

HJR

58

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HJR58

Revision Date: _____ Dept Affected: Natural Resources
 Title: Proposing amendments to the Constitution BRU: Resource Development
 of the State of Alaska relating to the education fund. Component: Oil & Gas Development
 Sponsor: Rep. Cowdery
 Requestor: (H)HES Component Serial No. #439

Expenditures/Revenues	(Thousands of Dollars)					
	FY99	FY00	FY01	FY02	FY03	FY04
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Fed Grant Receipts						
1003 GF Match						
1004 GF						
1005 CF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL						

Estimate of any current year (FY98) cost: \$ none

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

* Fiscal impact is indeterminate. The amount of oil and gas reserves in ANWR is unknown and will remain unknown until exploration is allowed to proceed. Exploration is currently prohibited and will, presumably, remain so for the foreseeable future. Even after several rounds of exploration, reserve numbers will always remain interpretive. The Federal government has not set any parameters for leasing ANWR. The method of bidding has not been set so there is no way to predict what the outcome of a sale might be. Rents have not been established. They have not decided whether a bonus system will be used. If a pure net-profit based bidding system were adopted, for example, there would be no bonus money at all. Royalty values have not been established. The State-Federal share, often quoted as 90% for the State, is subject to change by the Congress. It is simply not possible to quantify the fiscal effects of ANWR leasing and development when every component of the calculation is unknown.

Prepared by: Ken Boyd, Director *[Signature]* Phone: 269-8800
 Division: Oil & Gas Date: 27-Mar-98
 Approved by Commissioner: *[Signature]* Date: 3-27-98
 Agency: Natural Resources

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HJR58

Revision Date (Note if correction) _____	Dept. Affected <u>Office of the Governor</u>
Title <u>Const. Amend. Education Fund</u>	BRU <u>Elective Operations</u>
	Component <u>General and Primary</u>
Sponsor <u>Representative Cowdery</u>	
Requester <u>House HESS Committee</u>	Component Serial No <u>#22</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual	3.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	3.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF	3.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	3.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figures includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58, and the programming costs for counting votes cast on the measure. However, only four measures can be printed on a single ballot card. If this measure requires printing an additional ballot card, the costs will increase by \$56 0

Prepared by <u>Gail Fenumia</u> <i>Gail Fenumia</i>	Phone <u>465-3935</u>
Division <u>Division of Elections</u>	Date <u>3/27/98</u>
Approved by <u>Lt. Governor Fran Ulmer</u> <i>Fran Ulmer</i>	Date <u>3/27/98</u>
Agency <u>Office of the Lieutenant Governor</u>	

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Sponsor Statement for HJR 58

House Joint Resolution 58 would place a constitutional amendment on the ballot that would designate 40% of all revenues from ANWR lease sales and royalties to fund education. Currently, 25% of all such proceeds are constitutionally designated to the Permanent Fund and another 25% are assigned to the Permanent Fund in statute.

The intent of HJR 58 is twofold. First, it is in the best interests of Alaska that our natural resources be developed reasonably and responsibly. The current status of the Arctic National Wildlife Refuge is contrary to the well-being of Alaska's economy and consequently Alaska's ability to fund vital educational services. HJR 58 forges the link between ANWR's economic future and Alaska's educational future. It weds the interests of the ANWR development with those of Alaska's educational program development. This link is an economic imperative; HJR 58 will bring this fact forward in the public conscious.

Finally, the current politicizing of educational funding and resulting instability are detrimental to the health of educational progress in Alaska. As administrations come and go, Alaska's educational support experiences considerable uncertainty. HJR 58 would provide a stable, predictable portion for education.

Just how much is 40%? Prior to actual exploration and development, the numbers available are mere projections. The Department of Revenue has constructed "An Illustration of Potential State ANWR Revenues." Under this model, Alaska's income from ANWR royalties would peak at \$84 million. Income from the actual land leases would occur on a year by year bid basis, dollar amounts are unpredictable.

While 40% of these revenues is not a significant proportion of Alaska's education budget, the establishment of an Education Fund is the critical first step toward long-term funding stability. Indeed, history will show that the creation of a constitutional education fund is of more lasting importance than the potential dollars involved. The future of ANWR and the future needs education in Alaska are unknown. Coming legislatures will be better equipped to determine the future needs of education in Alaska and may make statutory designations as they see fit — *once the fund is established.*

Please feel free to call or write with questions or concerns.

AN ILLUSTRATION OF POTENTIAL STATE ANWR REVENUES

An Illustration of Potential State ANWR Revenues (Millions \$)													
1.771203	Fiscal Year	Volume MMbbl/Yr	Prudhoe Wellhead	ANWR Wellhead	Total Royalties	Private Royalties	State Royalty 50/50	Proposed Share for Education	Economic Limit Factor	Severance Tax	Property Tax	State Corporate Inc. Tax	Total State Revenue 50/50
15	2005	27	15.92	14.17	44	2	21	8.3	0.5	21	45	4	90
26	2006	46	16.37	14.62	78	4	37	14.9	0.5	37	43	7	124
36	2007	64	16.85	15.10	112	6	53	21.4	0.5	52	41	11	158
51	2008	90	17.36	15.61	165	8	73	31.3	0.5	77	38	17	210
51	2009	90	17.92	16.17	171	9	81	32.5	0.5	79	33	18	212
51	2010	90	18.49	16.74	178	9	84	33.8	0.5	82	29	19	214
43	2011	76	19.05	17.30	155	8	74	29.5	0.5	72	24	16	186
37	2012	66	20.12	18.37	142	7	68	27.0	0.5	65	21	15	169
31	2013	55	20.72	18.97	123	6	59	23.4	0.5	57	17	13	146
27	2014	48	21.33	19.58	111	6	53	21.1	0.5	51	15	12	131
23	2015	41	21.91	20.16	98	5	46	18.5	0.5	45	12	11	114
19	2016	34	22.59	20.84	83	4	40	15.9	0.5	38	10	9	97
16	2017	28	23.25	21.50	73	4	34	13.8	0.5	33	9	8	85
14	2018	25	23.94	22.19	66	3	31	12.5	0.5	30	7	7	75
12	2019	21	24.51	22.76	58	3	27	11.0	0.5	26	6	7	66
10	2020	18	25.23	23.48	50	2	24	9.5	0.5	23	5	6	57
9	2021	16	25.99	24.24	46	2	22	8.8	0.5	21	4	5	52
7	2022	12	26.77	25.02	37	2	18	7.1	0.5	17	3	4	42
6	2023	11	27.57	25.82	33	2	16	6.3	0.5	15	3	4	37
5	2024	9	28.40	26.65	28	1	13	5.4	0.5	13	2	3	32
4	2025	7	29.25	27.50	23	1	11	4.5	0.5	11	2	3	26
4	2026	7	30.13	28.38	24	1	12	4.6	0.5	11	1	3	26
3	2027	5	31.03	29.28	19	1	9	3.6	0.5	8	1	2	21
3	2028	5	31.96	30.21	19	1	9	3.7	0.5	9		2	20
2	2029	4	32.92	31.17	13	1	6	2.5	0.5	6		2	14
2	2030	4	33.91	32.16	14	1	7	2.6	0.5	6		2	14
507	TOTAL	898			1965	98	933	368.2		904	371	209	2417
Assumptions:													
1. Production based on USGS risked mean economically recoverable oil 1995.													
2. \$1.75/bbl cost to transport ANWR to PS1													
3. 12.5% Royalty and \$1.00/bbl gathering and field costs													
4. 5% Reserves on Native Land													
5. Costs based on BLM data													
6. Excludes lease bonuses													
7. Oil Prices based on DOR Fall 1997 Forecast													

From the office of . . . Representative John J. Cowdery
State Capitol Bldg., Room 416
Juneau, AK 99801
907-465-3879 phone
907-465-2069 fax

MEMORANDUM

TO: ✓ Representative Con Bunde, HESS Committee Chair
FROM: Representative John Cowdery J.C.
DATE: April 16, 1998
RE: HJR 58
CC:

Notes:

During the first hearing of House Joint Resolution 58, I was asked if the Resolution may be amended to include earnings from the National Petroleum Reserve. I have contacted Legal services and been informed that there are a variety of encumbrances already placed on NPR earnings (please see attached memorandum). In light of these dedications, it is my belief that NPR earnings do not fit the scope or intent of HJR 58.

With this understanding, I would respectfully request that the bill be heard at the committee's earliest convenience and moved forward to its next committee of referral.

Thank you for you time and consideration,

LEGAL SERVICES**DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

COPY

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 8, 1998

SUBJECT: Use of National Petroleum Reserve-Alaska special revenue fund (HJR 58)

TO: Representative John Cowdery
Attn: Marco Pignalberi

FROM: Tamara Brandt Cook
Director

BACKGROUND

Under federal law 50 percent of the receipts from sales, rentals, bonuses, and royalties on leases of oil and gas in the National Petroleum Reserve in Alaska are paid to the state. The federal law requires that priority to use of these funds be given to subdivisions of the state most directly or severely impacted by oil and gas development in the reserve. (42 U.S.C. 6508) Most of the reserve is located in the North Slope Borough.

Prior to 1984, half of the NPRA funds received by the state were deposited in the Permanent Fund under AS 37.13.010(a)(2), and one-half of one percent of some of the funds were deposited in the Public School Fund under AS 37.14.150. The rest of the money (about \$18,044,000) went into the general fund and was appropriated by the legislature for various uses. Chapter 94, SLA 1984 established the NPRA Special Revenue Fund under which the automatic deposits into the Permanent Fund and the Public School Fund continued. About \$3,700,000 of the remainder was appropriated for projects in the North Slope Borough. (Attorney General Opinion, 663-87-0003, August 8, 1986, page 2)

In 1985 Barrow, Wainwright, and the North Slope Borough sued the state over its handling of the NPRA funds. (*Barrow v. State*, Superior Court, First Judicial District, Case No. 1JU-85-2634 Civil) The court found that

- (1) the state is under a mandatory duty to allocate the funds under the terms of the federal law and must segregate and account for all NPRA funds received in the future;
- (2) the state may not automatically deposit 50 percent or any amount of NPRA revenue into the Permanent Fund until after it has given priority to use of the funds by impacted subdivisions;
- (3) because of the plaintiffs' delay in filing the suit, the state is not required to return that portion of NPRA funds already expended for the general use of the state;

Representative John Cowdery

April 8, 1998

Page 2

(4) the state is required to return funds improperly deposited directly into the Permanent Fund and elsewhere, with the exception of general expenditures already made, so that the NPRA Fund is reconstituted.

The reconstituted NPRA Fund should have consisted of money deposited in the Permanent Fund, the Public School Fund and the NPRA Special Revenue Fund for a total of \$30,599,000. (Attorney General Opinion, 663-87-0003, August 8, 1986, page 3) In a "Stipulation Regarding Payment of Grants" dated June 13, 1986 filed with the court, the parties agreed that \$2,155,000 appropriated from the NPRA Special Revenue Fund for a residential care, alcohol and drug treatment center in Barrow would be considered a grant to an impacted subdivision under the federal law. The parties appear to have expected the NPRA Fund to be reconstituted as follows: \$24,317,000 from Permanent Fund Deposits; \$182,000 from Public School Fund deposits; and \$2,400,000 (minus the \$2,155,000 appropriation) remaining in the NPRA Fund.

Effective July 1, 1986 the legislature actually appropriated \$24,499,400 to the Department of Community and Regional Affairs to reconstitute the NPRA Fund. (Sec. 22, ch. 129, SLA 1986) AS 37.05.530(a) describes the reconstituted fund as follows:

(a) The National Petroleum Reserve - Alaska special revenue fund is established. The fund consists of all money disbursed to the state by the federal government under 42 U.S.C. 6508 (P.L. 96-514) since December 12, 1980, less the amount deposited in the general fund and expended by the state by general fund appropriations before June 9, 1984.

The statute sets up a system under which the legislature is to appropriate money each year to the Department of Community and Regional Affairs for grants to impacted municipalities under the terms of the federal law. Any money left over at the end of each fiscal year is to lapse as follows.

(g) Amounts received by the state under 42 U.S.C. 6508 and not appropriated for grants to municipalities under (d) of this section lapse at the end of each fiscal year as follows:

- (1) 50 percent to the principal of the Alaska permanent fund;
- (2) .5 percent to the public school fund (AS 37.14.110); and
- (3) the remainder to the general fund for use by the state for

the following facilities and services:

- (A) planning;
- (B) construction, maintenance, and operation of essential public facilities; and
- (C) other necessary public services.

Representative John Cowdery
April 8, 1998
Page 3

PERMANENT FUND PORTION

As a preliminary matter, it appears that the NPRA money turned over by the federal government to the state is subject to Article IX, section 15 of the state constitution which provides in part:

Section 15. Alaska Permanent Fund. At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments.

So, the constitution requires that 25 percent of the total NPRA funds received by the state be placed in the Permanent Fund. Because this requirement is constitutional, any statute that would dictate a contrary result is superseded. Therefore, the Permanent Fund is entitled to 25 percent of the NPRA funds received, or, if less than that amount is remaining after payment of grants, to the entire remaining amount. Because the constitutional language regarding deposits into the Permanent Fund does not require that these deposits be made during the fiscal year the money is received, it seems reasonable to assume that shortfalls in the 25 percent funding level from NPRA funds should be made up in future years to the extent that money is available after grant payments.

After payment of grants and after payment of the minimum 25 percent of total NPRA revenue to the Permanent Fund required under the constitution, amounts remaining in the NPRA Fund should be distributed in accordance with AS 37.05.1530(g) taking into account amounts already deposited in the Permanent Fund. With respect to the portion that should go to Permanent Fund, that statute has priority over AS 37.13.010(a)(2) because it was enacted later in time and it is more specific in that it deals only with NPRA revenues and not all mineral revenues.

AS 37.05.530(g) requires that 50 percent of the NPRA money remaining each year after payment of grants go to the Permanent Fund, not that 50 percent of the NPRA money received by the state go to the Permanent Fund. Bear in mind that the legislature has the authority under the constitution to increase the Permanent Fund share of mineral revenues, but not to decrease that share. So, it would seem that the Permanent Fund is entitled to the greater of (1) its constitutional 25 percent share of total NPRA receipts; or (2) its statutory share of 50 percent of the NPRA money remaining after payment of grants

PUBLIC SCHOOL FUND PORTION

AS 37.05.530(g) requires that .5 percent of the NPRA money remaining each year after payment of grants go to the public school fund, which is a dedicated fund established by statute to satisfy trust obligations imposed by federal law. (1992 Op. Att'y Gen. No. 1)

Representative John Cowdery

April 8, 1998

Page 4

Under AS 37.14.150 contributions to the fund should equal "on-half of one percent of the total" NPRA receipts, not the .5 percent of the balance remaining after payment of grants. So, to the extent that the state has a true trust obligation, it may be that more money must go to the public school fund than is provided for in AS 37.05.530(g).

HJR 50

You ask whether any portion of the NPRA money may be dedicated to the new Education Fund that would be created under HJR 58. It is possible that some money could be dedicated, but it could only be money left after payment of municipal grants and payment of money to the public school fund required to satisfy trust obligations imposed under federal law. It would be a policy choice as to whether to take NPRA money that would otherwise go to the Permanent Fund either through statute or constitutional provision. The amount of NPRA money dedicated could not be treated like the dedication of 40 percent of revenues from the Arctic National Wildlife Refuge as is now done under HJR 58.

TBC:pl:glc

98-083.plm