guarantee thereof; and other appropriate matters; and

K. bonds, notes, debentures or other obligations issued by the state of New Mexico.

Commissions paid for the purchase and sale of any security shall not exceed brokerage rates prescribed and approved by national stock exchanges or by industry practice.

History: 1953 Comp., § 11-2-8.12, enacted by Laws 1957, ch. 179, § 9; 1961, ch. 248, § 1; 1965, ch. 219, § 1; 1969, ch. 262, § 1; 1970, ch. 81, § 2; 1975, ch. 211, § 2.

Compiler's note. — The National Housing Act, referred to in Subsections D and J of this section, is compiled in the United States Code as Title 12, § 1701 et seq.

The Small Business Act of 1953, referred to in Subsection G of this section, is compiled in the United States Code as Title 15, § 631 et seq.

The Federal Farm Loan Act, referred to in Subsection C of this section, the Farm Credit Act of 1933, referred to in Subsection C of this section, and the Farmers' Home Administration Act, referred to in Subsection J of this section, have been repealed.

Title IV of the Higher Education Act of 1965, referred to in Subsection I of this section, was originally compiled in the United States Code as Title 20, § 751 et seq., but has been superseded by later statutes.

Authority of investment officer. — The investment authority of the state investment officer is limited to those funds derived from lands granted the state and its institutions by virtue of N.M. Const., art. XIII, §§ 1 and 2, including any increase in the permanent fund by virtue of the investment of these funds by the officer. There is no restriction found in either the constitution or the statutes as to the period of time for which these funds may be invested. Therefore, they are all subject to being invested for periods in excess of one year; hence, these funds are all "moneys available for investment for a period in excess of one year" within the meaning of this section. 1961-62 Op. Att'y Gen. No. 62-76.

Section also applicable to investments for less than one year. — The restrictions of this section apply to all investments made by the investment officer, including those for periods of less than one year. 1961-62 Op. Att'y Gen. No. 62-76.

But no funds are restricted to short-term investment. — There are no funds over which the state investment officer has jurisdiction that are restricted to short-term investment. All investment funds avail-

able to the investment council are subject to investment for periods in excess of one year. 1961-62 Op. Att'y Gen. No. 62-76.

Capehart mortgages are legally accepted investments. — The Capehart mortgages issued under the provisions of the National Housing Act of 1955, as amended, are legally acceptable for investments by the state investment council. The propriety of investing public funds in these obligations is left to the council in the exercise of its sound discretion. 1959-60 Op. Att'y Gen. No. 59-135.

Investment permitted in loans guaranteed by small business administration. — The loan guarantees made by the small business administration are properly regarded as obligations of the United States, and provided the portions of the loans which the state investment council might acquire are underwritten by the small business administration, it may invest state moneys in loans guaranteed by the small business administration. 1969 Op. Att'y Gen. No. 69-115.

And in farmers' home administration loans. — The state investment council may act as "lender" and lawfully invest in farmers' home administration loans made pursuant to the consolidated Farmers' Home Administration Act of 1961, as the council is, in effect, purchasing a note which is guaranteed by the federal government. Such investment is clearly authorized by Subsection A. 1966 Op. Att'y Gen. No. 66-12.

Including loans where the mortgaged property securing the loan is located outside New Mexico. — Subsection F does not bar the investment council from investing in farmers' home administration loans where the mortgaged property securing the loans is not located within the state of New Mexico, since such investment is not a mortgage loan. The investment involves the simple purchase of a note which is clearly an authorized investment under Subsection A. As far as the state investment council is concerned, no mortgage is involved. The mortgage of the property is to the federal government and the state investment council has no interest in the mortgage whatsoever. Thus, the location of the land involved in a farmers' home administration loan, when the state investment council does not hold a mortgage thereon, has no effect whatsoever upon the legality of investment. 1966 Op. Att'y Gen. No. 66-12.

Common stocks purchased must have 10-year dividend history. — Subsection E, in providing for investment in common stocks, does not expressly contain the restriction that common stocks purchased must be those of corporations having a 10-year dividend history at the date of purchase. The statutory provision is, nevertheless, subject to this restriction which is expressly specified in N.M. Const., art. XII, § 7. 1957-58 Op. Att'y Gen. No. 58-10.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 63 Am. Jur. 2d Public Funds § 11.

Liability of public officer for interest or other earnings received on public money in his possession, 5 A.L.R.2d 257.

81 C.J.S. States § 155.

6-8-10. Investment standards.

Investments made pursuant to this act [6-8-1 to 6-8-16 NMSA 1978] shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived.

History: 1953 Comp., § 11-2-8.13, enacted by Laws 1957, ch. 179, § 10.

Prudent man rule applicable to purchases of securities. — This section has adopted, for the purposes of investment of the permanent fund, the prudent man rule of investments that is applicable to trustees generally. Under this rule, it is generally held that a trustee can properly invest in securities, the purchase price of which is greater than the face value of the security, or at a premium. 1959-60 Op. Att'y Gen. No. 59-157.

Standards of this section may be applied when investing funds of museum of New Mexico. — In investing funds belonging to the museum of New Mexico, the state treasurer and state board of finance may, in their discretion, utilize the same standards as govern the investment of public funds controlled by the state commissioner of public lands and as are set forth in this section. 1964 Op. Att'y Gen. No. 64-29.

6-8-11. Custody of securities.

Securities purchased or held by the state investment officer or the state investment council shall be in the custody of the state treasurer who may, with the approval of the secretary, deposit with a bank or trust company the securities for safekeeping and servicing.

History: 1953 Comp., § 11-2-8.14, enacted by Laws 1957, ch. 179, § 11; 1975, ch. 211, § 3; 1977, ch. 247, § 102.

The 1977 amendment substituted "secretary" for "financial officer."

6-8-12. Collection of income and principal; availability of income and proceeds for investment.

It shall be the duty of the state investment officer to collect and record interest, other income, principal and proceeds of securities as the sums become due and payable. The

moneys collected shall be paid over to the state treasurer who shall, in turn, credit the beneficiary of the permanent fund owning the investment security from which such money is derived; provided, however, the moneys paid over to the state treasurer shall be subject to current reinvestment of the state investment officer if not otherwise allocated by the beneficiary. Any sale of assets, including those with a capital gain, shall be considered as a disposition of a capital asset and the proceeds from such sale shall be considered as a part of the permanent fund.

History: 1953 Comp., § 11-2-8.15, enacted by Laws 1957, ch. 179, § 12.

6-8-13. Record of investments.

The investment division shall keep accurate and complete records and accounts concerning the state investment portfolio.

History: 1953 Comp., § 11-2-8.16, enacted by Laws 1957, ch. 179, § 13; 1977, ch. 247, § 103.

The 1977 amendment substituted "investment division" for "division of investment."

6-8-14. Monthly reports.

No later than ten days after the close of each month, the state investment officer shall submit to the secretary and the state investment council a report of the operations of the division during the past month. Each report shall give a complete statement of the state investment portfolio as of the time of the report, and in addition, shall include a detailed summary of the month's investment, reinvestment, purchase, sale and exchange transactions, setting forth the investments bought, sold or exchanged, the dates thereof, the prices paid or obtained, the names of the dealers involved, and a statement of the funds or accounts referred to herein. The reports shall also be circulated to a mailing list of investment bankers and brokers recommended by the council. The reports shall be open for inspection to the public and the press in the office of the state investment officer.

History: 1953 Comp., § 11-2-8.17, enacted by Laws 1957, ch. 179, § 14; 1977, ch. 247, § 104.

The 1977 amendment substituted "secretary" for "financial officer."

6-8-15. Post-audit.

The state auditor shall be responsible for conducting a continuous post-audit of the investment transactions of the state, and shall submit annually a special report on his findings to the investment council, the secretary, the governor, and to the appropriate legislative committee.

History: 1953 Comp., § 11-2-8.18, enacted by Laws 1957, ch. 179, § 15; 1977, ch. 247, § 105.

The 1977 amendment substituted "secretary" for "financial officer."

6-8-16. Annual report.

On or before January 1 of each year, and at such other times as it may deem in the public interest, the investment council shall report to the governor and to the legislature with respect to its review of the work of the investment division.

History: 1953 Comp., § 11-2-8.19, enacted by Laws 1957, ch. 179, § 16; 1977, ch. 247, § 106.

The 1977 amendment substituted "investment division" for "division of investment."

Effective date. — Laws 1957, ch. 179, § 18, makes the act effective upon the certification of the secretary of state of a proposed amendment to N.M. Const., art. XII, § 7, and upon passage and approval by the congress of the United States of an amendment to § 10 of the Enabling Act. The constitutional amendment was adopted at the general election held November 4, 1958, and the amendment to § 10 of the Enabling Act was adopted by congress on August 8, 1957.

Separability clause. — Laws 1957, ch. 179, § 17, provides for the severability of the act if any provision or application thereof is held invalid.

6-8-17. Purpose of act.

The purpose of this act [6-8-17 and 6-8-18 NMSA 1978] is to authorize the state investment officer to invest permanent funds in interest-bearing time deposits.

History: 1953 Comp., § 11-2-10.1, enacted by Laws 1970, ch. 2, § 1.

Compiler's note. — Laws 1970, ch. 2, originally enacted as Senate Bill 182, 1st Session, 1969, was vetoed by the governor. The second session of the legislature, convened in 1970, overrode the veto.

6-8-18. Permanent funds; investment in interest-bearing time deposits.

The state investment officer, under the supervision of the state investment council, though not required to, may invest not more than twenty percent of the permanent school fund and other permanent funds in interest-bearing time deposits at rates not lower than rates received by the state treasurer on deposits of public money. Deposits shall be secured as provided by law for securing deposits of public funds. When determined to be in the best interests of the beneficiaries of the fund, deposits shall be made in banks or savings and loan associations that are:

A. located in New Mexico;

B. approved by the state investment officer in accordance with policy regulations promulgated by the state investment council; and

C. provided that not more than five percent of the permanent funds available for deposit under this section shall be deposited in any single savings and loan association or bank.

History: 1953 Comp., § 11-2-10.2, enacted by Laws 1970, ch. 2, § 2; 1971, ch. 41, § 1.

ARTICLE 9

Facsimile Signatures

Sec.
6-9-1. Definitions.
6-9-2. Facsimile signature.
6-9-3. Use of facsimile seal.
6-9-4. Violation and penalty.
6-9-5. Uniformity of interpretation.
6-9-6. Short title.

6-9-1. Definitions.

As used in this act [6-9-1 to 6-9-6 NMSA 1978]:

A. "public security" means a bond, note, certificate of indebtedness or order [other] obligation for the payment of money, issued by this state or by any of its departments, agencies or other instrumentalities or by any of its political subdivisions;

B. "instrument of payment" means a check, draft, warrant or order for the payment, delivery or transfer of funds;

C. "authorized officer" means any official of this state or any of its departments, agencies or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted;

D. "facsimile signature" means a reproduction by engraving, imprinting, stamping or other means of the manual signature of an authorized officer.

History: 1953 Comp., § 5-9-1, enacted by Laws 1959, ch. 118, § 1.

C.J.S. reference. — 80 C.J.S. Signatures §§ 1, 2, 9.

6-9-2. Facsimile signature.

Any authorized officer, after filing with the secretary of state his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

MEMORANDUM

April 24, 1981

TO: Representative Don Clocksin

FROM: Ira Winograd
Issues Analyst

RE: Education Endowment Fund
Research Request 81-108

I spoke with the Investment Officer for the Texas Permanent School Fund. He is gathering several documents pertaining to the establishment and administration of the fund including a consultants report evaluating the operation of the fund. I expect to receive these materials by the end of next week. I am also researching whether other states have similar funds. I will prepare a report as soon as I receive additional information.

I have obtained the following information about the Texas Permanent School Fund:

Initiation: The fund was established by an 1854 constitutional amendment followed by a $2 million appropriation.

Management: The Board of Education manages investments through a special investment committee which employs an investment advisory council.

Allocation: Funds are allocated by formula depending on school district enrollment.

Usage: The fund is used to supplement the operating budgets of local school districts.

Funding: State royalties from sale of oil and gas exploration leases on State lands, equal to approximately $500 million per year, are deposited in the fund.

Performance: The current yield is 8 per cent based on earnings of $225 million from a $2.8 billion principal; earnings per student equal $86.50 based on an enrollment of 2.6 million students.

Investments: Investments are divided equally between stocks and bonds. Investments are made as money is received. Restrictions on investments include no foreign investments, no real estate, no commodities, and no precious metals.

Outlook: Over the next decade the fund is expected to provide $3 to $4 billion in earnings; by the end of 1983 the fund is expected to provide $100 per pupil.

I will provide additional information during the next two weeks. Please let me know if there are any topics in which you are particularly interested.

IW/bf

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

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 17, 1981

MEMORANDUM

TO: Representative Richard L. Randolph

FROM: Peter B. Froehlich PF
Issues Analyst

RE: Fees
Research Request No. 81-11

Your aide, Robert Shelley, asked this agency for information regarding fees imposed by State law. The request listed nine types of information which were desired concerning these fees:

1. Identification of all fees affected;
2. Estimated amount to be collected from each fee, and the fees in total;
3. Classification of fees into user or non-user fees;
4. Relationship of the amount of fees collected to the cost of the program involved;
5. A citation of the legal authority for individual fees;
6. Identification of the agency responsible for individual fees;
7. Whether the fees go into the General Fund as unrestricted revenues or whether there is special handling of the fees;
8. The last date the fees were raised;
9. The dates at which any board, commission, or agency associated with particular fees will be up for sunset review.

We have been able to gather most, but not all, of the requested information and it is contained in the attached tables as explained below.

One type of information which we have only partially compiled is the "estimated amount to be collected from each fee, and the fees in total." This information is not readily available from the State budgetary and accounting systems. However, a large part of this requested information, with respect to FY 80, is contained in State of Alaska Annual Financial Report for that fiscal year. Copies of the relevant pages of this report are attached to this memorandum showing the amounts collected from various fees. The report omits some fees, groups others together, and does not identify the various fees with their respective

statutory authority; however, it does provide more detailed information than the FY 81 budget. If you would like the information in the report organized in a different manner or require more information than the report contains, we can attempt to reorganize and gather additional information by contacting the fiscal officers of each State agency involved with fee collections.

A second type of requested information, "relationship of the amount of fees collected to the cost of the program involved", is also difficult to obtain. According to the Legislative Finance Division this comparative information is not currently available in any usable form and could only be gathered by contacting each agency involved in fee collections. Even then it is unlikely that the agency budgets and accounting records would lend themselves to this type of analysis. Nevertheless, if you wish, we will continue to explore ways of gathering this type of information.

Methodology

To gather, organize and present the fee information in the attached table, several steps were taken. First, we separated the fees imposed or authorized by statute from those imposed by administrative regulation. The attached table presents information on the fees in statute only. We are continuing to review the Alaska Administrative Code to identify fees imposed by regulation; most, but not all, of these are authorized by specific fee authorization statutes which are included in the attached table. We expect to complete our compilation of fees imposed by regulation by March 1.

Second, through the Storage and Information Retrieval Systems (STAIRS) computer program, we obtained a 110 page list of 797 statutes in which the words "fee" or "fees" were used. We then examined each statute to eliminate those which did not actually impose or authorize a fee, e.g., statutes referring generally to "all required fees" or "no fees", or to privately imposed fees such as "attorney fees". Next, we analyzed each of the remaining 246 fee statutes to obtain the information which you requested.

We did not analyze the nature of the fees imposed or authorized by the statutes to determine whether they were more accurately taxes or other types of charges. Neither did we examine other statutes which did not use the words "fee" or "fees" to determine whether they actually did impose or authorize a fee.

Treatment of Fee Revenues

One type of information was gathered generally but not included in the table. That information concerns "whether the fees go into the general

fund as unrestricted revenues or whether there is special handling of the fees."

Nearly all fees do go into the general fund as unrestricted revenues because of the prohibition on dedicated funds contained in Article IX, Section 7 of the Alaska Constitution. There are a few exceptions, however, which either predated the ratification of the Constitution or are required for participation in federal programs. The exceptions which we found are:

- fees from sport fishing and hunting licenses and permits collected under AS 16.05.340 are dedicated by AS 16.08.130 to "the protection, propagation, investigation, and restoration of sport fish and game resources and expenses of administering the sport fish and game division." This dedication to the "fish and game fund" satisfies a condition necessary for obtaining federal assistance under 16 USC Section 669,777.

- fees from cigarette licenses collected under AS 43.50.030-060 are dedicated to the "school fund" by AS 43.50.140. This dedication enacted in 1955 predates the ratification of the Alaska Constitution in 1956.

Several other statutes provide for special handling of fee revenue within the general fund. These are:

- AS 4.11.610 which provides that 20% of liquor license fee revenue collected by the Department of Revenue in a municipality be refunded from the general fund to the municipality;

- AS 15.25.050 which provides that revenue from candidate filing fees collected by the Lieutenant Governor's Office be paid to the central committee of each candidate's party, subject to appropriation;

- AS 18.56.095(b) which provides that mortgage loan commitment fees collected by the Alaska Housing Finance Corporation be deposited in the "mortgage insurance fund";

- AS 44.71.030(c) which provides that surplus property fees collected by the Department of Administration be deposited in the "special revenue fund for surplus property";

- AS 44.74.030 which provides that equipment rental fees collected by the Department of Transportation and Public Facilities be deposited in the "working capital fund";

- AS 44.88.157 which provides that loan insurance commitment fees collected by the Alaska Industrial Development Authority be deposited in the "loan insurance account" of the "enterprise development fund."

Two other types of information are also not included in the table: fees imposed by the court system and the University of Alaska. However, a summary of University fee revenue in FY 80 is attached. This summary indicates that $6.6 million in (user) fees was collected by the University in that year. If you wish, we will attempt to gather more detailed information concerning both categories of fees.

Explanation of Table

Column 1 of the attached table, entitled "Alaska Statute" contains a citation of the legal authority for individual fees.

Column 2, entitled "Description of Fee" contains an identification of all fees affected. If a statute authorizes, but does not impose or set, a fee, this column indicates whether the authorization is mandatory or permissive and whether or not the fee is specifically required to be set by administrative regulation.

Column 3 entitled "Amount" contains information on the amount to be collected from each fee. If a statute imposes several fees, the description in Column 2 includes the words "fee schedule" and Column 3 indicates the range from the low to the high fee. If the fee is periodic the period is also indicated in Column 3. If a statute imposes both periodic and one-time fees, the periodic fee amount is shown above the one-time fee amount. If a statute authorizes, but does not impose or set, a fee, "N/A" appears in this column.

Column 4, entitled "Agency" identifies the agency responsible for collecting the fees. The agency names are abbreviated and an index to the acronym abbreviations is attached. If two agencies (e.g., a board and a department) are explicitly mentioned in the statutes with regard to a particular fee, both agencies are listed. If a board or a commission involved with a fee is subject to "sunset review," the year in which the agency will terminate unless continued is shown parenthetically in Column 4 beneath the agency abbreviation.

Column 5, entitled "User Fee" contains a classification of fees into user or non-user fees. In an attempt to define user fees we consulted dictionaries, legal dictionaries, Words & Phrases, American Jurisprudence, and Corpus Juris Secondum without success. Therefore, after discussion with Mr. Shelley, we have designated as user fees only those

fees for which something of concrete value, independent of licensing, registration, filing, and permitting systems is received. Examples of these clear user fees are rental and purchase fees and copying fees. Additional statutory fees could be designated as "user fees" if the definition of user fee were broadened.

Finally, Column 6, entitled "Last Change" notes the last date the fees were raised. If a statute authorizes, but does not impose or set a fee, the year shown in Column 6 is the year in which the fee was first authorized by statute. These years are designated by an asterisk. To determine the last change in a statutorily set fee or the first statute authorization of other fees, we examined the legislative history of each fee statute.

If you have any questions about the materials presented in this memorandum, please contact us. As noted earlier, we will be forwarding the information on fees imposed by regulation by March 1.

PBF/dp

Attachments

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
2.05.075	Air commerce certificate application fee schedule	$100-200	ATC		1972
2.05.090	Commercial aircraft registration fee schedule	$25-600	ATC		1972
2.15.090(a)	Fees for airport use and services may be set by regulation	N/A	DOTPF	Yes	1949*
2.20.010	Aircraft registration	$1	DOTPF		1951
2.20.020	Air pilot registration	$1	DOTPF		1951
3.05.010(c)	Fees for regulating import and use of agriculture products may be set by regulation	N/A	DNR		1949*
3.05.020(3)	Fees for services by state veterinarians must be set by regulation	N/A	DNR	Yes	1949*
3.22.020(5)	Fees for seeds and plants from the state may be set by regulation	N/A	PMC	Yes	1972*
3.40.030	Recording livestock brand	$2	DNR		1959
3.40.070	Recording transfer of livestock brand	$1	DNR		1959
3.40.160	Livestock slaughter permit registration	$1/yr.	DNR		1959
3.57.010	Vegetable dealer license	$25	DOA/DNR		1967
4.06.100(b)(4)	Fees for liquor licenses and permits not set by statute may be set by regulation	N/A	ABCB/DR		1980*
4.06.100(b)(15)	Fees for application for liquor licenses and permits may be set by regulation	N/A	ABCB/DR		1980*
4.11.090	Beverage dispensary license	$1,250/yr.	ABCB/DR		1980
4.11.100	Restaurant license	$ 300/yr.	ABCB/DR		1980

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
4.11.110	Club license	$600/yr.	ABCB/DR		1980
4.11.120	Bottling works license	$250/yr.	ABCB/DR		1980
4.11.130	Brewery license	$500/yr.	ABCB/DR		1980
4.11.140	Winery license	$250/yr.	ABCB/DR		1980
4.11.150	Package store license	$750/yr.	ABCB/DR		1980
4.11.160(a)	General wholesale license fee schedule	1,000-11,000/yr	ABCB/DR		1980
4.11.160(b)	Beer and wine wholesale license fee schedule	$200-10,200/yr	ABCB/DR		1980
4.11.170	Distillery license	$500/yr.	ABCB/DR		1980
4.11.180	Common carrier dispensary license	$350/yr.	ABCB/DR		1980
4.11.200	Retail stock sale license	$100/yr.	ABCB/DR		1980
4.11.210	Recreational site license	$400/yr.	ABCB/DR		1980
4.11.220	Pub license	$400/yr.	ABCB/DR		1980
4.11.230	Caterer's Permit (for unspecified, but limited duration)	$50	ABCB/DR		1980
4.11.240	Special events permit	$50/day	ABCB/DR		1980
4.11.250	Conditional contractor's permit	$600/yr.	ABCB/DR		1980
5.10.070	Boxing and wrestling license	$100/yr.	AC/GO		1960
5.15.020	Bingo, raffle and ice pool permit	$20 + 1%/yr.	DR		1976
5.30.020	Snow vehicle registration	$5/2 yrs.	DPS		1968

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
6.01.010	Fees for costs of examination of financial institution must be assessed	$7,500 max.	DCED		1978
6.05.060	Fees for copies of documents must be set by regulation	N/A	DCED		1951*
6.20.030	Small lender license	$200/yr.	DCED		1955
6.30.815	Filing of savings and loan association charters	$10	DCED		1961
6.30.820	Approval of commissioner of any savings and loan association document	$10	DCED		1961
6.40.040	Premium finance company license	$200/yr.	DCED		1978
8.01.050(a)(10)	Duplicate licenses	$2	DCED		1966
8.04.190	Certified public accountatnt examination	$50	BPA (1984)		1976
8.04.390	Individual public accounting permit	$60/2 yrs.	BPA (1984)		1976
8.04.400	Corporation or partnership public accounting permit	$60/2yrs	BPA (1984)		1976
8.04.410	Registration of non-practicing accountant	$10/yr.	BPA (1984)		1960
8.04.420	Permit for certified public accountant without Alaska office	$100/yr.	BPA (1984)		1960
8.04.440	Excusable failure to renew permit penalty	triple annual fee	BPA (1984)		1960
8.08.080	Board of Governors may set any fees for law practice	N/A	ABA (1980)		1976

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTE

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
8.13.185	Barber and hairdresser fee schedule	$30-400/2yrs $20-700	BBH (1984)		1980
8.18.041	Construction contractor registration certificate	$50-100/yr.	DCED		1968
8.20.180	Chiropractor fee schedule	$200/4 yrs. $20-$50	BCE (1984)		1980
8.24.100-110	Collection agency operator license	$100/2 yrs.	CAB/DCED (1980)		1968
8.24.120	Collection agency operator application	$40	CAB/DCED (1980)		1968
8.24.140	Collection agency license and application	$200/2 yrs. $100	CAB/DCED (1980)		1968
8.24.370	Collection agency non-resident fee schedule	$200-400/2 yr $100-200	CAB/DCED (1980)		1968
8.36.290	Dentist and dental hygienist fee schedule	$100-200/4 yr $10-200	BDE (1982)		1980
8.40.135	Reinstatement of lapsed electrical license	$25/yr.	BEE (1982)		1969
8.40.150	Electrical license	$200/yr	BEE (1982)		1980
8.42.010	Fees for mortuary science may be set by regulation	N/A	DCED		1976*
8.48.091	Engineer examination fee may be set by regulation	N/A	SBRAELS/ DCED(1984)		1972*
8.48.201	Engineer registration fee may be set by regulation	$100 max.	SBRAELS/ DCED(1984)		1972*

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTE

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
8.48.231	Engineer renewal fee may be set by regulation	$100/yr. max.	SBRAELS/ DCED(1984)		1972*
8.48.241	Engineer corporation registration fee may be set by regulation	$300 max.	SBRAELS/ DCED(1984)		1972*
8.52.050	Explosive handler certificate	$5	DL		1955
8.54.170	Guide license fee schedule	$10-75/yr.	GLCB (1980)		1973
8.54.180	Guide examination	$25	GLCB (1980)		1973
8.62.140	Marine pilot application and license	$10 $200/2 yrs	BMP (1983)		1970
8.64.260	Physician re-exam fees may be prorated by regulation	N/A	SMB (1983)		1969*
8.64.315	Physician fee schedule	$25-100/2 yrs $25-125	SMB (1983)		1969*
8.66.020	Car dealer registration	$25/yr.	DPS		1959
8.68.220	Nurse fee schedule	$15/2 yr. $15-20	BN (1983)		1969
8.70.150	Nursing home administraton fee schedule	$50/yr. $25	BNHA (1986)		1975
8.71.120	Dispensing optician fee schedule	$200/4 yrs. $50	BDO (1985)		1980
8.71.145	Fees for out-of-state dispensing opticians may be set by regulation	N/A	BDO (1985)		1980*

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
8.72.191	Optometrist fee schedule	$100-200/4yr. $50-100	BEO (1984)		1980
8.80.160	Pharmacist fee schedule	$100-200/4yr. $10-80	BP (1984)		1980
8.84.050	Physical therapist fee schedule	$200/4 yr. $20-50	SBPT (1986)		1980
8.86.070(a)(4)	Fees for psychological associates must be set by regulation	N/A	BPPAE (1982)		1973*
8.86.140	Psychologist fee schedule	$200/4 yrs. $25-200	BPPAE (1982)		1980
8.88.221	Real estate broker and salesman fee schedule	$25-100/2 yr $2-100	REC (1982)		1980
8.88.455	Real estate broker and salesman bond fee schedule	$40-125/yr.	REC (1982)		1974
8.92.020	Concert promoter registration and renewal	$75 $20/yr.	DCED		1977
8.98.198	Veterinarian fee schedule	$200/4 yrs. $50-200	BVE/DCED (1985)		1980
8.99.080(a)(6)	Fees for welding tests must be set by regulation	N/A	BWE (1981)		1968*
10.05.039	Fees for registration of corporate name must be set by regulation	N/A	DCED		1980*
10.05.042	Fees for renewal of corporate name must be set by regulation	N/A	DCED		1980*
10.05.048	Fees for list of corporate names must be set by regulation	N/A	DCED		1960*

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
10.05.057(b)	Service of process on commissioner	$10	DCED		1976
10.05.630	Fee for list of foreign corporations must be set by regulation	N/A	DCED		1960*
10.05.708	Fee for incorporation filing must be set by regulation	N/A	DCED		1980*
10.05.711	Fee for filing incorporation amendments must be set by regulation	N/A	DCED		1980*
10.05.714	Fee for appointment of agent must be set by regulation	N/A	DCED		1980*
10.05.720	Fee for certificate of payment of corporate tax must be set regulation	N/A	DCED		1980*
10.05.747(a)	Fee for filing miscellaneous instruments must be set by regulation	N/A	DCED		1980*
10.05.747(b)	A fixed fee in lieu of other fees may be set by regulation	N/A	DCED		1980*
10.05.750	Fee for withdrawal of foreign corporation from state must be set by regulation	N/A	DCED		1980*
10.05.753	Fee for dissolution of domestic corporation must be set by regulation	N/A	DCED		1980*
10.05.756	Fee for dissolution of foreign corporation must be set by regulation	N/A	DCED		1980*
10.05.762	Fees for certified copies must be set by regulation	N/A	DCED	Yes	1980*
10.05.773	All AS 10.05 fee increases are limited by the consumer price index	N/A	DCED		1980*
10.15.245	Filing coop contracts	$10+.02/name	DCED		1980
10.15.255	Fees for filing coop contracts must be set by regulation	N/A	DCED		1980*

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
10.15.260	Fees for filing terminated coop contracts must be set by regulation	N/A	DCED		1980*
10.15.530-545	Fees for biennial cooperative corporation license must be set by regulation	N/A	DCED		1980*
10.15.555	Fees for miscellaneous cooperative corporation license must be set by regulation	N/A	DCED		1980*
10.20.031	Fee for copy of list of registered corporations must be set by regulation	N/A	DCED	Yes	1968*
10.20.510	Fee for copy of list of foreign corporations must be set by regulation	N/A	DCED	Yes	1968*
10.20.530	Fees for service on commissioner must be set by regulation	N/A	DCED		1980*
10.20.635	Fees for filing corporate documents must be set by regulation	N/A	DCED		1980*
10.20.640	Fee for certified copy must be set by regulation	N/A	DCED	Yes	1980*
10.25.530	Fees for filing various utility coop documents must be set by regulation	N/A	DCED		1980*
10.35.060	Fee for registering business name must be set by regulation	N/A	DCED		1980*
10.35.070	Fee for renewal of business name must be set by regulation	N/A	DCED		1980*
10.35.140	Fees for filing religious corporation documents must be set by regulation.	N/A	DCED		1980*
14.09.010	Fees for supplementary pupil transportation may be set by regulation	N/A	SD/DE	Yes	1966*
14.20.500	Fees for teaching certificate may be set by regulation	N/A	PTPC/DE		1966*

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
14.48.090	Postsecondary education institution fee schedule	$50-100	ACPSE/DE		1976
14.52.010(b)	Schools may set food service fees	N/A	Schools/DE	Yes	1972*
14.56.170	State library may set copy fees	N/A	SLDDAC/DE	Yes	1979*
15.15.400	Fee for voter list copy must be set by election director	N/A	LG	Yes	1960*
15.25.050	Filing Declaration of Candidacy for legislative and executive office fee schedule	$30-100	LG		1960
15.35.041	Filing declaration of candidacy for retention-Supreme Court	$100	LG		1963
15.35.057	Filing declaration of candidacy for retention-Court of Appeals	$100	LG		1980
15.35.071	Filing declaration of candidacy for retention-Superior Court	$ 30	LG		1963
15.35.120	Filing declaration of candidacy for retention-District Court	$ 30	LG		1966
16.05.065	Extension of fish and game application deadlines	$ 45	BF&BG/DFG		1970
16.05.340	Sport fishing and hunting license and tag fee schedule	$5-1,000/yr.	BF&BG/DFG		1980
16.05.346	Sport hunting tag and permit application	$5-10	BG/DFG		1980
16.05.480	Commercial fishing license	$10-30/yr.	BF/DFG		1966
16.05.520	Duplicate vessel license plate	$2	CFEC		1959
16.05.530	Vessel license renewal	$20/yr.	CFEC		1977
16.05.632	Fees for shellfish gear registration tags must be set by regulation	N/A	DFG		1977*
16.05.903	Big game photo contest entry	$10	DFG		1975

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
16.10.400	Hatchery permit application	$100	DFG		1974
16.43.160	Fees for limited entry permits must be set by regulation	$10-750/yr.	CFEC		1977
16.43.277	Fees for educational entry permit must be set by regulation	N/A	CFEC		1978*
16.43.337	Fees for special harvest area permits must be set by regulation	N/A	CFEC		1979*
18.20.030	Hospital license application	$10	DHSS		1949
18.26.050	Fees at state-funded hospitals may be set by regulation	N/A	AMFA/DR	Yes	1978*
18.50.100	Fees for local registrar services must be set by regulation	N/A	BVS/DHSS	Yes	1960*
18.50.330	Fees for state registrar services must be set by regulation	N/A	BVS/DHSS	Yes	1960*
18.56.090(6)	Fees for Alaska Housing Finance Corporation services may be set by regulation	N/A	AHFC/DCED	Yes	1971*
18.56.093(b)	Insurance commitment fees for AHFC mortgage loans may be set by regulation	N/A	AHFC/DCED	Yes	1980*
18.56.095(b)	Special insurance commitment fees for AHFC mortgage loans may be set by regulation	N/A	AHFC/DCED	Yes	1980*
18.57.040(12)	Fees for rural education attendance area services may be set by regulation	N/A	REAA/DOE	Yes	1975*
18.60.340	Fee for boiler inspection certificate must be set by regulation	N/A	DL		1966 *
18.60.360	Fees for boiler inspection must be set by regulation	N/A	DL		1966*
18.60.620	Fees for wiring inspection must be set by regulation	N/A	DL		1969*

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
18.60.715	Fees for plumbing inspections may be set by regulation	N/A	DL		1980*
18.60.720	Maximum fees for plumbing permits which may be set by regulation	$1.50-10	DL		1972
18.60.800(b)(3)	Fees for elevator inspection must be set by regulation	N/A	DL		1979*
18.62.030	Electrician and plumber certificate of fitness applications	$15	DL		1974
18.62.040	Electrician and plumber certificate of fitness renewal	$5/yr.	DL		1974
18.65.310	State identification card	$5	DPS	Yes	1973
18.65.410	Security guard agency license applications	$25-200	DPS		1973
18.65.430	Security guard ageny license renewal	$25/2 yrs.	DPS		1976
18.72.020	Fireworks retail permit	$5/yr.	FM/DPS		1969
18.72.030	Fireworks wholesale license	$500/yr.	FM/DPS		1969
21.06.250	Insurance certificates licenses, etc. fee schedule	$5-250/yr. $5-300	DI/DCED		1976
21.33.220	Surplus line insurance broker statement filing	$50/yr.	DI/DCED		1966
21.39.060(a)	Insurance rating organization license	$100/3 yrs.	DI/DCED		1966
21.66.080	Title insurance company annual statement filing	$15/yr.	DI/DCED		1966
21.66.090(b)	Title insurance company certificate of authority application	$50	DI/DCED		1966
21.66.210(b)	Joint plant insurance company certificate of authority	$75/yr.	DI/DCED		1974
21.84.340(b)	Fraternal benefit society annual report filing	$5/yr.	DI/DCED		1966

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
21.84.430(a)	Fraternal benefit society agent license	$35/yr	DI/DCED		1966
21.84.490(b)	Fraternal benefit society service of process on director	$5	DI/DCED		1966
21.87.320	Hospital and medical service corporaton fee schedule	$10-65/yr $5-100	DI/DCED		1966
22.05.020	All court fees may be set by rule	N/A	SC		1960*
23.15.390	Employment agency permit application	$10	DL		1953
25.05.241	Fees for marriage license must be set by rule	N/A	SC		1963*
25.30.160	Fees for custody decree copies must be set by court	N/A	SC		1977*
27.05.080	Fees for state mining equipment rental to be nominal	N/A	DNR	Yes	1955*
28.05.011(8)	Fees for special permits must be set by regulation	N/A	DPS		1978*
28.05.061(c)	Fees for certified copies must be set	N/A	DPS	Yes	1978*
28.10.071(d)	Fees for weekly lists of stolen vehicles must be set	N/A	DPS	Yes	1978*
28.10.411-421	Motor vehicle registration fee schedule	$5-215/yr.	DPS		1979
28.10.441	Other motor vehicle fee schedule	$2-5	DPS		1978
28.15.151	Fees for driver's record abstract to be set by regulation	N/A	DPS	Yes	1978*
28.15.271	Driver's license and permit fee schedule	$1-5	DPS		1978*
28.17.031	Driving school and teacher licenses	$5-25/yr.	DPS		1976
28.35.155	Special individual tractior permit	1/3 registration fee/yr.	DPS		1980

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
31.05.090	Oil and gas well drilling permit	$100/well	AOGCC		1970
34.35.190	Fees for recording chattel mortgages may be set	N/A	Recorder		1949*
34.35.270	Fees for receiver services may be set by court (timber)	N/A	DPS/Court	Yes	1949*
34.35.350	Fees for receiver services may be set by court (fish)	N/A	DPS/Court	Yes	1949*
34.35.410	Lien filing fee is to be same as for filing other papers	N/A	Recorder		1949*
34.45.090	Court and police fees for handling unclaimed property	$3 + execution fees + .10/folio	Police/ Courts		1933
37.15.500	Fees for use of airports may be set	N/A	DOTPF	Yes	1972*
38.05.035(a)(5)	Fees for various public land services, etc., may be set by regulation	N/A	DOL/DNR		1959*
38.05.057(d)(2)	Application for land lottery	$25	DOL/DNR		1979
38.05.079(b)	Remote cabin permit	$100/yr.	DOL/DNR		1979
38.05.180(u)	Fees for subsurface storage of oil or gas may be set	N/A	DOL/DNR		1959*
38.05.330	Fees for permits, rights-of-way, and easements may be set	N/A	DOL/DNR		1959*
38.08.030	Homesite entry application	$10	DOL/DNR		1977
38.95.080	Trapping cabin permit	$10	DOL/DNR		1976
41.21.030	Fees for copies of archives material may be set	N/A	ASA/DA		1970*
42.05.351	Fees for appliance testing may be set	N/A	APUC/DCED		1970*
42.05.661	Application for Alaska Public Utilities certificate	$50	APUC		1970

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
42.06.520	Fees for Alaska Pipeline Commission certificates may be set	N/A	APC		1972*
42.10.160	Application fee schedule for commercial carriers	$10-50	ATC		1972
42.10.240	Commercial carrier fee schedule	$25-75/yr.	ATC		1970
43.05.230(b)	Tax return copies	$1/pg.	DR	Yes	1976
43.20.270(1)	Fees for distraint may be set	N/A	DR		1951*
43.31.310	Certificate of non-liability for estate tax	$2.50	DR		1970
43.35.020(b)	Transfer of taxable gaming device	$5	DR		1960
43.35.030	Permit for distribution of coin-operated equipment	$50/yr.	DR		1960
43.50.030	Cigarette license fee schedule	$5-50/yr.	DR		1955
43.50.040	Cigarette license change of address	$.50	DR		1955
43.50.060	Cigarette license duplicate	$.50	DR		1955
43.70.030	Business license	$25	DR		1978
43.70.090	Other business license fees may be set by regulation	N/A	DR		1949*
43.75.020	Fish processing license application	$25	DR		1949
44.07.110(10)	Fees for use of services and facilities of a new capital city may be set	N/A	ACCDC/DCRA	Yes	1978*
44.19.024	Certificates with state seal	$2 + .20/pg	LG	Yes	1949
44.37.025(b)	Fees for recording instruments must be set by regulation	N/A	DNR		1980*
44.47.290	Fees for day care must be set by regulation	N/A	DCRA	Yes	1975

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
44.50.040	Notary Public commission	$20/4 yrs.	LG		1961
44.71.030(a)	Fees for use of surplus property must be set	N/A	DA	Yes	1957
44.74.030	Fees for use of state equipment may be set	N/A	DOTPF	Yes	1960*
44.85.080(8)	Fees for use of bond bank services and facilities may be set	N/A	AMBBA/DR	Yes	1975*
44.88.157(c)	Loan insurance commitment fees may be set by regulation	N/A	AIDA/DCED		1980*
44.88.158(d)	Loan fees may be set by regulation	N/A	AIDA/DCED	Yes	1980*
45.09.302(e)	Filing utility security interest	$10	DNR		1967
45.09.403(e)	Uniform Commercial Code financing statement fees must be set by court administrator	N/A	Courts		1962*
45.09.404(c)	Uniform Commercial Code termination statement fees must be set by court administrator	N/A	Courts		1962*
45.09.405(b)	Uniform Commercial Code assignment statement fees must be set by court administrator	N/A	Courts		1962*
45.09.406	Uniform Commercial Code statement of release fees must be set be court adminsitrator	N/A	Courts		1962*
45.09.407	Uniform Commercial Code copy fees must be set by court administrator	N/A	Courts	Yes	1962*
45.50.040	Application for trademark registration	$10	DCED		1961
45.50.080	Application for renewal of trademark registration	$10	DCED		1961*
45.50.120	Recording assignment of trademark registration	$ 2	DCED		1961*
45.50.210(b)	Fees for registration of log brand must be set by regulation	N/A	DNR		1975*

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

(1) Alaska Statute	(2) Description of fees	(3) Amount	(4) Agency (Sunset)	(5) User Fee	(6) Last Change
45.50.220	Fee for renewal of log brand registration must be set by regulation	N/A	DNR		1975*
45.50.260	Fees for transfer of log brand registration must be set by regulation	N/A	DNR		1975*
45.50.280	Fees for copies of log brand registrations must be set by regulation	N/A	DNR	Yes	1975*
45.50.370(d)	Service of process on commissioner for non-resident copyright holder	$3	DA		1949
45.55.040(c)	Application for registration of investment brokers and advisors fee schedule	$30-75/yr. $50-100	DCED		1972
45.55.110(b)	Filing security registration statement fee schedule	$100-$1,500	DCED		1972
45.55.140(f)	Fees for security exemption investigation must be set by regulation	N/A	DCED		1972*
46.03.160(h)	Air pollution control plan review fee	$25	DEC		1971
46.11.030(d)	Energy audit	$10	DCED	Yes	1980
46.15.020(b)(4)	Fees for any public service by DEC must be set by regulation	N/A	DEC		1966*
46.35.120	All previously set DEC fees will continue to apply	N/A	DEC		1977*
47.23.020(2)(c)	Fees for child support enforcement must be set by regulation	N/A	CSEA/DR		1977*
47.37.140(a)	Fees for inspection of alcoholism treatment facilities must be set by regulation	N/A	OA/DHSS		1972*

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

KEY TO TABLE

N/A denotes that the statute authorizes, but does not set, the fee.

An asterick (*) denotes the year the authority was first enacted

Agency Abbreviations

ABA	Alaska Bar Association
ABCB	Alcohol Beverage Control Board
AC	Athletic Commission
ACCDC	Alaska Capitol City Development Corporation
ACPSE	Alaska Commission on Post-Secondary Education
AHFC	Alaska Housing Finance Corporation
AIDA	Alaska Industrial Development Authority
AMBBA	Alaska Municipal Bond Bank Authority
AMFA	Alaska Medical Facility Authority
AOGCC	Alaska Oil and Gas Conservation Commission
APC	Alaska Pipeline Commission
APUC	Alaska Public Utilities Commission
ASA	Alaska State Archives
ATC	Alaska Transportation Commission
BBH	Board of Barbers and Hairdressers
BCE	Board of Chiropractic Examiners
BDE	Board of Dental Examiners
BDO	Board of Dispensing Opticians
BEE	Board of Electrical Engineers
BEO	Board of Examiners in Optometry
BF	Board of Fisheries
BG	Board of Games
BMP	Board of Marine Pilots
BN	Board of Nursing
BNHA	Board of Nursing Home Adminstrators
BP	Board of Pharmacy
BPA	Board of Public Accountancy
BPPAE	Board of Psychologist and Psychological Associate Examiners
BVE	Board of Veterinary Examiners
BVS	Bureau of Vital Statistics
BWE	Board of Welding Examiners
CAB	Collection Agency Board
CFEC	Commercial Fisheries Entry Commission
CSEA	Child Support Enforcement Agency
DA	Department of Administration
DCED	Department of Commerce and Economic Development

FEES IMPOSED OR AUTHORIZED BY ALASKA STATUTES

KEY TO TABLE (cont.)

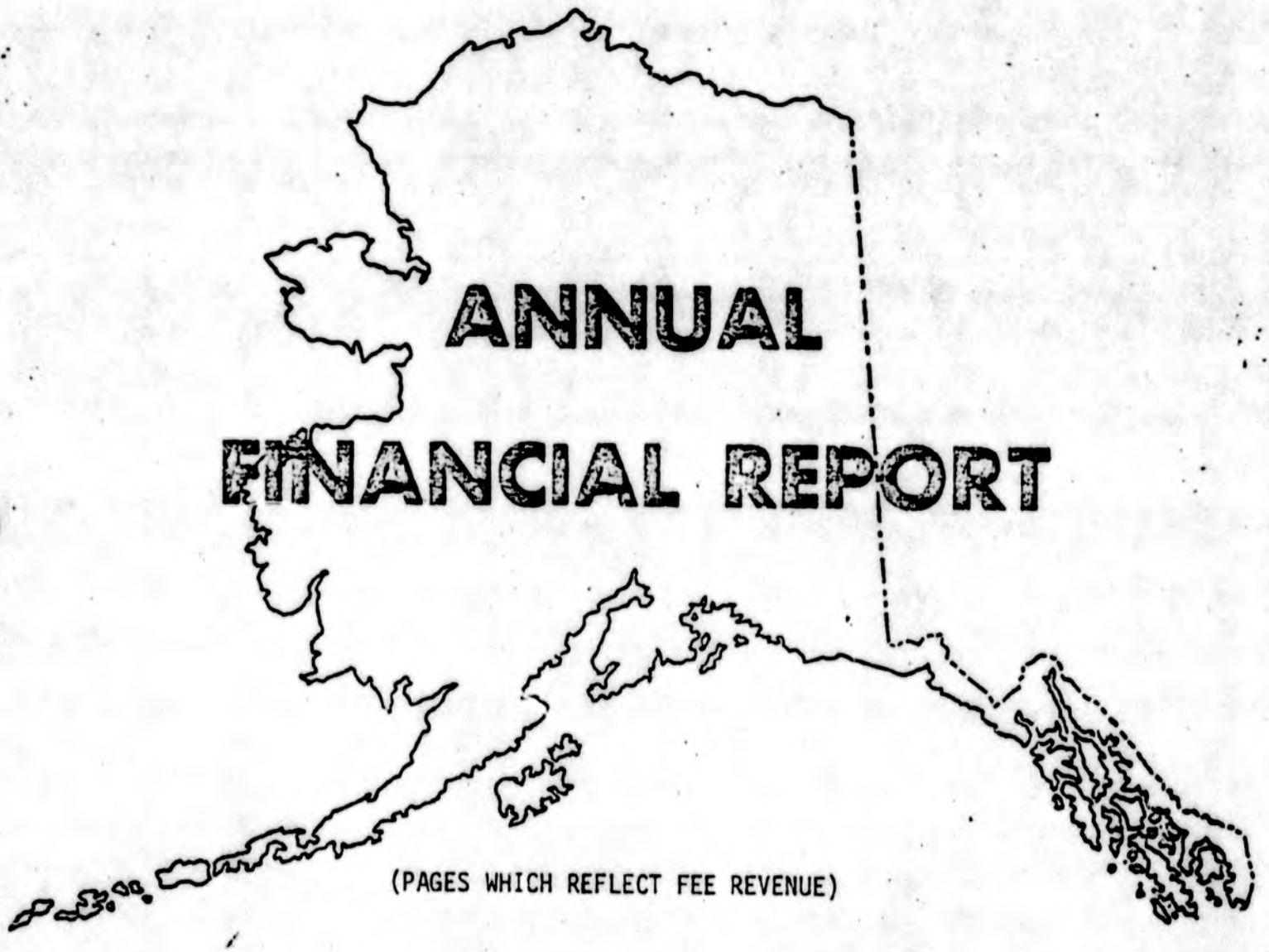
DCRA	Department of Community and Regional Affairs
DE	Department of Education
DEC	Department of Environmental Conservation
DFG	Department of Fish and Game
DHSS	Department of Health and Social Services
DI	Division of Insurance (DCED)
DL	Department of Labor
DNR	Department of Natural Resources
DOA	Division of Agriculture (DNR)
DOL	Division of Lands (DNR)
DOTPF	Department of Transportation and Public Facilities
DPS	Department of Public Safety
DR	Department of Revenue
FM	Fire Marshal (DPS)
GLCB	Guide Licensing and Control Board
GO	Governor's Office
LG	Lieutenant Governor
OA	Office of Administration
PMC	Plant Materials Center
PTPC	Professional Teaching Practices Commission
REAA	Rural Education Attendance Areas
REC	Real Estate Commission
SBRAELS	State Board of Registration for Architects, Engineers and Land Surveyors
SC	Supreme Court
SD	School District
SMB	State Medical Board
SLDDAC	State Library District and Data Access
SPTB	State Physical Therapy Board

TABLE XVII
University of Alaska
FY 80 Expenditures Matrix - Expanded Format
($millions)

		REVENUES			
		State Funds	Student Fees, Etc.	Other Sources	Total
INSTRUCTIONAL COSTS	Senior Colleges	$38.0	$2.6	$ 6.6	$47.3
	Community Colleges	22.7	2.9	5.1	30.7
	Total Instructional Costs	$60.8	$5.6	$11.7	$78.0
NON-INSTRUCTIONAL COSTS	Administration				
	Board of Regents	$ .1	$ 0	$ 0	$ .1
	Statewide Administration	7.0	0	2.0	9.0
	Community College Admin.	1.0	0	.1	1.1
	Sub-total	8.3	0	2.1	10.3
	Debt Service				
	General Obligation	11.2	0	0	11.2
	Other	.8	1.0	.1	1.9
	Sub-total	12.0	1.0	.1	13.1
	Public Service & Extension				
	Public Service	1.1	0	.6	1.7
	Cooperative Extension	2.3	0	1.3	3.5
	Sub-total	3.4	0	1.8	5.2
	Research				
	Organized Research & Professional Centers	12.8	0	32.5	45.3
		.6	0	1.4	2.0
	Sub-total	13.3	0	33.9	47.3
	Auxiliaries	0	0	8.1	8.1
	Total Non-Instructional Costs	$37.0	$1.0	$46.0	$ 84.0
	TOTAL UNIVERSITY OF ALASKA	$97.7	$6.6	$57.7	$162.0

Source: University of Alaska, Attachment C
House Research Agency/AHD 1/24/81

STATE OF ALASKA



ANNUAL FINANCIAL REPORT

(PAGES WHICH REFLECT FEE REVENUE)

JAY S. HAMMOND
Governor

Fiscal Year Ended June 30, 1980

taken to utilize them. These matters are discussed in more detail in the sections that follow.

General Fund Revenues

In our State, much more so than in our sister states, the General Fund is the general "purse" of the people. Because of the constitutional prohibition on dedicating the proceeds of most state taxes and licenses, General Fund appropriations are made to carry on practically every program in Alaska. It is not an overstatement to maintain that the fiscal health of the State of Alaska is reflected in the operations of its General Fund.

General Fund revenues for fiscal 1980 were $2,780.9 million, an increase of $1,355.4 million over revenues of $1,425.5 million for fiscal 1979. Actual revenues for the last two years are shown in the following tabulation.

Revenues	1980 (Millions)	Percent Of Total	1979 (Millions)	Percent Of Total
Taxes	$1,410.5	50.7	$ 798.6	56.1
Licenses and Permits	18.7	0.7	19.7	1.4
Federal Grants	229.4	8.2	225.4	15.8
Charges for Services	27.3	1.0	24.9	1.7
Fines and Forfeitures	2.7	0.1	2.1	0.2
Miscellaneous	1,092.1	39.2	354.5	24.9
Total	$2,780.9	100.0	$1,425.5	100.0

Taxes and miscellaneous revenues accounted for the sharp increase in total revenues in fiscal 1980.

Revenues from taxes of $1,410.5 million were $611.9 million more than tax revenues reported for fiscal 1979. The schedule below shows the details of tax revenues for the last two years.

Tax	1980 (Millions)	1979 (Millions)	Change
Oil and Gas Corporation Income Tax	$ 547.4	$ 232.6	$ 314.8
Oil Production Tax	495.8	166.1	329.7
Pipeline Property Tax	168.9	163.4	5.5
Personal Income Tax	100.4	117.1	-16.7
Other Taxes	98.0	119.4	-21.4
Total	$1,410.5	$ 798.6	$ 611.9

St. #2

STATE OF ALASKA

COMBINED STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
ALL GOVERNMENTAL FUND TYPES AND EXPENDABLE TRUST FUNDS
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Governmental Types				Fiduciary Fund Types	Totals (Memorandum Only)	
	General Fund	Special Revenue Funds	Debt Service Funds	Capital Project Funds	Expendable Trust Funds	June 30, 1980	June 30, 1979
Financial Resources Provided							
Revenues							
Unrestricted							
Taxes	$1,410,550,242	$ 2,679,731	$	$	$	$1,413,229,973	$801,436,735
[redacted]	[redacted]	[redacted]				[redacted]	[redacted]
Inter-governmental Revenues	5,870,316					5,870,316	5,273,497
[redacted]	[redacted]	[redacted]				[redacted]	[redacted]
Fines and Forfeits	2,754,095	409,786				3,163,881	2,177,427
Rents and Royalties	832,976,437	35,468,005			33,452,589	901,897,031	217,343,680
Interest	146,834,754	310,348			802,464	147,947,566	59,680,172
Other	22,264,355	1,006,366			12,315,656	35,586,378	26,137,533
Total Unrestricted	$2,467,361,034	$ 44,824,562	$	$	$ 46,570,710	$2,558,756,306	$1,161,718,451
Restricted							
Federal Grants in Aid	$ 223,534,492	$ 12,648,407	$	$ 43,016,026	$	$ 279,198,926	$ 243,903,546
Other Grants in Aid	11,455,368					11,455,368	9,355,448
Inter-agency Receipts	71,996,187	67,296		687,292		72,750,776	77,223,678
Other	6,578,060	27,592				6,605,652	5,072,157
Total Restricted	$ 313,564,109	$ 12,743,297	$	$ 43,703,319	$	$ 370,010,725	$ 335,554,830
Total Revenues	$2,780,925,143	$ 57,567,859	$	$ 43,703,319	$ 46,570,710	$2,928,767,032	$1,497,273,282
Other Sources							
Receivables	$	$ (548,474)	$	$	$	$ (548,474)	$ 273,803,971
Proceeds of General Obligation Bonds							100,000,000
Transfer from General Fund		2,800,000	76,242,173		4,000,000	83,042,173	61,977,471
Transfer from Other Funds	12,386,272	90,674			11,150,000	23,626,946	33,764,723
U.C. Revenue					67,589,488	67,589,488	65,148,802
Total Other Sources	$ 12,386,272	$ 2,342,199	$ 76,242,173	$	$ 82,739,488	$ 173,710,133	$ 534,734,969
Total Financial Resources Provided	$2,793,311,415	$ 59,910,059	$ 76,242,173	$ 43,703,319	$129,310,198	$3,102,477,166	$2,032,008,251
Financial Resources Used							
Expenditures							
Operating							
Education	$ 445,828,279	$ 2,003,200	$	$	$	$ 447,831,479	$ 410,557,649
Social Services	131,135,037					131,135,037	124,160,647
Health	73,484,015					73,484,015	78,319,116
Natural Resources	82,584,123	9,209,637				91,793,760	86,843,736
Public Protection	28,900,972	78,513				28,979,485	28,266,233
Administration of Justice	84,586,022					84,586,022	85,966,758
Development	63,010,327	1,281,282				64,291,609	61,814,176
Transportation	130,444,629					130,444,629	124,706,983
General Government	86,451,736					86,451,736	87,101,791
Total Operating	$1,126,425,145	$ 12,572,633	$	$	$	$1,138,997,778	$1,087,737,093
Debt Service			76,209,273			76,209,273	58,847,202
Capital Outlay	249,265,445	22,609,641		150,657,582	7,871,983	430,404,653	281,663,283
Total Expenditures	$1,375,690,590	$ 35,182,274	$ 76,209,273	$150,657,582	$ 7,871,983	$1,645,611,704	$1,428,287,578
Other Uses							
Expenditures (Adjustments) Related to Prior Year Budget	$ 101,223,572	$ 17,105,563	$	$ 66,283,923	$	$ 184,613,059	$ 8,799,607
Other Transfers		11,081,042				11,081,042	8,343,745
Transfer to Bond Redemption Fund				3,409		3,409	4,008
Trust Refund					12,525,306	12,525,306	14,803,697
U.C. Benefits Paid					50,753,101	50,753,101	64,056,466
Total Other Uses	$ 101,223,572	$ 28,186,605	$	$ 66,287,332	$ 63,278,408	$ 258,975,917	$ 96,007,526
Total Financial Resources Used	$1,476,914,162	$ 63,368,879	$ 76,209,273	$216,944,915	$ 71,150,392	$1,904,587,622	$1,524,295,086
Net Increase (Decrease) in Fund Balance	$1,316,397,253	$ (3,458,820)	$ 32,900	$(173,241,595)	$ 58,159,806	$1,197,889,544	$ 507,713,165
Fund Balance - July 1	$ 983,739,126	$ 9,156,598	$ 1,346,772	$362,722,457	$ 71,385,790	$1,428,350,746	$ 920,637,580
Fund Balance - June 30	$2,300,136,379	$ 5,697,778	$ 1,379,672	$189,480,862	$129,545,597	$2,626,240,289	$1,428,350,746

The notes to the Financial Statements are an integral part of this statement.

STATE OF ALASKA

COMBINED STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
BUDGET AND ACTUAL GENERAL AND SPECIAL REVENUE FUND TYPES
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	General Fund			Special Revenue Funds			Totals (Memorandum Only)		
	Final Revised Budget	Actual	(Over) Under Budget	Final Revised Budget	Actual	(Over) Under Budget	Final Revised Budget	Actual	(Over) Under Budget
Financial Resources Provided									
Revenues									
Unrestricted									
Taxes	$1,403,400,000	$1,410,550,242	$ (7,150,242)	$ 2,900,000	$ 2,679,731	$ 220,268	$1,406,300,000	$1,413,229,973	$ (6,929,974)
Licenses and Permits	16,453,000	10,999,189	(2,545,503)	4,921,000	6,930,529	(609,989)	20,974,000	83,229,313	(3,954,912)
Inter-Governmental Revenues	801,759	5,870,316	(5,068,557)	26,500	7,812,026	(7,785,526)	828,259	13,682,342	(12,854,083)
Charges for Services	26,861,100	27,211,650	(349,550)				26,861,100	27,211,650	(349,550)
Fines and Forfeits	2,434,200	2,754,095	(319,895)		409,786	(409,786)	2,434,200	3,163,881	(729,681)
Rents and Royalties	446,623,100	832,976,437	(386,353,337)	15,234,000	35,428,486	(20,194,486)	461,857,100	868,404,923	(406,547,823)
Interest	100,000,000	146,834,754	(46,834,754)		34,664	(34,664)	100,000,000	146,869,418	(46,869,418)
Other	865,133	22,264,355	(21,399,222)		487,754	(487,754)	865,133	22,752,109	(21,886,976)
Total Unrestricted	$1,995,539,092	$2,467,361,034	$(471,821,942)	$ 22,081,500	$ 51,782,980	$(29,301,480)	$2,018,020,592	$2,519,144,014	$(501,123,422)
Restricted									
Federal Grants in Aid	$ 314,613,872	$ 223,534,492	$ 91,079,379	$ 4,801,542	$ 4,966,573	$ (165,030)	$ 319,415,414	$ 228,501,065	$ 90,914,349
Other Grants in Aid	20,011,364	11,455,368	8,555,996				20,011,364	11,455,368	8,555,996
Inter-agency Receipts	169,354,513	71,996,187	97,358,325	8,600,846	2,483,121	6,117,724	177,955,359	74,479,308	103,476,049
Other	11,588,467	6,578,060	5,010,406		1,702	(1,702)	11,588,467	6,579,762	5,008,704
Total Restricted	$ 515,568,216	$ 313,564,109	$202,004,106	$ 13,402,389	$ 7,451,397	$ 5,950,991	$ 528,970,605	$ 321,015,506	$207,955,099
Total Financial Resources Provided	$2,511,107,308	$2,780,925,144	$(269,817,835)	$ 35,483,889	$ 59,234,377	$(23,350,488)	$2,546,991,197	$2,840,159,521	$(293,168,323)
Financial Resources Used									
Expenditures									
Operating									
Education	$ 583,534,729	$ 487,976,320	$ 95,558,409	$ 2,003,200	$ 2,003,200	$	$ 585,537,929	$ 489,979,520	$ 95,558,409
Social Services	156,627,731	143,370,090	13,257,641				156,627,731	143,370,090	13,257,641
Health	102,591,169	89,172,936	13,418,233				102,591,169	89,172,936	13,418,233
Natural Resources	105,250,279	92,761,254	12,489,025	22,652,728	11,774,570	10,878,158	127,903,007	104,535,824	23,367,183
Public Protection	38,905,133	31,878,318	7,026,815	452,900	100,825	352,074	39,358,033	31,979,143	7,378,889
Administration of Justice	97,843,970	92,990,000	4,853,970				97,843,970	92,990,000	4,853,970
Development	99,373,513	81,280,171	18,093,342	6,106,309	(562,911)	6,669,220	105,479,822	80,717,260	24,762,562
Transportation	145,831,249	141,191,625	4,639,624				145,831,249	141,191,625	4,639,624
General Government	132,022,246	111,609,527	20,412,719				132,022,246	111,609,527	20,412,719
Total Operating	$1,461,980,023	$1,272,230,252	$189,749,771	$ 31,215,138	$ 13,315,683	$ 17,899,454	$1,493,195,161	$1,285,545,935	$207,649,225
Capital Outlay	981,372,166	$ 249,700,469	$731,671,697	$ 24,328,031	$ 2,609,641	$ 1,718,389	1,005,700,197	272,310,110	733,390,046
Total Expenditures	$2,443,352,189	$1,521,930,721	$921,421,468	$ 55,543,169	$ 15,925,325	$ 19,617,844	$2,498,895,358	$1,557,856,046	$941,039,312
Other Financing Sources (uses)									
Operating Transfers Out	$ 101,223,572	$ 101,223,572	$	$ 27,443,554	$ 27,443,554	$	$ 128,667,126	$ 128,667,126	$
Operating Transfers In	(158,626,403)	(158,626,403)		(675,681)	(675,681)		(159,302,084)	(159,302,084)	
Total Financial Resources Used	$2,385,949,358	$1,464,527,890	$921,421,468	$ 82,311,042	$ 62,693,197	$ 19,617,844	$2,468,260,400	$1,527,221,087	$941,039,312
Net Increase (Decrease) in Fund Balance During the Year	$	$1,316,397,254	$	$	$ (3,459,820)	$	$	$1,312,938,434	$
Fund Balance July 1	$	$ 983,739,136	$	$	$ 9,156,598	$		992,895,724	
Fund Balance June 30	$	$2,300,136,379	$	$	$ 5,697,778	$	$	$2,305,834,158	$

The notes to the Financial Statements are an integral part of this statement.

St. #9

STATE OF ALASKA

GENERAL FUND
COMPARATIVE ANALYSIS OF CHANGES IN FUND EQUITIES

	Fiscal Year Ended June 30, 1980	Fiscal Year Ended June 30, 1979
Beginning Balance July 1	$ 983,739,126	$761,351,201
Financial Resources Provided:		
Unrestricted Revenue		
Taxes, Licenses and Permits	$1,429,349,425	$818,451,823
Governmental Revenue	5,870,316	5,273,497
Charges for Services	27,311,650	24,924,560
Fines and Forfeitures	2,754,095	2,177,427
Rents and Royalties	832,976,437	202,027,096
Interest Earned	146,834,754	58,766,466
Miscellaneous	22,264,355	5,858,794
Total Unrestricted Revenue (St. #11)	$2,467,361,034	$1,117,479,665
Restricted Revenue		
Federal Grants in Aid	$ 223,534,492	$202,195,032
Other Grants in Aid	11,455,368	9,345,349
Interagency Receipts	71,996,187	73,537,146
Miscellaneous	6,578,060	5,022,157
Total Restricted (St. #11)	$ 313,564,109	$308,099,685
Transfers and Adjustments	$ 12,386,272	$ 32,881,552
Total Revenues	$2,793,311,415	$1458,460,903
Resources Available During Year	$3,777,050,541	$2219,812,104
Uses of Financial Resources:		
Disbursements Related to Prior Year Budget	$ 101,223,572	$ 75,074,838
Current Year Operating Programs	1,126,425,145	982,880,399
Current Year Capital Programs	249,265,445	178,117,740
Resources Used During Year (St. #12 & #13)	$1,476,914,162	$1,236,072,978
Ending Balance June 30 (St. #1 & #9)	$2,300,136,379	$ 983,739,126

The notes to the financial statements are an integral part of this statement.

STATE OF ALASKA

GENERAL FUND
SCHEDULE OF REVENUE - BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Final Revised Budget	Actual	(Over) Under Budget
Unrestricted Revenue			
Taxes			
Gas Production Tax	10,000,000	10,318,268	(318,268)
Total Severance Taxes	$515,600,000	$524,252,908	$ (8,652,908)
Total Taxes	$1,403,400,000	$1,410,550,242	$ (7,150,242
Licences and Permits			
Business Licenses and Permits			
Corporation Licenses and Permits	$ 686,000	$ 666,250	$ 19,749
Professional and Occupational Licenses	1,200,000	846,272	353,727
Securities Registration Fee	125,000	506,987	(381,987)
Liquor License Application	80,000	76,500	3,500
Public Liquor License	600	494	106
Brewery Liquor License	100		100
Beverage Dispenser License	480,000	502,850	(22,850)
Club License	23,400	24,434	(1,034)
Common Carrier Distributor License	15,900	14,150	1,750
Restaurant License	43,000	44,250	(1,250)
Road House License	6,400	3,250	3,150
Retail Liquor License	270,400	248,350	22,050
General Wholesale Liquor License	79,000	79,500	(500)
Wholesale Malt Beverage - Wine License	14,100	15,300	(1,200)
Miscellaneous Liquor Licenses	18,000	22,615	(4,615)
Fish and Game Farm License		674	(674)
Fur Dealer License-Resident	10,000	5,339	4,660
Fur Dealer License-Non-Resident	2,000	2,133	(133)
Taxidermist License-Resident	5,000	3,832	1,167
Taxidermist License-Non-Resident		243	(243)
Commercial Fish-Resident-General Fund	60,000	42,256	17,743

St. #11

STATE OF ALASKA

GENERAL FUND
SCHEDULE OF REVENUE - BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Final Revised Budget	Actual	(Over) Under Budget
Unrestricted Revenue			
Licenses and Permits			
Business Licenses and Permits (Continued)			
Commercial Fish License - Non-Resident	87,000	65,245	21,754
Commercial Fish Extension Fee		1,125	(1,125)
Fireworks Permit	3,000	2,160	840
Driver's Training License Fee		175	(175)
Amusement and Gaming Devices License	85,000	67,861	17,138
Lottery Permit Fee	20,000	35,126	(15,126)
Application Fees	125,000	596,050	(471,050)
Insurance License	511,700	543,187	(31,487)
Oil and Gas Drilling Permit	9,000	14,820	(5,820)
Explosive Handler Fee	600	30	570
Log Brand Registration Fee	1,000	1,572	(572)
Trademark Registration Certification Fee	1,500	780	720
Entry Fee Permit		3,082,146	(3,082,146)
Miscellaneous Business License	1,100	1,575	(475)
Total Business Licenses and Permits	$ 3,963,800	$ 7,517,540	$ (3,553,740)
Non-Business Licences and Permits			
Permit Application Fee	$ 200	$ 350	$ (150)
Hunting/Trapping License-Resident	6,000	33	5,967
Hunting/Trapping Sport Fish License	27,000	553	26,446
Hunting/Trapping-Non-Resident	9,000		9,000
Visit - 1 day Sport Fish		1,250	(1,250)
Trapping License-Resident	5,000	6	4,994
Sport Fish & Game Duplicate License		5,679	(5,679)
Motor Freight Carrier Weight Fee	747,600	499,924	247,676
Motor Vehicle Drivers License	571,800	568,389	3,411
Motor Vehicle Registration Fee	9,980,400	9,297,308	683,091
Motor Vehicle Title/Lien Fee	1,062,300	795,578	266,721
Aircraft Registration Fee	75,000	65,744	9,255
Notary Public License		39,670	(39,670)
Declaration of Candidacy		6,550	(6,550)

STATE OF ALASKA

GENERAL FUND
SCHEDULE OF REVENUE -- BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Final Revised Budget	Actual	(Over) Under Budget
Unrestricted Revenue			
Licenses and Permits			
Non-Business Licenses and Permits (Continued)			
Land Registration Fee	100	35	64
Miscellaneous Non-Business License	5,600	570	5,029
Total Non-Business Licenses and Permits	$ 12,490,000	$ 11,281,643	$ 1,208,356
Total Licenses and Permits	$ 16,453,800	$ 18,799,183	$ (2,345,383)
Governmental Revenue			
Federal Shared			
Timber Sale - Chugach	$	$ 781,210	$ (781,210)
Timber Sale - Tongass		2,792,488	(2,792,488)
Federal Power Act	2,000	7,687	(5,687)
Wildlife Refuge		38	(38)
Oil/Gas Lease Royalty	461,000	982,584	(521,584)
Mineral Royalties	95,000	2,103	92,896
Mineral Rentals	2,000	113,923	(111,923)
Lease Federal Land and Water		1,312	(1,312)
Sale Federal Land and Water	10,000	34,593	(24,593)
FMC 74-4 Overhead Recovery	231,759	1,054,017	(822,258)
G.O. Bond Interest Grants		100,356	(100,356)
Total Governmental Revenue	$ 801,759	$ 5,870,316	$ (5,068,557)
Charges for Services			
Legal Charges			
Sale Public Document Certificates	$ 167,300	$ 492,370	$ (325,070)
Service Process Fee	51,000	41,939	9,060
Miscellaneous Receipts	145,600	197,837	(52,237)
Filing Fee	812,400	861,053	(48,653)
Clerical Fee	235,200	174,075	61,124
Total Legal Charges	$ 1,411,500	$ 1,767,276	$ (355,776)
Transportation Charges			
Landing Fee	$ 34,200	$ 142,043	$ (107,843)
Parking Fee	1,800	15,978	(14,178)
Gas and Oil Fee	26,300	212,438	(186,138)

St. #11

STATE OF ALASKA

GENERAL FUND
SCHEDULE OF REVENUE - BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Final Revised Budget	Actual	(Over) Under Budget
Unrestricted Revenue			
Charges for Services			
Transportation Charges (Continued)			
Vehicle Parking Fee	$	$ 45,297	$ (45,297)
Coin Locker Fee		5,953	(5,953)
Concession Fee	2,300	44,249	(41,949)
Concession Fees		6,578	(6,578)
Land Rental	95,000	453,044	(358,044)
Electric Energy Fee		7,410	(7,410)
Passenger Screening Fee	70,900	49,818	21,081
Other Airport Charges	22,300	48,700	(26,400)
Ferry Traffic Receipts	18,100,000	18,028,359	71,640
Ferry Steward Receipts	4,640,000	2,952,076	1,687,923
Ferry Dock Fee	10,000		10,000
Total Transportation Charges	$ 23,002,800	$ 22,011,950	$ 990,849
General Charges			
Pest and Disease Control	$ 5,500	$ 4,874	$ 625
Identification Cards	22,300	51,257	(28,957)
Sale of Surplus or Repossessed Property	417,700	16,497	401,202
Receipts for Services Rendered		2,186,419	(2,186,419)
Food Service Receipts	25,300	103,726	(78,426)
Receipts for Supplies		1,074,350	(1,074,350)
Sale of Products	8,000	7,484	515
Alaska Surplus Property Sale		6,900	(6,900)
Uniform Commercial Code Fee	65,000	80,913	(15,913)
Timber/Stumpage Sale	3,000		3,000
Total General Charges	546,800	3,532,423	(2,985,623)
Total Charges for Services	$ 24,961,100	$ 27,311,650	$ (2,350,550)
Fines and Forfeitures			
Fines and Forfeitures	$ 2,102,600	$ 2,438,322	$ (335,722)
Court Cost Recovery	218,500	194,220	24,279
Liquidated Damages	7,000	6,964	35
Judgement Settlement	106,100	114,588	(8,488)
Total Fines and Foreitures	$ 2,434,200	$ 2,754,095	$ (319,895)
Other Revenues			
Rents and Royalties			
Coal Lease Rent	$ 52,000	$ 49,695	$ 2,304
Coal Royalties	46,000	62,206	(16,206)

STATE OF ALASKA

GENERAL FUND
SCHEDULE OF REVENUE - BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Final Revised Budget	Actual	(Over) Under Budget
Restricted Revenue			
Federal Grants in Aid by Category (Continued)			
Development			
Economic Development Act-State Technical Service	$ 223,865	$ 157,050	$ 66,815
Housing and Urban Development	658,820	593,306	65,514
Community Service-Administration Grant	193,718		193,718
Federal Projects	6,508,975	1,758,043	4,750,932
Total Development	$ 7,585,379	$ 2,508,399	$ 5,076,979
Transportation			
Federal Aid Inter-State	$117,607,727	$ 70,573,274	$ 47,034,452
Aid For Airport Projects	1,725,901	2,015,408	(289,506)
Total Transportation	$119,333,629	$ 72,588,683	$ 46,744,945
General Government			
Intergovernmental Personnel	$ 59,042	$ 45,183	$ 13,858
Federal Projects	293,590	224,896	68,694
Total General Government	$ 352,632	$ 270,079	$ 82,552
Total Federal Grants in Aid	$314,613,372	$223,534,492	$ 91,079,379
Other Grants in Aid By Category			
Education			
[redacted]	$ [redacted]	[redacted]	(11,740)
Miscellaneous Program Receipts	151,866	158,288	(6,422)
Total Education	$ 228,866	$ 247,028	$ (18,162)
Social Services			
Second Injury Fund	$ 990,000	$ 776,631	$ 213,368
Small Business Enterprises	5,000	30,635	(25,635)
Commercial Fishermen			
Resident-Sick and Disabled	91,000	90,906	94
Non-Resident-Sick and Disabled	130,000	145,620	(15,620)
[redacted]	[redacted]	[redacted]	[redacted]
Skill Center	382,400	262,750	119,649
[redacted]	[redacted]	[redacted]	[redacted]
Miscellaneous Program Receipts	40,179	291,935	(251,756)
Total Social Services	$ 1,751,279	$ 1,843,056	$ (91,777)

St. #11

STATE OF ALASKA

GENERAL FUND
SCHEDULE OF REVENUE - BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Final Revised Budget	Actual	(Over) Under Budget
Restricted Revenue			
Other Grants in Aid by Category (Continued)			
Natural Resources			
Fish Sales	$ 25,000	$ 46,750	$ (21,750)
Pipeline Receipts	1,384,500	432,568	951,931
Miscellaneous Program Receipts	867,077	438,841	428,235
Total Natural Resources	$ 2,276,577	$ 918,160	$ 1,358,416
Public Protection			
Real Estate Surety	$ 77,464	$ 118,656	$ (41,192)
Trailer Rental		8	(8)
Building Plan Review	50,000	48,583	1,416
Miscellaneous Program Receipts	2,418,153	1,897,887	520,266
Total Public Protection	$ 2,545,617	$ 2,065,136	$ 480,481
Administration of Justice			
Miscellaneous Program Receipts	$ 94,397	$ 104,516	$ (10,119)
Development			
King Crab Marketing Control	$	$ 296,019	$ (296,019)
Alaska State Housing Authority	3,377,645	73,472	3,304,173
Miscellaneous Program Receipts	331,617	140,323	191,293
Total Development	$ 3,709,262	$ 509,815	$ 3,199,447
Transportation			
Highway Maintenance	$ 111,156	$ 561,382	$ (450,225)
Overweight Size Permit	295,000	261,370	33,630
Airport Maintenance	558,500	466,248	92,252
Miscellaneous Program Receipts	1,838,406	343,972	1,494,434
Total Transportation	$ 2,803,663	$ 1,633,372	$ 1,170,290

St. #11 Cont.

STATE OF ALASKA

GENERAL FUND
SCHEDULE OF REVENUE - BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Final Revised Budget	Actual	(Over) Under Budget
Restricted Revenues			
Other Grants in Aid by Category (Continued)			
General Government			
FICA Administration Fund	$ 102,889	$ 163,802	$ (60,912)
Alaska Surplus Property	197,336	164,912	32,424
Surplus Property Fee	[illegible]	[illegible]	[illegible]
Insurance Settlement	4,148,527	3,108,886	1,039,640
Damages Recovered	162,325	136,140	26,184
Miscellaneous Program Receipts	1,761,723	69,055	1,692,667
Local Government Participation	189,400	450,033	(260,633)
Total General Government	$ 6,601,701	$ 4,134,281	$ 2,467,420
Total Other Grants in Aid	$ 20,011,364	$ 11,455,368	$ 8,555,996
Interagency Receipts			
Office of the Governor	$ 9,839,890	$ 7,433,428	$ 2,406,461
Administration	20,917,977	22,020,946	(1,102,969)
Law	2,654,062	2,170,759	483,302
Revenue	132,703	130,179	2,523
Education	3,845,710	3,396,789	448,921
Health and Social Services	2,031,380	1,647,642	383,737
Labor	4,928,457	5,634,807	(706,349)
Commerce and Economic Development	8,853,002	195,342	8,657 659
Military Affairs	511,199	830,519	(319,319)
Natural Resources	4,981,898	3,415,670	1,566,227
Fish and Game	2,349,168	1,033,078	1,316,089
Public Safety	1,548,777	787,290	761,487
Environmental Conservation	312,906	146,479	166,426
Community and Regional Affairs	3,627,345	1,350,459	2,276,886
Transportation and Public Facilities	102,136,377	21,286,310	80,850,067
Ombudsman	18,942	13,134	5,808
Legislative Affairs	186,700	167,818	18,881
Legislative Finance		12	(12)
Legislative Audit		41,818	(41,818)
Alaska Court System	478,013	293,700	184,313
Total Interagency Receipts	$169,354,513	$ 71,996,187	$ 97,358,325
Other Restricted Receipts			
Jury and Workmens Compensation Recovery	$	$ 929	$ (929)
Reimbursement and Recovery-Prior Year	16,694	3,330,761	(3,314,067)

TOBACCO TAX FUND
COMPARATIVE BALANCE SHEET

ASSETS	June 30, 1980	June 30, 1979
Current Assets		
Cash in Treasury (St. #5)	$ 3,381,893	$ 3,205,361
FUND EQUITY		
Fund Equity Balance	$ 3,381,893	$ 3,205,361

COMPARATIVE ANALYSIS OF CHANGE IN FUND EQUITY

	Fiscal Year Ended June 30, 1980	June 30, 1979
Beginning Balance July 1	$ 3,205,361	$ 2,952,043
Additions		
Tobacco Tax Revenue (Includes License Fees)	2,679,731	2,756,518
Total Balance and Additions	5,885,093	5,708,561
Deductions		
Distributed to School Districts	2,003,200	2,003,200
Transferred to General Fund		
School Construction		
Related to 1979 Debt Service		500,000
Related to 1980 Debt Service	500,000	
Total Deductions	2,503,200	2,503,200
Ending Balance June 30 (St. #15)	$ 3,381,893	$ 3,205,361

Legal Reference: Alaska Statute 43.50.140

St. #20

STATE OF ALASKA

FISH AND GAME FUND
COMPARATIVE BALANCE SHEET

ASSETS	June 30, 1980	June 30, 1979
Current Assets		
Cash in Transit	$ 1,007,372	$ 1,006
Cash in Treasury (St. #5)	826,121	238,993
Accounts Receivable	675,285	1,223,759
Total Current Assets	$ 2,508,779	$ 1,463,759
RESERVES AND FUND EQUITIES		
Reserves		
Encumbrance Reserves	$ 743,487	$ 1,054,263
Continuing Programs Reserves	35,787	39,488
Total Reserves	$ 779,274	$ 1,093,752
Fund Equities		
Game Account	$ 3,462,186	$ 2,676,101
Sport Fish Account	(1,732,681)	(2,306,094)
Total Fund Equities (St. #15)	$ 1,729,505	$ 370,007
Total Reserves and Fund Equities	$ 2,508,779	$ 1,463,759

COMPARATIVE ANALYSIS OF CHANGES IN FUND EQUITIES

	Fiscal Year Ended June 30, 1980	Fiscal Year Ended June 30, 1979
Beginning Balance July 1	$ 370,007	$ 686,336
Reserve as of June 30, 1978		802,079
Reserves as of June 30, 1979	1,093,752	(1,093,752)
Reserves as of June 30, 1980	(779,274)	
Adjusted Beginning Balance July 1	$ 684,485	$ 394,663
Additions		
Revenues:		
Cash in Transit Change	$ 1,006,366	$ See Note
Accounts Receivable Change	(548,474)	See Note
[redacted]	2,631,179	2,232,340
Game - Other Programs	3,106,325	3,562,466
[redacted]	2,299,349	2,241,806
Sport Fishing - Other Programs	1,890,110	1,185,952
Transfer (to)/from General Fund		41,600
Total Revenues	$ 10,384,856	$ 9,264,174
Deductions		
Expenditures		
Game Operations	$ 5,409,669	$ 5,804,972
Sport Fish Operations	3,886,641	3,477,441
Sport Fish Capital Outlay	3,701	6,416
Transfer to General Fund - Sport Fish	39,823	9,288,830
Total Expenditures	$ 9,339,836	$ 9,288,830
Excess/(Deficit) of Revenue Over Expenditures	$ 1,045,020	$ (24,656)
Ending Balance June 30 (St. #15)	$ 1,729,505	$ 370,007

Legal Reference: Alaska Statute 16.05.100

NOTE: "Cash in Transit Change" and "Accounts Receivable Change" have previously been reported as part of specific revenue sources.

STATE OF ALASKA

FISH AND GAME FUND
SCHEDULE OF REVENUE ESTIMATED AND ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

REVENUES FOR CURRENT YEAR	Final Revised Budget	Actual	(Over) Under Budget
Game-Licenses			
Game Farm License	$	$ 100	$ (100)
Permit Application Fee	46,000	157,146	(111,146)
Hunting - Resident	275,000	263,303	11,696
Hunting/Trapping - Resident	25,000	29,402	(4,402)
Hunting/Sport Fishing - Resident	699,000	340,986	358,013
Hunting/Trapping/Sport Fishing - Resident	202,000	138,102	63,897
Hunting - Non-Resident	218,000	258,303	(40,303
Hunting/Sport Fishing - Non-Resident	74,000	58,639	15,360
Hunting/Trapping - Non-Resident	4,000	12,395	(8,395)
Military Special - Small Game	12,000	10,792	1,20
Military Special/Sport Fish - Small Game	19,000	9,560	9,43
Big Game Tag - Resident	97,000	91,378	5,621
Big Game Tag - Non-Resident	998,000	1,250,202	(252,202)
Trapping - Resident		3,965	(3,965)
Sport Fish & Game - Duplicate License	3,000		3,000
Guide		6,900	(6,900)
Total Game-Licenses	$ 2,672,000	$ 2,631,179	$ 40,8 0
Game-Other Programs			
Services Rendered	$	$ 1,485	$ (1,485)
Sale of Products		1,454	(1,454)
Interest on Bank Deposits		2	(2)
Jury Duty/Workmen's Compensation Recovery		97	(97)
Reimbursement & Prior Year Recovery		2,929	(2,929)
Gain/Loss on Equipment Sales		1,150	(1,150)
Federal Withholding Recovery		12,021	(12,021)
Miscellaneous Revenues		1,730	(1,730)
Wildlife Restoration	3,080,000	2,349,685	730,314
Total Game-Other Programs	$ 3,080,000	$ 2,370,556	$ 709,443
Fish-Licenses			
Sport Fishing - Resident	$ 781,000	$ 818,004	$ (37,004)
Hunting/Sport Fishing - Resident		286,245	(286,245)
Hunting/Trapping/Sport Fishing - Resident		91,903	(91,903)
Visitor Special - Sport Fishing	362,000	491,547	(129,547)
Sport Fishing - Non-Resident	370,000	373,543	(3,543)
Hunting/Sport Fishing - Non-Resident		29,262	(29,262)
Visitor 1-Day Sport Fishing	63,000	78,674	(15,674)
Military Special - Sport Fishing	70,000	66,046	3,953
Military Special - Sport Fishing/Small Game		7,977	(7,977)
Sport Fish & Game - Duplicate License	3,000		3,000
King Salmon/Steelhead Permit		56,143	(56,143)
Total Fish-Licenses	$ 1,649,000	$ 2,299,349	$ (650,349)
Fish-Other Programs			
Services Rendered	$	$ 2,483	$ (2,483)
Miscellaneous Revenue		130	(130)
Reimbursement & Prior Year Recovery		6,178	(6,178)
Donations		47	(47)
Jury Duty/Workmen's Compensation Recovery		60	(60)
Gain/Loss on Equipment Sales		92	(92)
Fish Restoration	1,479,800	1,198,301	281,498
Public Law 89-304	210,100	169,543	40,556
Federal Projects - Natural Resources	31,642	2,776	28,866
Total Fish-Other Programs	$ 1,721,542	$ 1,379,612	$ 341,930
Current Year Fund Revenue Total (St. #20)	$ 9,122,542	$ 8,680,698	$ 441,844
REVENUES FOR PRIOR YEAR			
Game-Other Programs			
Wildlife Restoration		$ 735,769	
Fish-Other Programs			
Fish Restoration		$ 510,497	
Prior Year Fund Revenue Total		$ 1,246,267	
Grant Total - Fund Revenue		$ 9,926,965	

STATE OF ALASKA

FISH AND GAME FUND
SCHEDULE OF EXPENDITURES AND ENCUMBRANCES
COMPARED WITH APPROPRIATIONS
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Appropriations					Balances	
	FY '80 Budget Act	Continuations Supplements & Revisions	Total	Total Expenditures	Total Encumbrances	Continuing Programs	Lapsed
Division of Sport Fish							
Investigation & Research	$ 2,457,700	$ 162,417	$ 2,620,117	$ 2,209,199	$ 245,731	$	$ 165,187
Management	792,900	55,200	848,100	778,186	46,544		23,369
Sport Fish Restoration	52,500		52,500	49,978	2,245		276
Administration	235,400	40,300	275,700	224,856	25,075		25,767
King Salmon Office	153,300		153,300	130,774	14,283		8,242
Fish Licensing							
Total Sport Fish	$ 3,691,800	$ 257,917	$ 3,949,717	$ 3,392,994	$ 333,879	$	$ 222,843
Division of Game Operations							
Investigation & Research	$ 4,539,800	$ (35,333)	$ 4,504,466	$ 4,001,426	$ 309,101	$	$ 193,938
Management	513,500	36,000	549,500	453,215	74,768		21,516
Hunter Safety	99,500	8,500	108,000	85,956	9,824		12,219
Administration & Support	399,400	(45,000)	354,400	327,502	15,914		10,983
Game Licensing							
Total Game Operations	$ 5,552,200	$ (36,233)	$ 5,516,366	$ 4,868,100	$ 409,607	$	$ 238,658
Capital Improvements							
Birch Lake Screening	$	$ 9,826	$ 9,826	$ 3,701	$	$ 6,124	$
Russian River Weir		29,662	29,662			29,662	
Total Capital Improvements	$	$ 39,488	$ 39,488	$ 3,701	$	$ 35,787	$
Total Fish & Game Fund (St. #20)	$ 9,244,000	$ 261,572	$ 9,505,572	$ 8,264,796	$ 743,487	$ 35,787	$ 461,501

STATE OF ALASKA

COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND EQUITIES
ALL ENTERPRISE FUNDS
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	International Airports Revenue	World War II Veterans Loan	Agriculture Revolving Loan	Small Business Revolving Loan	Commercial Fishing Revolving Loan	Tourism Revolving Loan	Scholarship Revolving Loan	Memorial Scholarship Revolving Loan
Revenues:								
Contributions from General Fund	$	$	$	$	$	$	$ 8,120,000	$
Contributions from Other Funds								546
Depreciation on Contributed Assets	1,742,212							
Interest Earned	3,730,967		590,486	(10,188)	(90,784)	55,192	189,200	
Service Fees		1,354,505		319,314	158,676	65,816		
Other Revenue	30,903	932,931		48,178				
Operating Revenues	22,384,881		9,482					
Total Revenues	$ 27,888,963	$ 2,287,436	$ 599,969	$ 357,504	$ 67,892	$ 121,008	$ 8,309,200	$ 546
Expenses:								
Uncollectible Accounts	$	$	$ 261,152	$	$	$	$	$
Loans Forgiven							334,490	
Administrative Expenses	12,482,540	832,916	136,565					
Interest Expense	1,172,935	3,178	110,389					
Other Expenses		84,378		139,255				
Depreciation	3,204,786	3,203						
Total Expenses	$ 16,860,261	$ 923,675	$ 508,107	$ 139,255	$	$	$ 334,490	$
Excess (Deficit) of Resources over Deductions	$ 11,028,702	$ 1,363,761	$ 91,861	$ 218,248	$ 67,892	$ 121,008	$ 7,974,709	$ 546
Fund Equities July 1, 1979	107,413,221	4,111,210	966,742	421,577	367,080	393,725	25,040,701	31,460
Accruals	(1,742,212)	(327,671)	(281,355)					
Grants From Federal Government	13,745,114							
Fund Equities June 30, 1980	$130,444,825	$ 5,147,300	$ 777,248	$ 639,826	$ 434,972	$ 514,734	$ 33,015,410	$ 32,006

STATE OF ALASKA

COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND EQUITIES
ALL ENTERPRISE FUNDS
FOR THE FISCAL YEAR ENDED JUNE 30, 1980

	Child Care Facilities Loan	Water Resources Loan	Historical Districts Revolving Loan	Fisheries Enhancement Revolving Loan	Medical Malpractice Loan	Power Project Revolving Loan	TOTAL June 30, 1980	TOTAL June 30, 1979
Revenues:								
Contributions from General Fund	$	$	$	$	$	$ 5,881,000	$ 14,001,000	$ 4,100,000
Contributions from Other Funds							546	4,958
Depreciation on Contributed Assets							1,742,212	1,895,879
Interest Earned	1,659	125,000	(26)			279,861	4,871,368	3,325,407
Service Fees	214		478				1,899,204	1,579,181
Other Revenues							1,012,012	1,516,719
Operating Revenues							22,394,363	$ 21,503,480
Total Revenues	$ 1,874	$ 125,000	$ 452	$	$	$ 6,160,861	$ 45,920,707	$ 33,925,626
Expenses:								
Uncollectible Accounts	$	$	$	$	$	$	$ 261,152	$ 52,872
Loans Forgiven							334,490	368,558
Administrative Expenses							13,452,021	12,913,656
Interest Expense					26,250		1,312,752	1,187,057
Other Expenses							223,633	5,478
Depreciation							3,207,989	3,334,009
Total Expenses	$	$	$	$	$ 26,250	$	$ 18,792,040	$ 17,861,632
Excess (Deficit) of Resources Over Deductions	$ 1,874	$ 125,000	$ 452	$	$ (26,250)	$ 6,160,861	$ 27,128,667	$ 16,063,994
Fund Equities July 1, 1979	53,279	2,732,875	42		1,526,250	1,092,625	144,150,790	122,360,968
Accruals							(2,351,238)	(4,068,041)
Grants from Federal Government							13,745,114	8,267,619
Fund Equities June 30, 1980	$ 55,153	$ 2,857,875	$ 494	$	$ 1,500,000	$ 7,253,486	$182,673,333	$142,624,540

St. #38

STATE OF ALASKA

WORLD WAR II VETERANS LOAN FUND
COMPARATIVE STATEMENT OF REVENUES, EXPENSES AND CHANGES IN RETAINED EARNINGS

	Fiscal Year Ended June 30, 1980	Fiscal Year Ended June 30, 1979
REVENUE		
Interest Income	$ 653,166	$ 788,701
[redacted]	[redacted]	[redacted]
Fines and Forfeitures	225,266	153,639
[redacted]		
Loans Sold to Department of Revenue	1,331,391	[redacted]
Mortgage Life Insurance	[redacted]	[redacted]
Miscellaneous Revenue	958	3,108
Total Revenue	$ 2,287,436	$ 2,776,786
EXPENSES		
Appropriated Expenses		
Personal Services	$ 610,293	$ 1,151,655
Travel and Moving	6,762	27,232
Contractual Services	171,594	245,556
Commodities	4,319	9,309
Equipment	63	308
Capital Outlay	39,885	39,999
Other Services		6,252
Total Appropriated Services	$ 832,916	$ 1,480,313
Gross Income	$ 1,454,520	$ 1,296,472
Other Expenses:		
Losses on Loan	$ 78,503	$ 2,248
Depreciation Expenses	3,203	3,230
Interest Expenses	3,178	4,783
Miscellaneous Expense	5,875	
Total Other Expenses	$ 90,759	$ 10,261
Net Income for Fiscal Year	$ 1,363,761	$ 1,286,211
Prior Period Adjustments		
Adjustments Related to Prior Period Expense	$ 1,436,158	$ (1,255,359)
Adjustments Related to Prior Period Revenue	(1,763,829)	387,290
Adjustments on Prior Period Receivables and Payables		(1,304,093)
Total Prior Period Caused Adjustments	$ (327,671)	$ (2,172,162)
Net Changes in Retained Earnings During Fiscal Year	$ 1,036,090	$ (885,951)
Retained Earnings July 1	4,111,210	4,997,162
Retained Earning June 30 (St. #45)	$ 5,147,300	$ 4,111,210

The notes to the Financial Statements are an integral part of this statement.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 18, 1981

MEMORANDUM

TO: Representative Dick Randolph

FROM: Susan Brody, Acting Director

RE: Fees (Supplemental Material)
Research Request 81-11

The table attached to this memorandum contains information concerning fees imposed or set by regulation. This information supplements our February 17, 1981 memorandum to you concerning fees imposed, set, or authorized by statute. The types of information included in the table are nearly identical to those included in the statutory fee table which we transmitted to your office in February.

Methodology and Explanation of Table

To gather, organize, and present the fee information on the attached table, several steps were taken. First, we manually searched the Alaska Administrative Code (updated through Register 75, October 1980) for regulations which imposed or set fees. We excluded regulations which referred to fees set by specific statutes or referred broadly to fees (e.g., "fees required by law"). However, we did not exclude citations which set a specific fee identical to that set by an authorizing statute. Obvious rentals, taxes, and other non-fee charges were also excluded as were temporary emergency regulations.

Next, we analyzed each fee regulation to obtain the information you requested. The columns and the information included in the fee regulation table are nearly identical to those contained in the earlier fee statute table. The main difference is in Column 4, where the statutory authority for a fee regulation was substituted for the sunset year of the agency enforcing or collecting a statutory fee. The sunset year was omitted because few of the agencies involved with the regulatory fees are subject to sunset, and those which are, were included in the statute fee table.

When a regulation cited several statutory provisions, we reviewed each statute to determine which provided the best or strongest authority for the fee regulation. In a few instances, we discovered errors in citation (mostly due to statutory revisions and amendment) which we corrected for the table. In one instance, we found that regulatory fees had been superseded by subsequent statutory amendment and we so indicated on the table (15 AAC 20.220-260).

Column 6 of the table indicates the last year in which the fee regulation was amended. Because of the difficulty involved in locating and reviewing replaced pages of the Administrative Code, we did not examine the "administrative history" of amended fee regulations to determine when the amounts were actually changed.

In every other respect, the fee regulation table attached to this memorandum is identical to the earlier fee statute table. Therefore, reference should be made to the explanatory material in the cover memorandum to the earlier table.

If we can provide you with any further information on fees, please contact us.

SB/dp

Attachment

FEES IMPOSED OR AUTHORIZED BY REGULATION

(1) Alaska Administrative Code	(2) Description of fees	(3) Amount	(4) Agency Authority	(5) User Fee	(6) Last Change
3 AAC 2.210(c)	Application for certificate of bank incorporation	$1,000*	DCED AS 6.01.010		1979
3 AAC 2.215(b)	Application for bank branch or move	$500*	DCED AS 6.01.010		1979
3 AAC 2.217(a)	Application for mobile bank	$500*	DCED AS 6.01.010		1979
3 AAC 2.350(b)	Bank conversion,merger, or consolidation	$1,000*	DCED AS 6.01.010		1980
3 AAC 5.210(d)	Application for savings and loan association certificate of authority.	$1,000*	DCED AS 6.01.010		1979
3 AAC 5.230(d)	Application for savings and loan association name change	$1,000*	DCED AS 6.01.010		1979
3 AAC 5.270(b)	Application for savings and loan association branch or move	$ 500*	DCED AS 6.01.010		1979
3 AAC 6.210(c)	Application for mutual savings bank charter	$1,000*	DCED AS 6.01.010		1979
3 AAC 6.220	Application for mutual savings bank branch or move	$ 500*	DCED AS 6.01.010		1979
3 AAC 6.230	Application for mobile bank branch or move	$ 500*	DCED AS 6.01.010		1979
3 AAC 6.325	Application for mutual savings bank conversion	$1,000*	DCED AS 6.01.010		1979
3 AAC 7.010-030	Premium Finance Company License application and annual fee	$ 500* $200/yr.	DCED AS 6.40.040-.050		1979

*investigation expense

FEES IMPOSED OR AUTHORIZED BY REGULATION

(1) Alaska Administrative Code	(2) Description of fees	(3) Amount	(4) Agency Authority	(5) User Fee	(6) Last Change
3 AAC 12.030	Application for small loan company license	$400 inves. expense $200/yr.	DCED AS 6.20.030		1979
3 AAC 20.010	Filing of public land offering statement registration fee	$100-$200	DCED AS 34.55.020		1976
3 AAC 20.020	On site inspection of public land offering	estimated cost	DCED AS 34.55.020		1976
3 AAC 20.030	Penalty for non-payment of public land offering fees	amount of unpaid fee	DCED/DBS AS 34.55.020		1976
3 AAC 28.170(1)	Application and exam for license as variable contract insurance agent	$10 $10	DCED/DI AS 21.06.090		1973
3 AAC 28.170(p)	Extra copy of variable contract agent exam results	$ 5	DCED/DI AS 21.06.090	Yes	1973
3 AAC 41.020	Application for vet loan	$50	DCED/DVA AS 26.15.010		1978
3 AAC 64.230(a)	Application for transfer of truck permits	$25	DCED/ATC AS 42.10.110		1964
3 AAC 64.260	Application fee schedule for truck permits	$25-$50	DCED/ATC AS 42.10.160		1964
3 AAC 64.270	Truck weight fee schedule	$25-50/yr.	DCED/ATC AS 42.10.240		1964
3 AAC 64.290(b)	Unassigned ID card for out of state truck	2.5 X weight fee	DCED/ATC AS 42.10.113		1964
3 AAC 66.040	Application for bus certificate	$50	DCED/ATC AS 42.15.071		1969

FEES IMPOSED OR AUTHORIZED BY REGULATION

(1) Alaska Administrative Code	(2) Description of fees	(3) Amount	(4) Agency Authority	(5) User Fee	(6) Last Change
3 AAC 68.110	Air carrier aircraft registration	$25-200/yr	DCED/ATC AS 02.05.090		1961
3 AAC 99.050(a)	Loan application	cost of evaluation	DCED/AIDA AS 44.88.100		1978
3 AAC 99.050(b)	Loan financing	1% of loan	DCED/AIDA AS 44.88.100	Yes	1978
4 AAC 12.010(g)	Teacher certificate	$30/5 yrs.	DE AS 14.20.020		1975
4 AAC 12.010(h)	Endorsement on teacher certificate	$10	DE AS 14.20.020		1975
4 AAC 12.050	Vocational teacher certificate	$10/2 yrs.	DE AS 14.20.020		1975
4 AAC 12.070(c)	Teacher letter of authorizaton	$10/yr.	DE AS 14.20.020		1975
4 AAC 39.130(b)	GED tests	$3-15	DE 14.07.030(11)		1979
5 AAC 82.020	Big Game Photo contest entry	$10	DF&G AS 16.05.903		1976
6 AAC 29.110	Late State conflict of interest filing	$1-10/day	APOC AS 39.50.135		1980
6 AAC 29.135	Late municipal conflict of interest filing	$1-5/day	APOC AS 39.50.135		1980
6 AAC 29.390	Late campaign disclosure filing	$1-5/day max. $60	APOC AS 15.13.125		1980

FEES IMPOSED OR AUTHORIZED BY REGULATION

(1) Alaska Administrative Code	(2) Description of fees	(3) Amount	(4) Agency Authority	(5) User Fee	(6) Last Change
6 AAC 29.507	Late lobbyist report	$1-10/day $135 max.	APOC AS 24.45.141		1980
7 AAC 09.030	Health facility construction license	$10	DHSS AS 18.20.030		1977
8 AAC 70.070	Electrical inspections (not by state)	$50 max.	DL AS 18.60.620		1970
8 AAC 77.065	Elevator inspections	$35-150	DL AS 18.60.800		1979
8 AAC 80.020	Boiler inspections	$10-150	DL AS 18.60.360		1978
8 AAC 90.180	Renewal of expired plumber or electrician certificate	$25	DL AS 18.62.060		1980
11 AAC 12.310(a)	Fees for state park facility use to be set by director of parks	N/A	DNR AS 41.10.010	Yes	1973
11 AAC 12.310(b)	Vehicle entrance to state park	$10/yr.	DNR AS 41.20.020		1973
11 AAC 34.060	Fees for seed testing to be set by director of agriculture	N/A	DNR AS 03.05.010	Yes	1978
11 AAC 34.110	Fees for plant pest certificates to be set by director of agriculture	N/A	DNR AS 03.05.010	Yes	before 1959
11 AAC 53.340(c)	Fee for directory of easements to be set by director of lands	N/A	DNR 38.05.035(5)	Yes	1980
11 AAC 60.020	Filing application for grazing lease	$10	DNR AS 38.05.020		1970

FEES IMPOSED OR AUTHORIZED BY REGULATION

(1) Alaska Administrative Code	(2) Description of fees	(3) Amount	(4) Agency Authority	(5) User Fee	(6) Last Change
11 AAC 64.260	Filing application for shore fishery lease	$20	DNR AS 38.05.020		1970
11 AAC 67.007	Fee for filing application for state land to be set by director of lands	N/A	DNR AS 38.05.020		1979
11 AAC 67.082	Fee for filing application for homesite to be set by director of lands	N/A	DNR AS 38.05.020		1979
11 AAC 76.405(5)	Filing application for material sale	$10	DNR AS 38.05.120		1962
11 AAC 76.720(b)	License and stumpage for log salvage	$500	DNR AS 38.05.020	Yes	
11 AAC 80.005(d)	Filing application for pipeline right-of-way	$10	DNR AS 38.05.020		1974
11 AAC 82.010(d)	Filing application for mineral lease	$10	DNR AS 38.05.020		1974
11 AAC 83.505(5)	Fee for storage of oil and gas to be set in lease	N/A	DNR 38.05.180(u)	Yes	1979
11 AAC 88.105	Filing application for mineral or oil and gas lease	$20	DNR 38.05.020		1974
11 AAC 93.040	Filing application for water appropriation permit to be set by Commissioner	N/A	DNR 46.15.020(b)		1979
11 AAC 93.200(a)	Fee for permit to alter existing dam to be set by Commissioner	N/A	DNR 46.15.020(b)		1979
11 AAC 93.200(b)	Permit for new dam construction	$250-$5,000	DNR 46.15.020(b)		1979

FEES IMPOSED OR AUTHORIZED BY REGULATION

(1) Alaska Administrative Code	(2) Description of fees	(3) Amount	(4) Agency Authority	(5) User Fee	(6) Last Change
11 AAC 93.220	Fee for temporary water use permit to be set by Commissioner	N/A	DNR 46.15.020(b)		1979
11 AAC 94.010	Application and permit for trapping cabin	$50 +10/yr.	DNR AS 38.95.080		1977
12 AAC 08.030	Application for barber exam	$25	DCED/BBH AS 8.12.080		before 1959
12 AAC 21.080	Application to change from specialty to general contractor	$50	DCED AS 8.18.041		1977
12 AAC 21.100	Contractor special fee schedule	$2-10	DCED AS 44.17.030		1977
12 AAC 36.030	Withdrawal of architect exam application	$5	DCED/SBRAELS AS 08.48.101		1974
12 AAC 36.170	Architect, engineer, and land surveyer fee schedule	$15-50/yr. $20-100	DCED/SBRAELS 08.48.091-241		1978
12 AAC 40.030	Medical reexam fee schedule	$10-40	DCED/SMB AS 08.64.260		1970
12 AAC 40.310	Application for paramedic license	$50	DCED/SMB AS 08.64.100		1980
12 AAC 40.350	Renewal of paramedic license	$50/yr.	DCED/SMB AS 08.64.100		1980
12 AAC 40.400	Application for physician assistant license	$25	DCED/SMB AS 08.64.100		1980
12 AAC 40.470	Renewal of physician assistant license	$25/yr.	DCED/SMB AS 08.64.100		1980

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(1) Alaska Administrative Code	(2) Description of fees	(3) Amount	(4) Agency Authority	(5) User Fee	(6) Last Change
12 AAC 44.400	Application for nurse practioner license	$25	DCED/BN AS 8.68.100		1980
12 AAC 44.470	Renewal of nurse practitioner license	$25/yr.	DCED/BN AS 8.68.100		1980
12 AAC 56.060	Temporary marine pilot license	$50	DCED/BMP AS 08.62.040		1978
12 AAC 56.080	Marine pilot license	$200/2 yrs.	DCED/BMP AS 08.62.040		1978
12 AAC 72.105	Renewal of welding inspector license	$10/yr.	DCED/BWE AS 08.99.080		1978
13 AAC 25.010(d)	Replacement of driving school license	$1	DPS AS 28.17.041		1969
13 AAC 60.020(b)	Application for security agency license	$200	DPS AS 18.65.410		1977
13 AAC 60.030(f)	Application for change of security agency and agent	$25-$200	DPS AS 18.65.410		1977
13 AAC 60.040	Renewal of security agency license	$25	DPS AS 18.65.410		1977
13 AAC 60.060(c)	Application for security guard license	$25	DPS AS 18.65.410		1977
13 AAC 60.080(c)	Renewal of security guard license	$25	DPS AS 18.65.410		1977
13 AAC 70.160(b)	Transfer of snowmobile registration	$2	DPS AS 05.30.050		1978

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(1) Alaska Administrative Code	(2) Description of fees	(3) Amount	(4) Agency Authority	(5) User Fee	(6) Last Change
15 AAC 05.460	Application for game of skill or chance permit	$20	DR AS 05.15.020		1976
15 AAC 20.220-260	Alcohol dispensary licenses	superseded by Chapter 131 SLA 1980	DR/ABCB 04.11.230-260		1963
15 AAC 35.060	Medical authority bond financing	1% max.	DR/AMFA 18.26.050(4)		1979
15 AAC 147.130	Child support bad check	$10	DR/CSEA AS 47.23.020		1980
15 AAC 147.140	Child support overdue payment	$10 or 5%	DR/CSEA AS 47.23.020		1980
17 AAC 25.080(i)	Fees for excess size and weight permits to be set by Commissioner	N/A	DOTPF 28.05.011(8)		1974
17 AAC 40.320	Application for airport lease	$25	DOTPF AS 2.15.090		1979
17 AAC 40.340	Fees for airport leases etc. to be set by commissioner	N/A	DOTPF AS 2.15.090	Yes	1979
18 AAC 10.150	Copies	$.10/pg after 1st 20 pages	DEC 46.03.020(10)	Yes	1978
20 AAC 05.240	Limited Entry permit fee schedule	$20-$750/yr.	DFG/CFEC AS 16.43.160		1979
20 AAC 25.005	Application for oil and gas drilling permit	$100	DNR/AOGCC AS 31.05.090		1980

FEES IMPOSED OR AUTHORIZED BY REGULATION

KEY TO TABLE

Agency Abbreviations

ABCB	Alcohol Beverage Control Board
AIDA	Alaska Industrial Development Authority
AMFA	Alaska Medical Facility Authority
AOGCC	Alaska Oil and Gas Conservation Commission
APOC	Alaska Public Offices Commission
ATC	Alaska Transportation Commission
BBH	Board of Barbers and Hairdressers
BMP	Board of Marine Pilots
BN	Board of Nursing
BWE	Board of Welding Examiners
CFEC	Commercial Fisheries Entry Commission
CSEA	Child Support Enforcement Agency
DBS	Division of Banking and Securities
DCED	Department of Commerce and Economic Development
DE	Department of Education
DEC	Department of Environmental Conservation
DFG	Department of Fish and Game
DHSS	Department of Health and Social Services
DI	Division of Insurance (DCED)
DL	Department of Labor
DNR	Department of Natural Resources
DOTPF	Department of Transportation and Public Facilities
DPS	Department of Public Safety
DR	Department of Revenue
DVA	Division of Veteran's Administration
SBRAELS	State Board of Registration for Architects, Engineers and Land Surveyors