

SB334

SENATE FINANCE COMMITTEE REPORT

DATE: 1/13/92

FURTHER:

Date of 5-Day Notice: 01/29/92
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2/5/92

Finance Committee considered **SENATE BILL NO. 334**

"An Act relating to the National Petroleum Reserve - Alaska special revenue fund; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

~~DOE 0 1/28/92~~

~~DEA 0 1/16/92~~

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

DO PASS:

Jim Duncan
Al Adams
[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS:

1. *[Signature]*
Co-Chair: Signature/Recommendation

2. *[Signature]* *De Pass*
Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 334

Revision Date: _____
 Title: "...Relating to the NPRA Special Revenue Fund."
 Sponsor: Senator Adams
 Requestor: _____

Department Affected: Community and Regional Affairs
 BRU: Local Government Assistance
 Component: National Petroleum Reserve Program

COMPONENT SERIAL NO.

| | | | |
|---|---|---|---|
| 1 | 2 | 1 | 4 |
|---|---|---|---|

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL | | | | | | |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| REVENUE FUND SOURCE: | | | | | | |
|----------------------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| FEDERAL FUNDS | | | | | | |
| OTHER FUND SOURCE: | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of current year impact: No current year impact.

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson
 Division: Administrative Services Division

Phone: 465-4708
 Date: 1/16/92

Approved by Commissioner: Remond Henderson for
 Agency: Department of Community and Regional Affairs

Date: 1/16/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).
 Rev 10/7/91

FISCAL NOTE

BILL NO. SB 334

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: 1/28/92

Title: An act relating to the National Petroleum Reserve - Alaska special revenue fund.

Department Affected: Revenue

BRU: Operations

Component: Treasury Management

Sponsor: Senator Adams

Requestor: Senator Adams

Component Serial No.

| | | | |
|---|---|---|---|
| 0 | 1 | 2 | 1 |
|---|---|---|---|

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------------------|---|---|---|---|---|---|
| GENERAL FUND/Unrestricted | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS:

Prepared by: Brian C. Andrews *[Signature]*

Phone: 465-2350

Division: Treasury

Date: January 28, 1992

Approved by Commissioner: *[Signature]*

Agency: Revenue

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

SENATE BILL NO. 334

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR ADAMS

Introduced: 1/13/92
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the National Petroleum Reserve - Alaska special revenue fund; and
2 providing for an effective date."

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

4 * Section 1. PURPOSE. The purpose of this Act is to

5 (1) identify the funding source for appropriations from the National Petroleum Reserve - Alaska
6 special revenue fund; and

7 (2) ratify past administrative practices of the Department of Revenue and the Department of
8 Community and Regional Affairs relating to identification of the fund receipts that are the funding source
9 for appropriations from the special revenue fund.

10 * Sec. 2. AS 37.05.530 is amended by adding a new subsection to read:

11 (h) Notwithstanding other provisions of law and unless expressly provided by the
12 legislature in the appropriation item making the appropriation, an appropriation from the National
13 Petroleum Reserve - Alaska special revenue fund shall, for the purposes of determining the
14 funding sources for the appropriation be treated as though the appropriation takes effect in the

1 fiscal year in which the appropriation passes the legislature. The authorization to expend funds
2 appropriated from the fund shall take effect as otherwise provided by law.

3 * Sec. 3. This Act is retroactive to May 31, 1986.

4 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

MEMORANDUM


STATE OF ALASKA
DEPARTMENT OF REVENUE

To: Sam Thomas
Finance Officer
Department of Community & Regional Affairs

Date: June 28, 1991

Thru: Darrel Rexwinkel 
Deputy Commissioner, Treasury

Telephone: 465-2350

From: Brian C. Andrews 
Comptroller
Treasury Division

Re: National Petroleum
Reserve-Alaska (NPRA)

The National Petroleum Reserve-Alaska Special Revenue Fund (NPRA) has not been accurately accounted for due to numerous legal, legislative and administrative interpretations of monies due and from the fund. The Department of Revenue, per AS 37.05.230(d) is the manager of NPRA and is currently reviewing its potential funding capabilities. DOR hereby declares that all FY 92 expenditures for NPRA should not be executed until such time as we so advise. Thank you in advance for your adherence to this memo.

AS 37.05.530 (b)

Agency's ResponseRecommendation No. 13

DOR should take action to meet its statutory mandate to manage the National Petroleum Reserve - Alaska (NPRA) special revenue fund. Necessary actions include: (1) correct accounting records, (2) request a supplemental appropriation and process interfund transfers to address NPRA fund insufficiency, and (3) institute controls to ensure the fund is appropriately accounted for and not over-extended in the future.

The Department of Revenue is in agreement with parts 1 and 3 of the recommendation. In September of this year the accounting records on AKSAS were brought into line after a complete review was conducted of all appropriations, encumbrances, and lapse of NPRA monies. This effort was assisted by Kim Garner of your office. The Finance Division of the Department of Administration completed in September the proper budgetary controls to assure that future NPRA funds are properly accounted for and not over-extended.

The Department of Revenue has established the following position on part 2 of the recommendation.

- * The initial lapse in FY 87 to the Permanent Fund Corporation and to the Public School Fund was made according to an Attorney General's opinion from G. Thomas Koester in which he was specific in his determination of proceeds to the Permanent Fund Corporation and Public School Fund (see memo of September 24, 1987 to Sharon L. Barton, AG's file number 663-87-0003, entitled "Closing the books in Barrow v. State (NPRA Special Revenue Fund) -- Part II").

The Department of Revenue assures you that we are progressing on resolving the funding insufficiency issues of NPRA with appropriate legislation.

Recommendation No. 14

DOR, Child Support Enforcement Division (CSED), should improve its accounting control procedures to ensure that restricted revenues are accurately recorded in the State's accounting system.

Prior Finding

CSED did not properly accrue federal revenues earned under the Office of Child Support Enforcement grant at the close of FY 88 and FY 89 by \$417,704 and \$589,583, respectively. The lack of proper accruals resulted in a FY 89 understatement of revenues by \$171,879 and an understatement of accounts receivable by \$589,583.

We are encouraged by the results of these efforts. DOR has taken positions on most of the contentious issues which have complicated accounting for the fund. We recognize the department's authority to set policy within the law, and concur with the majority of their decisions. The notable exception is the calculation of the initial lapse in FY 87. DOR applied the lapse provision of AS 37.05.530(g) to the full \$50 million received from the federal government, rather than the \$32 million in the reconstituted NPRA fund.

DOR claims that a September 1987 memorandum from an assistant attorney general supports their calculation. We disagree. The memorandum does not address the \$50 million vs. \$32 million basis for the calculation. Rather, it specifically speaks to the \$1.5 million received during FY 87. Furthermore, the memorandum states that the calculation should be based on total NPRA receipts and that "all NPRA receipts are to be deposited in the NPRA Special Revenue Fund, AS 37.25.040(a)." Because the section cited excludes \$18 million deposited into the general fund, it is our opinion that the memorandum actually supports using \$32 million for the lapse calculation.

Aside from the entitlement under the lapse provisions of AS 37.05.530(g), Article IX section 15 of the Alaska Constitution dedicates at least 25% of all federal mineral revenue sharing payments to PF. Based on discussions with our legal counsel, we have determined that this constitutional requirement applies to total federal receipts under NPRA to the extent available after grants are considered.

Given the preceding, the FY 87 lapse which should have gone to PF is the greater of (1) 50% of \$32 million less \$13 million in NPRA grants, or (2) 25% of \$50 million. The greater of these entitles PF to \$12.5 million which is considerably less than the \$20 million actually transferred to PF from NPRA fund for the FY 87 lapse.

It is our position that PF received too much for the FY 87 lapse. As a result, PF owes the NPRA fund \$2.7 million and owes the general fund \$4.7 million. We recommend that DOR initiate interfund transfers to eliminate these payables and receivables.

In addition to the problems stemming from the FY 87 lapse, the NPRA fund has experienced further deficits in FY 89 - FY 91. These are attributable to DCRA grants exceeding federal revenues received in each of these years. We recommend that DCRA seek a supplemental appropriation of \$608,843 for these overexpenditures. DOR should work with DCRA to ensure that deficits of this type do not arise in the future.

Despite the problems remaining, it is our opinion that progress is being made. The comptroller of the Treasury spent substantial time analyzing the complexities of the NPRA fund. DOR has been working with Division of Finance to properly reflect all NPRA activity in the special revenue fund. We are encouraged by DOR's actions to date and hopeful that their efforts will ultimately result in proper accounting for NPRA activity. This will improve the department's ability to manage the fund in accordance with AS 37.05.530.

Recommendation No. 13

DOR should take action to meet its statutory mandate to manage the National Petroleum Reserve - Alaska (NPR) special revenue fund. Necessary actions include: (1) correct accounting records, (2) request a supplemental appropriation and process interfund transfers to address NPR fund insufficiency, and (3) institute controls to ensure the fund is appropriately accounted for and not over-extended in the future.

Prior Finding

Under PL 96-514, the State of Alaska receives one-half of the federal mineral revenues generated by competitive oil and gas leasing in NPR. The federal law allows these funds to be used for a wide range of activities but requires that priority in their use be given to subdivisions of the State most directly or severely impacted by oil and gas development leased under that Act.

These communities sued the State for not segregating these funds and for not establishing a mechanism by which they could apply to receive them. Following a March 1986 Superior Court judgment, the legislature passed chapter 53, SLA 1986. This chapter established the Department of Community and Regional Affairs (DCRA) as the state agency responsible for adopting regulations and administering the grants to alleviate the impact of oil and gas development in NPR. The legislation also reconstituted the NPR fund in light of the court decision.

Alaska Statute 37.05.530(g) requires that amounts received by the State under PL 96-514 and not appropriated as NPR impact grants lapse at the end of the fiscal year 50% to the Alaska Permanent Fund (PF), .5% to the public school fund, with the remainder lapsing to the general fund. In addition to this statutory lapse requirement and the grants administered by DCRA, the legislature has appropriated designated recipient grants to several departments using the NPR fund as the funding source.

All of these factors have made management of the NPR fund a complex task. The accounting records have never reflected the activity which AS 37.05.530 was intended to establish. The number of departments involved, coupled with inadequate DOR leadership, have resulted in inconsistent and inappropriate accounting as well as a negative unreserved fund balance.

Legislative Audit's Current Position

As in previous years, substantial fieldwork was devoted to the NPR fund during the FY 90 statewide audit. Many meetings were held with DOR personnel, as well as with representatives of the Division of Finance and the Division of Legal Services. Following these meetings, calculations for properly presenting the NPR fund were drafted, reviewed, and redone under changing scenarios.

**NATIONAL PETROLEUM RESERVE - ALASKA
ACTUAL ACCOUNTING TREATMENT**

LAPSE CALCULATION

| FY | RECEIPTS | APPROP. | GRANTS | PERMANENT FUND | PUBLIC SCHOOL FUND | GENERAL FUND | NPRA FUND REVENUE | |
|--------------|-------------------|------------------------|------------------------|-------------------|--------------------------|-------------------|----------------------|--|
| 83 | 34,802,130 | 0 | 0 | 17,401,065 | 174,011 | 17,227,054 | 0 | |
| 84 | 1,649,475 | 0 | 0 | 824,737 | 8,247 | 816,490 | 0 | |
| 85 | 10,911,172 | 0 | 0 | 5,455,586 | 0 | 0 | 5,455,586 | |
| 86 | 1,271,558 | 3,700,000 | 3,700,000 | 635,779 | 0 | 0 | 635,779 | |
| 87 | 1,514,727 | 2,155,000 | 2,155,000 | 0 | 0 | | 1,514,727 | |
| 87 RECON. | | 24,499,400 | 7,240,237 | (24,317,167) | (182,258) | 0 | 24,499,425 | NPRA PLUS RECEIPTS LESS GRANTS |
| TOTAL | 50,149,062 | 30,354,400 | 13,095,237 | 0 | 0 | 18,043,544 | 32,105,517 | |
| 87 LAPSE | | | | 20,376,622 | 203,767 | 2,129,391 | (22,709,780) | (3,699,500) |
| 88 | 1,002,123 | 0 | 0 | 0 | 0 | 0 | 1,002,123 | (2,697,377) |
| 89 | 837,459 | 937,000 | 937,000 | 0 | 0 | 0 | 837,459 | (2,796,918) |
| 90 | 596,282 | 937,000 | 836,746 | 0 | 0 | 0 | 596,282 | (3,037,382) |
| 91 | 367,378 | 937,000 (1,982,000) | 590,000 (1,982,000) | 0 | 0 | 0 | 367,378 1,982,000 | (3,260,004) (1,278,004) |
| TOTAL | 52,952,304 | 31,183,400 | 13,476,983 | 20,376,622 | 203,767 | 20,172,935 | 14,180,979 | (1,278,004) |

**NATIONAL PETROLEUM RESERVE - ALASKA
ACTUAL PROGRAM TREATMENT (SB 334)**

LAPSE CALCULATION

| FY | RECEIPTS | APPROP. | GRANTS | PERMANENT FUND | PUBLIC SCHOOL FUND | GENERAL FUND | NPRA FUND REVENUE | |
|--------------|-------------------|------------------------|------------------------|-------------------|--------------------|-------------------|----------------------|--------------------------------|
| 83 | 34,802,130 | 0 | 0 | 17,401,065 | 174,011 | 17,227,054 | 0 | |
| 84 | 1,649,475 | 0 | 0 | 824,737 | 8,247 | 816,490 | 0 | |
| 85 | 10,911,172 | 0 | 0 | 5,455,586 | 0 | 0 | 5,455,586 | |
| 86 | 1,271,558 | 3,700,000 | 3,700,000 | 635,779 | 0 | 0 | 635,779 | |
| 87 | 1,514,727 | 2,155,000 | 2,155,000 | 0 | 0 | | 1,514,727 | |
| 87 RECON. | | 24,499,400 | 7,240,237 | (24,317,167) | (182,258) | 0 | 24,499,425 | NPRA PLUS RECEIPTS LESS GRANTS |
| TOTAL | 50,149,062 | 30,354,400 | 13,095,237 | 0 | 0 | 18,043,544 | 32,105,517 | |
| 87 LAPSE | | | | 20,376,622 | 203,767 | 2,129,391 | (22,709,780) | (3,699,500) |
| 88 | 1,002,123 | 937,000 | 937,000 | 0 | 0 | 0 | 1,002,123 | (3,634,377) |
| 89 | 837,459 | 937,000 | 836,746 | 0 | 0 | 0 | 837,459 | (3,633,664) |
| 90 | 596,282 | 937,000 | 590,000 | 0 | 0 | 0 | 596,282 | (3,627,382) |
| 91 | 367,378 | 600,000 (1,982,000) | 367,378 (1,982,000) | 0 | 0 | 0 | 367,378 1,982,000 | (3,627,382) (1,645,382) |
| TOTAL | 52,952,304 | 31,783,400 | 13,476,983 | 20,376,622 | 203,767 | 20,172,935 | 14,180,979 | (1,645,382) |

Prepared by the Division of Legislative Audit on 2-3-92.

NOTE: The receipts column reflects actual NPRA receipts in the proper year. The appropriations and grants columns were treated by program managers as occurring in the same fiscal year as the receipts (as reflected in this table), when in fact, the actual appropriations and grant awards were for the subsequent fiscal year.

**NATIONAL PETROLEUM RESERVE - ALASKA
LEGISLATIVE AUDIT POSITION (with SB 334)**

| LAPSE CALCULATION | | | | | | | | |
|-------------------|-------------------|------------------------|------------------------|-------------------|--------------------|-------------------|---------------------|--|
| FY | RECEIPTS | APPROP. | GRANTS | PERMANENT FUND | PUBLIC SCHOOL FUND | GENERAL FUND | NPRA FUND REVENUE | |
| 83 | 34,802,130 | 0 | 0 | 17,401,065 | 174,011 | 17,227,054 | 0 | |
| 84 | 1,649,475 | 0 | 0 | 824,737 | 8,247 | 816,490 | 0 | |
| 85 | 10,911,172 | 0 | 0 | 5,455,586 | 0 | 0 | 5,455,586 | |
| 86 | 1,271,558 | 3,700,000 | 3,700,000 | 635,779 | 0 | 0 | 635,779 | |
| 87 | 1,514,727 | 2,155,000 | 2,155,000 | 0 | 0 | | 1,514,727 | |
| 87 RECON. | | 24,499,400 | 7,240,237 | (24,317,167) | (182,258) | 0 | 24,499,425 | NPRA PLUS RECEIPTS LESS GRANTS LESS LAPSE |
| TOTAL | 50,149,062 | 30,354,400 | 13,095,237 | 0 | 0 | 18,043,544 | 32,105,517 | |
| 87 LAPSE | | | | 12,537,265 | 95,051 | 6,377,964 | (19,010,280) | 0 |
| 88 | 1,002,123 | 937,000 | 937,000 | 65,123 | 0 | 0 | 1,002,123 | 0 |
| 89 | 837,459 | 937,000 | 836,746 | 713 | 0 | 0 | 837,459 | 0 |
| 90 | 596,282 | 590,000 | 590,000 | 6,282 | 0 | 0 | 596,282 | 0 |
| 91 | 367,378 | 600,000 (1,982,000) | 367,378 (1,982,000) | 0 | 0 | 0 | 367,378 0 | 0 1,982,000 |
| TOTAL | 52,952,304 | 31,783,400 | 13,844,361 | 12,609,383 | 95,051 | 24,421,508 | (15,898,479) | 1,982,000 |

Prepared by the Division of Legislative Audit on 2-3-92.

| 1987 FISCAL YEAR END LAPSE CALCULATION | | |
|--|---------------------------|------------------------------------|
| | ACTUAL CALCULATION | LEGISLATIVE AUDIT RECALCULATION |
| Receipts thru FY 87 | 50,149,062 | 50,149,062 |
| less: GF Deposits | (18,043,545) | (18,043,545) |
| NPRA Balance: FYE 87 | 32,105,517 | 32,105,517 |
| less: Grants | note ¹ | (3,700,000) |
| | (2,155,000) | (2,155,000) |
| | (7,240,237) | (7,240,237) |
| Available for Lapse ² | 22,710,280 | 19,010,280 |
| Lapse: Permanent Fund | (20,376,622) ³ | (12,537,265) ⁴ |
| Lapse: Public School Fund | (203,767) | (95,051) ⁵ |
| Lapse: General Fund | (2,129,391) | (6,377,964) |

Prepared by the Division of Legislative Audit on 2-3-92.

- ¹ The original lapse calculation did not consider the 3,700,000 appropriated in FY 86 as municipal grants with an NPRA funding source as impacting the fund.
- ² The effect of note 1 is that, per our calculation, the actual lapse out of the NPRA fund was 3,700,000 more than available; the difference between 22,710,280 and 19,010,280. This put the NPRA Fund in a deficit from the beginning.
- ³ The amounts highlighted below are the actual amounts lapsed. Actual percentage calculation is slightly different.

| | | |
|--------------|----------------------------|-----------------------|
| Receipts | 50,149,062 | |
| less: grants | (2,155,000) (7,240,237) | |
| Subtotal | 40,753,825 | |
| X | 50% | .5% |
| Lapse | 20,376,622 | 203,767 |
| Fund | Permanent Fund | Public School Fund |

- ⁴ Our recalculation is based on discussions with the Division of Legal Services. Accordingly, the Permanent Fund is entitled to the greater of 25% of the total receipts as long as it does not impair the grants or 50% of the after-grant amount available to lapse. Therefore, the Permanent Fund is entitled to 12,537,265 (25% of 50,149,062).
- ⁵ The Public School Fund is entitled only to .5% of the amount "Available for Lapse" which equals 95,051 (.5% of 19,010,280).

PLEASE MICROFILM TOP PAGE ONLY

DOCUMENTS WHICH HAVE NOT BEEN
FILMED BUT ARE AVAILABLE IN THE
ORIGINAL FILE INCLUDE:

→ DEPT. OF Community and Regional Affairs Jan. 1992
National Petroleum Reserve - Alaska
Impact Mitigation Program