

H B

298

DRAFT

Transcript of testimony  
Pertaining to HB 298  
February 8, 1984  
House Committee on Resources  
(Excerpted)

Tape No. 14  
Recording  
Number

Rep. Goll:  
This 50% - it doesn't say it here, but we've talked about the permanent fund on a number of occasions - are you saying the other 50% would logically go to the permanent fund?

Rep. Bussell:  
Oh, it has to - has to by law - by constitution.

Rep. Goll:  
Oh, I sec. [General Discussion]

Number 0898

Rep. Goll:  
And then you're say here that this review of the 50% would mean if it were determined that the policy of the state dictated that we should put 70% into the permanent fund - is that the -

Rep. Adams:  
No

Rep. Goll:  
Then what is the review of this percentage?

Rep. Adams:  
The review is every five years - that's stated in the bill. And the amendment that was made is going from five to two years - that was the statement I made.

Rep. Goll:  
Yes, I understand that. What I was trying to understand was the purpose of any adjustment of that 50%. My understanding had been that 50% goes into the Permanent Fund. The reason I asked whether that was the case was because when we speak of a re-adjustment, that implies flexibility, so I assume we cannot adjust that percentage up, because 50% must go into the Permanent Fund.

Rep. Adams:  
No, it was no intention of adjusting the Permanent Fund any more than 50%.

Rep. Goll:

What is meant by "a review of the percentage", then?

Rep. Adams:

It could be the percentage that goes to the impact areas.

Rep. Ringstad:

So then, what you're saying is that of the percent that doesn't go to the Permanent Fund, we could send 10% to the impact areas and 40% to the general fund, or 40% to the impact areas and 10% to the general fund, either way.

Rep. Adams:

Yeah, because a portion of that, you know, 50% of that actually goes to the Permanent Fund. The other half is split between the general fund and the impact areas, then you've got to look at that percentage -

Rep. Ringstad:

We appropriate out which ever amount works out to X percent.

Rep. Adams:

That's all they're asking you to do - is review the percentage of that - how it's broken down. Perhaps in the future they might change the law here, instead of 50% of the royalties going in there, they might change it - you might have to look at that percentage area again.

Rep. Goll:

Oh, so you're saying then that this, for example, would respond to changes in Federal Law regarding the dedication of those funds that are going -

Rep. Adams:

Either Federal or State law.

Rep. Goll:

I see. Thank you. Well, excuse me, I guess what I'm not understanding is this: The statement was made earlier by the Department of Law that these are funds which are coming from the Federal government with restrictions, that these are, in a manner of speaking, dedicated funds that we're receiving. So, it's hard for me to understand any other circumstance other than a change in the Federal statutes that would permit us to reduce the percentage going to the subdivisions that are impacted. In other words, you've answered the Permanent Fund question - we can't adjust this up -

the only thing we can do is adjust it down, or split it up. And if we're splitting it up, that's not mentioned in the bill. It only says the amount that goes to the subdivisions. I guess it is implied that if a lower amount goes to the subdivision, the remainder would go to the general fund. But, does, in fact, the Federal law permit us to do that? My impression from the previous witness was that it does not. And if that's the case, then this only responds to changes in Federal law, in which case I do understand. But if there are other circumstances I've yet to hear what they are. And I would appreciate understanding that.

Tom Koester, Department of Law:

My understanding of the way this bill is intended to work is that if we get 100% of the Federal revenues, 50% automatically go into the Permanent fund. The remaining 50% go into this fund. Half of that then, it is intended, would go to impacted political subdivisions, so, in effect, one-quarter of the Federal receipts would go to the impacted political subdivisions. The remaining one-quarter would be in this fund, subject to appropriation by the Legislature, for the purposes set out in the Federal law. The Federal law purposes are the same ones that appear here in subsection (d) and in subsection (e). Those purposes for which these funds can be spent are the ones specified in federal law. So, under subsection (c) the one-quarter of the federal receipts subject to appropriation by the Legislature can be used for planning, construction, maintenance, operation of essential public facilities and other necessary public services. The intended one-quarter of the federal receipts going to impacted political subdivisions can then be spent by those political subdivisions under subsection (e) for planning, construction, maintenance, operation of essential public facilities by the subdivisions and other necessary public services provided by the subdivisions. So, taking 100% of the Federal receipts, half of those go to the Permanent Fund, and it is the intent of this bill that one-quarter of them go to political subdivisions, and one-quarter remain in this fund, subject to appropriation by the Legislature, for these purposes. Is that the understanding of the sponsor.

Rep. Adams:  
Yes.

Rep. Goll  
I'm going to take one more minute of the committee's time on this, and then deal with it privately if I

can't get this understood. It says here that 50% of the amount received from the Federal government under the Federal Act, and I assume the Federal Act is this Federal Act - this Federal Act doesn't say anything about the Permanent Fund - this Federal Act simply provides money to the State of Alaska. The State of Alaska, according to this bill, is going to take 50% of that money and use them for this purpose so I don't see any 25% in here, at all. I see 50% to the Permanent Fund, and 50% appropriated or recommended by this bill. Now, if you'd help me be corrected, that would be a big help, if I'm wrong here. I mean, I don't see any 25% here at all. I only see 50%, and I see 50% of the money that comes from the Federal government.

Mr. Koester:

Mr. Chairman, if I might, I believe, if I accurately stated the sponsor's intent, to the extent that the bill is drafted, might not completely reflect that to everyone's satisfaction, that a technical amendment to reach that result would be relatively easy to draft, and I would be happy to do that, and after running it by the sponsor, to be sure that he agrees with it, submit it to the committee for its consideration.

Rep. Ringstad:

I think Peter's question at this point is how does 50% get to the Permanent Fund. Is that what you're getting at?

Rep. Goll:

Let me say it once for the benefit of the chair, and as I say, I'm no expert in this matter, it's just my reading of the phrase doesn't correspond at all to the statement that was just made by the attorney general. It says here that, on line 3, that, the, uh 2 and 3, that the amount appropriated for payment to the subdivisions equals 50% of the amount received from the Federal government. Now that should be perfectly clear. There's no 25% here, at all. It says 50% will be paid to the subdivisions. I assume, from my question to Mr. Adams, that the other 50%, I understand, is automatically appropriated or required to be appropriated to the Permanent Fund. That's what this says to me. Now, if there's a further subdivision, it's not in this bill. I don't know what the intent of the sponsor is on that. My understanding was that this whole amount, this whole 50% that didn't go into the Permanent Fund, goes into your fund here. I didn't know there was 25% going into the fund and another 25% going into the General fund - that's not stated

in here.

Rep. Adams:

I'd like the commissioner to respond to that, under leases and royalty oil sales.

Commissioner Heath:

Well, it's my understanding that we're talking about two different numbers here. It's a 25% number viewed in one direction, and a 50% number viewed from another direction. You start out with 100%, the amount of the lease sales -

Rep. Goll:

No. We start out with the money that's coming to the state from the Federal government, whatever that is.

Commissioner Heath:

That's my point. It depends how on how you get to 25%. If you start with 100% of the money received by the Federal government, they then give us 50%. Half of that 50%, or 25%, goes to the permanent fund. The other half would go to this fund.

Rep. Goll:

That's not what this bill says.

Rep. Ringstad:

What requires half to go to the Permanent Fund?  
[General discussion]

Rep. Ringstad:

Now you start out with 100% of the money. The Federal government takes half of it, right? So, the State of Alaska gets 50%. Now, we're saying half of that goes to the Permanent Fund. What requires half to go to the Permanent Fund?

Commissioner Heath:

Mr. Chairman, I believe that's the Constitution.

Rep. Ringstad:

So, at that point, that's where we get the 25%, correct?

Commissioner Heath:

Yes, sir.

Rep. Ringstad:

So, what we're dealing with is 25% of the total amount, and then you break it down further from that to partial - part of that 25% goes to this.

Commissioner Heath:

No, Mr. Chairman, all of that 25% goes to this.  
[General discussion]

Rep. Adams

The confusing part is - here's the way, ok, let's assume we had \$63 million, like I said earlier, half of that would go to the Federal government, half would go to the State of Alaska, which is \$33 million. Now we've got the \$33.4 million for the State of Alaska here. 50% of that would go into the Permanent Fund, which is \$16.7 million now you set up your reserve fund, which you put in 16.7, but only 50% of that 16 (million) would be spent on impact communities, which is a quarter like, of the amount the attorney general has stated here.

Rep. Ringstad:

So, you're saying 8 goes to the impacted area.

Rep. Adams:

Yeah. But, if my friend from Haines wanted to put all the 50% of the royalty, I mean into this reserve fund, I'll be happy to go with you, but I'm going to have to -

Rep. Ringstad:

Rep. Adams, just on your numbers, you start out with 64 for the total sale, correct?

Rep. Adams:

I was using the example, like the two sales, there was two sales...\$67 million was the total.

Rep. Ringstad:

Let me run it out. You start with a total sale of 64. Half goes to the feds, so the state gets 32. Half of that goes to the Permanent Fund, which leaves 16. 16 goes to this specific impact fund. Ok. Of the 16 that goes into the impact fund, half goes to the local areas. So you're saying 8 goes to the local areas. So you're going one step further in saying 1/8th of the total sale, or 1/4 of the State's total income from the sale.

Rep. Goll:

Mr. Chairman, I'm sorry, I may not be right on some parts of this, but I'm afraid there are a couple of errors in what you just said. The 50% figure is not correct, and let me try to start this from another perspective. First of all, the constitution does not require that 25% of the money taken by the Federal government goes into the Permanent Fund. The

Constitution states that 25% of the money that comes from the Federal government to the State goes into the Permanent Fund. Before I go any further, is that clear? 25% of the revenues deriving to the State from the Feds goes into the Permanent Fund, not 25% of 64. 25% of 32. So that's the first error in this whole discussion. Okay?

Rep. Ringstad:

So, we're saying, we're receiving 32.

Rep. Goll:

We're starting out with 32, and then 24 - 8 goes into the Permanent Fund, 24 is to be discussed, ok?

Mr. Koester:

Mr. Chairman, if I may. The Constitution requires that a minimum of 25% go in the Permanent Fund. As a result of a statute passed, I believe in either 1980 or 1981, the Legislature has mandated by statute, that rather than the bare minimum required by the constitution, 50% would go into the Permanent Fund, so it's now a statutory directive that 50% go into the - -

Rep. Goll:

Good. Let's stop there.

Rep. Ringstad:

Okay, yeah. 50% of what we receive from Federal lease - - it's not just the Constitution, it's a combination of Constitution and statutes.

[General discussion]

Rep. Goll:

We are really on track now. Now let me say to my friend from Kotzebue, yes, that was my intention, that the other 50% go into this fund. Now, we then have 64 dollars going to the Feds, 32 dollars going to the state, 16 dollars going to the permanent fund and 16 dollars left. Now, what this bill does, based only on my reading of it, and not the intent, is that the amount appropriated for payment to the subdivisions equal 50% of the amount received from the federal government. Now that should be pretty clear. Half of it goes into the Permanent Fund, half of it goes into this account. I'm not objecting to that, I'm just trying to make sure that we all understand the same thing.

Rep. Ringstad:

Are you reading that on line 2 & 3?

Rep. Goll:

2 & 3 of page 2, yes sir.

Rep. Ringstad:

I think, Rep. Adams, being our finance wizard, now the way the language reads, it says the intent of the Legislature is to - the amount appropriated for payment to the subdivisions equals 50%. The amount appropriated is the amount we put out of that fund, not the amount going in. So if 8 million goes into that fund, or if 16 million goes into the fund, what this is saying the intent is that - - we're going to appropriate 16 million dollars, and half of that. 50% should be appropriated to the local funds.

Rep. Adams:

That's correct. We're going to put \$16 million into the fund.

Rep. Ringstad:

I think the verbiage is we're going to appropriate it there.

Rep. Goll:

No, the error is on line 3. Instead of saying "received from the Federal government", it should say, "placed into the fund". Then 50 - am I incorrect? - then 50% of the money that goes into the fund goes to the local communities. So, that's what I've been leading up to, here. and I'm done. That the words "received from the Federal government" is incorrect.

Rep. Ringstad:

Rep. Adams, do you feel he is correct, that we need to change that, is that what you're saying Rep. Goll that - -

Rep. Goll:

I'm saying that if your intent is that 50% of the money which goes into fund be appropriated to these impact - -

Rep. Ringstad:

As opposed to 50% of the money received from the Federal government.

Rep. Goll:

Which would be 100% of the money which goes into the fund. So it's a policy choice.

Rep. Ringstad:

So, it should be 50% of the money placed into the fund.

Rep. Adams:  
That's correct.

Rep. Goll:  
Thank you, sir.

001 - CTO  
3:00

List Cond Cars Shultz  
Rings - Goll  
Bussell - Uehl  
Vaska -

- 008 - Rings - review CS.
- 016 - Goll - Statement clarifying his view
- 069 Shultz - moved adopt CS /ok /no obje -
- 079 Vaska - How much \$ involved -  
Larson - reviewed numbers from previous mtgs
- 101 Larson - Reducing amt
- 105 Shultz - moved, it indiv recs CSHB 298 Res  
Uehling obje to ask for Comm's Health  
Heath made short statement
- 119 Withdrew objection - Uehl
- 122 Rings - discuss letter of intent -
- 133 Goll - Why letter here, not finance -  
Rings -
- 143 Vaska - USC 508 - Interpreted to mean whole  
State, not just part of it.
- 166 Luann Cutler -  
letter proposed to deal w/ definition of impact areas
- 214 Larson - Q. letter - conflicting statement p 2, next  
to last ¶ - perhaps not as clearly written as  
could be to distinguish "slow & imperceptible" from  
"severe" - Q. Larson - Mat Su not eligible under  
bill? - Δ if could be "measurable, significant"  
shown - Gen'l discussion

(2)

304 Velling - muddled -  
Cutler - not to be specific, but still take care  
of needs of impacted communities.

340 Larson - suggested change -  
4 - 11  $\frac{1}{2}$  '2 up to boundaries

367 Larson moved deletion, no obje

376 Shultz moved letter, u/c, no obje

385 Announcement re HB600 tomorrow

389 Adjourn 3:30

PROPOSED HOUSE RESOURCES COMMITTEE  
LETTER OF INTENT TO ACCOMPANY  
HOUSE BILL 298

It is the intent of the legislature that the Department of Revenue rely on the following analysis of House Bill 298 and P.L. 96-514, Title 1, Sec. 100 when administering this Act. In particular, it is the intent of the legislature that the Department determine if a subdivision is "most directly or severely impacted" by oil and gas development in the National Petroleum Reserve-Alaska for purposes of Sec. 2(c) of this Act in a manner consistent with the analysis of such impacted communities provided in this letter of intent.

HB 298 implements the revenue sharing provisions of P.L. 96-514, Title 1, Sec. 100 (1380) dealing with the Interior Department's oil and gas leasing program in the National Petroleum Reserve-Alaska. This leasing and revenue sharing program was part of the Interior Department Appropriations Act of 1981.

HB 298 establishes a state program which carries out the legislative intent of the federal act, which states as follows:

"That 50 per centum thereof (rentals, bonuses, royalties, etc.) shall be paid by the Secretary of the Treasury...to the State of Alaska for (a) planning; (b) construction, maintenance, and operation of public facilities; and (c) other necessary provisions of public service. PROVIDED FURTHER, that in the allocation of such funds, the State shall give priority to use by subdivisions of the state most directly or severely impacted by development of oil and gas leased under this section." 42 U.S.C. Sec. 6508

The purpose of this provision is to provide a source of funds for dealing with impacts related to the NPR-A oil and gas leasing program. The provision states that the funds are to be used for "planning," for "construction," and "operation of public facilities" and for "other necessary" public services. The purpose was also to allocate these funds to communities where the impacts are "most directly or severely" felt. The provision requires the state to give "priority" to subdivisions "most directly or severely impacted" by the NPR-A leasing program in "the allocation of such funds." This will rule out the possibility of a statewide revenue sharing program or even one designed to ameliorate oil and gas development impacts in general. The purpose is restricted by federal law to communities suffering the effects of the NPR-A leasing program.

The federal provision does not expressly define further than this which communities could qualify for impact funds. Certainly the North Slope Borough would qualify since the program affects the Borough in the most "direct" way possible, being entirely inside of it. This is consistent with the statutory predecessor to the federal revenue sharing provision, P.L. 94-258 (1976) which transferred jurisdiction over the NPR-A from the Navy to the Interior Department authorized the Secretary to assist impacted communities "located on or near the reserve as a direct result of the exploration and study activities, Sec. 107.

The language in the 1980 act allows the state more leeway in allocating funds to local communities than the 1976 act, nonetheless, the intention is to abide by the limitation that funds be allocated to communities "most severely or directly impacted." ~~While~~ <sup>Even if</sup> this would exclude slow, imperceptible or other non-severe or direct growth related impacts in areas outside of the Borough, it would not exclude impacts anticipated to be severe and direct such as those related to development, production and transportation of commercial quantities of oil and gas. Thus, for example, a firm making a major discovery of oil in NPR-A might need to significantly expand its base of operations in Anchorage, including office construction, placing an acute, possibly severe impact on that community. Major pipelines could also result in impacts crossing the Borough's boundaries. This bill should be implemented with the degree of flexibility necessary to cover such eventualities, but restrained by the purpose of the federal provision.

This approach would also be consistent with similar interpretations of the courts of federal law and federal programs. The U.S. Supreme Court recently interpreted the Coastal Zone Management Act's "directly affecting" language in the SECRETARY OF THE INTERIOR V. CALIFORNIA. The court found that for an affect to be direct there had to be a significant, physical alteration of an area, in this case, California's coastal zone. When Congress adopted the Coastal Energy Impact Program (16 U.S.C. 1456 (a)) it limited loans and grants to coastal states and local governments actually in the coastal zone. Also Senator Stevens' OCS revenue sharing bill S. 800 would qualify only coastal local governments to receive OCS revenue sharing funds. Thus, in othersimilar situations both Congress and the courts narrowly relate direct effects on a geographic basis, providing a sound factual underpinning to federal revenue sharing for adverse effects of specific federal programs.

STATE OF ALASKA  
FISCAL NOTE

Revision Date 12/30, 1983

I. REQUEST

Bill/Resolution No: HB 298  
Title: National Petroleum Reserve  
Alaska Special Revenue Fund  
Sponsor: Adams  
Requestor: H. Resources and Finance

II. FISCAL DETAIL

Agency Affected: Revenue  
Program Category Affected: Revenue  
Collection and Management  
BRU, Program of Subprogram(s) Affected:  
Treasury Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	-	INDETERMINATE	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Cathy A. Poe  
Division: Treasury

Phone: 465-2350  
Date: 12/01/83

Approved by Commissioner: Kath O'Kath  
Department: Revenue

Date: 1/9/84

Distribution:

Original to Legislative Finance  
Copy to Office of Management and Budget (for Legislature introduced bills)  
Copy to Department (for Governor introduced bills)  
Copy to Sponsor  
Copy to Requestor (if different from Sponsor)

Bret:

Perhaps the following language might be a good starting point for defining "impacted subdivisions" in CS HB 298.

In Sec. 2(c) of this Act "subdivisions of the state that are most directly or severely impacted" means cities or unincorporated communities within the National Petroleum Reserve in Alaska where economics, population, housing, public services . . . . have been substantially enlarged or disrupted from oil and gas leasing activities.

Dick Folta  
2450

# Alaska State Legislature

## House of Representatives

Al Adams

Chairman

Committee on Finance



Official Business

April 6, 1983

### MEMORANDUM

TO: ✓ Representative John Ringstad, Co-Chairman  
Representative Dick Shultz, Co-Chairman  
House Resources Committee

FROM: Representative Al Adams *APX*

SUBJECT: House Bill 298 - Establishing a National Petroleum Reserve, Alaska, Special Revenue Fund

HB 298 is pending in House Resources. I would appreciate the committee's consideration of the legislation at the earliest possible date.

In 1980, Congress approved Public Law 96-514 which contained language requiring that 50% of the royalties received from oil and gas leases in the National Petroleum Reserve - Alaska shall be paid to the State of Alaska. Part of that stipulation also provided that the priority use of these funds would be by the subdivisions of the state that were most directly impacted by the development of oil and gas leases in the NPR-A. I have introduced HB 298 to establish the special revenue fund into which these monies will be deposited. It is in this manner that I believe we can best assure the state's compliance with the intent of the federal Act. You may recall that last session, a comparable piece of legislation passed both houses of the Legislature but was vetoed by the Governor. I have attached a copy of the Attorney General's letter in which he advised the Legislature of necessary changes in order to comply with constitutional and statutory requirements. I believe you will find that HB 298 satisfies the concerns raised by the past Administration.

For the committee's further review, I have attached copies of letters and testimony concerning the federal legislation, as well as comments offered by the Mayor of the North Slope Borough. Should you like any additional information, please let me know.

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1024 W. 6th  
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HOUSE BILL 298

Establishing a National Petroleum Reserve, Alaska  
Special Revenue Fund

Section 1. FINDINGS.

(1) The U.S Congress provided by law (P.L. 96-514) that Alaska shall receive 50% of the royalties derived from competitive oil and gas leases in the NPRA:

(2) Nearly all of NPRA NPR-A lies within the boudaries of the North Slope Borough; and

(3) Because of the nature of the congressional appropriation, this bill establishes a fund to comply with the federal Act's provisions.

Section 2. NATIONAL PETROLEUM RESERVE, ALASKA, SPECIAL REVENUE FUND.

(a) Establishes the NPRA Special Revenue Fund consisting of money received from the federal government under P.L. 96-514.

(b) The fund shall be managed by the Commissioner of Revenue.

(c) The commissioner is directed to pay the funds, as appropriated by the legislature, to the subdivisions most severely impacted by oil and gas leases. It is the intent of the legislature that 50% of the revenues received from the federal government under this las shall be appropriated for this purpose. The percent of funds for this purpose shall be reviewed by the legislature every five years.

(d) The remaining 50% shall be used by the state, as appropriated by the legislature, for planning, construction, maintenance and operation of essential public facilities, and other necessary public services.

(e) The subdivisions receiving funds may only use them for purposes that are in conjunction with development of NPRA and with competitive oil and gas leasing program. These shall also include planning, construction, maintenance and operation of essential public facilities and other necessar, public services.

Section 3. Immediate effective date.

(B)

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ELLEN L. PARTRIDGE  
R. KEITH GUTHRIE  
PETER D. DICKSON

December 20, 1979

MEMORANDUM

TO: Mayor Eben Hopson  
North Slope Borough

Edward Hopson  
President  
Arctic Slope Regional Corporation

FROM: G. William Frick *SWF*

RE: Summary of NPR-A Meeting

This memorandum will summarize the meeting held with representatives of the Arctic Slope Regional Corporation, North Slope Borough and others in Anchorage on December 7, 1979. The persons who attended the meeting are on the attached list.

A. Arctic Gas Pipeline

The first item of discussion was a presentation by Jack Bachman (907-276-2900), the Alaska representative of Northwest Pipeline, who provided an update on the Salt Lake City meeting between Mayor Hopson and other Borough representatives, and John McMillian and Northwest Pipeline staff. Bachman indicated that Northwest Pipeline was pleased with the interest of the North Slope Borough to participate in some manner in the project and was interested in providing an opportunity for the local as well as state involvement if possible. He did note that state actions thus far had been disappointing. He indicated that Northwest Pipeline hoped to begin civil construction in 1981, begin laying pipe in 1982, and finish the line in the warm weather of 1985.

He pointed out that the Northwest Pipeline Company has no direct responsibility for the conditioning plant, although it is extremely interested in its construction as an essential part of the overall system. While the state has indicated it wants to do "something" on the conditioning plant, it has not yet formulated a position. Bachman did note that moving the conditioning plant to Fairbanks would prevent the pipeline from being built. Northwest Pipeline is looking at producers as "overrun insurance," who will be turned to if necessary for completion of the line; the Department of Justice has problems with producers owning the line. Larry Dinneen pointed out that ARCO has expressed interest in knowing what the North Slope Borough and ASRC plan to do regarding the conditioning plant.

Mayor Hopson expressed concern about the failure of the North Slope Borough to have been consulted on issues surrounding the conditioning plant and the pipeline that affect the North Slope Borough. He also emphasized that while NSB had proposed having some involvement, it was subject to further decisions and negotiations involving the NSB and ASRC.

Follow-up actions from the discussion with Bachman are:

1. This firm is to contact Howard Butner, Vice President for Finance of Northwest Alaska Pipeline in Washington. Butner apparently has a variety of studies and other documents regarding various financial schemes for financing the pipeline that may be of use to the NSB in reviewing its potential participation.
2. This firm is to develop a brief analysis summarizing what has transpired with the gas pipeline to date and to prepare recommendations to the Borough on what future actions to take on this issue.

#### B. NPRA Legislation

The next item discussed was the position of ASRC and NSB on the NPRA legislation now being drafted by the Department of the Interior. Under this legislation NPR-A would be designated a "National Conservation Area." Mayor Hopson emphasized that the North Slope Borough supported any effort, including private leasing, that would open up NPR-A for exploration and development as the North Slope Borough's contribution to the national goal of improving energy supplies. Mayor Hopson emphasized that the Borough has always supported onshore development.

There was general agreement with the basic statutory positions that DOI had indicated would be included in the legislation.

Conrad Bagne suggested that the bill include provisions allowing local access to non-commercial and commercial discoveries found near communities on the North Slope. Herb Bartel pointed out that the BLM had already developed several years of planning analysis and data on NPR-A and that this experience should not be lost in the transition to the NCA management scheme. In particular, with respect to the four areas that were to be given special attention, the governmental offices charged with responsibility for those special areas, assuming it is not BLM, should be required to utilize BLM analysis.

Jon Buchholdt noted that the four areas cited for special consideration are possibly the most promising for private leasing; the boundaries, terms, and access of those areas should be examined carefully to insure development is not precluded. Herb Bartel also observed that the protection for fishing sites should not be limited to designated sites but rather to "systems" that would allow movement within fishing areas as the fish populations, and other influences on fishing, change.

With respect to the leasing systems, it was pointed out that a "nominating" system should be used in order to give the Borough, as well as the federal government, advance notice of what areas should be studied to determine the need for environmental or other protection. There was general agreement that any leasing system should, to the maximum extent possible, utilize bids that would internalize non-economic factors such as environmental protection and local hire. In addition, local considerations and provisions encouraging participation by small companies should be included into a system. Senator Gravel apparently is looking into developing such a program independently of the Department of the Interior. It was also pointed out that the Teshekpuk Lake had already been identified as an area that should be protected for the Native community. This should be kept in mind as the provisions regulating the Teshekpuk Lake area are formulated.

Senator Stevens joined the meeting at this point and made the following comments:

1. He considers the letter of Acting Secretary Joseph, regarding the legislative program of NPR-A, to be balanced but is concerned about those areas that DOI proposes to "set aside." He also feels that any provisions relating to the Mineral Leasing Act may present problems.
2. He is concerned about the revenue sharing provisions and feels it may be hard to hold the 50% now proposed

to be allocated to the state because of the large royalty already received by the state from Prudhoe Bay. Provisions guaranteeing local share from the revenues to the state would help maintain this provision.

3. He supports the NCA being administered by the BLM but is concerned about BLM continuing to apply the approaches they have traditionally followed under the Mineral Leasing Act. Stevens indicated he was meeting with Guy Martin on the legislation on December 10.
4. He is quite committed to keeping this bill separate from D-2 and indicated that this was the view of Secretary Andrus. Senator Stevens cautioned about trying to put D-2 related Native amendments on the bill when it comes from the House.
5. Senator Stevens vigorously emphasized the need to slow the Beaufort Sea sale. He is very concerned about drilling in the Beaufort Sea and feels that the international situation will result in a compressing of the time for leasing of NPR-A.
6. He is very interested in getting small companies involved in the development of NPR-A.
7. He supports the efforts to find a new agency or agencies to fund and administer NARL. He mentioned also the possibility of turning over the gas field at Barrow to the North Slope Borough and providing authority for requiring federal facilities to pay for gas from the field.

In the afternoon we were joined by representatives of the Department of the Interior: Gerry Gilliland, Curt McVie, Irene Rowan, Jim Wicks, and Ed Eisenson.

Gerry Gilliland outlined the Department's views on the legislation. He emphasized that the legislation is to encourage oil and gas development while protecting the unique surface values and lifestyle of the native residents. BLM is to administer the area in a multiple use manner and the local residents are to assist BLM in land use planning and in its lease program. He noted also that the bill included language that would lead to transfer of the Barrow gas field to the North Slope Borough.

With respect to leasing, the Department hopes to have a minimum time schedule that would result in the first lease within twenty months of the legislation. The legislation would provide

broad leasing authority to the BLM to establish terms and conditions. He emphasized that the authority would allow stipulations to protect the environment and require access yet he noted that the proposal did not have any corridors specifically set aside. He said that the bill would provide the Secretary with discretionary authority to lease minerals but only local leasing of coal would be specifically allowed. The report from Gilliland basically coincided with the information provided in Undersecretary Joseph's letter.

Gilliland indicated that the legislation was being reviewed within the Administration but that there had been no major changes proposed. The only objections from other agencies involved issues unrelated to the direct administration of NPR-A, e.g., the Department of Justice was concerned about anti-trust language, some agency was concerned about the size of the tracts being too large and thereby inhibiting participation by local companies, and there was concern over the name of the NCA. Gilliland does not know the exact timetable for submission of the bill to Congress but expects it to happen before January. He felt it was too late for any additional input at this time from the local community although the Department remains interested in the local reaction.

With respect to the four special areas he emphasized that the bill would only have Congress stating that BLM is to give those areas special consideration; it would be left up to the BLM, after consultation with an Advisory Committee, to determine exactly what those special considerations should be. BLM proposes to use the Federal Land Policy Management Act (FLPMA) planning process to establish appropriate restrictions. He also pointed out that Section 603 of FLPMA would not apply nor would the 1876 Mineral Act. This would preclude hard rock mining and provide no protection of existing claims. It was pointed out by Charlie Edwardson that there might be some outstanding claims that existed before the formulation of NPR-A.

Gilliland agreed that the leasing approach authority in the bill would allow internalization of costs but such leasing would not be mandated by the legislation.

Mayor Hopson emphasized the importance of sharing information from prior exploration of NPR-A inasmuch as the data is a key factor affecting exploration on the Slope. Mayor Hopson expressed his desire that the legislation should turn over leasing totally to private companies so that the Federal government would not be involved in the actual exploration.

Gilliland agreed that the applicability of the North Slope Borough ordinances to activities taking place in NPR-A would be part of the planning process. This means that the BLM could decide to apply them but that they were not automatically incorporated into the plan. He also noted that there was no local hire provision in the bill, which produced substantial discussion about the need for such provision. Gilliland and Curt McVie agreed that this was a point that deserved additional examination and indicated a willingness to have the Department consider taking a position on such a provision in the letter of transmittal of the bill to Congress or in the testimony of the Administration on the bill, inasmuch as it was too late to make any change to the legislation at this point.

Follow-up activities.

1. We should draft for the Department of the Interior an analysis of the need for an affirmative action program mentioning the adverse economic as well as societal impacts of not utilizing local residents. We should also draft appropriate language for such provision.
2. We should write to the Department requesting that they include reference to such a provision in their testimony or in the letter of transmittal to Congress.
3. We should attempt to have included in the legislation a specific guarantee of a portion of the state's revenue being allocated to the North Slope Borough.
4. We should examine other National conservation areas, and BLM regulations regulating activities in those areas, to identify deficiencies in the management program that should be addressed in the legislation or in Report language.

cc: Conrad Bagne                      Oliver Leavitt  
Tom Smythe                              Larry Dinneen  
Jon Buchholdt                          Jim Wickwire

ATTENDANCE LIST

December 7, 1979 Meeting

Anchorage, Alaska

Mayor Eben Hopson, NSB

Eugene Brower, NSB

Tom Smythe, NSB

Conrad Bagne, NSB

Herb Bartel, NSB

Jon Buchholdt, NSB

Gerry White, NSB

Ralph Anderson, NSB

Bob Dupere, NSB

Lou Dishner, Lobbyist for NSB

Larry Dinneen, ASRC

Oliver Leavitt, ASRC

Eddie Hopson, ASRC

Jim Wickwire, Seattle

Bill Van Ness, Washington, D. C.

G. William Frick, Washington, D. C.

Ken Forsen, Arctic Technical

Services

Jack Bachman, North West Pipeline

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K--STATE CAPITOL  
JUNEAU, ALASKA 99811

April 26, 1982

Honorable Bettye Fahrenkamp  
Chairwoman, Senate Resources Committee  
Alaska State Senate  
Twelfth Legislature  
Pouch V  
Juneau, Alaska 99811

Re: SB 835 (National Petroleum Reserve-Alaska  
Trust Fund). Our File No. 366-619-82

Dear Senator Fahrenkamp:

SB 835, which would establish a trust fund account for revenues the state receives from the federal government from federal oil and gas leasing in the National Petroleum Reserve-Alaska, presents a number of serious legal questions in its current form.

The first question is raised under Article IX, Section 7 of the Alaska Constitution, which provides in pertinent part: "The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in Section 15 of this article or when required by the federal government for state participation in federal programs." The Department of Law and the Legislative Counsel have disagreed over the reach of this prohibition. Our department has construed the prohibition broadly to apply to all "public revenues" (e.g., taxes, license fees, revenues from the sale or disposition of natural resources, etc.); the Legislative Counsel has interpreted it narrowly as reaching only tax and license revenues. On April 23, 1982, the Alaska Supreme Court adopted the Department of Law's broader interpretation in State v. Alex, \_\_\_ P.2d \_\_\_, Op. No. 2488 (Alaska, April 23, 1982). See Slip Op. at p. 20. As a result, we believe the revenues which the bill addresses -- i.e., those that the state would receive from the federal government as the result of federal oil and gas leasing in NPR-A -- are subject to the prohibition.

However, there is an exception to the dedicated fund prohibition "when required by the federal government for state participation in federal programs." The pertinent portion of

P.L. 96-514, 94 Stat. 2964, which directs payment of the money to the state, attaches certain conditions to the state's receipt of that money: The state may use it "for (a) planning, (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: Provided further, [That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act."] In other words, the funds received from the federal government must be dedicated to planning, construction, maintenance, and operation of essential public facilities, and other necessary provisions of public service. In addition, impacted political subdivisions must be given priority in the allocation of the funds.

We believe the establishment of a trust fund into which all the federal revenues are placed immediately upon receipt from the federal government is both permissible under Article IX, Section 7 of the Alaska Constitution and desirable in that it will ease the administrative task of demonstrating to the federal government that the funds received have been expended for the purposes and in the manner required by the federal Act. However, it also is our opinion that the explicit provisions of the law establishing the trust fund cannot impose conditions on the use of the money which exceed those "required by the federal government for state participation" in the federal program -- i.e., those in the federal Act. Since it is only the federal conditions which except the funds from the general dedicated fund prohibition, we believe the only conditions which may be attached to the funds are those required by the federal Act.

As a result, we believe the directive in Section 2(c) of SB 835 to pay a minimum of 50 percent of amounts in the fund to the North Slope Borough violates the dedicated fund prohibition because the federal Act does not require it for state participation. In addition, the directive in Section 2(d) that remaining amounts in the fund may be spent only "in conjunction with the exploration of the National Petroleum Reserve in Alaska and a program of competitive leasing of oil and gas from that reserve" also violates the prohibition, again because the federal Act does not require it. The federal Act simply does not impose these restrictions on the use of the funds received by the state.

Another question raised by SB 835 stems from Article II, Section 19 of the Alaska Constitution, which provides in pertinent part: "The legislature shall pass no local or special act if a general act can be made applicable." The problem here is that SB 835 specifically names the North Slope Borough as a recipient of amounts from the fund established. However, nothing in the federal Act requires that the North Slope be named, and it is obvious that a general act can be made applicable and satisfy the terms of the federal Act simply by "giv[ing] priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act." That is the language of the federal Act, so using that language would satisfy that condition of the federal Act. It is language of general applicability to all subdivisions which might be impacted by NPR-A development, and therefore would be a general (not local or special) act within the meaning of the Alaska Constitution. (We also would point out that the North Slope Borough may not be the only political subdivision impacted by oil and gas leasing in NPR-A. In the reserve, Barrow is a first class city and Wainwright and Nuiqsuit are second class cities. Moreover, development in NPR-A may have an impact on other political subdivisions along the pipeline corridor or, it is conceivable, any other route chosen to transport the oil and gas produced -- i.e., Nome, etc. This potential impact on other political subdivisions demonstrates the advisability of couching the bill in terms of a general act, not a local or special act directed only to the North Slope Borough.)

Another problem stems from Article II, Section 13 of the Alaska Constitution, which provides in pertinent part: "Bills for appropriations shall be confined to appropriations." The problem in SB 835 is the Section 2(c) directive to pay money to the affected subdivisions (in the bill's current form, only the North Slope Borough). Specifically, Section 2(d) describes that directive as an appropriation. If it is an appropriation, it is an appropriation in a general act and not in a bill confined to appropriations as required by the Constitution. This conclusion is reinforced by the provision in Section 2(d) that amounts remaining in the fund after the payment to the subdivisions cannot be expended without appropriation by the legislature. To avoid this problem, the bill could be amended simply to require appropriation by the legislature prior ~~any~~ expenditure of funds in the trust account, giving the legislature discretion to appropriate funds to impacted subdivisions or for other purposes permitted under the federal Act.

Following my testimony on SB 835 at the Senate Resources Committee meeting on April 23, 1982, I met with Tom Smythe and Robert DuPere, representing the North Slope Borough, and Resa King of the Committee staff. We seemed to reach general agreement that some minor modifications to the bill would satisfy the constitutional concerns while remaining true to the basic thrust of the proposed bill. My notes indicate that the following changes were contemplated:

1. Page 1, lines 12-15 should be amended to read (material to be deleted is capitalized and in brackets; new material is underlined): "(1) The United States Congress, by P.L. 96-514 (94 Stat. 2964, December 12, 1980), [APPROPRIATED \$107,001,000 FOR A PROGRAM OF] provided that the state shall receive 50 percent of receipts derived from competitive leasing of oil and gas in the National Petroleum Reserve in Alaska;" This change would eliminate any confusion regarding the \$107,001,000 federal appropriation which is for administration of the leasing program, not an appropriation to the state. The state will only receive money under the federal Act after the program begins generating lease revenues.

2. Page 1, lines 24-26 should be amended to read: "The fund shall consist of funds [APPROPRIATED TO IT BY THE LEGISLATURE EQUAL TO THE AMOUNT OF FUNDS] received by the state from the federal government under P.L. 96-514." This would establish the constitutionally-permissible dedicated fund.

3. Subsection (c) of Section 2, which begins on page 1, line 29, and continues to page 2, line 4, should be deleted in its entirety and replaced with the following:

(c) The commissioner of revenue shall pay to the subdivisions of the state most directly or severely impacted by development of oil and gas leased under the federal Act the amount appropriated by the legislature from the fund for that purpose. It is the intent of the legislature that the amount appropriated for payment to the subdivisions equal 50 percent of the amount received from the federal government under the federal Act, and that this percentage be reviewed every five years following passage of this Act.

This would indicate the legislative intent of sharing the revenues with impacted political subdivisions without violating the dedicated fund prohibition by imposing conditions beyond those required by the federal Act. It also avoids the local and special legislation problem, as well as the problem regarding an appropriation in a bill not confined to appropriations.

4. Page 2, lines 5-10 should be amended to read:  
"(d) Amounts received by the state under (a) of this section [WHICH ARE NOT APPROPRIATED IN ACCORDANCE WITH (c) OF THIS SECTION] shall be used by the state, subject to appropriation by law, for the following activities and services [IN CONJUNCTION WITH THE EXPLORATION OF THE NATIONAL PETROLEUM RESERVE IN ALASKA AND A PROGRAM OF COMPETITIVE LEASING OF OIL AND GAS FROM THAT RESERVE]:" This avoids any dedicated funds problem by eliminating those conditions which exceed those required by the federal Act.

5. Subsection (e) of Section 2, appearing on page 2, lines 5-20, should be deleted in its entirety.

6. Subsection (f), beginning on page 2, line 21, and ending on page 3, line 1, should be amended to read:

"(f) amounts paid to [THE NORTH SLOPE BOROUGH] subdivisions under (c) of this section shall be used by the [NORTH SLOPE BOROUGH] subdivisions only for the following activities and services in conjunction with [THE EXPLORATION] development on the National Petroleum Reserve in Alaska and a program of competitive leasing of oil and gas from that reserve:

"(1) planning;

"(2) construction, maintenance, and operation of essential public facilities by the [NORTH SLOPE BOROUGH] subdivisions; and

"(3) other necessary public services provided by the [NORTH SLOPE BOROUGH] subdivisions."

This change is necessary to avoid the local and special legislation problem.

Honorable Bettye Fahrenkamp  
Re: SB 835

April 26, 1982  
Page 6

In addition, it was suggested that a committee letter of intent be drafted to the effect that, at the present time, the North Slope Borough is the only political subdivision of the state which will be most directly or severely impacted by oil and gas leasing in NPR-A.

I believe these comments accurately reflect the consensus of our work group. However, the other individuals present may have some further suggestions for change.

Finally, I must indicate that these comments are not intended to represent the Administration's policy position on this bill. Rather, they are provided in the nature of a drafting service to overcome the constitutional and other legal problems which we believe are presented by the bill in its current form. If we can be of further assistance in this regard, please contact us at your earliest convenience.

Sincerely,

WILSON L. CONDON  
ATTORNEY GENERAL

By: *15/*  
G. Thomas Koester  
Assistant Attorney General

GTK:d1m

cc: Honorable Don Bennett  
Honorable M.E. Dankworth  
Co-Chairmen, Senate Finance Committee

Tom Smythe  
Robert DuPere ✓  
Keith Specking

REPORT LANGUAGE FOR HR 7724

Provisions Affecting Exploration of  
National Petroleum Reserve in Alaska

The bill provides \$194,251,000 to initiate and carry out the leasing of the National Petroleum Reserve in Alaska, a Federal land holding of 23 million acres which is entirely located on the North Slope of Alaska. In addition to providing funds, the House bill provides substantive requirements directing the Secretary how such leasing is to be carried out. The Committee has agreed to the House provisions, with certain changes. The Committee believes that private leasing of the NPRA is extremely important and that it should proceed as expeditiously as possible. It is important, however, that the Congress also provide guidance to the Secretary on how that leasing should take place.

The social, economic, and environmental conditions in the Arctic are extremely fragile. The sudden influx of workers and money into an area can be extremely disruptive to the local community and put a strain on governmental services. There is also great potential for harm to the environment from the equipment and other activities associated with the exploration and development. Therefore, it is extremely important that the Secretary develop and implement a leasing program that gives proper consideration to the effects on the local community and political jurisdiction whose lands involved will be most directly

affected by the economic and social impacts. Because of these concerns, the Committee has made several changes in the House bill.

First, the House bill exempted the lease program from Sections 202 and 603 of the Federal Lands Policy and Management Act of 1976. While the Committee agrees that those sections of FLPMA should not operate to delay the leasing program, the sections would also have provided authority for important interaction between the Secretary and the State and local governments. The Committee considers it very important that the Secretary consult with the State and local jurisdictions regarding the lease program and insure important State and local decisions regarding land use control, environmental protection and preservation of subsistence use by local residents are made part of any leasing program. The Committee amendment would require the Secretary to recognize and insure application of these local requirements, even though the FLPMA sections are otherwise not applicable. The Committee believes that this will not delay the lease program in any way.

Second, the Committee has added language that will lead to greater participation in the jobs and business contracts associated with the leasing program by disadvantaged Native groups. Natives have historically gained the least from the economic activity associated with oil and gas development. Efforts were made in connection with construction of the Trans-Alaska pipeline

and the proposed Alaska Natural Gas Transportation System to encourage hiring of Natives. The unemployment rate for Natives in the North Slope is perhaps the highest in the country and it is appropriate that they have a role in the development of the resources from the area in which they live. This amendment makes more explicit the Federal goal that Natives have a preference in the employment and contracts that will be generated by the leasing program of NPRA authorized by the bill.

Third, the Committee recognizes that the impacts of oil and gas development increases costs for local governmental units. In addition, the Committee considers it important that such local jurisdictions share in the financial rewards associated with the development of resources of land within their jurisdictions, even though fee ownership may still be with the Federal government. The House bill provides that 50% of the lease sale proceeds, the royalties, and other income from the NPRA be returned to the State of Alaska, with a directive that the State allocate the funds to benefit the jurisdictions most affected by the development of NPRA.

The Committee supports the concept of returning funds to local jurisdictions but is concerned that those funds be available to benefit the jurisdictions most directly affected by the development and the activities that produce the income. The State is subject, understandably, to pressures from jurisdictions throughout the state for distribution of its revenues; past

experience indicates that certain areas, particularly those less populated, may not receive distribution appropriate to their needs or to the impacts that they have suffered. Furthermore, the State has restricted the authority of local jurisdictions to raise revenues by taxing property associated with oil and gas development. This has had its most serious impact on those locations where the oil and gas exploration and development is taking place and substantial amounts of property are located. Consequently, the Committee has preserved the 50% allocation to the State and its local jurisdictions but has directed distribution within the state so that a reasonable portion goes to the North Slope Borough, the local jurisdiction most affected by development of NPRA; the NPRA is composed of lands located totally within the North Slope Borough boundaries. Given the priority set forth in the House bill that the funds go to the jurisdictions most impacted by development, the Committee considers it appropriate to make the allocation explicit in the bill.

Finally, the Committee has rejected the request by the Administration that the bill require transfer of the Barrow gas field, which at present is under the jurisdiction of the Secretary of the Interior. The gas from that field is essential to life in Barrow, our northernmost community. The gas is used for heat and electricity, and a reliable supply of gas is necessary during the severe Arctic winters. While the Committee agrees that the source and cost of long-term energy supplies for

Barrow, as well as other North Slope Borough Villages, should be examined by the Secretary and discussed with the local community, it is inappropriate for the Congress to direct that a transfer take place in advance of studies and other data that demonstrate how energy supplies can best be funded. The Committee wants to avoid hurriedly choosing an unrealistic operating situation which might endanger the continued supply of fuel for heat to the community.

The leasing of NPRA provides a good opportunity for the Secretary to study energy needs on the North Slope and determine how North Slope Villages, including Barrow, can gain access to indigenous energy supplies. While the Barrow gas field would obviously not be included in any leasing program, the Secretary should consider lease conditions on tracts which will be leased that will guarantee access to any discovered oil or gas by the villages. Following development of such information, the Congress will be better able to respond in an appropriate manner to the Administration's request for transfer of the Barrow gas fields.

PREPARED FOR

SENATOR FRANK R. FERGUSON

BY

MAYOR EUGENE BROWER

NORTH SLOPE BOROUGH

Regarding

SENATE BILL NO. 835

on

April 20, 1982

Despite the fact that commercial petroleum prospects for NPRA have been substantially downgraded by the United States Geological Service and Department of Natural Resources as a result of past Federally sponsored drilling programs the potential impacts, in fact, may be greater. Past drilling indicates the possibility of a reasonably large number of smaller fields rather than the giants or super giants forecast in the past. If this is the case, production would probably await the development of groups of smaller fields which would collectively represent a commercial undertaking. Collectors would link these small fields to a pipeline running to TAPS. The tracts receiving bids during the January 27, 1982, NPRA lease sale and their pattern substantiate this belief. This type of development scenario necessarily would disturb a larger area as well as being more difficult to service.

In contrast to Prudhoe Bay, the impacts of NPRA development will be at the doorstep of four of the eight permanent Borough communities (Barrow, Nuiqsut, Atkasook, and Wainwright). The indirect or secondary impacts of the Prudhoe Bay development, discounting primary impacts, created drastic cultural, social and economic disruptions for the permanent Inupiat population. Impacts forced change upon the resident population, not at their own making, and required them to organize a local governmental unit to represent their interests. With the development of NPRA the

pressures will be more direct and perhaps more devastating unless mitigation measures can be taken.

Senate Bill 835 will provide a portion of the funding required to address forthcoming impacts. With Prudhoe Bay and the Kuparuk experience, future Borough approaches to industrial impacts will involve direct yet cooperative State/industry/Borough planning and provision of basic consolidated services within the fields as well as within the communities. The result of Borough involvement promoting consolidation of facilities and services will result in more efficient, less disruptive development and therefore less detrimental impact.

The Federal law, Department of Interior and Related Agencies Appropriations Act of 1980, contains the following language:

Provided, that . . . (9) all recipients from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: Provided, that 50 per centum shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State of Alaska for (a) planning, (b) construction, maintenance and operation of essential public facilities, and (c) other necessary provision of public service: Provided further, that in the allocation of such funds the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

was in part a result the cooperative effort of the State and

the North Slope Borough in working with the Administration and the Congress.

Since NPRA is Federal reserve lands, there was no requirement for Federal revenue sharing. In fact, there was local opposition from influential Administrative and Congressional officials to sharing with the State. The Administration considered draft language to include only the Borough since NPRA lies almost totally within the Borough. However, Governor Hammond's opposition to direct revenue sharing rather than a pass through and the Borough's belief that the Borough alone would be limited to the 25 percent precedent for local revenue sharing established in wildlife range and refuge law, prompted the Borough to jointly seek revenue sharing with the State. The joint State/Borough effort resulted in the State receiving 50 percent of the net Federal receipts with a proviso that the State would pass through funds to directly or severely impacted local governmental units.

Although the Administration introduced legislation in both the House and the Senate, Senator Stevens, in a sophisticated legislative maneuver, extracted the appropriate NPRA lease sale language from the Administration bill and included it as a part of Interior Appropriations. NPRA leasing was permitted and the revenue sharing preserved. However, the remainder of the Administration bill which dealt in large part with environmental constraints and enforcement provisions is dormant and

probably will not be resurrected. This places a great burden upon the State and the Borough to ensure efficient, environmentally sound development.

In summary, the North Slope Borough urges the prompt enactment of Senate Bill 835 to provide the Borough with the means of ameliorating impacts occasioned by the development of petroleum leases in NPRA. In providing this pass through of funds, the Borough will use these funds for the planning, construction, maintenance and operations of public facilities and other necessary provisions of services resulting from NPRA lease sales.

Folta  
3/16/84 ✓**DRAFT**

Original sponsor: Adams

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 298 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a National Petroleum Reserve,  
7 Alaska, special revenue fund; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) the United States Congress, by 43 U.S.C. 1337 (P.L. 96-514),  
12 provided that the state shall receive 50 percent of receipts derived from  
13 competitive leasing of oil and gas in the National Petroleum Reserve in  
14 Alaska;

15 (2) virtually all of the National Petroleum Reserve in Alaska  
16 lies within the corporate limits of the North Slope Borough, a home rule  
17 political subdivision of the state; and

18 (3) because of the continuing nature of the congressional appro-  
19 priation a special revenue fund should be established to comply with the  
20 directive of the federal Act.

21 \* Sec. 2. NATIONAL PETROLEUM RESERVE, ALASKA, SPECIAL REVENUE FUND.

22 (a) The National Petroleum Reserve, Alaska, special revenue fund is estab-  
23 lished. The fund shall consist of money received by the state from the  
24 federal government under 43 U.S.C. 1337 (P.L. 96-514).

25 (b) The commissioner of revenue shall manage the special revenue fund  
26 in accordance with AS 37.10.070.

27 (c) The commissioner of revenue shall pay to those subdivisions of  
28 the state that are most directly or severely impacted by development of oil  
29 and gas leased under 43 U.S.C. 1337 the amount appropriated by the

1 legislature from the fund for that purpose. It is the intent of the legis-  
2 lature that the amount appropriated for payment to the subdivisions equal  
3 25 percent of the amount received from the federal government unde. 43  
4 U.S.C. 1337 and that this percentage be reviewed by the legislature every  
5 five years following the effective date of this Act.

6 (d) Amounts received by the state under (a) of this section shall be  
7 used by the state, subject to appropriation by law, for the following  
8 activities and services:

9 (1) planning;

10 (2) construction, maintenance, and operation of essential public  
11 facilities; and

12 (3) other necessary public services.

13 (e) Amounts paid to subdivisions of the state under (c) of this  
14 section shall be used by the subdivisions only for the following activities  
15 and services in conjunction with development of the National Petroleum  
16 Reserve in Alaska and a program of competitive leasing of oil and gas from  
17 that serve:

18 (1) planning;

19 (2) construction, maintenance, and operation of essential public  
20 facilities by the subdivisions; and

21 (3) other necessary public services provided by the subdivi-  
22 sions.

23 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).  
25  
26  
27  
28  
29

*Dick Folta*

1 IN THE HOUSE

BY ADAMS

2

HOUSE BILL NO. 298

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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19

priation a special revenue fund should be established to comply with the  
directive of the federal Act.

21

\* Sec. 2. NATIONAL PETROLEUM RESERVE, ALASKA, SPECIAL REVENUE FUND.

22

(a) The National Petroleum Reserve, Alaska, special revenue fund is estab-  
lished. The fund shall consist of money received by the state from the  
federal government under 43 U.S.C. 1337 (P.L. 96-514).

25

(b) The commissioner of revenue shall manage the special revenue fund  
in accordance with AS 37.10.070.

27

(c) The commissioner of revenue shall pay to those subdivisions of

28

the state that are most directly or severely impacted by development of oil  
and gas leased under the federal Act the amount appropriated by the

29

OK  
[2.500]

Tom Koester

NPA Special Reserve

Placed into fund

1 legislature from the fund for that purpose. It is the intent of the  
2 legislature that the amount appropriated for payment to the subdivisions  
3 equal 50 percent of the amount received from the federal government under  
4 the federal Act, and that this percentage be reviewed by the legislature  
5 every five years following the passage of this Act.

6 (d) Amounts received by the state under (a) of this section shall be  
7 used by the state, subject to appropriation by law, for the following  
8 activities and services:

- 9 (1) planning;
- 10 (2) construction, maintenance, and operation of essential public
- 11 facilities; and
- 12 (3) other necessary public services.

13 (e) Amounts paid to subdivisions of the state under (c) of this  
14 section shall be used by the subdivisions only for the following activities  
15 and services in conjunction with development of the National Petroleum  
16 Reserve in Alaska and a program of competitive leasing of oil and gas from  
17 that reserve:

- 18 (1) planning;
- 19 (2) construction, maintenance, and operation of essential public
- 20 facilities by the subdivisions; and
- 21 (3) other necessary public services provided by the subdivi-
- 22 sions.

23 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).

What is a political subdivision

Need guide lines, criteria  
or how money is to be  
given to "political subdivisions".

How do you

get together w/ Al, Reaman  
- Marci

Marci Rehfeld

HB 663-666

contact Stevens' Wash  
office & ask about  
this program

John - Read this  
A.S.P. - letter  
of intent for

Adams NRA Bill

I don't think it  
says much

Brent

## EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA

42 USC 6508.  
42 USC 6504.

43 USC 1712,  
1782.

42 USC 6502

43 USC 1337.

For necessary expenses of carrying out the provisions of section 104 of Public Law 94-258, and for conducting hereafter and with funds appropriated by this Act and by subsequent appropriation Acts, notwithstanding any other provision of law and pursuant to such rules and regulations as the Secretary may prescribe, an expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve in Alaska, \$107,001,000, to remain available until expended: *Provided*, That (1) activities undertaken pursuant to this Act shall include or provide for such conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably foreseeable and significantly adverse effects on the surface resources of the National Petroleum Reserve in Alaska (the Reserve); (2) the provisions of section 202 and section 603 of the Federal Lands Policy and Management Act of 1976 (90 Stat. 2743) shall not be applicable to the Reserve; (3) the first lease sale shall be conducted within twenty months of the date of enactment of this Act: *Provided*, That the first lease sale shall be conducted only after publication of a final environmental impact statement if such is deemed necessary under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4332); (4) the withdrawals established by section 102 of Public Law 94-258 are rescinded for the purposes of the oil and gas leasing program authorized herein; (5) bidding systems used in lease sales shall be based on bidding systems included in section 205(a)(1) (A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629); (6) lease tracts may encompass identified geological structures; (7) the size of lease tracts may be up to sixty thousand acres, as determined by the Secretary; (8) each lease shall be issued for an initial period of up to ten years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, or as drilling or reworking operations, as approved by the Secretary, are conducted thereon; and (9) all receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: *Provided*, That 50 per centum thereof shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State of Alaska for (a) planning, (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: *Provided further*, That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the National Petroleum Reserve in Alaska which do not interfere with operations under any contract maintained or granted previously. Any information acquired in such explorations shall be subject to the conditions of 43 U.S.C. 1352(a)(1)(A).

Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in the National Petroleum Reserve-Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register. Any proceeding on such action

Judicial review.  
Publication in  
Federal  
Register.



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

JOHN RINGSTAD, CO-CHAIRMAN  
RICHARD SHULTZ, CO-CHAIRMAN  
POUCK V  
JUNEAU, ALASKA 99811  
(907) 465-3715

To: Committee Members

From: Committee Staff

Date: February 8, 1984

Re: HB 293, establishing a National Petroleum Reserve, Alaska, fund

---

## I. Overview

This bill establishes a "National Petroleum Reserve, Alaska, Special Revenue Fund." It would be funded by receipts from the federal government for leasing of oil and gas tracts in the National Petroleum Reserve, Alaska (NPRA). The federal act (Public Law 96-514) requires that 50% of all sales, rentals, bonuses, and royalties on leases issued shall be paid to the State of Alaska.

## II. History

During the 12th Legislative Session, SB 835, a very similar piece of legislation to HB 298, passed both the House and Senate, but was vetoed by the Governor. The main reason for his veto was because the bill created some constitutional problems, namely, it created a dedicated fund. (see Art. IX, Sec. 7, of Alaska Constitution)

In 1980, Congress approved Public Law 96-514. This law required that 50% of all sales, rentals, bonuses and royalties received from federal oil and gas leases in the National Petroleum Reserve, Alaska, be paid to the State of Alaska

Part of this Public Law provided that the priority use of these funds be used by the subdivisions of the state that were most directly impacted by the development of oil and gas leases in the NPR-A. (see enclosed Public Law 96-514, highlighted section) The law states that:

"That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this act."

Note that this clause does not address how much should go to the impacted subdivision, nor does it say how to determine what is an "impacted subdivision". Thus the questions arise as to who determines what areas are impacted the most and also what criteria will be used. Under HB 298, these decisions are to be made by the Commissioner of Revenue, with the aid of intent language in the bill.

Currently, from conversation with DNR, there has been two sales within the NPR-A, totalling \$66,887,505. Of this, the State received 50%, or \$33,443,752. Thus, under HB 298, the State as a whole would receive 50% of this, or \$17,997,687, and the impacted subdivisions would receive \$17,997,687.

IV. ANALYSIS (HB 298)

This bill establishes a "National Petroleum Reserve, Alaska, Special Revenue Fund." It would be funded by receipts from the federal government for leasing of oil and gas tracts in the National Petroleum Reserve, Alaska (NPRRA). The commissioner of revenue is to invest the fund. Monies of the fund are to be appropriated by the Legislature, half to the state and half to subdivisions in the state directly affected by oil and gas development in the NPRRA.

Costs will be incurred; however, due to the fact that amount and grade of oil in the NPRRA has not been determined, the size of the fund is unknown. Safekeeping, accounting, audit, and commission costs would be incurred each year the fund exists. This fund would be invested with the General Fund, but accounted for separately.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20246

DEC 4 1979

Honorable Eben Hopson  
Mayor of North Slope Borough  
Box 69  
Barrow, Alaska 99723

Dear Eben:

The Naval Petroleum Reserves Production Act of 1976 instructed the Department of the Interior to submit to Congress by January 1, 1980, legislation suggesting the best procedures for petroleum development of the National Petroleum Reserve in Alaska (NPR-A). This legislation must consider the economic and environmental concerns which affect both management of the lands and the best procedures for pursuing the petroleum potential of this area.

With your assistance, and that of many others, the Department has completed a great deal of study on NPR-A, and has prepared legislation which will be sent to Congress within the statutory deadline. The Secretary has assigned me the lead role in representing the Administration on this legislation, and my first objective is to continue the excellent working relationships which have been formed during the various studies. To begin, I would like to sponsor, at your earliest opportunity, a briefing and discussion session, at which time we will outline the various provisions of the legislative approach proposed by the Department. While the bill itself is still in the internal clearance process of the Executive branch, I have attached a copy of the Secretary's letter to the President setting out the features of our proposal.

Based on work you have done during the study period, and other expressions of opinion, I believe you will be pleased with the direction and balance of the proposed legislation. The basic proposal is for ELM management of the area, which is to be designated as a National Conservation Area.

Prompt oil and gas exploration through a leasing program is emphasized, and is coupled with the creation of several special management areas to protect the unique surface resources of the Utukok Uplands, Teshekpuk Lake area, the Colville River Valley and Icy Cape/Kasegaluk lagoon. In addition, the legislation protects continued subsistence uses of the area for local rural residents and sets up broad, flexible leasing authority for the region. Most important, the legislation provides for extensive public participation in developing the land use plan and leasing program. Other provisions are

set out in the Secretary's letter, but these are the key concepts. We believe we have constructed a bill which is sensitive to the environmental and social needs of the NPR-A region while fostering the necessary petroleum exploration to meet the energy demands of the nation as a whole.

We are extremely interested in meeting with you informally as soon as possible to discuss the proposal which we will be presenting to Congress. I am anxious that these sessions begin soon and continue into next year, so that we work together toward a satisfactory program for this important area.

I intend to do as much as I can personally to lead these discussions, but I do not want to delay starting them if I cannot attend. To facilitate this, I have asked Curt McVee, the Alaska State Director for the Bureau of Land Management, Jerry Gilliland, the Secretary's representative in Alaska, and Diane Josephy of my staff, to set up early meetings with you since I have no plans to travel to Alaska before the first of the year. Of course, if you are in Washington, please let me know so that both BLM Director Frank Gregg and I can discuss this issue with you.

I look forward to meeting with you on the proposed legislation and on the plans for the future of this region.

With best regards, I am

Sincerely,

*Guy R. Martin*

Guy R. Martin  
Assistant Secretary for  
Land and Water Resources

Enclosure

cc: ✓ Mr. Tom Smyth  
Mr. John Bucholdt

LETTER OF INTENT  
TO ACCOMPANY  
CSHB 298 (Resources)

It is the intent of the Legislature that the Department of Revenue rely on the following analysis of Committee Substitute for House Bill 298 (Resources) and P.L. 96-514, Title 1, Sec. 100 when administering this Act. In particular, it is the intent of the Legislature that the Department determine if a subdivision is "most directly or severely impacted" by oil and gas development in the National Petroleum Reserve - Alaska for purposes of Sec. 2(c) of this Act in a manner consistent with the analysis of such impacted communities provided in this letter of intent.

CSHB 298 (Res) implements the revenue-sharing provisions of P.L. 96-514, Title 1, Sec. 100 (1380) dealing with the Interior Department's oil and gas leasing program in the National Petroleum Reserve - Alaska. This leasing and revenue sharing program was part of the Interior Department Appropriations Act of 1981.

CSHB 298 (Res) establishes a state program which carries out the legislative intent of the federal act, which states as follows:

"That 50 per centum thereof (rentals, bonuses, royalties, etc.) shall be paid by the Secretary of the Treasury ... to the State of Alaska for (a) planning; (b) construction, maintenance, and operation of public facilities; and (c) other necessary provisions of public service.

PROVIDED FURTHER, that in the allocation of such funds, the State shall give priority to use by subdivisions of the state most directly or severely impacted by development of oil and gas leased under this section." 42 U.S.C. Sec. 6508

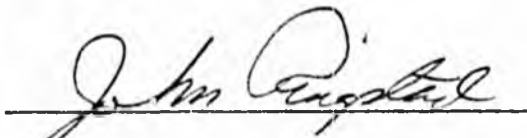
The purpose of this provision is to provide a source of funds for dealing with impacts related to the NPR-A oil and gas leasing program. The provision states that the funds are to be used for "planning," for "construction," and "operation of public facilities" and for "other necessary" public services. The purpose was also to allocate these funds to communities where the impacts are "most directly or severely" felt. The provision requires the state to give "priority" to subdivisions "most directly or severely impacted" by the NPR-A leasing program in "the allocation of such funds." This will rule out the possibility of a statewide revenue-sharing program or even one designed to ameliorate oil and gas development impacts in general. The purpose is restricted by federal law to communities suffering the effects of the NPR-A leasing program.

The federal provision does not expressly define further than this which communities could qualify for impact funds. Certainly the North Slope Borough would qualify since the program affects the Borough in the most "direct" way possible, being entirely inside of it. This is

consistent with the statutory predecessor to the federal revenue-sharing provision. P.L. 94-258 (1976), which transferred jurisdiction over the NPR-A from the Navy to the Interior Department, authorized the Secretary to assist impacted communities "located on or near the reserve as a direct result of the exploration and study activities, Sec. 107.

The language in the 1980 Act allows the State more leeway in allocating funds to local communities than the 1976 Act; nonetheless, the intention is to abide by the limitation that funds be allocated to communities "most severely or directly impacted." This bill should be implemented with the degree of flexibility necessary to cover such eventualities, but restrained by the purpose of the federal provision.

This approach would also be consistent with similar interpretations of the courts of federal law and federal programs. The U.S. Supreme court recently interpreted the Coastal Zone Management Act's "directly affecting" language in the SECRETARY OF THE INTERIOR v. CALIFORNIA. The court found that for an affect to be direct there had to be a significant, physical alteration of an area; in this case, California's coastal zone. When Congress adopted the Coastal Energy Impact Program (16 U.S.C. 1456 (a)) it limited loans and grants to coastal states and local governments actually in the coastal zone. Also, Senator Stevens' OCS revenue-sharing bill, S.800, would qualify only coastal local governments to receive OCS revenue-sharing funds. Thus, in other, similar situations, both Congress and the courts narrowly relate direct affects on a geographic basis, providing a sound, factual underpinning to federal revenue sharing for adverse affects of specific federal programs.



Representative John Ringstad,  
Co-chairman, House Resources Committee

305- Rings - Lars - Goll - Vask - Uehl.  
Buss Crowds List

Burbank  
expl.

0010

0026 Larson - how much land 220 parcels - 160 acres ea

0031

Larson - effected by municip  
- legis would not apply to land where 3<sup>rd</sup> party interest  
created - Fed can't take land away fr. 3<sup>rd</sup> party  
Fed would have to sue state -

0043

liability  
What does state assume -

? int already underlying to return under fed suit

0068

Goll expl. CS.

0084

Uehling moved CS adoption

Uehling

0088

Moved CS w/indiv recs  
recess to 3:15

0108

Al Adams NPRA expl.

0140

Rings where's money going now?

2 sales - 33.4 million - 8.34 wd go to comm

1/2 goes to perm. fund.

0173

Cowdery - precedent in Lower 48 -

Adams - don't know -

0180

Goll - diff. between this & last year's

-- SENATE bill muddied - legality may be upto attorney

0200

Uehling - use of funds by political subdv

- Fed guidelines

- 0225 Ringstad - fund set by Commis Revenue?  
Adams - which comm. impacted by O & G develop
- 0249 Comm. Bob Heath - changes appear to have met standards  
set in earlier legal opinion  
Support
- 0265 Ringstad - Guideline criteria for dispersal of \$  
- Dept. wd administer by investing, wd have to be  
appropriated by legis.  
Dept. would have resp. of spreading \$ over state
- 0310 Uehling - appropriation procedure
- 0322 Goll - Relationship - Fed law, dedicated fund  
- refer to DO Law
- 0335 Bussell - Regulations along with Fed law - should  
give guidelines
- Tom Koester - Law
- 0360 Goll - Conflict? - None - Wording okay to preclude  
legal problems - good case - federal dedication is  
part of strings attached
- 0405 Koester - Fed regulations directed at leasing process, rather  
than "impacts" - no direction
- 0460 Liska - any funds receipt now?  
None - Heath
- 0470 Uehling - problem binding future legis.  
no - just indicates this legis intent.
- 0485 Rings - Any received yet  
Should have received 33 million

Ringstad - No mechanism to comply w/ congress -  
Chain of \$\$\$

0530 Heath - wd. go directly into fund from Fed -  
Rings - legis approp. back out

0555 Rings - any guidelines on impacts  
Adams hoping admin. wd. make ~~changes~~ <sup>recomm</sup> -

0572 Bussell - Unless language tightened, big fight on  
horizon - Matanuska Valley impacted by N. Slope workings

0592 Goll - 50% going into P.F.?  
5 yr. review - adjust 50%?  
Adams no intent to adjust PF contrib - just amounts going  
into impacted areas  
discuss.

Koester -  $\frac{1}{2}$  PF,  $\frac{1}{4}$  imp. areas,  $\frac{1}{4}$  fund -

0670 Goll - No 25% here, only 50% & 50%

0850 Bussell reiterated his problem w/ determination of impact area  
Rings suggested Heath come up w/ guidelines

0880 Bussell objects to Chair. encouraging Revenue to do  
by req. what should be done by statute.

0890 Rings - will get w/ admin, Adams, etc.

4:05 adjourn.

*of committee*

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: CSSB 835(Fin) (5/10/82)  
 Title: Establishing a National Petroleum Reserve, Alaska, Special Revenue Fund  
 Requested by: Senate Finance Committee  
 Date: 5/13/82

II. FISCAL DETAIL

Agency Affected: Department of Revenue  
 Program Category Affected: Revenue Collection and Management  
 BRU, Program, or Subprogram(s) Affected: Treasury Management  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)						
	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	15.7	17.3	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	48.0	48.0	-	-	-
400 COMMODITIES	-	2.0	2.0	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	65.7	67.3	----	INDETERMINATE	----

FUNDING (Thousands of Dollars)						
	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	65.7	67.3	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS						
	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-	-	-	-	-	-
PART TIME	-	1/6mm	1/6mm	-	-	-
TEMPORARY	-	-	-	-	-	-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Establishes a National Petroleum Reserve, Alaska, Special Revenue Fund. Consists of amounts received by it from federal government for leasing of oil & gas tracts in National Petroleum Reserve, Alaska. Commissioner of Revenue to invest fund. Monies to be disbursed as grants and used directly by legislative appropriation from fund.

Personal Services for half-time Accounting Tech. II (14,G) for accounting/reporting/allocation/distribution. Contractual Services: Comm. \$5.0; Print & Adv. \$5.0; Safeguarding and related reporting/accounting \$32.0; Audit \$3.0; Misc. \$3.0.

Above analysis of costs valid for range of receipts/ave. fund balance of \$50-100 million, use of special revenue fund that is not a separately invested fund but with separate accountability. FY 85-87 listed as indeterminate because rate of drawdown unknown.

IV. DATE: May 13, 1982 PREPARED BY: Anselm C. Staack, Treasury Comptroller

AGENCY: Dept. of Revenue, Treasury Division  
 PHONE: 465-2350

Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

STATE OF ALASKA  
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No: HB 298  
 Title: National Petroleum Reserve  
Alaska Special Revenue Fund  
 Sponsor: Adams  
 Requestor: Resources and Finance

II. FISCAL DETAIL

Agency Affected: REVENUE  
 Program Category Affected: Revenue  
Collection and Management  
 BRU, Program of Subprogram(s) Affected:  
Treasury Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	INDETERMINATE-	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
-	-	-	-	-	-	-

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Cathy Poe  
 Division: Treasury

Phone: 465-2350  
 Date: 4/28/83

Approved by Commissioner: Robert D. Heath  
 Department: Revenue

Date: \_\_\_\_\_

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

(5)

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ALAN L. MINTZ  
GARY D. BACHMAN  
ELLEN L. PARTRIDGE  
R. KEITH GUTHRIE  
PETER D. DICKSON

December 20, 1979

MEMORANDUM

TO: Mayor Eben Hopson  
North Slope Borough

Edward Hopson  
President  
Arctic Slope Regional Corporation

FROM: G. William Frick *SWF*

RE: Summary of NPR-A Meeting

This memorandum will summarize the meeting held with representatives of the Arctic Slope Regional Corporation, North Slope Borough and others in Anchorage on December 7, 1979. The persons who attended the meeting are on the attached list.

A. Arctic Gas Pipeline

The first item of discussion was a presentation by Jack Bachman (907-270-2900), the Alaska representative of Northwest Pipeline, who provided an update on the Salt Lake City meeting between Mayor Hopson and other Borough representatives, and John McMillian and Northwest Pipeline staff. Bachman indicated that Northwest Pipeline was pleased with the interest of the North Slope Borough to participate in some manner in the project and was interested in providing an opportunity for the local as well as state involvement if possible. He did note that state actions thus far had been disappointing. He indicated that Northwest Pipeline hoped to begin civil construction in 1981, begin laying pipe in 1982, and finish the line in the warm weather of 1985.

He pointed out that the Northwest Pipeline Company has no direct responsibility for the conditioning plant, although it is extremely interested in its construction as an essential part of the overall system. While the state has indicated it wants to do "something" on the conditioning plant, it has not yet formulated a position. Bachman did note that moving the conditioning plant to Fairbanks would prevent the pipeline from being built. Northwest Pipeline is looking at producers as "overrun insurance," who will be turned to if necessary for completion of the line; the Department of Justice has problems with producers owning the line. Larry Dinneen pointed out that ARCO has expressed interest in knowing what the North Slope Borough and ASRC plan to do regarding the conditioning plant.

Mayor Hopson expressed concern about the failure of the North Slope Borough to have been consulted on issues surrounding the conditioning plant and the pipeline that affect the North Slope Borough. He also emphasized that while NSB had proposed having some involvement, it was subject to further decisions and negotiations involving the NSB and ASRC.

Follow-up actions from the discussion with Bachman are:

1. This firm is to contact Howard Butner, Vice President for Finance of Northwest Alaska Pipeline in Washington. Butner apparently has a variety of studies and other documents regarding various financial schemes for financing the pipeline that may be of use to the NSB in reviewing its potential participation.
2. This firm is to develop a brief analysis summarizing what has transpired with the gas pipeline to date and to prepare recommendations to the Borough on what future actions to take on this issue.

B. NPRA Legislation

The next item discussed was the position of ASRC and NSB on the NPRA legislation now being drafted by the Department of the Interior. Under this legislation NPR-A would be designated a "National Conservation Area." Mayor Hopson emphasized that the North Slope Borough supported any effort, including private leasing, that would open up NPR-A for exploration and development as the North Slope Borough's contribution to the national goal of improving energy supplies. Mayor Hopson emphasized that the Borough has always supported onshore development.

There was general agreement with the basic statutory positions that DOI had indicated would be included in the legislation.

Conrad Bagne suggested that the bill include provisions allowing local access to non-commercial and commercial discoveries found near communities on the North Slope. Herb Bartel pointed out that the BLM had already developed several years of planning analysis and data on NPR-A and that this experience should not be lost in the transition to the NCA management scheme. In particular, with respect to the four areas that were to be given special attention, the governmental offices charged with responsibility for those special areas, assuming it is not BLM, should be required to utilize BLM analysis.

Jon Buchholdt noted that the four areas cited for special consideration are possibly the most promising for private leasing; the boundaries, terms, and access of those areas should be examined carefully to insure development is not precluded. Herb Bartel also observed that the protection for fishing sites should not be limited to designated sites but rather to "systems" that would allow movement within fishing areas as the fish populations, and other influences on fishing, change.

With respect to the leasing systems, it was pointed out that a "nominating" system should be used in order to give the Borough, as well as the federal government, advance notice of what areas should be studied to determine the need for environmental or other protection. There was general agreement that any leasing system should, to the maximum extent possible, utilize bids that would internalize non-economic factors such as environmental protection and local hire. In addition, local considerations and provisions encouraging participation by small companies should be included into a system. Senator Gravel apparently is looking into developing such a program independently of the Department of the Interior. It was also pointed out that the Teshekpuk Lake had already been identified as an area that should be protected for the Native community. This should be kept in mind as the provisions regulating the Teshekpuk Lake area are formulated.

Senator Stevens joined the meeting at this point and made the following comments:

1. He considers the letter of Acting Secretary Joseph, regarding the legislative program of NPR-A, to be balanced but is concerned about those areas that DOI proposes to "set aside." He also feels that any provisions relating to the Mineral Leasing Act may present problems.
2. He is concerned about the revenue sharing provisions and feels it may be hard to hold the 50% now proposed

to be allocated to the state because of the large royalty already received by the state from Prudhoe Bay. Provisions guaranteeing local share from the revenues to the state would help maintain this provision.

3. He supports the NCA being administered by the BLM but is concerned about BLM continuing to apply the approaches they have traditionally followed under the Mineral Leasing Act. Stevens indicated he was meeting with Guy Martin on the legislation on December 10.
4. He is quite committed to keeping this bill separate from D-2 and indicated that this was the view of Secretary Andrus. Senator Stevens cautioned about trying to put D-2 related Native amendments on the bill when it comes from the House.
5. Senator Stevens vigorously emphasized the need to slow the Beaufort Sea sale. He is very concerned about drilling in the Beaufort Sea and feels that the international situation will result in a compressing of the time for leasing of NPR-A.
6. He is very interested in getting small companies involved in the development of NPR-A.
7. He supports the efforts to find a new agency or agencies to fund and administer NARL. He mentioned also the possibility of turning over the gas field at Barrow to the North Slope Borough and providing authority for requiring federal facilities to pay for gas from the field.

In the afternoon we were joined by representatives of the Department of the Interior: Gerry Gilliland, Curt McVie, Irene Rowan, Jim Wicks, and Ed Eisenon.

Gerry Gilliland outlined the Department's views on the legislation. He emphasized that the legislation is to encourage oil and gas development while protecting the unique surface values and lifestyle of the native residents. BLM is to administer the area in a multiple use manner and the local residents are to assist BLM in land use planning and in its lease program. He noted also that the bill included language that would lead to transfer of the Barrow gas field to the North Slope Borough.

With respect to leasing, the Department hopes to have a minimum time schedule that would result in the first lease within twenty months of the legislation. The legislation would provide

broad leasing authority to the BLM to establish terms and conditions. He emphasized that the authority would allow stipulations to protect the environment and require access yet he noted that the proposal did not have any corridors specifically set aside. He said that the bill would provide the Secretary with discretionary authority to lease minerals but only local leasing of coal would be specifically allowed. The report from Gilliland basically coincided with the information provided in Undersecretary Joseph's letter.

Gilliland indicated that the legislation was being reviewed within the Administration but that there had been no major changes proposed. The only objections from other agencies involved issues unrelated to the direct administration of NPR-A, e.g., the Department of Justice was concerned about anti-trust language, some agency was concerned about the size of the tracts being too large and thereby inhibiting participation by local companies, and there was concern over the name of the NCA. Gilliland does not know the exact timetable for submission of the bill to Congress but expects it to happen before January. He felt it was too late for any additional input at this time from the local community although the Department remains interested in the local reaction.

With respect to the four special areas he emphasized that the bill would only have Congress stating that BLM is to give those areas special consideration; it would be left up to the BLM, after consultation with an Advisory Committee, to determine exactly what those special considerations should be. BLM proposes to use the Federal Land Policy Management Act (FLPMA) planning process to establish appropriate restrictions. He also pointed out that Section 603 of FLPMA would not apply nor would the 1876 Mineral Act. This would preclude hard rock mining and provide no protection of existing claims. It was pointed out by Charlie Edwarson that there might be some outstanding claims that existed before the formulation of NPR-A.

Gilliland agreed that the leasing approach authority in the bill would allow internalization of costs but such leasing would not be mandated by the legislation.

Mayor Hopson emphasized the importance of sharing information from prior exploration of NPR-A inasmuch as the data is a key factor affecting exploration on the Slope. Mayor Hopson expressed his desire that the legislation should turn over leasing totally to private companies so that the Federal government would not be involved in the actual exploration.

Gilliland agreed that the applicability of the North Slope Borough ordinances to activities taking place in NPR-A would be part of the planning process. This means that the ELM could decide to apply them but that they were not automatically incorporated into the plan. He also noted that there was no local hire provision in the bill, which produced substantial discussion about the need for such provision. Gilliland and Curt McVie agreed that this was a point that deserved additional examination and indicated a willingness to have the Department consider taking a position on such a provision in the letter of transmittal of the bill to Congress or in the testimony of the Administration on the bill, inasmuch as it was too late to make any change to the legislation at this point.

Follow-up activities.

1. We should draft for the Department of the Interior an analysis of the need for an affirmative action program mentioning the adverse economic as well as societal impacts of not utilizing local residents. We should also draft appropriate language for such provision.
2. We should write to the Department requesting that they include reference to such a provision in their testimony or in the letter of transmittal to Congress.
3. We should attempt to have included in the legislation a specific guarantee of a portion of the state's revenue being allocated to the North Slope Borough.
4. We should examine other National conservation areas, and BLM regulations regulating activities in those areas, to identify deficiencies in the management program that should be addressed in the legislation or in Report language.

cc: Conrad Bagne                      Oliver Leavitt  
Tom Smythe                              Larry Dinneen  
Jon Buchholdt                          Jim Wickwire

ATTENDANCE LIST

December 7, 1979 Meeting

Anchorage, Alaska

Mayor Eben Hopson, NSB

Eugene Brower, NSB

Tom Smythe, NSB

Conrad Bagne, NSB

Herb Bartel, NSB

Jon Buchholdt, NSB

Gerry White, NSB

Ralph Anderson, NSB

Bob Dupere, NSB

Lou Dishner, Lobbyist for NSB

Larry Dinneen, ASRC

Oliver Leavitt, ASRC

Eddie Hopson, ASRC

Jim Wickwire, Seattle

Bill Van Ness, Washington, D. C.

G. William Frick, Washington, D. C.

Ken Forsen, Arctic Technical

Services

Jack Bachman, North West Pipeline

PROPOSED HOUSE RESOURCES COMMITTEE  
LETTER OF INTENT TO ACCOMPANY  
HOUSE BILL 298

It is the intent of the legislature that the Department of Revenue rely on the following analysis of House Bill 298 and P.L. 96-514, Title 1, Sec. 100 when administering this Act. In particular, it is the intent of the legislature that the Department determine if a subdivision is "most directly or severely impacted" by oil and gas development in the National Petroleum Reserve-Alaska for purposes of Sec. 2(c) of this Act in a manner consistent with the analysis of such impacted communities provided in this letter of intent.

HB 298 implements the revenue sharing provisions of P.L. 96-514, Title 1, Sec. 100 (1380) dealing with the Interior Department's oil and gas leasing program in the National Petroleum Reserve-Alaska. This leasing and revenue sharing program was part of the Interior Department Appropriations Act of 1981.

HB 298 establishes a state program which carries out the legislative intent of the federal act, which states as follows:

"That 50 per centum thereof (rentals, bonuses, royalties, etc.) shall be paid by the Secretary of the Treasury...to the State of Alaska for (a) planning; (b) construction, maintenance, and operation of public facilities; and (c) other necessary provisions of public service. PROVIDED FURTHER, that in the allocation of such funds, the State shall give priority to use by subdivisions of the state most directly or severely impacted by development of oil and gas leased under this section." 42 U.S.C. Sec. 6508

The purpose of this provision is to provide a source of funds for dealing with impacts related to the NPR-A oil and gas leasing program. The provision states that the funds are to be used for "planning," for "construction," and "operation of public facilities" and for "other necessary" public services. The purpose was also to allocate these funds to communities where the impacts are "most directly or severely" felt. The provision requires the state to give "priority" to subdivisions "most directly or severely impacted" by the NPR-A leasing program in "the allocation of such funds." This will rule out the possibility of a statewide revenue sharing program or even one designed to ameliorate oil and gas development impacts in general. The purpose is restricted by federal law to communities suffering the effects of the NPR-A leasing program.

The federal provision does not expressly define further than this which communities could qualify for impact funds. Certainly the North Slope Borough would qualify since the program affects the Borough in the most "direct" way possible, being entirely inside of it. This is consistent with the statutory predecessor to the federal revenue sharing provision, P.L. 94-258 (1976) which transferred jurisdiction over the NPR-A from the Navy to the Interior Department authorized the Secretary to assist impacted communities "located on or near the reserve as a direct result of the exploration and study activities, Sec. 107.

The language in the 1980 act allows the state more leeway in allocating funds to local communities than the 1976 act, nonetheless, the intention is to abide by the limitation that funds be allocated to communities "most severely or directly impacted." While this would exclude slow, imperceptible or other non-severe or direct growth related impacts in areas outside of the Borough, it would not exclude impacts anticipated to be severe and direct such as those related to development, production and transportation of commercial quantities of oil and gas. Thus, for example, a firm making a major discovery of oil in NPR-A might need to significantly expand its base of operations in Anchorage, including office construction, placing an acute, possibly severe impact on that community. Major pipelines could also result in impacts crossing the Borough's boundaries. This bill should be implemented with the degree of flexibility necessary to cover such eventualities, but restrained by the purpose of the federal provision.

This approach would also be consistent with similar interpretations of the courts of federal law and federal programs. The U.S. Supreme Court recently interpreted the Coastal Zone Management Act's "directly affecting" language in the SECRETARY OF THE INTERIOR V. CALIFORNIA. The court found that for an affect to be direct there had to be a significant, physical alteration of an area, in this case, California's coastal zone. When Congress adopted the Coastal Energy Impact Program (16 U.S.C. 1456 (a)) it limited loans and grants to coastal states and local governments actually in the coastal zone. Also Senator Stevens' OCS revenue sharing bill S. 800 would qualify only coastal local governments to receive OCS revenue sharing funds. Thus, in other similar situations both Congress and the courts narrowly relate direct effects on a geographic basis, providing a sound factual underpinning to federal revenue sharing for adverse effects of specific federal programs.

STATE OF ALASKA  
FISCAL NOTE

Revision Date 12/30, 1983

I. REQUEST

Bill/Resolution No: HB 298  
 Title: National Petroleum Reserve  
Alaska Special Revenue Fund  
 Sponsor: Adams  
 Requestor: H. Resources and Finance

II. FISCAL DETAIL

Agency Affected: Revenue  
 Program Category Affected: Revenue  
Collection and Management  
 BRU, Program of Subprogram(s) Affected:  
Treasury Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	INDETERMINATE	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Cathy A. Poe *Cathy A. Poe*

Division: Treasury

Phone: 465-2350

Date: 12/01/83

Approved by Commissioner: *Kent D. Keith*

Department: Revenue

Date: 1/9/84

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

IV. ANALYSIS (HB 298)

This bill establishes a "National Petroleum Reserve, Alaska, Special Revenue Fund." It would be funded by receipts from the federal government for leasing of oil and gas tracts in the National Petroleum Reserve, Alaska (NPRA). The commissioner of revenue is to invest the fund. Monies of the fund are to be appropriated by the Legislature, half to the state and half to subdivisions in the state directly affected by oil and gas development in the NPRA.

Costs will be incurred; however, due to the fact that amount and grade of oil in the NPRA has not been determined, the size of the fund is unknown. Safekeeping, accounting, audit, and commission costs would be incurred each year the fund exists. This fund would be invested with the General Fund, but accounted for separately.