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V. Fischer

INTRODUCTION

Ever since completion of the pipeline when large amounts of oil revenue began flowing into the state treasury, Alaskan policymakers have been faced with the dilemma of determining the most equitable way of sharing the state's natural resource wealth.

One attempt at wealth sharing resulted in the enactment of the Permanent Fund Dividend Program in 1980. The program would annually distribute one-half of the earnings of the Permanent Fund directly to Alaskans. The fact that the distribution is based on length of residency, however, has resulted in a legal challenge to its constitutionality which has delayed its implementation.

Numerous other proposals have also been offered. Some are put forth as options to be considered if the dividend program is invalidated. Others are intended to supplement it. And still others are entirely independent approaches to the wealth sharing objective.

This paper discusses several of the principal alternative proposals for the sharing of state wealth. Included are various forms of direct cash distribution, annuities, royalty trusts, the Portfolio of Alaskan Citizen Enterprise, grants to municipalities, and public endowments. Also suggested are several criteria which need to be evaluated in the design of any form of distribution program.

Annual Per Capita Cash Distribution

The simplest change to the current Permanent Fund Dividend program would be an annual per capita cash distribution plan, as discussed in the Governor's Report --- "Policy Analysis Paper No. 81-24."¹ Money in the Permanent Fund dividend account, a special account within the General Fund would be divided up equally and distributed to eligible "state residents." Under current law, 50% of the earnings from the Permanent Fund principle go directly to the account. If the Legislature decided to increase annual dividends, additional monies could be appropriated from the general fund.

Appropriations to supplement dividend payments would no doubt be required at first, because Permanent Fund earnings are not yet sufficient to pay any sizable dividends. Any appropriation must be paid back according to AS 43.23.050, because the program would not be intended to distribute General Fund or Permanent Fund principle. At present the Permanent Fund dividend account contains only \$27 million.²

An annual per capita cash distribution plan would be the easiest way to repair the current Permanent Fund dividend program if it is struck down by the U.S. Supreme Court. Each Alaska resident would receive an equal share. The major legislative change would be amending the durational residency provision. Hopefully, ~~the Supreme Court decision will~~ ^{an adverse} ~~provide~~ ^(would at least) guidelines on a constitutionally acceptable definition ~~of~~ residency.

¹Policy Analysis Paper No. 81-24 "Option 1," Discussion Paper Permanent Fund Dividend Alternatives, October 12, 1981, State of Alaska, Office of the Governor, Division of Policy Development and Planning.

Contributions to the Permanent Fund dividend account are made on a "cash basis" and averaged in with prior year's contributions. This keeps down contributions to the account during the first few years, thereby, protecting the Permanent Fund principle.

Under this program, Permanent fund earnings could be distributed to State residents, thereby establishing a link between the size of the Permanent Fund and individual personal incomes. An annual per capita cash distribution might not encourage long-term state residency as the current plan attempts. In fact, it may encourage short-term residency if the residency provision is ~~only~~ ^{of relatively short} ~~duration~~ ^{duration}. This plan also has two other policy implications; first, the dividend would be ^{fully} subject to ~~the Federal Income Tax~~ Federal Income taxation; and second, distributing cash may effect the eligibility of individuals receiving public assistance.

Federal Income Tax. A permanent fund cash dividend would be considered taxable income by the Internal Revenue Service (IRS). Currently the average marginal tax rate in Alaska is 35%. This means at least 35% of the Permanent Fund earnings paid out in dividends will end up in the Federal treasury. In fact, a cash distribution may actually bump up the average marginal tax rate, by moving some individuals into a higher tax bracket. Many people won't care, and will still prefer cash. However, Alaskans with a marginal tax rate above 50% might want to defer this extra income.

The current dividend plan attempted to get around this problem by allowing residents to defer receipt of the dividend. Unfortunately, the IRS issued a ruling that the permanent fund dividend was subject to "constructive receipt." Constructive receipt requires payment of taxes on the dividend even if you don't elect to receive it. The IRS has allowed State employees the option to defer a portion of their wages, thereby, sheltering the amount deferred from Federal Income Tax. However, regarding the Permanent Fund dividend the IRS reasoned:

"Dividend payments are available to all applicants who meet the age and residency requirements, and who file timely applications. Since Act dividends are not paid as compensation for services, the rationale and conclusions stated in Rules 6-31 and 69-50 do not apply..."

And further,

"We conclude that an individual reporting on the cash receipts and disbursement method of accounting who elects to defer the dividend by

selection of either the postponed payment method or the twelve monthly installment method will be required to include the amount of such dividend in gross income for the taxable year in which the dividend would have been received..."³

This ruling is not final and does not necessarily mean that it is impossible to shelter the Permanent Fund dividend. The IRS letter also states:

"However, income is not constructively received if the taxpayers control of its receipt is subject to substantial limitations."

The term "substantial limitation" is not defined, at least in the letter, and its meaning would no doubt be decided upon by the IRS on a case by case basis. To take advantage of this "loophole" the state could require that all the dividends be placed into a retirement account. In this way a person would not be able to receive it until some time in the future. This might work. If a person has the right to take the cash upon issuance of the dividend it becomes more difficult to get around constructive receipt, however, it may be possible. At any rate, it will take a lot of work to develop a suitable tax shelter.

Public Assistance. Another adverse effect of distributing a cash dividend is the effect of increasing the resources or income of residents eligible for Public Assistance. The current Permanent Fund dividend plan exempts dividends up to a maximum of \$1,500 from inclusion as income for certain State public assistance programs.⁴ However, for many of the programs subject to Federal rules and guidelines, cash dividends will simply replace Federal dollars with State monies.

³Letter dated February 27, 1981 from the U.S. Department of Treasury, Internal Revenue Service to the State of Alaska, Department of Revenue. The ruling is directed only to the requestor, and may not be used or cited as precedent.

⁴See: AS 43.23.080.

Public Assistance Another adverse effect of annual direct distribution is that for many of the state's poor the plan amounts to almost a hoax. While it is often cited as a means of improving the living conditions of the poor, the reality of the situation is that for most of the state's truly needy, the plan may result in no perceptible benefit.

The problem arises from the fact that the dividends would be classified as a financial resource or income under those Public Assistance programs which are subject to Federal rules and guidelines. The effect is that money received from the State will simply disqualify a public assistance recipient from receiving Federal aid on a dollar-for-dollar basis. The result is that the recipient shows no net gain from having received the dividend.

For example, a permanent fund dividend could make a recipient under the state/federal program - Aid to Families With Dependent Children (AFADC) - ineligible for benefits. Currently, if a parent or guardian's "gross income" exceeds \$762/mo., or their "net income" exceeds \$508/mo., the family is not eligible. If the family received a permanent fund dividend of \$1,200 as a lump sum, the payment would count as "excess" income. According to regulations, the money would have to be averaged over a certain period by dividing the dividend received by the limit for "net income." With a \$1,200 dividend, the family would become ineligible for assistance for 2.36 months ($\$1,200/\508). An additional negative impact is that the child would be made ineligible for Medicaid as well. If the dividend were paid in monthly installments, it might make the family ineligible all together. And even if it didn't, the monthly dividend would be subtracted from the benefits due.

It appears that the only possible way for the poor to benefit from a dividend program would be to take the payment in a lump sum and spend it immediately. Under Federal regulations the funds would not be counted against the recipient's resource limit in the month during which they were received. However, any of the dividend which remained at the end of the month would be counted against the recipient's resource limit for the following month. This incentive for the poor to spend their dividend as fast as possible is hardly something which should be encouraged, but it may represent the only practical manner by which they may participate in the system.

The current Permanent Fund Dividend plan attempts to deal with the problem by exempting dividends up to a maximum of \$1,5000 from inclusion as income for certain State public assistance programs.⁴ But the number of programs financed without assistance from the Federal Government is extremely small, consisting primarily of General Relief and General Relief Medical. The bulk of the State's public assistance recipients, however, receive their payments through a federally financed program.

It seems ironic that the Permanent Fund Dividend could actually hurt the poor rather than help. This problem may have a solution, but it will require a careful study of all state/federal public assistance programs to devise appropriate exemptions.

For example, a permanent fund dividend could make a recipient under the state/federal program - Aid to Families With Dependent Children (AFADC) - ineligible for benefits. Currently, if a parent or guardian's "gross income" exceeds \$762/mo., or their "net income" exceeds \$508/mo., the family is not eligible. If the family received a permanent fund dividend of \$1,200 as a lump sum, the payment would count as "excess" income. According to regulations, the money would have to be averaged over a certain period by dividing the dividend received by the limit for "net income." With a \$1,200 dividend, the family would become ineligible for assistance for 2.36 months ($\$1,200/\508). An additional negative impact is that the child would be made ineligible for Medicaid as well.

If the dividend were paid in monthly installments, it might make the family ineligible all together. And even if it didn't, the monthly dividend would be subtracted from the benefits due. This would have the effect of 'acking out Federal aid dollars with Permanent Fund dividends. It seems ironic that the Permanent Fund dividend could actually hurt the poor rather than help. This problem may have a solution, but it will require a careful study of all state/federal public assistance programs to devise appropriate exemptions.

Royalty Oil Premiums Payments

A program similar to the annual cash distribution system was proposed during the Twelfth Legislature. Governor Hammond introduced, and later withdrew, House Bill 67, an act relating to royalty oil payments. The bill would have distributed equally to each state resident a share of the "premium," the amount the State received above the "in value" price, from the December 1980 royalty auction. The auction netted the State \$77 million more than the in value price -- about \$193 for each Alaska resident.

Governor Hammond's transmittal letter stated that the purposes of HB 67 were twofold:

"By distributing the premium obtained over current in-value prices directly to residents of the state, residents will gain an increased awareness that the state's natural resources belong to them..."

And further;

"A second purpose of the distribution is to fulfill to some degree the expectations raised by enactment of the permanent fund dividend program, implementation of which continues to be delayed by litigation..."⁴

While these goals sound reasonable, it is clear from the Legislative Purpose and Findings Section of HB 67, the royalty premium payment was definitely not Governor Hammond's first choice. Those findings state in part:

"Unlike the permanent fund dividend program, however, this per capita distribution does not provide an incentive for long-term residency in the state; it does not help assure that the state will benefit in the future from a stable population; it does not encourage a long-term interest in prudent management of the Alaska Permanent Fund and the state's natural resources; and it does not recognize the many contributions, both tangible and intangible, that individuals have made to the Alaska community during their previous periods of residence in the state. Thus, the method of distribution provided in this Act is not the method preferred by the legislature."⁵

It seems unlikely the Governor or the Legislature will revive HB 67. However, the royalty oil auction coupled with distribution of the proceeds raises some interesting points. First, the royalty oil auction was the first time Prudhoe Bay oil was sold in a competitive auction, and it netted the state a sizable premium—a premium above what the state normally receives for its oil. Second, the Administration was at least willing to consider distributing the premium, even though it arguably represents principal rather than investment earnings.

Despite HB 67's almost apologetic legislative purpose section and a generally negative response, distributing the premium would establish a direct link between personal incomes and the price the state receives for its royalty oil.

As an alternative, the Legislature may wish to consider appropriating the premium from the December 1980 royalty oil auction and premiums from any future

⁵See: House Journal, February 4, 1981, pp. 146-147.

auctions directly to the Permanent Fund dividend account. This would tend to increase the awareness of state residents to the price received for royalty oil.

Portfolio of Alaskan Citizen Enterprise

An Act establishing the Portfolio of Alaska Citizen Enterprise, House Bill 1006, was introduced during the second session of the Eleventh Legislature. The proposal became commonly known as PACE and was a system by which income producing assets could be distributed or sold to Alaskan residents. "Portfolio Plans," as these investments were called, could be state investment funds, business enterprises acquired by the State, energy resource trusts, real estate investment trusts, and GSOCs.

PACE. The idea of a PACE came from British Columbia's experience in "privatization." Privatization was a means of transferring assets held by the public sector to private individuals. In 1977 at the urging of Premier Bennett, the British Columbia legislature created the British Columbia Resource Investment Corporation (BCRIC), and handed over the following government owned assets:

Oil and gas exploration rights to some 2.3 million acres of crown land in British Columbia.

81 percent of the common shares of Canadian Cellulose Limited, a large scale forest products firm, 100 percent of the common shares of Kootenay Forest Products Limited, a medium sized lumber and plywood manufacturer,

100 percent of the common shares of Plateau Mills Limited, a mid-sized lumber producer.

About 10 percent of the share of Westcoast Transmission Company, which operates a major pipeline in B.C. and is also a partner in the Alaska Highway gas pipeline project.

After passage and transferene of these assets to BCRIC, eighty percent of

the stock in BCRIC, or 12 million shares, was transferred to the public. Each resident received five shares. The B.C. government retained 20% of the stock, but did not become involved in management of the corporation. While political **pundits** and financial experts viewed the program askance, BCRIC became immensely popular among B.C. residents.

BCRIC and PACE bear a striking resemblance to the Alaska General Stock Ownership Plan, or AGSOC as it was popularly referred to. In fact, in many respects they are identical. Ownership of shares is limited to avoid concentration, distributions are limited to residents, board members are elected by the shareholders, etc. AGSOC and PACE are not, however, exactly alike.

AGSOC and PACE. One of the motivations behind PACE was to void the initiative petition to create AGSOC. AGSOC, as most will remember, was the Kelso-Gravel plan to distribute wealth from Alaska investments. Whether PACE would have voided the petition is moot, since PACE did not pass the Legislature and the AGSOC initiative was defeated by the voters.

While the purpose of AGSOC and PACE are similar, to distribute wealth to Alaska residents, there is a fundamental difference in their make-up. PACE can own income producing assets. AGSOC, on the other hand, must acquire investments with 100% debt financing. After servicing the debt, the income left over must be distributed, if there is any. AGSOC is a conduit for funneling income to Alaskan residents. In exchange, AGSOC is exempt from corporate income tax. PACE can actually own the assets, although this does raise some difficult tax questions.

Under the draft legislation creating PACE, the Department of Revenue was required to present at least one and not more than three "Portfolio Plans" specifying which assets were to be transferred to PACE. Some shares would be distributed free and some would be sold. Before the assets could become part of PACE, however, approval from the Legislature was necessary - another significant difference between PACE and AGSOC. The first "portfolio plan" to be considered for PACE was a royalty trust.

Royalty Trust. The royalty trust would be a trust or trusts to which the royalty income from specific state leases would be pledged. The trust would then act as a conduit funneling royalty oil income to the trust beneficiaries, who in this case would be state residents.

The PACE royalty trust would be similar to some publicly held royalty trusts like the North European Oil Royalty Trust, the Mesa Trust and the Tidelands trust. The value of the income from a royalty trust is, of course, tied to oil prices.

Since royalties are taken off the top, trust beneficiaries bear none of the development risks. Also, royalty trusts receive special tax consideration by the IRS. As long as the trust remains "passive" (bears no risk) and pays out all of the earnings, the trust is not subject to Federal income tax. Trust beneficiaries can also claim a depletion deduction which reduces an individual's tax liability. While the concept of a royalty trust appears attractive, its implementation raises a host of difficult legal questions.

Dedication of Revenues. One legal obstacle appears to be Article IX, § 7 of the Alaska Constitution. Article IX, § 7 of the state's constitution prohibits the dedication of "taxes, licenses and fees." A literal reading of Article IX might be interpreted to exclude royalties, because they are not specifically a tax, license or fee. However, this is a pretty weak argument and was not tried with the Permanent Fund. The Permanent Fund receives 25% of the state's royalty income pursuant to a constitutional amendment.

The PACE legislation attempted to get around this problem by structuring the transference of royalty trust shares as a sale. The money received by those purchasing the shares at a conservatively appraised value would then go to the general fund. This might work, but it makes the royalty trust more like an investment than a means of distributing the state's oil wealth.

Statehood Act. Another problem is section 6(i) of the Statehood Act which requires the state to retain all minerals in lands conveyed to the state by the Federal government. If the state attempts to convey the mineral estate, the Attorney General of the United States may bring an action for the forfeiture of the lands affected by the purported conveyance.

Whether a royalty trust is a conveyance in violation of section 6(i) is subject to legal debate. The PACE legislation attempted to remedy this problem by expressly requiring the Commissioner of Natural Resources to retain the mineral estate. It was not clear, however, whether this provision was sufficient. One clear means of avoiding a problem is to convey the royalty interest to a trust from lands obtained under the Submerged Lands Act of 1953. These lands are not subject to forfeiture and hence would allow the creation of, for example, a Beaufort Sea royalty trust.

Windfall Profits Tax. Another problem appeared to be the Federal windfall profit tax (WPT). Under provisions of the WPT Act, producers must pay an effective marginal tax rate of 30% on Prudhoe Bay oil. State royalty oil is, however, exempt. It was not clear at the time the legislature was deliberating over PACE whether this exemption applied to royalty oil transferred to a trust.

The WPT problem may have been resolved, however, because of certain amendments to the Act. The Economic Recovery Tax Act of 1981 provides certain exemptions for payment of the WPT. The conference agreement provided a \$2,500 credit against WPTs paid in 1981. Between 1982-1984 royalty owners could exempt 2 bpd of production from the tax, and 4 bpd thereafter. If the royalty trust consisted of a royalty trust for each beneficiary (state resident), this exemption might be sufficient.

The idea of a royalty oil trust deserves some further consideration. It would clearly create a constituency concerned with prudent fiscal management of the state's oil and gas resources. One suggestion would be to deal with a royalty trust separate from PACE. On its own, royalty trust would be a very complicated piece of legislation.

Direct Wealth Distribution

Recent proposals have advocated a radically different approach to state spending and wealth distribution. These plans propose a direct distribution of Alaska's wealth. Where the Permanent Fund Dividend Program distributes interest earnings, direct distribution would give away revenues which now accrue to the general fund.

Proponents of direct distribution argue that Alaska can build a more productive economy and better provide for its citizens by allowing them to decide how State wealth should be spent. Under these proposals, state government would provide only essential services and remaining revenues would be distributed through various mechanisms directly to the people.

The simplicity of this approach is appealing. Alaska's FY 1982 budget totaled approximately \$6 billion dollars. Proponents of direct distribution point out that when divided equally, \$6 billion comes out to about \$15,000 per person. Accordingly, a family of four could have a very comfortable income of \$60,000 a year. Even after allowing for the funds necessary to provide essential governmental services, there would still be a distribution of substantial amounts of money to Alaskans.

While this approach may sound far-fetched, direct distribution has been advocated by several prominent economists, among them Professor Donald F. Gordon of the Center for the Study of Business and Government, City University of New York. In his paper, The Problems of Wealth, submitted to the Board of Trustees of the Alaska Permanent Fund, Dr. Gordon iterates "Option 1" called "Give it to the People." He states:

"The first option is stunningly simple in principle and by a great margin the most desirable in terms of our criterion. It answers the question what can be done with it? by another question: Why not give it to the people?⁶

Dr. Gordon's criterion is that the wealth of this state "morally" belongs to the people. He suggests Alaska create a corporation and pledge all future oil and gas revenues to it. The state could issue 100 shares to each and every Alaskan and send them out in the mail immediately.

The Board of Trustees for the Alaska Permanent Fund has begun to study the effect of the influx of oil dollars into the Alaskan economy and has commissioned several papers. All of them conclude that a political system of revenue allocation which results in subsidized loan programs and that attempts

⁶The Problems of Wealth, p. 6.

to spur industrial development by buying infrastructure for marginally economic projects will result in waste of the state's resources.

Richard B. Coffman, author of Capital Shortage, Public vs. Private Allocation of Capital and Alternative Ownership Systems for Alaska's Oil Wealth, one of the papers prepared for the Permanent Fund Board of Trustees, states unequivocally "all state loan programs should be abolished" and "all usury and interest rate ceilings should be removed." In other words, the capital markets should be deregulated. Dr. Coffman also recommends redistribution of some part of the oil revenues as cash grants. Taken together, the arguments present a fairly strong case for private allocation of the state's wealth as opposed to a political/bureaucratic system of allocation.

Dr. Malcolm Gillis, professor at Harvard University and author of the paper, The Effects of In-State Investment: Lessons from Oil-Fired Development in Other Parts of the World, warns of dangers in stimulating industrial development based on criteria other than "good economics." He cites the Krakatau steel project, a \$3 billion "boondoggle" intended to free Indonesia from having to import steel. "This freedom," Dr. Gillis states, "will cost that society nearly \$80 million annually for another decade (in addition to the \$1.5 billion already invested)."

Dr. Gillis also remarks that crash programs to expand infrastructure have often involved substantial waste, by creating facilities that have been "grossly" underutilized. Funding infrastructure is, however, politically attractive as Dr. Gillis points out by quoting a campaign speech by Mr. Velasco Ibarra, President of Ecuador off and on during the 1960s:

"And finally, when I am elected again, we will build the biggest bridge in Ecuador, right here in Dos Gatos.

'But Senor Presidente, there is no river in Dos Gatos.'

"Then we will also build the biggest river in Ecuador, right here in Dos Gatos.'"

No doubt implementation of direct distribution poses numerous political, legal and technical hurdles. However, the Legislature may wish to retain a nationally recognized accounting firm to examine the idea.

CAPITAL PROJECTS

Another proposal which has received considerable support in the Legislature is the concept of expanding Alaska's economic infrastructure through the construction of capital projects such as roads, ports, airstrips, and hydroelectric facilities. Not only has the idea received substantial support, it has received a certain degree of implementation through record capital appropriations in each of the past two years. Proponents of increased capital spending argue that the creation of this economic infrastructure will promote increased economic development which will provide an improved standard of living for all Alaskans.

But Dr. Malcolm Gillis, a professor at Harvard University and author of the paper, The Effects of In-State Investment: Lessons from Oil-Fired Development in Other Parts of the World, warns that crash programs to expand infrastructure often involve substantial waste by creating facilities that are grossly underutilized. He cites Indonesia's Krakatau steel project as an example of the dangers involved in stimulating industrial development based on criteria other than "good economics". The \$3 billion project was intended to free Indonesia from having to import steel. "This freedom", Dr. Gillis states, "will cost that society nearly \$80 million annually for another decade (in addition to the \$1.5 billion already invested)".

Some capital projects, such as Krakatau, can generate an emotional or political appeal that results in their being funded regardless of their economic justification. Dr. Gillis points out the political attractiveness of funding capital projects by quoting the campaign speech of a presidential candidate campaigning in Dos Gatos, Ecuador. After promising to build Ecuador's biggest bridge in Dos Gatos, he was reminded by someone in the crowd that the city had no river. The candidate solved the problem by promptly responding with an additional promise to build Ecuador's biggest river in Dos Gatos.

While this may seem like an extreme example, it does provide a certain insight into the degree to which political commitments to needless or unfeasible capital projects can generate spending far beyond the mere cost of construction. That danger exists in Alaska too. Capital spending may require commitments of the state's wealth far in excess of the initial construction costs. Life cycle costing reveals that maintenance costs for many projects often soon exceed the project's original cost. And construction of one capital project may lead to the construction of other capital projects needed as support facilities.

Capital projects already authorized may represent a hidden commitment of Alaska's wealth of tremendous magnitude. Last legislative session a record \$1.38 billion was appropriated for capital projects. That was in addition to the \$707.4 million

combined total of 1980's FY81 budget and HB 60. And on top of that is the \$289.7 million in general obligation bonds for capital projects approved by the voters in 1980. Capital appropriations of this size may be approaching the limit of state government's ability to administer and the private sector's ability to construct in a cost-efficient manner. Already there are indications of an inflationary trend in construction costs which will exceed the estimates used in determining costs for all those projects included in the above appropriations. The result will be substantial cost overruns.

No certain plans can be made for the distribution of the state's wealth until the Legislature has an understanding of the extent to which our wealth has already been committed. The Legislature should undertake a systematic appraisal of all capital projects authorized during the last three years. This review should not be a simple status report but should include projections of anticipated cost overruns and expected annual operating costs for each project.

PROPERTY TAX REDUCTION

Proposals have been made by several legislators to use state revenues to reduce or eliminate property taxes levied by local municipalities. These proposals reflect the recent national trend towards reducing the tax burden imposed by local governments. This "taxpayers' revolt" has resulted in initiative drives in several states to reduce the level of property taxes. Proposition 13 in California and Proposition 2 $\frac{1}{2}$ in Massachusetts are probably the most well-known.

The argument in support of these proposals is relatively straightforward-- Alaskans should not pay property taxes while there are revenue surpluses coming into the state treasury. Critics base their opposition on the inequities of the resulting distribution of the state's wealth. The reason for their concern is demonstrated by the distribution among Californians of the tax savings resulting from Proposition 13. Several generalizations can be made. First, the rich benefitted more than the middle class in terms of the total taxes saved per household. Secondly, renters received little or no benefit because property tax reductions were generally pocketed by landlords rather than being passed on in the form of lower rents. Finally, residents of rural areas benefitted much less than urban residents because of the lower level of services provided and the corresponding lower level of property taxes.⁷ Unless some of these problems are

⁷ Property Tax Relief. Steven Gold, D.C. Heath and Co., Lexington, Massachusetts, 1979.

addressed, serious inequities may result in distribution of wealth through property tax relief.

Sales Tax Legislation aimed at relieving the local tax burden must also take into consideration the fact that in many cases the local burden consists of a sales tax instead of, or in addition to, a property tax. Seven of eleven boroughs levy a sales tax. Over one-third of the Fairbanks North Star Borough's revenues and more than 50% of the Ketchikan Borough's revenues are derived from the sales tax. In addition there are dozens of smaller municipalities which use only the sales tax to raise revenues.⁸ Providing only property tax relief will penalize those communities which levy a sales tax in place of the property tax. An equitable distribution of tax relief can only be achieved if the legislation includes comparable benefits for those who have chosen to finance local services by means of a sales tax.

Renters Renters pay a substantial portion of the property taxes collected in many communities. Property taxes are a cost of doing business for the owner of rental property and, like any other cost of doing business, is included in the amount of rent to be charged the tenant. But most tax relief formulas proposed so far have overlooked this fact. As indicated above, renters received little of the benefits associated with the tax savings resulting from Proposition 13.

⁸Alaska Taxable 1980, January 1981, State of Alaska, Department of Community and Regional Affairs, Division of Local Government Assistance.

The most effective way of assuring equity for renters in any tax relief scheme would be to enact it in the form of a tax refund program. Property owners would be eligible to apply for a refund of a portion of the taxes paid on the unit which they occupy. Renters would be entitled to a refund for a similar portion of that part of the rent which represents the tax on the unit which they occupy. The program could be easily adapted from the tax breaks now provided for senior citizens under AS _____.

The least effective way of providing tax relief for renters would be to give the money directly to municipalities which in turn would provide a general property tax reduction. First, a general millage rate reduction would spread available revenues over all forms of property, including commercial property and vacant land, rather than targeting residential property. Secondly, under such a system, particularly in times of low rental vacancy rates, it is unlikely that much tax relief would be passed on to renters in the form of lower rents.

Restrictions on Municipalities In 1970 the Legislature passed the state revenue sharing program, AS _____, and began the flow of state oil revenues to local governments. Sponsors of the program declared that these funds would be used by municipalities to reduce taxes so that Alaskans could benefit in a direct fashion from the state's oil wealth. In many cases, however, the

result was not lower taxes, but increased government programs which quickly ate up the new source of revenue.

Because of the inequitable effect on renters, channeling property tax relief directly to municipalities should be avoided. But if that system is chosen, then provisions should be included in the legislation to insure that funds sent to local governments are actually used for tax relief. Finance Committee Substitute for House Bill 4 takes one approach to the problem by limiting municipalities receiving state aid to increases in taxes of no more than 2% plus the increase in the consumer price index for the previous year. Another approach is that advocated in House Bill 22. Under HB 22 municipalities would receive an annual entitlement from the State in place of levying a property tax and that entitlement would be reduced by the amount of increases in any other municipal taxes.

Supplemental Benefit System

Another option for distributing income from the Permanent Fund is to establish for all Alaskans a program of benefits similar to the Supplemental Benefits System (SBS) for state employees. SBS replaced Social Security when state employees opted out of the system in 1980. It is a very sophisticated system offering employees a combination of insurance benefits and a retirement annuity. The system is unique and is well administered given its complexity.

Under SBS, 12.26% of an employees wages goes into the system, up to the social security maximum wage base, which is \$29,700 for 1981. Hence, up to \$3,641.22 could be contributed. One-half of the contribution (6.13%) is wage reduction, the rest is contributed by the state. The concept may be applicable to Permanent Fund dividend distribution whether it be done on a longevity, equal amount per capita, or some other basis.

Annuity. The annuity is a retirement account. All or part of the 12.26% of a state employees contribution to the SBS can go into the annuity account, but at least 6.13% must go in to retain the special tax treatment afforded the system. Special tax treatment by the IRS is perhaps the most attractive feature of the SBS. Contributions are not taxed, nor is the interest earned. The annuitant is able to defer taxes until he begins to draw on the annuity, after age 55. The annuity can be withdrawn in a lump sum or installments. Presumably, the tax rate for retirees will be lower than for those earning a regular salary.

The idea of structuring a retirement annuity funded by a Permanent Fund dividend may be attractive for some Alaskans, particularly those in higher tax brackets. However, structuring a program to shelter dividends and their earnings from the Federal Income Tax will not be easy to do. The current Permanent Fund Dividend program contains provisions for the deferral of dividends; but even if the program had not been tied up in a court challenge, its unlikely they would have been approved by the IRS. Amendments to the IRS code liberalizing the doctrine of "constructive receipt," however, were contained in the Economic Recovery Tax Act of 1981. It may be worth exploring this concept further.

Benefits. The other parts of SBS are benefits. These benefits include survivor, disability, death, and health insurance. Because of the fact that one-half of the contribution comes from the State, only one-half (6.13%) of an employee's contribution can be chosen by a beneficiary and still remain tax free.

The idea of providing benefits, particularly health insurance, is discussed as "Option 2" in the Governor's Policy Analysis Paper No. 81-24, combined with an option of taking cash. A recent report by Battelle Research showed that 11% of Alaskans have no health care coverage at all. The idea of giving a person the choice of taking cash or health insurance may be an acceptable approach. There are potential problems with allowing a choice between the two, though they may not be insurmountable. The Governor's "Option 2" made health insurance mandatory if a person was not already covered. This may encourage employers to stop carrying health insurance for their employees. Secondly, if a person has the option of taking cash but doesn't, there may be "constructive receipt" which might make health care benefits taxable. This area should be reviewed in more detail as part of an examination of the tax implications of various distribution plans.

Municipal Assistance

Another suggest approach to state wealth distribution is to distribute Permanent Fund earnings to communities. This program was recently endorsed by the Hammond Administration as an option to consider. The plan would be similar to FCCSSB 236, "an Act relating to assistance to municipalities." FCCSSB 236 passed during the first session of the Twelfth Legislature.

The provisions of FCCSSB 236 allow for payment of an "entitlement" to each "municipality" or "unincorporated community." The entitlement would be \$1,000 times the number of people residing within the boundaries of the community, subject to the limits of the appropriation. The sum received as an entitlement could be used only for social services, capital projects, or operating expenses of capital projects.

Under Governor Hammond's new proposal, communities would have more flexibility in the use of the funds. The Division of Policy Development and

Planning suggests the following uses; (1) capital projects, (2) tax reduction, (3) establishment of a mini permanent fund (note: Valdez has one), (4) power production assistance, (5) operational expenditures, (6) direct cash distribution, and (7) and others.

The response to this program from municipal officials was understandably quite positive.

Public Endowments

One concept which has been discussed by state officials is the creation of public endowments. An endowment would be similar to the Permanent Fund in that it would involve the dedication of a percentage of revenues to a fund separate from the General Fund. The earnings would be used to fund education, public works, or other specified state programs. The creation of an educational endowment was proposed last session and is currently under review by an interim study group which will report its findings to the Legislature during the 1982 session.

To actually dedicate part of the state's revenues to a fund for a specific public use so that it could be used for no other purpose would require a constitutional amendment. It is possible, however, to create a statutory endowment. The Legislature could establish a separate fund and each year appropriate to it the "dedicated" percentage of revenues.

Creation of such endowments, however, would be no different than creating another of the special funds which have proliferated in recent years. One example which has been previously discussed is the municipal assistance fund under AS 43.20.016, Subsection (a) states that:

"The Legislature may appropriate to the fund during each fiscal year an amount equal to or greater than 10% of the income tax received under AS 43.20.011(e) and AS 43.21. (emphasis added)

Creation of a statutory fund, however, does not guarantee that it will actually function as conceived. The Legislature can appropriate 100%, 50% or

.0% of the formula amount. The Legislature can even appropriate money out of the fund for non-dedicated purposes. Or, ultimately, it can abolish the fund. Thus, AS 43.20.016(a) carries no real legal weight and is little more than a target figure.

Special funds, however, do create political constituencies which work to see that the Legislature appropriates the full level of funding. In the case of the municipal assistance fund, public officials from every community in the state will argue that their municipalities are entitled to this money. And perhaps they are. But the reality of the situation is that the constituencies of these special funds are just one more "special interest group" competing for available revenues.

If the Legislature feels that there is a particular public purpose which is of such priority that it wishes to create a public endowment, it should do so constitutionally with the consent of the voters.

Conclusion

This discussion of wealth distribution alternatives analyzes only some of the principal proposals which have been made to date. The wide range of alternatives demonstrates the fact that there is no consensus on the direction to take if the legal challenge to the Permanent Fund Dividend Program is sustained or if the Legislature wishes to provide some form of additional or alternative wealth distribution.

State policymakers must begin to narrow their options so that detailed considerations can be given to likely proposals. That way the legal, technical, and political problems can be addressed in an orderly manner.

If cash distribution is to be a priority, through either continuation of the Permanent Fund Dividend Program or establishment of some other mechanism, there are two fiscal matters that must be dealt with. First, a relatively low annual cash distribution of, for example, \$1,000 may actually hurt low income Alaskans by making them ineligible for state/federal public assistance

programs. Secondly, of Permanent Fund earnings distributed as dividends, at least 35% will be taxed away by the federal government unless the State can devise a tax shelter acceptable to the Internal Revenue Service. Consequently, cash distribution can have the perverse fiscal impact of making indigent Alaskans worse off and taxing away benefits from those in high marginal tax brackets. If the Legislature wishes to consider these problems, it should undertake these specific tasks:

Task 1. Review all state and federal public assistance programs to determine if and how Permanent Fund Dividends can be exempted from "income" and "resource" guidelines for each and;

Task 2. Retain tax counsel, possibly through the Department of Revenue or the Attorney General, to advise on the preliminary design of a tax shelter mechanism, probably a trust or annuity, acceptable to the IRS.

This work should begin as soon as possible. If the Permanent Fund Dividend Program is invalidated, the Legislature will be under great pressure to provide an alternative. Even if it is sustained, these problems will still have to be dealt with to assure that Alaskans achieve the maximum benefit possible from the sharing of the state's natural resources wealth.

BOB WILLIAMS as I

INTRODUCTION

Executive Summary

This is not a summary

The conclusion of this report, which discusses some Permanent Fund Dividend Alternatives and income distribution in general, is that there are too many proposals this late in the game. If the current dividend program is thrown out, the Legislature will probably have to deal with a new program this session.

NEED BETTER LEAD FOR WHAT FOLLOWS IN THIS PAPER

I use, want explain it's kind support.

No - that doesn't emerge from this paper.

The Administration is discussing Cash Distribution, Health Insurance, Guaranteed Minimum Wage, Public Endowments, Cash Grants to Municipalities and a host of others. In the past the Legislature has dealt with the Portfolio of Alaska Citizens's Enterprise, AGSOC, a royalty trust, permanent fund dividends, state health insurance, cash grants to municipalities, a royalty premium payment ..., and a lot of other ideas, some of which passed, some of which didn't, and some of which are still being talked about. There are so many ideas, the problem is narrowing them all down.

don't say these

more official looking... need to be more official looking... more official looking...

clearly indicate that this paper discusses the principles of alternatives - and why

If everyone agrees that cash distribution is the answer, there are two fiscal matters state policymakers may wish to deal with. Number one, a dividend of say \$1,000 may actually cause financial distress to Alaskans on public assistance by making them ineligible. Number two, and on the other side of the coin, a lot of the dividends will be taxed away from well to do Alaskans by the U.S. Department of the Treasury unless a suitable tax shelter can be devised. There may be ways around these problems, and we refer you to the appendix.

more so

If state policymakers choose a different approach, let's find out what it is. That way the legal, technical and political bugs can be worked out beforehand. There is a real danger that more problems, like the one's facing the existing Permanent Fund dividend program, will undermine the public support and respect for the Permanent Fund itself.

too much... need more professional

This whole page/introduction must relate to this whole paper

BE CAREFUL NOT TO BE BREEZY - IT SOUNDS NON-FACTUAL, TOO LOOSE

Annual Per Capita Cash Distribution

The simplest change to the current Permanent Fund Dividend program would be an annual per capita cash distribution plan, as discussed in the Governor's Report --- "Policy Analysis Paper No. 81-24."¹ Money in the Permanent Fund dividend account, a special account within the General Fund would be divided up equally and distributed to eligible "state residents". Under current law, 50% of the earnings from the Permanent Fund principle go directly to the account. If the Legislature decided to increase annual dividends, additional monies could be appropriated from the general fund.

Appropriations to supplement dividend payments would no doubt be required at first, because Permanent Fund earnings are not yet sufficient to pay any sizable dividends. Any appropriation must be payed back according to AS 43.23.050, because the program would not be intended to distribute General Fund or Permanent Fund principle. At present the Permanent Fund dividend account contains only \$27 million.²

An annual per capita cash distribution plan would be the easiest way to repair the current Permanent Fund dividend program if it is struck down by the U.S. Supreme Court.

¹ Policy Analysis Paper No. 81-24 "Option 1", Discussion Paper Permanent Fund Dividend Alternatives, October 12, 1981, State of Alaska, Office of the Governor, Division of Policy Development and Planning.

² Contributions to the Pemanent Fund dividend account are made on a "cash basis" and averaged in with prior year's contributions. This keeps down contributions to the account during the first few years, thereby, protecting the Permanent Fund principle.

Each Alaska resident would receive an equal share. The major legislative change would be amending the durational residency provision. Hopefully, the Supreme Court decision will provide guidelines on a constitutionally acceptable definition for residency

Under this program, Permanent fund earnings could be distributed to State residents, thereby, establishing a link between the size of the Permanent Fund and individual personal incomes. An annual per capita cash distribution might not encourage long-term state residency as the current plan attempts. In fact, it may encourage short-term residency if the residency provision is, say, only 30 days. This plan also has two other policy implications; first, the dividend would be subject to the full brunt of Federal Income taxation; and second, distributing cash may effect the eligibility of individuals receiving public assistance.

Federal Income Tax. A permanent fund cash dividend would be considered taxable income by the Internal Revenue Service (IRS). Currently the average marginal tax rate in Alaska is 35%. This means at least 35% of the Permanent Fund earnings paid out in dividends will end up in the Federal treasury. In fact, a cash distribution may actually bump up the average marginal tax rate, by moving some individuals into a higher tax bracket. Many people won't care, and will still prefer cash. However, Alaskans with a marginal tax rate above 50% might want to defer this extra income.

The current dividend plan attempted to get around this problem by allowing residents to defer receipt of the dividend. Unfortunately, the IRS issued a ruling that the permanent fund dividend was subject to "constructive receipt". Constructive receipt means you have to pay taxes on the dividend even if

you don't elect to receive it. The IRS has allowed State employees the option to defer a portion of their wages, thereby, sheltering the amount deferred from Federal Income Tax. However, regarding the Permanent Fund dividend the IRS reasoned ⁽²⁾: *colom here & elsewhere*

"Dividend payments are available to all applicants who meet the age and residency requirement, and who file timely applications. Since Act dividends are not paid as compensation for services, the rationale and conclusions stated in Rules 60-31 and 69-50 do not apply..."

And further,

"We conclude that an individual reporting on the cash receipts and disbursement method of accounting who elects to defer the dividend be selction of either the postponed paymen' method or the twelve monthly installment method will be required to include the amount of such dividend in gross income for the taxable year in which the dividend would have been received..."³

This ruling is not the final word, and does not necessarily mean that is is impossible to shelter the Permanent Fund dividend. The IRS letter also states ⁽²⁾:

"However, income is not constructively received if the taxpayers control of its receipt is subject to substantial limitations"

³ Letter dated February 27, 1981 from the U.S. Department of Treasury, Internal Revenue Service to the State of Alaska, Department of Revenue. The ruling is directed only to the requestor, and may not be used or cited as precedent.

The term "substantial limitation" is not defined, at least in the letter, and its meaning would no doubt be decided upon by the IRS on a case by case basis. To take advantage of this "loophole" the state could require that all the dividends be placed into a retirement account. In this way a person would not be able to receive it until some time in the future. This might work. If a person has the right to take the cash upon issuance of the dividend it becomes more difficult to get around constructive receipt, however, it may be possible. At any rate, it will take a lot of work to figure out a suitable tax shelter.

Public Assistance Another adverse effect of distributing a cash dividend is the effect of increasing the resources or income of residents eligible for Public Assistance. The current Permanent Fund dividend plan exempts dividends up to a maximum of \$1,500 from inclusion as income for certain State public assistance programs.⁴ However, for many of the programs subject to Federal rules and guidelines, cash dividends can either cause hardship or simply replace Federal dollars available for assistance with State monies.

For example, a permanent fund dividend could make a recipient under the state/federal program - Aid to Families With Dependent Children (AFDC)- ineligible for benefits. Currently, if a parent or guardian's "gross income" exceeds \$762/mo., or their "net income" exceeds \$508/mo., the family is not eligible. If the family received a permanent fund dividend of \$1,200 as a lump sum, the payment would count as "excess" income. According to regulations, the money would

⁴ See: AS 43.23.080.

have to averaged over a certain period by dividing the dividend received by the limit for "net income". With a \$1,200 dividend, the family would become ineligible for assistance for 2.36 months ($\$1,200/\508). Maybe this doesn't seem to bad, except the child would also be made ineligible for Medicaid as well.

If the dividend were paid in monthly installments, it might make the family ineligible all together. And even if it didn't, the montly dividend would be subtracted from the benefits due. This would have the effect of backing out Federal aid dollars with Permanent Fund dividends. It seems ironic that the Permanent Fund dividend could actually hurt the poor rather than help. This problem may have a solution, but it will require a careful study of all the state/federal public assitance programs and their regulation to devise appropriate exemptions.

Royalty Oil Premium Payments

proposed A program similar to the annual cash distribution system was ~~tried~~ during the Twelfth Legislature. Govenor Hammond introduced HB 67, ~~and~~ ^{which} ~~act~~ relating to royalty oil premium payments, ~~HB 67~~ would have distributed the "premium", or the amount of the State received above the "in value" price from a royalty oil auction held in December 1980, equally to each state resident. The royalty auction netted the state an extra \$77 million, about \$193 for each Alaska resident.

In Govenor's Hammond's transmittal letter he stated the purposes of HB 67 were twofold: *see column*

"By distributing the premium obtained over current in-value prices directly to residents of the state, residents will gain and increased awareness that the state's natural resources belong to them..."

and further;

"A second purpose of the distribution is to fulfill to some degree the expectations raised by enactment of the permanent fund dividend program, implementation of which continues to be delayed by litigation..."⁴

While these goals sound reasonable, it is clear from the Legislative Purpose and Findings Section of HB 67, the royalty premium payment was definitely not Governor Hammond's first choice. Those findings state in part;⁵

"Unlike the permanent fund dividend program, however, this per capita distribution does not provide an incentive for long-term residency in the state; it does not help assure that the state will benefit in the future from a stable population; it does not encourage a long-term interest in prudent management of the Alaska Permanent Fund and the state's natural resources; and it does not recognize the many contributions, both tangible and intangible, that individuals have made to the Alaska community during their previous periods of residence in the state. Thus, the method of distribution provided in this Act is not the method preferred by the legislature."⁵

It seems unlikely the Governor or the Legislature will revive HB 67. However, the royalty oil auction coupled with distribution of the proceeds raises some interesting points. First, the royalty oil auction was the first time Prudhoe Bay oil was sold in a competitive auction, and it netted the state a sizable premium, a premium above what the state normally receives for its oil. Second, the Administration was at

Gov. limit 2000?

⁵ See: House Journal, February 4, 1981, pp. 146-147.

least willing to consider distributing the premium, even though it arguably represents principle rather than investment earnings.

and general response was as kindly not favorable

While the Legislative Purpose Section of HB 67 views the program somewhat negatively, distributing the premium ~~will~~ *would* establish a direct link between personal incomes and the price the state receives for its royalty oil. ~~Perhaps~~ *As an alternative,* the Legislature may wish to consider appropriating the premium from the December *1980* royalty oil auction and premiums from future auctions, if there are any, directly to the Permanent Fund dividend account. This would tend to increase the awareness of state residents to the price received for royalty oil.

Portfolio of Alaskan Citizen Enterprise

During the second session of the Eleventh Legislature, HB 1006 was introduced, "an Act establishing the Portfolio of Alaska Citizen Enterprise", or as it became commonly known PACE. PACE was a system whereby income producing assets or investments could be distributed or sold to Alaska residents. "Portfolio Plans" as these investments were called could be state investment funds, business enterprises acquired by the state, energy resource trusts, real estate investment trusts, and GSOCs.

PACE. The idea of a PACE came from British Columbia's experience in "privatization". Privatization was a means of transferring assets held by the public sector to private individuals. In 1977 at the urging of Premier Bennett, the British Columbia legislature created the British Columbia

RIGHT!

Resource Investment Corporation (BCRIC), and handed over the following government owned assets: ←

Oil and gas exploration rights to some 2.3 million acres of crown land in British Columbia,

81 percent of the common shares of Canadian Cellulose Limited, a large scale forest products firm,
100 percent of the common shares of Kootenay Forest Products Limited, a medium sized lumber and plywood manufacturer,

100 percent of the common shares of Plateau Mills Limited, a mid-sized lumber producer,

About 10 percent of the share of Westcoast Transmission Company, which operates a major pipeline in B.C. and is also a partner in the Alaska Highway gas pipeline project.

After passage and transference of these assets to BCRIC, eighty percent of the stock in BCRIC, or 12 million shares, was transferred to the public. Each resident received five shares. The B.C. government retained 20% of the stock, but did not become involved in management of the corporation. While political wise men and financial experts viewed the program askance, BCRIC became immensely popular amongst B.C. residents after its passage.

As you may have surmised, BCRIC and PACE bear a striking resemblance to the Alaska General Stock Ownership Plan, or AGSOC as it was popularly referred to. In fact, in many respects they are identical. Ownership of shares is limited

zuko?

to avoid concentration, distributions are limited to residents, board members are elected by the shareholders, etc. AGSOC and PACE are not, however, exactly alike.

AGSOC and PACE. One of the motivations behind PACE was to void the initiative petition to create AGSOC. AGSOC, as most will remember, was the Kelso-Gravel plan to distribute wealth from Alaska investments. Whether PACE would have voided the petition is moot, since PACE did not pass the Legislature and AGSOC went down in defeat before the voters.

While the purpose of AGSOC and PACE are similar, to distribute wealth to Alaska residents, there is a fundamental difference in their make-up. PACE can own income producing assets. AGSOC, on the other hand, must acquire investments with 100% debt financing. After servicing the debt, the income left over must be distributed, if there is any. AGSOC is a conduit for funneling income to Alaskan residents. In exchange, AGSOC is exempt from corporate income tax. PACE can actually own the assets, although this does raise some difficult tax questions.

Under the draft legislation creating PACE, the Department of Revenue was required to present at least one and not more than three "Portfolio Plans" specifying which assets were to be transferred to PACE. Some shares would be distributed free and some would be sold. However, before the assets could become part of PACE approval from the Legislature was necessary. This is another significant difference between PACE and AGSOC. The first "portfolio plan" to be considered for PACE was a royalty trust.

Royalty Trust. The royalty trust would be a trust or trusts to which the royalty income from specific state leases would be pledged. The trust would then act as a conduit funneling royalty oil income to the trust beneficiaries, who in this case would be state residents.

The PACE royalty trust would be similar to some publically held royalty trusts like the North European Oil Royalty Trust, the Mesa Trust and the Tidelands trust. The value of the income from a royalty trust is, of course, tied to oil prices.

Since royalties are taken off the top, trust beneficiaries bear none of the development risks. Also, royalty trusts receive special tax consideration by the IRS. As long as the trust remains "passive" (bears no risk) and pays out all of the earnings, the trust is not subject to Federal income tax. Trust beneficiaries can also claim a depletion deduction which reduces an individual's tax liability. While the concept of a royalty trust appears attractive, its implementation raises a host of difficult legal questions.

Dedication of Revenues. One legal obstacle appears to be Article IX § 7 of the Alaska Constitution. Article IX § 7 of the state's constitution prohibits the dedication of "taxes, licenses and fees". A literal reading of Article IX might be interpreted to exclude royalties, because they are not specifically a tax, license or fee. However, this is a pretty weak case, and was not tried with the Permanent Fund. The Permanent Fund receives 25% of the state's royalty income pursuant to a constitutional amendment.

The PACE legislation attempted to get around this problem by structuring the transference of royalty trust shares as a

sale. The money received by those purchasing the shares at a conservatively appraised value would then go to the general fund. This might work, but it makes the royalty trust more like an investment than a means of distributing the state's oil wealth.

Statehood Act. Another problem is section 6(i) of the Statehood Act. Section 6(i) requires the state to retain all minerals in lands conveyed to the state by the Federal government. If the state attempts to convey the mineral estate, the Attorney General of the United States may bring an action for the forfeiture of the lands affected by the purported conveyance.

Whether a royalty trust is a conveyance in violation of section 6(i) is an open legal debate. The PACE legislation attempted to remedy this problem by expressly requiring the Commissioner of Natural Resources to retain the mineral estate. It was not clear, however, whether this provision was sufficient. One clear means of avoiding a problem with section 6(i) is to convey the royalty interest to a trust from lands obtained under the Submerged Lands Act of 1953. These lands are not subject to forfeiture and hence would allow the creation of, say, a Beaufort Sea royalty trust.

Windfall Profits Tax. Another problem appeared to be the Federal windfall profit tax (WPT). Under provisions of the WPT Act, producers must pay an effective marginal tax rate of 30% on Prudhoe Bay oil. State royalty oil is, however, exempt. It was not clear at the time the legislature was deliberating over PACE whether this exemption applied to royalty oil transferred to a trust.

The WPT problem may have been resolved, however, because of certain amendments to the Act. The Economic Recovery Tax

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Act of 1981 provides certain exemptions for payment of the WP. The conference agreement provided a \$2,500 credit against WPTs paid in 1981. Between 1982-1984 royalty owners could exempt 2 bpd of production from the tax, and 4 bpd thereafter. If the royalty trust consisted of a royalty trust for each beneficiary (state resident), this exemption might be sufficient.

*many
against
this paper
just
discuss
the concept
of wealth
distribution?*

The idea of a royalty oil trust, perhaps, deserves some further consideration. It would clearly create a constituency concerned with prudent fiscal management of the state's oil and gas resources. One suggestion would be to deal with a royalty trust separate from PACE. On its own, a royalty trust would be a very complicated piece of legislation.

Wealth
Direct Distribution

A recent report entitled Alaska's Rainbow of Opportunity by Rep. Terry Gardiner and legislative analyst Ford Groh advocates a radically different approach to state spending and wealth distribution. Their plan proposes a direct distribution of Alaska's wealth. Whereas the permanent fund dividend program envisions distributing interest earnings from the Permanent Fund, direct distribution would distribute income which now accrues to the state general fund.

They argue that

During the first session of the Twelfth Legislature, about \$6 billion was appropriated for expenditures during fiscal year 1982. ~~None~~ of this money went directly to Alaskans. While the Legislature freely appropriated money for pet park barrel projects, one of which was a \$5 million appropriation for an airport/harbor facility and a hydroelectric project on uninhabited La Touche Island, the plans which would have distributed money directly to all Alaskans, like the royalty premium or PACE, were nixed.

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They point out that when

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When divided up, \$6 billion comes to about \$15,000/person. Hence, a family of four could have a very comfortable income of \$60,000/year. ~~Consider further~~ if a persons share of the State income could be used to establish a line of credit at a bank. Depending on the oil price inflator used to estimate future revenues, this could be a very large sum of money. Direct distribution could eliminate poverty in this state.

While this approach sounds far-fetched, direct distribution has been advocated by prominent economists, among them Professor Donald F. Gordon of the Center for the Study of Business and Government, University of New York. In his paper entitled The Problems of Wealth submitted to the Board of Trustees of the Alaska Permanent Fund, Dr. Gordon iterates "Option 1" called "Give it to the People". He states:

"The first option is stunningly simple in principle and by a great margin the most desirable in terms of our criterion. It answers the question what can be done with it? by another question: Why not give it to the people? ⁶

? as for the people?

Dr. Gordon's criterion ^{is} is that the wealth of this state "morally" belongs to the state. He suggests Alaska create a corporation and pledge all future oil and gas revenues to it. The state would issue say, 100 shares to each and every Alaskan and then send them out in the mail immediately.

The Board of Trustees for the Alaska Permanent Fund has begun to study the effect of the influx of oil dollars into the Alaskan economy, ^{has} and commissioned ^{several analytic} numerous reports. ^{papers.} All ^{of them} reports conclude that a political system of revenue allocation which results in subsidized loan programs and attempts to spur industrial development by buying infrastructure

⁶ The Problems of Wealth, p.6.

for marginally economic projects will result in waste of the state's resources.

Richard B. Coffman, author of Capital Shortage, Public vs. Private Allocation of Capital and Alternative Ownership Systems for Alaska's Oil Wealth, one of the papers prepared for the Permanent Fund Board of Trustees, states unequivocally "all state loan programs should be abolished" and "all usury and interest rate ceilings should be removed". In other words, the capital markets should be deregulated. Dr. Coffman also recommends redistribution of some part of the oil revenues as cash grants. Taken together, Dr. Coffman presents a fairly strong case for private allocation of the state's wealth as opposed to a political/bureaucratic system of allocation.

Dr. Malcolm Gillis, professor at Harvard University and author of the paper, The Effects of In-state Investment: Lessons from Oil-Fired Development in Other Parts of the World warns of dangers in stimulating industrial development based on criteria other than "good economics". He cites the Krakatau steel project, a \$3 billion "boondoggle" intended to free Indonesia from having to import steel. "This freedom, Dr. Gillis states, "will cost that society nearly \$80 million annually for another decade (in addition to the \$1.5 billion already invested)".

Dr. Gillis also remarks that crash programs to expand infrastructure have often involved substantial waste, by creating facilities that have been "grossly" underutilized. Funding infrastructure is, however, politically attractive as Dr. Gillis points out by quoting a campaign speech by Mr. Velasco Ibarra, President of Ecuador off and on during the 1960s;

Bob - consistency & sometimes you capitalize Permanent Fund, other times not

"And finally, when I am elected again, we will build the biggest bridge in Ecuador, right here in Dos Gatos.

But Senor Presidente, there is no river in Dos Gatos.

Then we will also build the biggest river in Ecuador, right here in Dos Gatos."

Hammer, they let me know

No doubt, implementation of direct distribution poses numerous political, legal and technical hurdles. ~~Mr. Gregg Erickson, economist and principal of Erickson & Associates, recommended to the Permanent Fund Board of Trustees that they retain a nationally recognized accounting firm to take a look at the idea. This would be the most practical step at this time.~~

DON'T INCLUDE NAIBS

Supplemental Benefit System

to establish for all Alaskans a program

Another option for distributing income from the Permanent Fund is ~~to model a system~~ of benefits like the Supplemental Benefits System (SBS) for state employees. ~~The~~ SBS replaced Social Security when state employees opted out of the system in 1980. It is a very sophisticated system offering employees a combination of insurance benefits and a retirement annuity. The system is one of a kind and administered very well given its complexity.

Under SBS, 12.26% of an employees wages go into the system, up to the social security maximum wage base, which is \$29,700 for 1981. Hence, up to \$3,641.22 could be contributed. One-half of the contribution (6.13%) is wage reduction, the rest is contributed by the state.

~~It will also be possible to structure such a system with the Permanent Fund dividends.~~

Does it include...? Percent?

The concept may be applied to Permanent Fund dividends & distributions, whether these be on a lump sum, equal amount per capita, or other basis.

Annuity. The annuity is a retirement account. All or part of the 12.26% of a state employees contribution to the SBS can go into the annuity account, but at least 6.13% must go in to retain the special tax treatment afforded the system. Special tax treatment by the IRS is perhaps the most attractive feature of the SBS. Contributions are not taxed, nor is the interest earned. The annuitant is able to defer taxes until he begins to draw on the annuity, after age 55. The annuity can be withdrawn in a lump sum or installments. Presumably, the tax rate for retirees will be lower than for those earning a regular salary.

The idea of structuring a retirement annuity funded by a permanent fund dividend may be attractive for some Alaskans, particularly those in high^{er} tax brackets. However, structuring the program to shelter dividends and their earnings from Federal Income Tax may be easier said than done. The state tried it once, and even if the current dividend program had not ~~been~~^{been} tangled up in Court it ~~probably would not~~^{would} have made it by the IRS, as we have already noted. However, amendments to the IRS code liberalizing the doctrine of "constructive receipt" were contained in the Economic Recovery Tax Act - 1981. It may be worth taking a look at.

Benefits. The other parts of SBS are benefits. These benefits include survivor, disability, death, and health insurance. Under SBS, only one-half (6.13%) of an employees contribution can be chosen by a beneficiary and still remain tax free. I'm not sure exactly why this is the case, but it relates to the fact that only one-half the contribution comes from the state.

The idea of providing benefits, particularly health insurance, is discussed as "Option 2" in the Governor's

slavery

*—
⚡*

exploring this concept further

too casual!

*NOT IN REPORT!
Pls find out*

Policy Analysis Paper No. 81-24, combined with the option of taking cash. A recent report by Battelle Research showed that 11% of Alaskans have no health care coverage at all. The idea of giving a person the choice of taking cash or health insurance might not be too bad; however, the Governor's "Option 2" made health insurance mandatory if a person was not already covered. There are, however, two potential problems with allowing a choice between the two, ^{though} but they may not be insurmountable. First, employers may stop carrying health insurance for their employees. Second, if a person has the option of taking cash, but doesn't, is this "constructive receipt" and are the health care benefits taxable? ~~I don't know~~ The Governor's approach would get around problem #2, but it does impinge on a person's right to free choice.

TIE IN
HERE

YOU ARE
OUR
EXPERT!
NEVER
ADMIT!
THAT!

~~still~~
Municipal Assistance

~~suggested~~ ~~to wealth distribution~~

Another approach is to distribute Permanent Fund earnings to communities. This program was ~~also~~ recently endorsed by the Hammond Administration as an option ^{to consider}. The plan would be similar to FCCSSB 236, "an Act relating to assistance to municipalities". FCCSSB 236 passed during the first session of the Twelfth Legislature.

The provisions of FCCSSB 236 allow for payment of an "entitlement" to each "municipality" or "unincorporated community". The entitlement would be \$1,000 times the number of people residing within the boundaries of the community, subject to the limits of the appropriation. The sum received as an entitlement could be used only for social services, capital projects, or operating expenses of capital projects, according to FCCSSB 236.

what's the first?

Special funds create another problem for the Legislature. In recent years there has been a proliferation of funds like the Public School Fund, or what might be termed pseudo dedicated funds. Another example, and one we just discussed, is the municipal assistance fund under AS 43.20.016. It states under sub-section (a):

don't underline words unless

"The Legislature may appropriate to the fund during each fiscal year an amount equal to or greater than 10% of the income tax received under AS 43.20.011(e) and AS 43.21"

Such a statutory fund ^(emphasis added) does not actually guarantee that the fund will actually function ^{as intended}. This statute is meaningless. The Legislature can appropriate 10%, 20%, or 0%. The Legislature can even appropriate money out of this fund if it wants. ^{Or it can abolish the fund. This} AS 43.20.016(a) carries absolutely no legal weight. However, it carries ^{real} political weight. Special funds create constituencies who ^{believe} argue that they are entitled to this money. The constituency for AS 43.20.016(a) is every community in the state. Conceivably ^{even} you could create enough of these funds so that the entire general fund was accounted for before the Legislature ever convened; and ~~try~~ repealing one.

of the committee amount

fuzzy

too chatty - this is a report do the leg.

If the Legislature wishes to create a "Public Endowment", it should probably do so constitutionally, ~~and~~ with the consent of the voters.

write more as a conclusion

Appendix

A ~~brief analysis~~ of Permanent Fund dividend alternatives has led to two preliminary conclusions. 1

Conclusion 1. A Permanent Fund Dividend of say, \$1,000 may actually hurt low income Alaskans by making them uneligible for state/federal public assistance programs.

Conclusion 2. Of Permanent Fund earnings distributed as dividends, at least 35% will be taxed away by the federal government unless the state can devise a tax shelter suitable to the Internal Revenue Service (IRS).

Consequently, a Permanent Fund dividend program can have the perverse fiscal impact of making indigent Alaskans worse off and taxing away benefits to those in high marginal tax brackets. If the Legislature wishes to look into these problems, we would recommend these specific Tasks:

Task 1. Review all state and federal public assistance programs to determine if and how Permanent Fund dividends can be exempted from "income" and "resource" guidelines for each and;

determine how much additional state funding, if any, will be necessary to insure public assistance recipients can participate to their advantage in a Permanent Fund dividend plan.

Task 2. Retain tax counsel to advise on the preliminary design of a tax shelter mechanism, probably a trust or an annuity, suitable to the IRS.

We would envision Task 1 could be completed by a consultant or staff ~~prior to the next legislative session~~, if the work commenced fairly soon. Only the preliminary work could be completed ~~or Task 2 prior to the legislative session~~. It is likely the legislature may wish to retain tax counsel through the session as well for public hearings and to co-ordinate communication between the IRS and the State.

possibly via Andy Beal or Dep't of Rev.

make this pertinent to a report that will be read in January

What's this?

Chapter 6

AN ACT

Making supplemental appropriations to the Department of Community and Regional Affairs and the Department of Revenue for programs which provide state financial assistance to municipalities and other recipients; and providing for an effective date."

* Section 1. The sum of \$18,400,000 is appropriated from the general fund to the Department of Community and Regional Affairs for the tax equalization account (AS 29.88.035), the miscellaneous services account (AS 29.-89.080), and the hospital construction assistance account (AS 29.90.020) for distribution to municipalities and other recipients for the fiscal year ending June 30, 1981.

* Sec. 2. The sum of \$45,100,000 is appropriated from the general fund to the Department of Revenue for the municipal assistance fund (AS 43.20.-016(a)) for distribution to organized boroughs and cities for the fiscal year ending June 30, 1981.

* Sec. 3. The sum of \$780,000 is appropriated from the general fund to the Department of Community and Regional Affairs for distribution in equal shares to each Native village government entitled to state aid under AS 29.-89.050.

* Sec. 4. The sum of \$20,000 is appropriated from the general fund to the Department of Community and Regional Affairs for administrative costs associated with financial assistance to municipalities and other recipients.

* Sec. 5. The unencumbered and unobligated portions of the appropriations

AN ENDOWMENT FUND
FOR PUBLIC SCHOOLS IN ALASKA

By

Lee Gorsuch
c/o Anchorage School District
4600 DeBarr Road
Anchorage, Alaska 99503

December 30, 1980

AN ENDOWMENT FUND FOR PUBLIC SCHOOLS IN ALASKA

Alaska has a unique need and opportunity to develop the financial means to sustain public education in Alaska well beyond the balance of this century. Interest in building such a sustaining source of revenues has been growing in recent months, not only among school districts and municipalities but also among state legislators. The concept being advanced under the rubric of an endowment for public schools is neither new nor complex. Simply stated, it proposes that the state set aside a portion of its surplus revenues in an investment fund, the earnings of which would be appropriated by the legislature to support public schools. The size of the fund and its investment performance would determine the proportion of public school expenditures the endowment could support. The earnings and how they are to be distributed would remain subject to the normal appropriation and legislative powers of the State Legislature.

Investing surplus revenues to support future governmental functions or specific public purposes is also not new to Alaska. The Alaska Permanent Fund, the Alaska Renewable Resources Corporation, and numerous other enterprise and special revenue funds all lay a claim of one sort or another on public revenues. Although these various state investment funds differ in important ways, they nonetheless represent ample precedent for the practice of investing public funds to support public purposes.

Indeed, the vehicle necessary to implement the public school endowment concept may already exist in Title 37.14 of the Alaska Statutes. That statute, entitled the Public School Fund, mandates that one-half of one percent of total receipts derived from the management of state land, including royalties and bonuses, be transferred to the fund. The principal of the fund is retained for investment, and the earnings of the fund may only be appropriated for the support of education. The Commissioner of Revenue manages the Public School Fund, subject to the oversight of a five-member advisory committee. Although current contributions to the fund are nominal (less than three million dollars has accumulated to date), the fund and the authorizing legislation may provide the framework for building a long-term financial base for public education.

Numerous questions about the need for and wisdom of creating a large education endowment have already been raised, and many others are likely to follow. Among the more frequently raised issues are:

1. Is not Financing Education a Local Responsibility?

Unlike many public services, education is a constitutional obligation of the state. Much to its credit, Alaska is in the forefront of most states in affording each school-age child an equal opportunity to secure a basic public education. The Alaska School Foundation Program ensures that every school district in Alaska will receive sufficient funds to offer its children a basic education, regardless of the district's relative wealth or poverty.

Currently, the state pays 100 percent of the expenses of twenty-one rural school districts (REAs) and 78 percent of the costs of thirty-one local school districts (including Anchorage). The remaining 22 percent of revenues for the local school districts comes largely from local property taxes. This year, in an effort to provide relief for property tax payers, the Legislature may enact legislation to reimburse communities for their local taxes and thereby finance 100 percent of all public school expenses in Alaska.

Numerous states which have relied heavily in the past upon local sources of revenue, mainly local property taxes, to support public education have been successfully challenged in the courts, for example California in Serrano v. Priest, 1971, and New Jersey in Robertson v. Cahill, 1973. These states are now required by their respective state supreme courts to find alternative means of equitably financing public education.

For states facing fiscal deficits, court mandates to reorganize the financing of public education pose a most serious problem; for Alaska, the possibility of such mandates reinforces the wisdom of using today's surplus revenues to build a sustaining source of future revenues for funding public education in the years ahead. Furthermore, an endowment for public schools would ensure that local property taxes would not be required to bear the major burden of financing public education should oil revenues begin to diminish in the 1990s, as presently forecast.

2. Does Alaska Really Need an Endowment Fund?

If further substantial discoveries of oil are made on state lands before the end of this decade, the answer may be no, not for another ten years; however, until such discoveries are made, the answer is unequivocally yes.

Last year the state appropriated approximately 400 million dollars to support the operation of our public schools. This amounts to over twice the value of the repealed personal income taxes. Even if we were to combine all personal, business, sales, and property taxes of state and local governments last year (excluding oil-related income), we could not have financed last year's education budget, not to mention other essential state and local governmental services. These conventional sources of revenue simply cannot support today's level of operation, much less sustain public education in future years. By 1990, inflation and growth of the student population will push state aid for public education to one billion dollars; by the year 2000, state aid will total approximately 2.5 billion dollars. Furthermore, any expansion of public education services, such as vocational education, is likely to push the required revenue estimates higher still. Clearly, some means of generating revenues other than through conventional taxes will be required if Alaska is to continue to meet its constitutional mandate and provide a quality education for its school-age children.

3. How Much Money Would Have to Go into such a Fund to Sustain a Significant Portion of Public Schools' Expenses?

Petroleum revenues now comprise approximately 95 percent of this year's total state revenues. Current estimates of contributions to the Alaska Permanent Fund, at the mandatory rate of 25 percent, report an accumulation of approximately 17.6 billion dollars by 1995. Assuming an investment return of 10 percent, the Fund would yield an estimated 1.75 billion dollars in 1995, about 105 percent of the projected total public school's budget for that year. Thus, a 20-percent rate of contribution to the endowment fund (computed on the same basis as the Permanent Fund) would ensure the availability of approximately 94 percent of public schools' revenue requirements in 1995.

4. Does not the Permanent Fund Accomplish the Purpos of the Endowment?

No, unlike the Permanent Fund, the earnings from the endowment could only be used to support education, not to make cash distributions to citizens or to support governmental operations in general.

Inasmuch as public education comprises almost a third of the state's budget and is clearly a constitutional responsibility of the state, it seems both prudent and timely to pursue a means of securing long-term financial security for our public schools. Furthermore, as illustrated above, the projected earnings of the Permanent Fund at current rates of contribution are insufficient to cover both future public education costs and a reasonable portion of other governmental operations.

One alternative to the endowment that is frequently advanced is simply to increase the rate of contribution to the Permanent Fund. This alternative neither appears to enjoy broad legislative or public support nor does it clearly establish the high financial priority that the state has historically given public education. Unlike additional contributions to the Permanent Fund, which are likely to be the subject of much debate and disagreement, safeguarding the financial future of public education is a public goal which enjoys broad popular support. In short, the endowment is the more likely and certain means of securing a long-term financial future for public education in Alaska.

5. Would not the Legislature be Losing Control of the State's Budget by Creating the Endowment?

No, under the endowment fund concept, public schools would remain subject to the appropriation powers of the Alaska Legislature and to other powers granted to organized local governments. Both the amount of the earnings to be used for public schooling and the distribution of the earnings among school districts would be determinations made by the Alaska Legislature, much as they are today. Presumably, the Alaska School Foundation Program would continue to serve as the formula for computing how much money each school district would receive, and the

legislative process would fix the total amount of earnings to be appropriated each year. Thus, under the endowment proposal, the process of funding public schools would remain similar to what it is today; only the source of revenues would be altered.

In summary, the endowment fund is a sound and opportune proposal. It would secure the future of public education in Alaska and ensure that all children of our state will have an opportunity of getting a good education.



Official Business

Alaska State Legislature

Senate

Office of the President

Pruch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO : DICK BERG, DIRECTOR
ADMINISTRATIVE SERVICES, LAA

FROM : SENATOR JAY KERTTULA
SENATE PRESIDENT

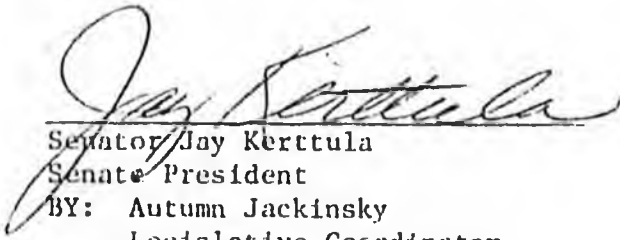
DATE : AUGUST 18, 1981

SUBJECT: SENATE STATE AFFAIRS COMMITTEE

Senator Vic Fischer, Chairman of the Senate State Affairs Committee, has informed me that he has received approval from Senators Rodey (Majority Leader) and Dankworth (Finance Co-Chairman) to contract with Joseph McKinnon for the purpose of providing the State Affairs Committee with professional consulting services on the Committee's interim work dealing with state wealth sharing.

Expenses for the contract shall not exceed \$7,500, and are to come from the \$99,059 budgeted to the State Affairs Committee.

APPROVED:


Senator Jay Kerttula
Senate President

BY: Autumn Jackinsky
Legislative Coordinator

.JK/aj

Attachment

Please sign

AMENDMENT NO. 1

CONTRACT BETWEEN
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

AND

JOSEPH H. MCKINNON

IT IS MUTUALLY AGREED THAT THE CONTRACT BETWEEN THE ABOVE PARTIES DATED SEPTEMBER 1, 1981, IS HEREBY AMENDED AS FOLLOWS:

CLAUSE I, Paragraph (B), page 1 is amended to read:

(B) The Consultant shall provide the Project Director with a draft report on work under (A) by November 11, 1981.

CLAUSE I, Paragraph (C), page 1 is amended to read:

(C) The Consultant shall provide the Project Director with a final report no later than 30 days after the Project Director's approval of a draft report under (B) (December 12, 1981).

CLAUSE II, Paragraph (A), page 1 and Paragraph (C), page 2 is amended to read:

(A) The work under this contract shall be performed beginning, July 20 1981, and be completed by December 12, 1981.

(C) Unless extended by written agreement, this contract expires on December 12, 1981.

IN WITNESS WHEREOF, the parties have executed this amendment to this agreement on the dates indicated below.

CONSULTANT

Joseph McKinnon 10/2/81
JOSEPH H. MCKINNON Date
SS# 574-18-2678

Accepted:

Victor Fischer
SENATOR VICTOR FISCHER Date
SENATE STATE AFFAIRS COMMITTEE

LEGISLATIVE AFFAIRS AGENCY

M. R. CHARNEY Date
EXECUTIVE DIRECTOR

Approved as to form:

Billy G. Berrier Sept 23, 1981
BILLY G. BERRIER Date
AGENCY LEGAL COUNSEL

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

August 19, 1981

SUBJECT: Consulting contract -- Joseph H. McKinnon

TO: M. R. Charney
Executive Director
Legislative Affairs Agency

FROM: David T. Walker *DW*
Agency Legal Counsel

*These are
my
comments*

I have several observations regarding this contract.

1. How long does the project director have to approve the draft report submitted under Clause I(B)? I assume 10 days because the consultant is given 30 days following approval and must complete by October 31st. This vagueness should be clarified. *-- no*

2. The consultant will bill us on a monthly basis and is required to complete his work by October 31, 1981. With all work done and the consultant paid, I do not understand why the contract expires December 31, 1981 (Clause II(C)). Nothing remains to be done under the contract. Perhaps this date was intended to be October 31, 1981. *ok*

3. The language ", with total compensation for this work not to exceed \$7,500" should be deleted from Clause IV(A). It is incorrect since total compensation is not to exceed an amount equal to \$7,500 minus expenses (see Clause IV(B)). *ok*

4. Is the consultant to receive the per diem paid legislators? The per diem paid members of boards and commissions? The per diem paid state employees? I do not know what this means. If it means treated like a state employee then the clause should be redrafted to read:

(B) The Consultant shall be reimbursed for travel and other expenses authorized in advance by the Project

M. R. Charney
Page 2
August 19, 1981

Director. Air travel shall be reimbursed on the basis of coach class fares. The Consultant shall be allowed the same per diem allowance allowed a state employee under AS 39.20.110 instead of actual expenses. OK

5. Clause IV(D) should be redrafted to read:

(D) Total payments under this contract, including compensation, travel and per diem expenses may not exceed \$7,500. OK

6. I believe that under Clause VI reports and writings should be delivered to the Agency, not the project director. No

DTW:ljb

Enclosure

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
707 465.3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

August 21, 1981

SUBJECT: Consulting contract -- Joseph H. McKinnon

TO: M. R. Charney
Executive Director
Legislative Affairs Agency

FROM: David T. Walker *DW*
Agency Legal Counsel

1. This draft does not address the point I raised in the first paragraph of my memo of August 19th. As you know, the consultant will be attending school out-of-state during the period of performance; it seems probable that approval of the draft report will be delayed. Further, if the work is the consultant's what is there for the project director to approve. There are no standards proposed by the contract for the consultant to measure up to. You need to eliminate Clause I(C) or modify the rest of the contract so that the project director will not be able to force the consultant into breach of contract. This would happen if for any reason the project director did not approve the consultant's draft report within 10 days. I just do not understand this. Perhaps all you mean by Clause I(C) is "the project director shall provide any suggestions or opinions concerning the draft report to the consultant within 10 days following receipt of the draft report under (B)".

2. Clause IV(A) omits the words "per hour" at the end of the sentence.

3. I think Clause VI could be improved by adding "for disposition under Rule 23(f)(3) of the Uniform Rules of the Alaska State Legislature" to the end of the last sentence.

DTW:ljb

BILLING: 8/19/81

TO: SENATE STATE AFFAIRS COMMITTEE

FROM: JOE MCKINNON *JM.*

100 HOURS @ \$25 \$2,500

Per Diem - Juneau

2 days @ \$65 \$ 130

TOTAL \$2,630

Approved V. Fischer

MEMO

TO: SEN. VICTOR FISCHER

FROM: JOE MCKINNON

RE: BILLING ON ^{JM} CONTRACT

DATE: SEPTEMBER 19, 1981

Please send in this
billing so that I can be paid for that period.

110 hours at \$25 = \$2,750

2 days per diem at \$65 = \$130

total due is \$2,880

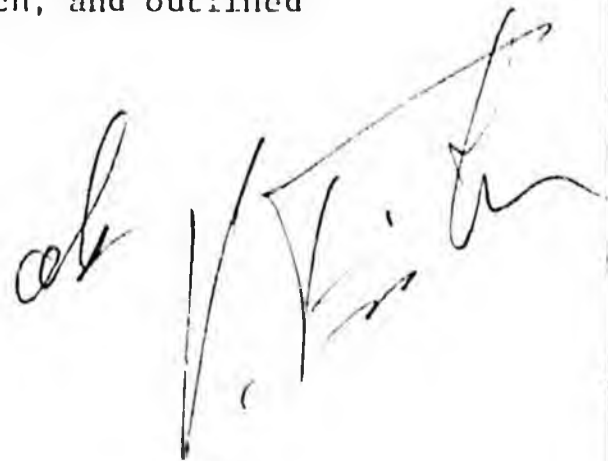
Progress report for July 15 through August 20

I met with administration and legislative officials and staff, carried out legal and policy research, and outlined the report required by the contract.

To: Sharon Sturrock

9-21

Dear Sharon: Original
billing statement was
never submitted as it
was not accompanied
by "Progress Report."
Sorry for the confusion!
Thanks, Laura



MEMO

TO: SEN. VICTOR FISCHER

FROM: JOE MCKINNON

RE: BILLING ON ^{JM} CONTRACT

DATE: SEPTEMBER 19, 1981

Please send in this
billing so that I can be paid for that period.

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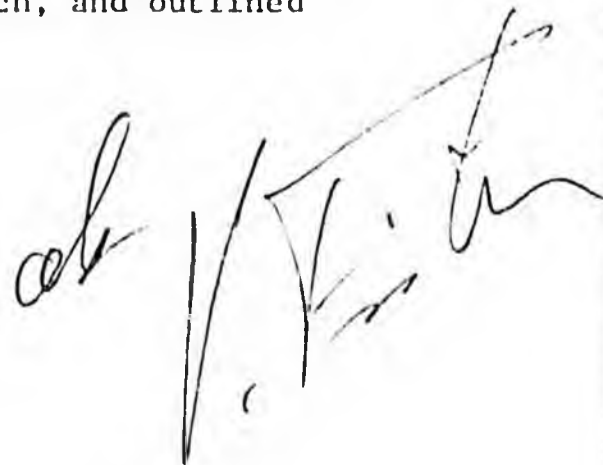
Progress report for July 15 through August 20

I met with administration and legislative officials and
staff, carried out legal and policy research, and outlined
the report required by the contract.

To: Sharon Sturrock

9-21

Dear Sharon: Original
billing statement was
never submitted as it
was not accompanied
by "Progress Report".
Sorry for the confusion!
Thanks, Laura



To: Lanna Fleming

9/25/81

From: Sharon Starrock

Subject: McKinnon contract

Lanna, we need the following items to complete Joe McKinnon's file to date:

1. Original billing totalling \$2,880.00 sent 9-29-81
2. Itemization of what location he is claiming 2 days per diem -
ie - what city Sept 23 memo - handled
3. List of TR's he has used Sept 23 memo - handled
4. Original bill from Wien for his ticketorraine sent to you. Sept 23 memo - handled. Thanks

MEMO

TO: GEN. VICTOR FISCHER

FROM: JOE MCKINNON

RE: BILLING ON CONTRACT

DATE: SEPTEMBER 19, 1981

Please send in this
billing so that I can be paid for that period.

110 hours at \$25 = \$2,750

2 days per diem at \$65 = \$130

total due is \$2,880 ✓

Progress report for July 15 through August 20

I met with administration and legislative officials and staff, carried out legal and policy research, and outlined the report required by the contract.

FW # 248953

AMOUNT 1000.00

DATE 9-24-81

CHARGE TO:

31-92-1-026-389

FW # 248954

AMOUNT 1000.00

DATE 9-24-81

CHARGE TO:

31-92-1-026-389

FW # 248955

AMOUNT 880.00

DATE 9-25-81

CHARGE TO:

31-92-1-026-389

JOM253

TO: Senate State Affairs Committee

FROM: Joe McKinnon

FINAL BILLING Sept. 12 to Dec. 12, 1981

120 hours @ \$25	3,000
Less Advance	<u>-1,000</u>
	2,000

Work performed during period included research and preparation of draft and final report.

ok

V. Fischer

FOR YOUR
INFORMATION
ONLY

CONTRACT BETWEEN
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY
Pouch Y
Juneau, Alaska 99811
AND
JOSEPH H. MCKINNON

The parties to this agreement are the LEGISLATIVE AFFAIRS AGENCY, on behalf of the Legislative Council's Senate State Affairs Committee, hereinafter referred to as the "AGENCY," and JOSEPH H. MCKINNON, hereinafter referred to as the "CONSULTANT."

THE PURPOSE OF THIS AGREEMENT is to provide the Senate State Affairs Committee with professional consulting services on its interim work dealing with state wealth sharing.

IT IS THEREFORE MUTUALLY AGREED THAT:

CLAUSE I - STATEMENT OF WORK

- (A) The Consultant shall provide a review of proposals for state oil revenue distribution, examine alternative means of equitably sharing oil wealth with all Alaskans, and suggest criteria and means for accomplishing this most effectively.
- (B) The Consultant shall provide the Project Director with a draft report on work under (A) by September 21, 1981.
- (C) The Consultant shall provide the Project Director with a final report no later than 30 days after the Project Director's approval of a draft report under (B)

CLAUSE II - PERIOD AND DATES OF PERFORMANCE

- (A) The work under this contract shall be performed beginning July 20, 1981, and be completed by October 31, 1981.

- (B) This contract may be terminated by either party upon written notice to the other.
- (C) Unless extended by written agreement, this contract expires on October 31, 1981.

CLAUSE III - PROJECT DIRECTOR

The Project Director shall be Victor Fischer, Senate State Affairs Committee Chairman, acting on behalf of Senate State Affairs Committee.

CLAUSE IV - COMPENSATION AND METHOD OF PAYMENT

- (A) For the work specified in this contract, the Consultant shall be compensated at the rate of \$25.00 per hour.
- (B) The Consultant shall be reimbursed for travel and other expenses authorized in advance by the Project Director. Air travel shall be reimbursed on the basis of coach class fares. The Consultant shall be allowed the same per diem allowance allowed a state employee under AS 39.20.110 instead of actual expenses.
- (C) Billings may be submitted by the Consultant monthly, and shall indicate work accomplished during the billing period.
- (D) Total payments under this contract, including compensation, travel and per diem expenses may not exceed \$7,500.
- (E) The Consultant shall receive an advance payment of \$1,000 upon execution of this contract.

CLAUSE V - OFFICE SPACE, EQUIPMENT, CLERICAL SUPPORT

Office space, equipment and clerical support of the Consultant that will be necessary to carry out his obligations under this contract be supplied by the Agency.

CLAUSE VI - RECORDS, DOCUMENTS, AUDIT

The Consultant shall maintain accurate records, including detailed time records, as may be required by the Project Director. The records are subject to inspection by the Agency or the Project Director at all reasonable times. All documents, reports and writings generated as a consequence of work done under this contract shall become the property of the State of Alaska and, on completion of the work or at the termination of this contract, shall be delivered to the Project Director, for disposition under Rule 23(f)(3) of the Uniform Rules of the Alaska State Legislature.

CLAUSE VII - REPORTS

The Consultant shall keep the Project Director informed as to the progress of the work performed under this agreement and shall provide progress reports as specified by the Project Director.

CLAUSE VIII - ALL WRITINGS CONTAINED HEREIN

This agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind either of the parties of this agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates indicated.

CONSULTANT

LEGISLATIVE AFFAIRS AGENCY

Joseph H. McKinnon
SS No. #574-18-3678

9/2/61
DATE

H. R. Charney
Executive Director

9/2/61
DATE

Accepted:

Approved as to Form:

Victor Fischer, Chairman
Senate State Affairs Committee

9/2/61
DATE

Billy G. Berrier
AGENCY LEGAL COUNSEL

9/2/61
DATE

MEMO

TO: SEN. VICTOR FISCHER

Sent 9-29

FROM: JOE MCKINNON

RE: BILLING ON CONTRACT

DATE: SEPTEMBER 19, 1981

Please send in this
billing so that I can be paid for that period.

110 hours at \$25 = \$2,750

2 days per diem at \$65 = \$130

total due is \$2,880

Progress report for July 15 through August 20

I met with administration and legislative officials and staff, carried out legal and policy research, and outlined the report required by the contract.

M E M O R A N D U M

TO: Lorraine Hurley
Sharon Sturrock
LAA--Accounting

FROM: Sen. Vic Fischer

DATE: September, 23, 1981

Enclosed please find TR #315241 made out to Wein for Joseph McKinnon. Joe was authorized to travel to Juneau in conjunction with contract work with the Senate State Affairs Committee. Please excuse my delay in providing you with this TR and with written authorizations.

In addition to Joe's travel being authorized, Jamie Love was authorized to travel to Juneau in conjunction with his contract work for the State Affairs Committee. Enclosed is the invoice from World of Travel, Ltd., which you sent to our office. It is my understanding that both of these TRs will be processed for payment against the Senate State Affairs account.

Your August 14 memo states that the TR for Jamie Love will "be deducted from his contract amount of \$6,000.00" and in the next paragraph states that the TR will be processed for payment against the Senate State Affairs account. It sounds as if this would entail two charges: one to Jamie and one to the Senate State Affairs Committee. If the committee funds are covering the cost of Jamie's (and Joe's) travel, why should it then also be deducted from their contract amounts? If you would contact me (278-3654) to clarify this point I would be most grateful.

Thanks for your absence. Your office has been a continuous help to me and to my staff during the interim, and I appreciate it.

Called Joe 12-5-81

Will have final in Anchorage
by Dec 15

As per call Williams not working
further on paper - just did research &

summarized it in draft paper
form to meet demands of
contract (draft in by 11-12-81) -

Joe will do final.