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# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4907

## Senate Committee on Resources

M E M O R A N D U M

April 1, 1986

TO: All Members  
Senate/Resources Committee

FROM: Staff, *JH* Senate Resources Committee

RE: SB 468 "An Act creating the Railbelt energy fund;  
and providing for an effective date"

SB 468 would establish the Railbelt energy fund within the general fund. The fund would provide greater control over APA expenditures by requiring that those expenditures be subject to the budget process. While the funds may be used for Railbelt energy needs, SB 468 does not require that any specific amount be used. Interest received from money in the fund may or may not be appropriated to the fund annually.

SB 468 is related to SB 338, which reappropriates funds specifically dedicated to the Susitna hydroelectric project, reappropriating them to meeting Railbelt energy needs.

A discussion of the question of dedicated funds is attached.

HB 699 in the House Finance Committee is similar.

Enclosure

Memo from Teresa Cramer, Legal Services

*Great for appropriation  
no problem  
Special int*

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 26, 1986

SUBJECT: Railbelt energy fund  
(Work Order 14-2007)

TO: Senator Arliss Sturgulewski  
Chair, Resources Committee

FROM: Teresa B. Cramer *ABC*  
Legislative Counsel

Enclosed is the draft bill you requested creating the Railbelt energy fund and permitting the legislature to appropriate money from the fund to "assist in meeting Railbelt energy needs."

There is a question concerning how the constitutional prohibition against dedication of funds applies to the fund. Article IX, Section 7 of the Alaska Constitution states

DEDICATED FUNDS. 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. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska. (Section 15 establishes the permanent fund.)

If a strict interpretation of the prohibition in this section is taken, the legislature may not limit the future use of money by an appropriation to a special fund. A more relaxed reading of the section would find that the appropriation by the legislature serves to meet the constitutional objective and the amount appropriated loses its status as "proceeds of any state tax or license." It would retain any limit as to use imposed by the appropriation. Of course, a future legislature could repeal the restrictive purpose and appropriate the money for any purpose it wished, since one legislature may not bind another.

In State v. Alex, 646 P.2d 203, at 210, (Alaska 1982), the Alaska Supreme Court discusses the purpose of the amendment that changed the wording of the constitutional section from prohibiting the dedication of "all revenues" to the present language prohibiting the dedication of "proceeds of any state tax or license." The court noted

The committee's spokesman stated that the purpose of the proposed amendment was to allow for the setting up of certain special funds, such as sinking funds for the repayment of bonds, but to prohibit the earmarking of any special tax to that sinking fund. Thus, the change did not seek to exempt some sources of revenue from the prohibition, but was intended instead to allow necessary dedication of funds once they were received and placed in the general fund. Review of the convention discussion shows that the amendment was not intended to limit the prohibition of earmarking. (Citations omitted)

The examples that support that dedication after receipt include retirement contributions and the proceeds of bond sales. It is not clear whether an appropriation for the Railbelt energy fund would receive similar treatment by the court.

In an opinion issued November 30, 1982, the attorney general discussed the constitutionality of "Dedication of Money to Specific Purposes on a Continuing Basis When Appropriated." The opinion states, at 12 -13,

A question of the proper application of the dedicated funds prohibition arises when money is appropriated to a revolving loan fund or other special reserve fund or account. . . . Special reserve funds involve essentially the setting aside of money for certain specified future needs or conditions which may or may not occur. When this is done, it might be argued that the legislature has made an impermissible dedication with respect to the future use of the money placed in those funds and accounts.

We believe the better view is that the dedication prohibition does not apply to money once appropriated by the legislature, regardless of whether the appropriation contemplates that the money will be expended. Usually appropriations authorize money to be spent. In

Senator Arliss Sturgulewski  
Page 3  
March 26, 1986

other cases, however, the legislature may prefer to establish by general law a continuing loan program and finance it through a one-time appropriation or to reserve money in a special fund or account for future use for limited purposes. A strong argument can be made that money once appropriated, regardless of the mechanism utilized, loses its character as revenue for the purpose of the dedicated funds prohibition because the purpose of the prohibition, i.e., that the legislature retain control over state revenues, has been satisfied. (Citations omitted, emphasis in original.)

If the present legislation is challenged in court, and the court holds that the Railbelt energy fund constitutes an improper dedication of funds, it is likely that the result will be that the Railbelt fund will be treated as an account in the general fund, for the legislature to appropriate from as it sees fit.

If I may be of further assistance, please advise.

TC:mkr  
m4:048

Enclosure

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

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

**REQUEST**  
 Bill/Resolution No: SB 468  
 Title: Creating Railbelt Energy Fund

**FISCAL DETAIL**  
 Agency Affected: Department of Revenue  
 BRU: Treasury Management

Sponsor: Senate Resources  
 Requestor: Senate Resources  
 Date of Request: April 1, 1986

Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

**POSITIONS:**

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

**ANALYSIS:** Attach a separate page for analysis.

Prepared By: Milt Barker *MB*  
 Division: Treasury

Phone: 465-2350  
 Date: April 1, 1986

Approved by Commissioner: *Henry A. Stordahl*  
 Agency: Department of Revenue

Date: 4/1/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Introduced: 3/26/86  
Referred: Resources and  
Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

SENATE BILL NO. 468

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act creating the Railbelt energy fund; and pro-  
7 viding for an effective date."

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

9 \* Section 1. AS 44.25 is amended by adding a new section to read:

10 Sec. 44.25.050. RAILBELT ENERGY FUND. There is established in  
11 the general fund the Railbelt energy fund. The fund consists of money  
12 appropriated to it by the legislature. The Department of Revenue  
13 shall manage the fund. Interest received on money in the fund shall  
14 be accounted for separately and may be appropriated into the fund  
15 annually. The legislature may appropriate money from the fund to  
16 assist in meeting Railbelt energy needs.

17 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
18 10.070(c).

*Dept of Rev.  
Fiscal note  
-0-*

AMENDMENT # 1

OFFERED IN THE SENATE;

BY:

COGHILL / FAIKS

TO:

CS

SENATE BILL No.

468 (FINANCE)

HOUSE BILL No.

PAGE:

1

LINE:

25

Delete Southcentral

insert "THE RAILBELT AREA OF"

Offered: 4/25/86  
Referred: Rules

Original sponsor: Resources Committee

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 468 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Railbelt energy council; and  
7 providing for an effective date."

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

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

10 (1) state energy policy should change from a policy of assuming  
11 responsibility for providing low cost power to a policy of assisting the  
12 private sector to provide adequate power at reasonable cost;

13 (2) state funds available for energy development should be used  
14 as leverage to assist in financing projects that utilities cannot finance  
15 themselves;

16 (3) utilities should be encouraged to assume the responsibility  
17 of generating regional power rather than relying on the state;

18 (4) energy planning and financing must be efficient and cost-  
19 effective;

20 (5) the Railbelt energy fund should be used as leverage to  
21 develop power sources that will meet investment criteria.

22 \* Sec. 2. COUNCIL CREATED. (a) The Railbelt energy council is estab-  
23 lished to

24 (1) recommend how Railbelt energy funds can best be directed to  
25 meet the future energy needs of <sup>the Railbelt area</sup> ~~southern~~ Alaska;

26 (2) recommend the best unified options for planning, financing,  
27 constructing, and managing power facilities;

28 (3) cooperate with the Alaska Power Authority to examine the  
29 feasibility and desirability of smaller Susitna hydroelectric projects;

1           (4) determine whether a regional utility organization can oper-  
2 ate to the best interests of utility consumers;

3           (5) examine alternatives and recommend the best method for  
4 meeting projected Railbelt electrical energy demand;

5           (6) recommend whether the 1987 legislature should approve sub-  
6 mission of an application for a Federal Energy Regulatory Commission li-  
7 cense for a project in the Susitna River basin;

8           (7) recommend how to restructure the board of directors of the  
9 Alaska Power Authority to improve its effectiveness and efficiency;

10          (8) recommend the optimum time for installing the third 45  
11 megawatt unit at the Bradley Lake project;

12          (9) recommend whether it is preferable to install a new power  
13 intertie between Anchorage and Kenai or to upgrade the existing line; and

14          (10) recommend how best to improve and utilize Alaska's long term  
15 energy plan under AS 44.83.224.

16          (b) Membership on the council consists of two members appointed by  
17 the governor, one of whom must represent an energy supplier; two senators  
18 appointed by the president of the senate; two members of the house of  
19 representative appointed by the speaker of the house; and one representa-  
20 tive from each of the seven Railbelt utilities.

21          (c) By February 15, 1987, the council shall report its recommenda-  
22 tions to the legislature.

23          \* Sec. 3. This Act is repealed June 30, 1987.

24          \* Sec. 4. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).

*Vu o/c*  
*Arline o/c*

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

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POUCH Y STATE CAPITOL  
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March 26, 1986

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Enclosure

Introduced: 3/26, 86  
Referred: Resources and  
Finance

1 IN THE SENATE

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SENATE BILL NO. 468

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FOURTEENTH LEGISLATURE - SECOND SESSION

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10.070(c).

Introduced: 3/26/86  
Referred: Resources and  
Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

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SENATE BILL NO. 468

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