

LEG. FINANCE - BILLS 1985 - 1986 2412

HB 487 - CSHB 491

**HOUSE  
COMMITTEE REPORT**

(11)

Date referred: 1/31/86

FURTHER REFERRALS:

DATE: \_\_\_\_\_

The FINANCE Committee has considered HB 487

"An Act relating to projected operating and maintenance costs of capital improvements."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with \_\_\_\_\_  same title
- \_\_\_\_\_  new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

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SIGNING OTHER RECOMMENDATIONS:

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\_\_\_\_\_  
Chairman



*Letter of Intent  
Geo F. Note*

*Dudraff*

Offered: 1/31/86  
Referred: Finance

Original sponsors: Davis, Koponen,  
Haley, et al

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2 CS For HOUSE BILL NO. 487 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to projected operating and mainte-  
7 nance costs of capital improvements."

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

9 \* Section 1. AS 24.08.030 is amended by adding a new subsection to  
10 read:

11 (b) Before an appropriation bill containing an appropriation for  
12 a capital improvement is reported from the committee of first refer-  
13 ral, there shall be attached to the bill a fiscal note containing the  
14 projected operating and maintenance costs of the proposed capital  
15 improvement.

16 \* Sec. 2. AS 37.07.030 is amended to read:

17 Sec. 37.07.030. RESPONSIBILITIES OF THE LEGISLATURE. The legis-  
18 lature shall

- 19 (1) provide for a budget review function;
- 20 (2) analyze the comprehensive operating and capital im-  
21 provements programs and financial plans recommended by the governor;
- 22 (3) adopt legislation to authorize implementation of the  
23 governor's comprehensive operating and capital improvements programs  
24 and financial plans or appropriate alternatives to those plans;
- 25 (4) provide for a post-audit function, to cover financial  
26 transactions, program accomplishment, and compliance with legislative  
27 intent;
- 28 (5) adopt or revise the estimate or receipts required to  
29 balance the succeeding fiscal year's budget in order that proposed

1 expenditures do not exceed estimated receipts for that fiscal year;

2 (6) adopt, revise, or initiate revenue measures in order to  
3 balance the succeeding fiscal year's budget and the capital improve-  
4 ments section of the budget for the succeeding six years;

5 (7) consider the projected operating and maintenance costs  
6 of capital improvements submitted in legislation.

7 \* Sec. 3. AS 37.07.060(b) is amended to read:

8 (b) The governor shall present the proposed comprehensive  
9 operating and capital improvements programs and financial plans in a  
10 message to a joint session of the legislature before the fourth legis-  
11 lative day following the convening of the legislature in regular  
12 session. The message shall be accompanied by an explanatory report  
13 which summarizes recommended goals, plans, and appropriations. The  
14 report shall contain

15 (1) the coordinated program goals and objectives which the  
16 governor recommends to guide the decisions on the proposed program  
17 plans and budget appropriations;

18 (2) the governor's operating program and budget recommenda-  
19 tions for the succeeding fiscal year organized by agency as required  
20 by AS 37.07.020(a);

21 (3) the governor's capital improvements program and budget  
22 recommendations for the succeeding fiscal year and capital improve-  
23 ments program for the succeeding six fiscal years which shall include

24 (A) a description of each project, its estimated cost  
25 for the year construction is to start and the estimated cost of  
26 the project adjusted for inflation over the estimated period of  
27 construction, and the source of financing for the project; the  
28 project description for a new building or a new facility or for a

29 CSHE 487(C&RA) major addition to a building or facility should include a site

COMMITTEE COPY

1 plan, preliminary drawings, and architect's or engineer's total  
2 cost estimate for the project;

3 (B) a summary of projects previously authorized and  
4 not yet completed;

5 (C) a summary, listed by agency, of all previously  
6 proposed projects which have been deferred beyond the six years  
7 covered by the plan and the year in which construction has been  
8 rescheduled to begin;

9 (D) a forecast of the debt structure of the state and  
10 the various debt ratios over the life of the state's bonds out-  
11 standing, bonds authorized and to be issued, and bond authoriza-  
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13 (E) a description of additional revenue measures  
14 needed to finance the plan in lieu of debt;

15 (F) bond election bills to authorize the bonds re-  
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17 of the plan;

18 (G) projections of population of the state and its  
19 regions and communities;

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21 evaluation of the plan, including projected operating and mainte-  
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25 succeeding fiscal year;

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27 those authorized for the current fiscal year, and an estimate for the  
28 succeeding fiscal year;

29 (6) any additional information which will facilitate

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understanding of the governor's proposed programs and financial plans  
by the legislature and the public.

*Siedorff*

Introduced: 1/20/86  
Referred: Community & Regional  
Affairs and Finance

1 IN THE HOUSE

BY DAVIS, KOPONEN, HURLEY,  
GOLL AND MARROU

2 HOUSE BILL NO. 487

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

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15 and include in the analysis projected operating and maintenance costs  
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23 (6) any additional information which will facilitate  
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ae 4/31



# Alaska State Legislature

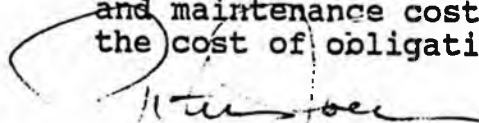
## House of Representatives

### Committee on Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4833

#### LETTER OF INTENT CSHB 487 (C&RA)

It is the intent of the Community and Regional Affairs Committee that use of the words fiscal note on line 13 of Section 1. AS 24.08.030 (b) will include the operating and maintenance cost of the project and not be limited to the cost of obligation to the State of Alaska.

  
Peter Goll  
Chairman

C. 1/31

## STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : CS HB 487 (CARRA)  
 Title : An Act relating to projected operating and maintenance...  
 Sponsor : DAVIS  
 Requestor : DAVIS  
 Date of Request : 1-27-86

**FISCAL DETAIL**

Agency Affected : Legislative Finance  
 BRU : \_\_\_\_\_  
 Components : \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS :**

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

**ANALYSIS :** Attach a separate page if necessary

Prepared by : James R Slocum Phone : 465 3995  
 Division : \_\_\_\_\_ Date : 1-27-86  
 Approved by Commissioner : Richard Berman Date : 1/27/86  
 Agency : LEGISLATIVE FINANCE DIVISION

Distribution (by Agency preparing fiscal note) :

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

**ALASKA STATE LEGISLATURE**

14th.. Legislature SECOND.. Session

HOUSE ...BILL..... NO. ...487..

By DAVIS,, KOPONEN,, HURLEY,, GOLL,  
MARROU

"An Act relating to projected  
operating and maintenance costs  
of capital improvements."

capital improvements

Introduced in the House 1/20....., 19.36

**HISTORY IN THE HOUSE**

19 36

Jan 20

Read first time and referred  
to Committee on

C&RA AND FINANCE

Reported back with  
recommendation that

Read second time and

Read third time and

<b>PASS</b>	<b>Effective Date</b>
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

**Reconsideration**

<b>PASS</b>	<b>Effective Date</b>
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by Speaker  
Sent to Senate

CHIEF CLERK OF THE HOUSE

**HISTORY IN THE SENATE**

19

Read first time and referred  
to Committee on

Reported back with  
recommendation that

Read second time and

Read third time and

<b>PASS</b>	<b>Effective Date</b>
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

**Reconsideration**

<b>PASS</b>	<b>Effective Date</b>
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by President  
Returned to House

SECRETARY OF THE SENATE

**HISTORY IN THE HOUSE**

19

Received from Senate

Concurred in Senate amendment  
thus adopting:  
VOTE

Failed to concur in Senate amend-  
ment; asked Senate to recede  
VOTE

Senate receded from amendment  
VOTE

Senate failed to recede from  
amendment  
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House  
VOTE

CC adopted by Senate  
VOTE

To enrolling  
Reported correctly enrolled  
Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No. ....

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

Revision Date : 2/13

**REQUEST**

Bill/Resolution No. : CSHB 487 (C&RA)  
 Title : Relating to projected  
operating and maintenance

Sponsor : Davis  
 Requestor : House Finance Committee  
 Date of Request : 2/13/86

**FISCAL DETAIL**

Agency Affected : Legislative Affairs Agency  
 BRU : Governor's Office

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

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	0	0	0	0	0	0

**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

Prepared by : Al Adams, Chair *APA* Phone : 465-3706  
 Division : House Finance Committee Date : 2/13/86

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

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# Alaska State Legislature


## House of Representatives

### Committee on Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811  
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#### LETTER OF INTENT CSHB 487 (C&RA)

It is the intent of the Community and Regional Affairs Committee that use of the words fiscal note on line 13 of Section 1. AS 24.08.030 (b) will include the operating and maintenance cost of the project and not be limited to the cost of obligation to the State of Alaska.

  
Peter Goll  
Chairman

HB 487

1. Projected M&O costs shall be included in a fiscal note attached to an appropriation bill before the bill is passed out of the first committee of referral.
2. It is the responsibility of the legislature to take into consideration the projected M&O costs included in the fiscal note.
3. The governor's economic data and projections used in evaluating the capital improvements program shall include projected M&O costs of the capital improvements.

- 
1. State agencies and some municipalities already provide projected M&O costs in their capital improvement requests.
  2. Ultimate responsibility for providing the projected M&O costs in the fiscal note resides with the legislator requesting the capital improvement through legislation.
  3. Projected M&O costs would be received by asking that this information be provided by the party requesting the capital improvement.
  4. It is not expected that this legislation will be costly or burdensome to requestors of state grants for capital improvements. Projected M&O costs could be determined at the same time that the cost is determined for the capital improvement itself.

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The intent of this legislation is to provide greater fiscal responsibility in the state by providing legislators with an assessment of the projected future costs associated with a capital improvement under consideration. CSHB 487 applies only to capital improvements that have been submitted in legislation.

## ACTION NARRATIVE

TAPE #51 SIDE ONE  
Recording

Number 003

Chair called the meeting to order at 3:08 p.m. He announced calendar, brought forth the proposed committee substitute and asked for a motion to adopt the committee substitute for purposes of discussion. Representative Koponen so moved.

Number 019

Representative Davis said that one major concern of his constituents was to reform the budget process. The duty of the legislature, he continued, is to have a responsible fiscal management plan and this bill does that. The purpose of the this bill is to allow the legislature the opportunity to assess the extent of future encumbrances associated with capital improvements. He elaborated: Section 1. AS 24.08.030 (b) Before an appropriation bill containing an appropriation for a capitol improvement is reported from the committee of first referral, there shall be attached to the bill a fiscal note containing the projected operating and maintenance costs of the proposed capital improvement. Section 37.07.030. (7) consider the projected operating and maintenance costs of capital improvements submitted in legislation and (H) economic data and projections necessary for the evaluation of the plan, including projected operating and maintenance costs of the capital improvements. He referred to the zero fiscal note.

Number 090

Representative Marrou asked if these changes in the law would have any appreciable effect. Representative Davis felt the legislation will benefit and provide guidance to municipalities.

Number 121

Representative Furnace, responding to an earlier question by Representative Marrou, stated that the fiscal note pertains to the cost of the project and not the operating and maintenance cost of the project.

Number 157

Representative Koponen suggested that committee develop a letter of intent to accompany the legislation.



BSCAPI-02

12/19/85

## STATE OF ALASKA -- CAPITAL PROJECT DETAIL

15:45

14 - DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES RECORD KEY: 14454DOT03

52410725

CLASSIFICATION: 00 006 00 00

LOCATION CODE/PRIORITY: /

PROGRAM: HIGHWAYS

ITEM#: 40

PROJECT TITLE	LOCATION	ELECTION DIST	AGENCY PRIORITY	--- PROJECT --- START DURATION		PFT POSITIONS	BCN
OLD RICH HWY SHOULDER & WIDEN	FAIRBANKS	18	143	FY87	0 MOS.		
				OPERATING COSTS			
	FUNDING	REQUESTED	REVISED				
1004	GENERAL FUND	620.0		18.0			
	***** TOTAL COSTS	620.0		18.0			

## PROJECT DESCRIPTION:

## APPROPRIATED TO STATE AGENCY

- 1 WIDEN AND PAVE SHOULDERS FROM APPROXIMATELY 12 MILE VILLAGE TO FLOOD CONTROL PROJECT. THE ROAD IS THE MAIN ROUTE FOR REFINERY TRUCKS AND INTERSECTS WITH THE ACCESS TO THE NEW NORTH POLE HIGH SCHOOL. THIS PROJECT IS SUPPORTED BY THE LOCAL GOVERNMENT.
- 2 THE CITY OF NORTH POLE HAS EXPERIENCED RAPID GROWTH AND DEVELOPMENT ON BOTH SIDES OF THE OLD RICHARDSON DURING THE PAST 2 YEARS (NORTH POLE REINERY EXPANSION, NEW HIGH SCHOOL, RESIDENTIAL DEVELOPMENT, ETC). THE EXISTING 20' ROADWAY IS INADEQUATE TO HANDLE THE INCREASED COMMUNITY AND TRUCK TRAFFIC. COMMUNITY AND SAFETY CONCERNS MAKE THIS A HIGH LOCAL PRIORITY.
- 3 THE WIDENED ROADWAY AND FORECASTED TRAFFIC INCREASES ARE EXPECTED TO INCREASE MAINTENANCE REQUIREMENTS ON THIS SECTION.

# *League of Women Voters of Alaska*

January 24, 1986

Representative Al Adams  
Chair  
House Finance Committee  
Juneau, Alaska

Re: House Bill 487

Dear Representative Adams:

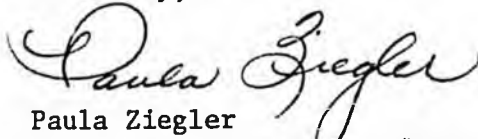
Based on our Capital Budget Process position adopted in 1985, after two years of statewide study, the League of Women Voters of Alaska supports passage of House Bill 487.

Future operating and maintenance costs should be an integral part of all considerations relating to capital projects. Requiring a projection of what these costs are estimated to be is a step in the right direction.

We are hopeful for a favorable consideration of this bill by your committee.

Thank you.

Sincerely,



Paula Ziegler  
127 N. Franklin Street #909  
Juneau, Alaska 99801

Offered: 1/31/86  
Referred: Finance

Original sponsors: Davis, Koponen,  
Hurley, et al

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Referred: Community & Regional  
Affairs and Finance

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7 nance costs of capital improvements."

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

9 \* Section 1. AS 37.07.030 is amended to read:

10 Sec. 37.07.030. RESPONSIBILITIES OF THE LEGISLATURE. The  
11 legislature shall

12 (1) provide for a budget review function;

13 (2) analyze the comprehensive operating and capital im-  
14 provements programs and financial plans recommended by the governor,  
15 and include in the analysis projected operating and maintenance costs  
16 of the capital improvements;

17 (3) adopt legislation to authorize implementation of the  
18 governor's comprehensive operating and capital improvements programs  
19 and financial plans or appropriate alternatives to those plans;

20 (4) provide for a post-audit function, to cover financial  
21 transactions, program accomplishment, and compliance with legislative  
22 intent;

23 (5) adopt or revise the estimate or receipts required to  
24 balance the succeeding fiscal year's budget in order that proposed  
25 expenditures do not exceed estimated receipts for that fiscal year;

26 (6) adopt, revise, or initiate revenue measures in order to  
27 balance the succeeding fiscal year's budget and the capital improve-  
28 ments section of the budget for the succeeding six years.

29 \* Sec. 2. AS 37.07.060(b) is amended to read:

1 (b) The governor shall present the proposed comprehensive  
2 operating and capital improvements programs and financial plans in a  
3 message to a joint session of the legislature before the fourth  
4 legislative day following the convening of the legislature in regular  
5 session. The message shall be accompanied by an explanatory report  
6 which summarizes recommended goals, plans, and appropriations. The  
7 report shall contain

8 (1) the coordinated program goals and objectives which the  
9 governor recommends to guide the decisions on the proposed program  
10 plans and budget appropriations;

11 (2) the governor's operating program and budget  
12 recommendations for the succeeding fiscal year organized by agency as  
13 required by AS 37.07.020(a);

14 (3) the governor's capital improvements program and budget  
15 recommendations for the succeeding fiscal year and capital  
16 improvements program for the succeeding six fiscal years which shall  
17 include

18 (A) a description of each project, its estimated cost  
19 for the year construction is to start and the estimated cost of  
20 the project adjusted for inflation over the estimated period of  
21 construction, and the source of financing for the project; the  
22 project description for a new building or a new facility or for a  
23 major addition to a building or facility should include a site  
24 plan, preliminary drawings, and architect's or engineer's total  
25 cost estimate for the project;

26 (B) a summary of projects previously authorized and  
27 not yet completed;

28 (C) a summary, listed by agency, of all previously  
29 proposed projects which have been deferred beyond the six years

1 covered by the plan and the year in which construction has been  
2 rescheduled to begin;

3 (D) a forecast of the debt structure of the state and  
4 the various debt ratios over the life of the state's bonds  
5 outstanding, bonds authorized and to be issued, and bond  
6 authorizations recommended in the plan;

7 (E) a description of additional revenue measures  
8 needed to finance the plan in lieu of debt;

9 (F) bond election bills to authorize the bonds  
10 required to fund the projects scheduled for the first three years  
11 of the plan;

12 (G) projections of population of the state and its  
13 regions and communities;

14 (H) economic data and projections necessary for the  
15 evaluation of the plan, including projected operating and  
16 maintenance costs of the capital improvements;

17 (4) a summary of state receipts in the last fiscal year, a  
18 revised estimate for the current fiscal year, and an estimate for the  
19 succeeding fiscal year;

20 (5) a summary of expenditures during the last fiscal year,  
21 those authorized for the current fiscal year, and an estimate for the  
22 succeeding fiscal year;

23 (6) any additional information which will facilitate  
24 understanding of the governor's proposed programs and financial plans  
25 by the legislature and the public.  
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29

HOUSE  
COMMITTEE REPORT

(11)

Date referred: 4/21/86

FURTHER REFERRALS:

DATE: 4-29-86

The FINANCE Committee has considered HB 491

"An Act establishing a National Petroleum - Alaska Special Revenue Fund; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 491 (Fin)  same title

new title

and recommends DO PASS

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note 4-25-86

SIGNING DO PASS:

Albert H. Adams  
Mike Reynolds  
Judith  
Ronald L. Larson  
Kirk Kelly  
John Bradley  
John Kuykendall

SIGNING OTHER RECOMMENDATIONS:

John Fouchard NO REC  
Steve Poyne No Recommendation  
Donna NO REC.  
Sam COITEN recommends OIL + GAS committee substitute

Albert H. Adams  
Chairman

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date : 4/28/86

REQUEST

Bill/Resolution No.: CSHB 491 (Fin)  
 Title: An Act establishing a National  
 Petroleum - Alaska Special Reserve  
 Fund  
 Sponsor: Adams by Request  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Community & Regional Affairs  
 BRU: Local Government Assistance  
 \_\_\_\_\_  
 Components: Training & Development  
Grants Administration  
 \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

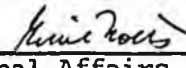
**POSITIONS :**

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

ANALYSIS : Attach a separate page if necessary

Prepared by: Doug Griffin   
 Division: Municipal & Regional Assistance

Phone: 465.4750  
 Date: 4/28/86

Approved by Commissioner:   
 Agency: Community & Regional Affairs

Date: 4/28/86

Distribution (by Agency preparing fiscal note):

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

Original sponsor: Adams by request

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 491 (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 relating to the disposition of federal funds  
7 received by the state from competitive leasing of oil  
8 and gas in the National Petroleum Reserve - Alaska;  
9 and providing for an effective date."

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

11 \* Section 1. FINDINGS. The legislature finds that:

12 (1) the United States Congress by P.L. 96-514 (42 U.S.C. 6508)  
13 provided that the state receives 50 percent of the funds received from  
14 competitive leasing of oil and gas in the National Petroleum Reserve -  
15 Alaska;

16 (2) 42 U.S.C. 6508 further provides that in the allocation of  
17 the funds received by the state, the state shall give priority to those  
18 subdivisions of the state most directly or severely impacted by the devel-  
19 opment of oil and gas leased under 42 U.S.C. 6508;

20 (3) since 1982 the state has received approximately \$48,643,000  
21 from the federal government under the terms of 42 U.S.C. 6508; of that  
22 amount, approximately \$18,044,000 has been placed in the general fund and  
23 spent by the state for various state programs; approximately \$24,317,000  
24 has been placed in the permanent fund and \$182,000 in the public school  
25 fund; the remainder, approximately \$6,100,000, has been placed in the  
26 National Petroleum Reserve - Alaska special revenue fund established by ch.  
27 94, SLA 1984; of that amount, \$3,700,000 has been appropriated for grants  
28 to local governments or for state projects; approximately \$2,400,000 still  
29 remains in the fund;

1 (4) in a decision dated March 18, 1986, a superior court of the  
2 state ruled in City of Barrow, et al. v. State, et al., 1JU-85-2634 Civil,  
3 that the state violated the terms of 42 U.S.C. 6508 by failing to establish  
4 a rational system by which political subdivisions impacted by oil and gas  
5 development in the National Petroleum Reserve - Alaska could apply for and  
6 receive funds on a priority basis; the court has required the state to  
7 segregate and account for all funds received under 42 U.S.C. 6508 before  
8 1984, including money received under 42 U.S.C. 6508 that has been deposited  
9 in the permanent fund under AS 37.13.010 or appropriated to the National  
10 Petroleum Reserve - Alaska special revenue fund under ch. 94, SLA 1984, but  
11 excluding funds expended before 1984 by general fund appropriations; it  
12 also appears from the decision that the court would make National Petroleum  
13 Reserve - Alaska money deposited in the public school fund (AS 37.14.110)  
14 subject to the same segregation and accounting requirements as the money  
15 deposited in the permanent fund; and

16 (5) because of the continuing nature of congressional appro-  
17 priations under 42 U.S.C. 6508, and in order to rectify the state's past  
18 failure to establish a system by which claims of local governments to 42  
19 U.S.C. 6508 funds could be determined and dealt with on a priority basis,  
20 it is necessary to change the National Petroleum Reserve - Alaska special  
21 revenue fund regarding segregation and allocation of the money received  
22 under 42 U.S.C. 6508 and to establish criteria by which appropriations may  
23 be made from the fund to impacted municipalities.

24 \* Sec. 2. Section 2, ch. 94, SLA 1984 is amended to read:

25 Sec. 2. NATIONAL PETROLEUM RESERVE, ALASKA, SPECIAL REVENUE  
26 FUND. (a) The National Petroleum Reserve - Alaska special revenue  
27 fund is established. The fund consists of all money disbursed to the  
28 state by the federal government under 42 U.S.C. 6508 (P.L. 96-514)  
29 since December 12, 1980, less the amount deposited in the general fund

1 and expended by the state by general fund appropriations before  
2 June 9, 1984 [SHALL CONSIST OF MONEY RECEIVED BY THE STATE FROM THE  
3 FEDERAL GOVERNMENT UNDER 43 U.S.C. 1337 (P.L. 96-514)].

4 (b) The commissioner of revenue shall manage the National Petro-  
5 leum Reserve - Alaska special revenue fund [IN ACCORDANCE WITH AS 37.-  
6 10.070].

7 (c) The Department of Community and Regional Affairs shall adopt  
8 regulations under which municipalities impacted by National Petroleum  
9 Reserve - Alaska oil and gas development under 42 U.S.C. 6508 may  
10 apply for and be eligible to receive grants to alleviate the impact.  
11 The department shall give priority in the allocation of grants to  
12 municipalities that are experiencing or will experience the most  
13 direct or severe impact from oil and gas development under 42 U.S.C.  
14 6508 within the National Petroleum Reserve - Alaska. The department  
15 shall fund all meritorious grant applications out of the money appro-  
16 priated to it each year. Within 10 days after the convening of each  
17 regular session of the legislature, the department shall submit to the  
18 legislature a list of all municipalities that have received grants, a  
19 list of all municipalities determined by the department to be eligible  
20 for further grants, a recommendation of the amount of money to be  
21 granted for those additional applications, and written justification  
22 of each past and potential grant [THE COMMISSIONER OF REVENUE SHALL  
23 PAY TO THE SUBDIVISIONS OF THE STATE THAT ARE MOST DIRECTLY OR SEV-  
24 ERELY IMPACTED BY DEVELOPMENT OF OIL AND GAS LEASED UNDER 43 U.S.C.  
25 1337 THE AMOUNT APPROPRIATED BY THE LEGISLATURE FROM THE FUND FOR THAT  
26 PURPOSE. IT IS THE INTENT OF THE LEGISLATURE THAT THE AMOUNT APPRO-  
27 PRIATED FOR PAYMENT TO SUBDIVISIONS EQUAL 50 PERCENT OF THE AMOUNT  
28 RECEIVED FROM THE FEDERAL GOVERNMENT UNDER 43 U.S.C. 1337 AND THAT  
29 THIS PERCENTAGE BE REVIEWED ANNUALLY BY THE LEGISLATURE].

1           (d) It is the intent of the legislature that each year all of  
2 the money in the National Petroleum Reserve - Alaska special revenue  
3 fund be made available for appropriation by the legislature to munic-  
4 ipalities that demonstrate under (c) of this section present impact,  
5 or the need to determine or plan for future impact, from oil and gas  
6 development under 42 U.S.C. 6508. It is the intent of the legislature  
7 that an initial appropriation be made to the Department of Community  
8 and Regional Affairs to cover anticipated impact grants, and that  
9 additional funds be made available through supplemental appropriations  
10 if the impact is greater than anticipated and the legislature con-  
11 siders the additional grants proposed by the department to be meri-  
12 torious [AMOUNTS RECEIVED BY THE STATE UNDER (a) OF THIS SECTION AND  
13 NOT PAID UNDER (c) OF THIS SECTION SHALL BE USED BY THE STATE FOR THE  
14 FOLLOWING ACTIVITIES AND SERVICES:

15           (1) PLANNING;

16           (2) CONSTRUCTION, MAINTENANCE, AND OPERATION OF ESSENTIAL  
17 PUBLIC FACILITIES; AND

18           (3) OTHER NECESSARY PUBLIC SERVICES].

19           (e) A municipality may use the funds received under (d) of this  
20 section only for the following activities and services to alleviate  
21 the impact of the oil and gas development under 42 U.S.C. 6508 within  
22 the National Petroleum Reserve - Alaska [AMOUNTS PAID TO SUBDIVISIONS  
23 OF THE STATE UNDER (c) OF THIS SECTION SHALL BE USED BY THE SUBDIVI-  
24 SIONS ONLY FOR THE FOLLOWING ACTIVITIES AND SERVICES IN CONJUNCTION  
25 WITH DEVELOPMENT OF THE NATIONAL PETROLEUM RESERVE IN ALASKA AND A  
26 PROGRAM OF COMPETITIVE LEASING OF OIL AND GAS FROM THAT RESERVE]:

27           (1) planning;

28           (2) construction, maintenance, and operation of essential  
29 public facilities by the municipality [SUBDIVISIONS]; and

1 (3) other necessary public services provided by the munic-  
2 ipality [SUBDIVISIONS].

3 \* Sec. 3. Section 2, ch. 94, SLA 1984 is amended by adding new sub-  
4 sections to read:

5 (f) Funds appropriated under (d) of this section may not be used  
6 for the retirement of municipal debt.

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

10 (1) 50 percent to the principal of the Alaska permanent  
11 fund;

12 (2) .5 percent to the public school fund (AS 37.14.110);  
13 and

14 (3) the remainder to the general fund for use by the state  
15 for the following facilities and services:

16 (A) planning;

17 (B) construction, maintenance, and operation of essen-  
18 tial public facilities; and

19 (C) other necessary public services.

20 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.-  
21 10.070(c).

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 FIRST JUDICIAL DISTRICT AT JUNEAU

3 CITY OF BARROW, CITY OF WAINWRIGHT, )  
and NORTH SLOPE BOROUGH, )

4 Plaintiffs, )

5 v. )

6 STATE OF ALASKA, WILLIAM SHEFFIELD, )  
7 Governor of Alaska, MARY NORDALE, )  
8 Commissioner, Department of )  
Revenue, State of Alaska, )

9 Defendants. )

FILED IN THE TRIAL COURTS  
STATE OF ALASKA, FIRST DISTRICT  
AT JUNEAU

MAR 18 1986

Clerk of Court

By PB Deputy

No. 1JU-85-2634 Civil

10  
11 SUMMARY ORDER

12 Plaintiffs move for summary judgment on their  
13 complaint for declaratory relief. Specifically, they seek a  
14 judicial declaration that the defendants (hereinafter, the  
15 State) have violated the terms of P.L. 96-514 (42 U.S.C. 6508)  
16 by (a) failing to segregate funds received from the federal  
17 government, (b) failing to establish a system by which political  
18 subdivisions impacted by oil and gas development in the National  
19 Petroleum Reserve - Alaska (hereinafter, NPR-A) could appl. for  
20 or receive funds to impacted subdivisions on a priority basis as  
21 required by the federal law and (c) appropriating those funds to  
22 the general use of the State of Alaska. (Plaintiffs alterna-  
23 tively seek parallel declaratory relief on the basis of breach  
24 of fiduciary duty to administer a trust created by P.L. 96-514.)  
25 Plaintiffs additionally seek a declaration that ch. 94, SLA  
26 1984, requires all funds (past or future) received by the State  
27 from the federal government under P.L. 96-514 to be placed in a  
28 special revenue fund and made available for appropriation by the  
29 legislature under a system which complies with the requirements  
30 of P.L. 96-514. Lastly, plaintiffs seek injunctive relief  
31 (a) requiring the State to segregate and account for all funds  
32 received under P.L. 96-514 and to administer those funds in

1 accordance with law and (b) prohibiting the State from expending  
2 any P.L. 96-514 revenues (past or future) until a system is  
3 established for lawful administration and disposition of such  
4 funds.

5 The State has filed a cross-motion for summary judgment,  
6 arguing first that the plaintiffs' complaint does not  
7 state a cause of action. The State argues to this result from  
8 its conclusion that P.L. 96-514 imposes no judicially enforce-  
9 able conditions on Alaska's receipt of NPR-A revenues.  
10 Additionally, the State argues (a) that the plaintiff municipal-  
11 ities have no right to share in NPR-A revenues in advance of  
12 actual commercial production from NPR-A; (b) that the State is  
13 entitled to deposit a portion of NPR-A revenues directly into  
14 the Alaska Permanent Fund upon receipt; (c) that the State is  
15 under no obligation to adopt specific procedures whereby  
16 political subdivisions may apply for and receive NPR-A funds;  
17 (d) that plaintiffs' delay in bringing this action bars their  
18 claims for relief as to moneys already expended by the State;  
19 (e) that any State obligation with respect to NPR-A funds should  
20 be deemed satisfied through the sharing of state revenues with  
21 the plaintiff municipalities under other programs; and (f) that  
22 ch. 94, SLA 1984, does not affect NPR-A revenues which were  
23 received and spent by the State prior to the date on which that  
24 law became effective.

25 The parties have both requested expedited handling of  
26 this motion. Oral argument was heard one week after the  
27 briefing was completed. In order to avoid further delay<sup>1</sup> in  
28  
29

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30 1. The six-week period during which this case has  
31 been held under advisement coincides almost exactly with the  
32 period during which the undersigned has been the only superior  
court judge present in Juneau.

1 announcing the court's decision, the court's conclusions on the  
2 above issues are set out below in summary fashion.

3 1. Mandatory Duty Regarding Allocation of NPR-A Revenues.

4 A. P.L. 96-415 provides that half of all receipts  
5 from sales, rentals, bonuses and royalties on leases pertaining  
6 to lands in the National Petroleum Reserve - Alaska shall be  
7 paid by the federal government to the State of Alaska "for  
8 (a) planning, (b) construction, maintenance and operation of  
9 essential public facilities, and (c) other necessary provisions  
10 of public service." In the allocation of such funds, the  
11 federal act establishes a mandatory duty on the State of Alaska  
12 to "give priority to use [of NPR-A funds] by subdivisions of the  
13 state most directly or severely impacted by development of oil  
14 and gas leased under [P.L. 96-514]."

15 B. The duty imposed by P.L. 96-514 ultimately falls  
16 upon the Alaska Legislature (because it has the spending power),  
17 and it includes the duties to examine the claimed needs of  
18 subdivisions arising from oil and gas development impacts, to  
19 evaluate them and, if the claimed needs are found to exist, to  
20 rank them in order of priority, and to meet or satisfy them out  
21 of NPR-A revenues.

22 C. The duty set out above may be met through exist-  
23 ing entities and the budget review process; it is not necessary  
24 that a new apparatus be created to receive NPR-A claims.

25 2. When the Duty Arises.

26 The duty arises upon the commencement of any "develop-  
27 ment" of the subject tracts. Because "development" includes  
28 "any step taken in the search for . . . hydrocarbons" (as well  
29 as capture, production and marketing of same), it is clear that  
30 the duty arises well before actual commercial production and  
31 exists at least as early as when test wells are being drilled.  
32 Of course, in evaluating claimed impact needs, and in

1 determining whether they truly exist, the legislature certainly  
2 may take into account the likely pace of exploration, the  
3 likelihood of further exploration, the likelihood of actual  
4 commercial production which may result and its likely pace, etc.

5 3. Automatic Deposit into Permanent Fund.

6 The State cannot, consistent with its obligations  
7 under P.L. 96-514, automatically deposit 50% (or any amount) of  
8 all NPR-A revenues into the Alaska Permanent Fund. Such action  
9 clearly contravenes the mandatory duty placed on the State by  
10 the very law which authorizes payments to the State (since such  
11 payments are made on the condition that the State "give priority  
12 to use [of such funds] by subdivisions of the state most  
13 directly or severely impacted" by the developments of leased  
14 lands). Rather than a direct deposit to the permanent fund, the  
15 State must first resort to the process referred to in Parts 1-B  
16 and 1-C above to examine the claimed needs of impacted subdivi-  
17 sions and to rank any found to exist. Because the language of  
18 the federal act is so broad concerning the allowable objects of  
19 state expenditure of NPR-A funds ("other necessary provisions of  
20 public service"), it is conceivable that an allocation of NPR-A  
21 revenues to the permanent fund might be allowable after the  
22 State complies with the mandatory duty imposed on it to evaluate  
23 needs and establish priorities. But this difficult question  
24 need not be resolved now, for on the undisputed facts before the  
25 court the State has made no effort at all to meet the duty  
26 imposed upon it. The automatic deposits into the permanent fund  
27 clearly violate the federal law.

28 4. Plaintiffs' Delay in Filing Lawsuit.

29 By virtue of their delay in bringing this action,  
30 plaintiffs are barred from obtaining relief as to any moneys  
31 already expended by the State. Because the State is under a  
32 duty under federal law to undertake an evaluative process to

1 prioritize claims, and because it would be impossible to  
2 recreate the conditions under which that process would have  
3 taken place in 1982 and 1983 (for example), the State would be  
4 prejudiced by an order now requiring it to place into a special  
5 fund monies which have been expended for other purposes and an  
6 order requiring it to make allocations based on a system of  
7 priorities which cannot be recreated. There is no bar, however,  
8 as to those funds which have been placed in the NPR-A reserve  
9 account since 1984, and there is no bar as to those funds  
10 deposited directly into the Permanent Fund.

11 5. Satisfaction.

12 Summary judgment on this defense is denied. Even  
13 assuming that the amount of development-related impact needs of  
14 the plaintiffs for the period 1981 - 1985 could somehow be known  
15 by this court without formal legislative determination under the  
16 process mandated by the federal act, there would remain factual  
17 matters in dispute. The court, however, adopts the position of  
18 the State that it may show satisfaction to the extent that it  
19 shows that a given appropriation to plaintiffs was for needs  
20 arising out of oil and gas development-related impacts.

21 6. Ch. 94, SLA 1984.

22 Having determined that federal law imposes a mandatory  
23 duty upon the State as set out above, it is unnecessary to  
24 consider whether state law too forbids the practices complained  
25 of here by plaintiffs. Under the supremacy clause of the  
26 federal constitution, federal law controls. Whether ch. 94, SLA  
27 1984, also requires, as a matter of state law, that which  
28 P.L. 96-514 requires therefore need not be decided.

29 CONCLUSION

30 Having reached the above conclusions, the court  
31 declares the rights of the parties and orders as follows:

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- (1) The State has violated P.L. 96-514 by failing to establish a system by which political subdivisions impacted by oil and gas development in the NPR-A could apply for and receive funds on a priority basis.
- (2) The State has violated P.L. 96-514 by appropriating NPR-A funds to the general use of the State of Alaska without giving priority to those uses specified in P.L. 96-514.
- (3) The State is required to segregate and account for all funds received under P.L. 96-514, other than those already expended.
- (4) The State is required to administer funds received under P.L. 96-514 in such a way that it gives priority to the use of such funds by subdivisions most directly or severely impacted by development of oil and gas leased under P.L. 96-514.
- (5) As to the defense of satisfaction, that matter must be reserved for trial on the factual issue whether any appropriations to plaintiffs during the years in question were for needs arising from impacts related to oil and gas development.

The matter will be scheduled for trial at counsel's request upon the filing of a proposed scheduling order signed by all parties, or a scheduling conference will be set if counsel are unable to agree upon a schedule for trial.

IT IS SO ORDERED.

DONE at Juneau, Alaska, this 18<sup>th</sup> day of March, 1986.

*Walter L. Carpeneti*  
\_\_\_\_\_  
Walter L. Carpeneti  
Superior Court Judge

STATE OF ALASKA  
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: Milt Barker  
Deputy Commissioner

FROM: Brian C. Andrews  
Comptroller



DATE: April 10, 1986

RE: National Petroleum Reserve - Alaska (NPRA) Revenues

To date, the State has received five payments constituting the 50% disbursed obligation of the Federal Government of NPRA revenues pursuant to P.L. 96-514. The receipts were deposited in the General Fund, Permanent Fund (AS 37.13.010), Public School Fund (AS 37.14.110), and NPRA Special Revenue Fund (Ch. 94, SLA 1984) in the following amounts:

<u>Date</u>	<u>General Fund</u>	<u>Permanent Fund</u>	<u>Public School Fund</u>	<u>NPRA Special Revenue Fund</u>	<u>Total</u>
12-03-82	\$17,227,054.25	\$17,401,064.91	\$174,010.65	\$ -	\$34,802,129.81
11-08-83	816,490.18	824,737.55	8,247.37	-	1,649,475.10
01-03-85	-	3,784,368.48	-	3,784,368.47	7,568,726.95
06-19-85	-	1,671,217.79	-	1,671,217.79	3,342,435.58
01-29-86	-	635,779.75	-	635,778.75	1,271,557.50
<b>Total</b>	<b>\$18,043,544.43</b>	<b>\$24,317,168.48</b>	<b>\$182,258.02</b>	<b>\$6,091,365.01</b>	<b>\$48,634,324.94</b>

The accounting contact at the Department of Natural Resources is Myrtle Paulk. The AKSAS collocation code number and account number for the NPRA Revenue fund are 1044119 and 6306.

BCA/mem

17401054.91 +  
 824737.55 +  
 3784368.48 +  
 1671217.79 +  
 635779.75 +  
 24317168.48 \*

37002129.81 +  
 1649475.10 +  
 7568726.95 +  
 3342435.58 +  
 1271557.50 +  
 48634324.94 \*

48634324.94 \*  
 1271557.50 \*  
 3342435.58 \*  
 7568726.95 \*  
 1649475.10 \*  
 37002129.81 \*

Offered: 4/21/86  
Referred: Finance

Original sponsor: Adams by request

1 IN THE HOUSE  
2 CS FOR HOUSE BILL NO. 491 (Oil and Gas)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

BY THE HOUSE SPECIAL COMMITTEE  
ON OIL AND GAS

6 For an Act entitled: "An Act relating to the disposition of federal funds  
7 received by the state from competitive leasing of oil  
8 and gas in the National Petroleum Reserve - Alaska;  
9 and providing for an effective date."

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

11 \* Section 1. FINDINGS. The legislature finds that:

12 (1) the United States Congress by P.L. 96-514 (42 U.S.C. 6508)  
13 provided that the state receives 50 percent of the funds received from  
14 competitive leasing of oil and gas in the National Petroleum Reserve -  
15 Alaska;

16 (2) 42 U.S.C. 6508 further provides that in the allocation of  
17 the funds received by the state, the state shall give priority to those  
18 subdivisions of the state most directly or severely impacted by the devel-  
19 opment of oil and gas leased under 42 U.S.C. 6508;

20 (3) since 1982 the state has received approximately \$48,643,000  
21 from the federal government under the terms of 42 U.S.C. 6508; of that  
22 amount, approximately \$18,044,000 has been placed in the general fund and  
23 spent by the state for various state programs; approximately \$24,317,000  
24 has been placed in the permanent fund and \$182,000 in the public school  
25 fund; the remainder, approximately \$6,100,000, has been placed in the  
26 National Petroleum Reserve - Alaska special revenue fund established by ch.  
27 94, SLA 1984; of that amount, \$3,700,000 has been appropriated for grants  
28 to local governments or for state projects; approximately \$2,400,000 still  
29 remains in the fund;

1           (4) in a decision dated March 18, 1986, a superior court of the  
2 state ruled in City of Barrow, et al. v. State, et al., 1JU-85-2634 Civil,  
3 that the state violated the terms of 42 U.S.C. 6508 by failing to establish  
4 a rational system by which political subdivisions impacted by oil and gas  
5 development in the National Petroleum Reserve - Alaska could apply for and  
6 receive funds on a priority basis; the court has required the state to  
7 segregate and account for all funds received under 42 U.S.C. 6508 before  
8 1984, including money received under 42 U.S.C. 6508 that has been deposited  
9 in the permanent fund under AS 37.13.010 or appropriated to the National  
10 Petroleum Reserve - Alaska special revenue fund under ch. 94, SLA 1984, but  
11 excluding funds expended before 1984 by general fund appropriations; and

12           (5) because of the continuing nature of congressional appro-  
13 priations under 42 U.S.C. 6508, and in order to rectify the state's past  
14 failure to establish a system by which claims of local governments to 42  
15 U.S.C. 6508 funds could be determined and dealt with on a priority basis,  
16 it is necessary to change the National Petroleum Reserve - Alaska special  
17 revenue fund regarding segregation and allocation of the money received  
18 under 42 U.S.C. 6508 and to establish criteria by which appropriations may  
19 be made from the fund to impacted municipalities.

20       \* Sec. 2. AS 37.25 is amended by adding a new section to read:

21           Sec. 37.25.040. NATIONAL PETROLEUM RESERVE - ALASKA SPECIAL  
22 REVENUE FUND. (a) The National Petroleum Reserve - Alaska special  
23 revenue fund is established. The fund consists of all money disbursed  
24 to the state by the federal government under 42 U.S.C. 6508 (P.L. 96-  
25 514) since December 12, 1980, less the amount deposited in the general  
26 fund and expended by the state by general fund appropriations before  
27 the establishment of the National Petroleum Reserve - Alaska special  
28 revenue fund under ch. 94, SLA 1984.

29           (b) The commissioner of revenue shall manage the National

1       Petroleum Reserve - Alaska special revenue fund.

2           (c) The Department of Community and Regional Affairs shall adopt  
3 regulations under which municipalities impacted by National Petroleum  
4 Reserve - Alaska oil and gas development under 42 U.S.C. 6508 may  
5 apply for and be eligible to receive grants to alleviate the impact.  
6 The department shall give priority in the allocation of grants to  
7 municipalities that are experiencing or will experience the most  
8 direct or severe impact from oil and gas development under 42 U.S.C.  
9 6508 within the National Petroleum Reserve - Alaska. Within 10 days  
10 after the convening of each regular session of the legislature, the  
11 Department of Community and Regional Affairs shall submit to the  
12 legislature a list of all municipalities determined by the department  
13 to be eligible for grants under this section, a recommendation of the  
14 amount of money to be granted to each of the listed municipalities,  
15 and a written justification for each grant.

16           (d) It is the intent of the legislature that each year all of  
17 the money in the National Petroleum Reserve - Alaska special revenue  
18 fund be made available for appropriation by the legislature to munic-  
19 ipalities that demonstrate under (c) of this section present impact,  
20 or the need to determine or plan for future impact, from oil and gas  
21 development under 42 U.S.C. 6508.

22           (e) A municipality may use the funds received under (d) of this  
23 section only for the following activities and services to alleviate  
24 the impact of the oil and gas development under 42 U.S.C. 6508 within  
25 the National Petroleum Reserve - Alaska:

26                   (1) planning;

27                   (2) construction, maintenance, and operation of essential  
28 public facilities by the municipalities; and

29                   (3) other necessary public services provided by the

1 municipalities.

2 (f) Funds appropriated under (d) of this section may not be used  
3 for the retirement of municipal debt.

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

7 (1) 50 percent to the principal of the Alaska permanent  
8 fund;

9 (2) .5 percent to the public school fund (AS 37.14.110 -  
10 37.14.150); and

11 (3) the remainder to the general fund for use by the state  
12 for the following facilities and services:

13 (A) planning;

14 (B) construction, maintenance, and operation of essen-  
15 tial public facilities; and

16 (C) other necessary public services.

17 \* Sec. 3. Chapter 94, SLA 1984 is repealed.

18 \* Sec. 4. The National Petroleum Reserve - Alaska special revenue fund  
19 established by sec. 2 of this Act is a continuation of the fund established  
20 by sec. 2, ch. 94, SLA 1984, repealed by sec. 3 of this Act, and the bal-  
21 ance of the ch. 94, SLA 1984 fund shall be transferred accordingly.

22 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
23 10.070(c).

Introduced: 1/20/86  
Referred: House Special Committee on  
Oil & Gas and Finance

1 IN THE HOUSE

BY ADAMS BY REQUEST

2 HOUSE BILL NO. 491

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a National Petroleum - Alaska  
7 Special Revenue Fund; and providing for an effective  
8 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 42 U.S.C. 6508 (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 -  
14 Alaska;

15 (2) P.L. 96-514 further provides that in the allocation of such  
16 funds by the state, priority shall be given to use by those municipalities  
17 of state most directly or severely impacted by the development of oil and  
18 gas leased under P.L. 96-514;

19 (3) virtually all of the National Petroleum Reserve - Alaska  
20 lies within the corporate limits of the North Slope Borough, a home rule  
21 municipality of the state, and the Reserve has within its borders the  
22 municipalities of Atkasuk, Barrow, Nuiqsut and Wainwright;

23 (4) because of the continuing nature of the congressional appro-  
24 priation a special revenue fund should be established to comply with the  
25 directive of the federal act; and

26 (5) in order to insure compliance with P.L. 96-514 and provide  
27 for an orderly disposition of funds to municipalities severely and directly  
28 impacted by National Petroleum Reserve - Alaska development, it is neces-  
29 sary to establish a special revenue fund to segregate the monies received

1 from the federal government under P.L. 96-514 and to establish criteria by  
2 which grants may be made from that special revenue fund to impacted  
3 municipalities.

4 \* Sec. 2. AS 44.99 is amended by adding a new section to read:

5       Sec. 44.99.200. NATIONAL PETROLEUM RESERVE - ALASKA, SPECIAL  
6 REVENUE FUND. (a) The National Petroleum Reserve - Alaska Special  
7 Revenue Fund is established. The fund consists of all money disbursed  
8 to the state by the federal government pursuant to P.L. 96-514 since  
9 the effective date of that act.

10       (b) The commissioner of revenue shall manage the National Petro-  
11 leum Reserve - Alaska Special Revenue Fund.

12       (c) It is the intent of the legislature that each year at least  
13 50 percent of all money in the National Petroleum Reserve - Alaska  
14 Special Revenue Fund be appropriated to the Department of Community  
15 and Regional Affairs for subsequent allocation to municipalities that  
16 demonstrate impact from National Petroleum Reserve - Alaska develop-  
17 ment. The Department of Community and Regional Affairs shall adopt  
18 regulations under which municipalities impacted by National Petroleum  
19 Reserve - Alaska development may apply for and receive block grants.  
20 The department shall give priority in the allocation of grants to  
21 those municipalities that are experiencing or will experience the most  
22 direct, immediate and severe impact from oil and gas leasing activi-  
23 ties within the National Petroleum Reserve - Alaska. Municipalities  
24 may use grant funds received under this subsection only for the fol-  
25 lowing activities and services in conjunction with oil and gas leasing  
26 activities within the National Petroleum Reserve - Alaska:

27           (1) planning;

28           (2) construction, maintenance, and operation of essential  
29 public facilities by the municipalities; and

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(3) other necessary public services provided by the municipalities.

(d) Funds disbursed under (c) of this section may not be used for the retirement of municipal debt.

(e) Amounts received by the state under (a) of this section and not paid under (c) of this section shall be used by the state for the following facilities and services;

(1) planning;

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

(3) other necessary public services.

\* Sec. 3. Chapter 94, SLA 1984 is repealed.

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

# COMMITTEE REPORT

## SENATE

FURTHER:

5/6/86

Date 5/11/86

Mr. President

The Committee on FINANCE considered CSHB 491 (Fin) relating to the disposition of federal funds received by the state from competitive leasing of oil and gas in the National Petroleum Reserve - Alaska; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title \_\_\_\_\_
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation 24,499.14 HFC.
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]  
[Signature]  
[Signature]  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

Carl Fries N/K  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Co-Chairman  
N/K  
Chairman recommendation

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : CSHB 491 (FIN)  
 Title : National Petroleum  
Reserve Alaska  
 Sponsor : Adams by request  
 Requestor : Senate Finance Committee  
 Date of Request : 5/8/86

**FISCAL DETAIL**

Agency Affected : Community & Regional  
 BRU : Affairs  
 Components : \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS		24499.4				
MISCELLANEOUS						
<b>TOTAL OPERATING</b>						

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER		24499.4				
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

It is anticipated that \$24 million will be returned from the permanent fund and the public school fund as a result of the recent Superior Court decision. This fiscal note appropriates that amount from the NPR-A (continued page 2) *APA*

Prepared by : Al Adams, Bill Sponsor Phone : 465-3706  
 Division : \_\_\_\_\_ Date : 5/8/86

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

**Distribution (by Agency preparing fiscal note):**

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

Fiscal Note Continuation

CS HB 491 (Finance)

Special revenue fund created in this bill to the Department of Community and Regional Affairs for payment of impact grants to communities affected by oil and gas development in the National Petroleum Reserve-Alaska.

Offered: 4/30/86  
Referred: Rules

Original sponsor: Adams by request

1 IN THE HOUSE BY THE FINANCE COMMITTEE  
2 CS FOR HOUSE BILL NO. 491 (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 relating to the disposition of federal funds  
7 received by the state from competitive leasing of oil  
8 and gas in the National Petroleum Reserve - Alaska;  
9 and providing for an effective date."

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

11 \* Section 1. FINDINGS. The legislature finds that:

12 (1) the United States Congress by P.L. 96-514 (42 U.S.C. 6508)  
13 provided that the state receives 50 percent of the funds received from  
14 competitive leasing of oil and gas in the National Petroleum Reserve -  
15 Alaska;

16 (2) 42 U.S.C. 6508 further provides that in the allocation of  
17 the funds received by the state, the state shall give priority to those  
18 subdivisions of the state most directly or severely impacted by the devel-  
19 opment of oil and gas leased under 42 U.S.C. 6508;

20 (3) since 1982 the state has received approximately \$48,643,000  
21 from the federal government under the terms of 42 U.S.C. 6508; of that  
22 amount, approximately \$18,044,000 has been placed in the general fund and  
23 spent by the state for various state programs; approximately \$24,317,000  
24 has been placed in the permanent fund and \$182,000 in the public school  
25 fund; the remainder, approximately \$6,100,000, has been placed in the  
26 National Petroleum Reserve - Alaska special revenue fund established by ch.  
27 94, SLA 1984; of that amount, \$3,700,000 has been appropriated for grants  
28 to local governments or for state projects; approximately \$2,400,000 still  
29 remains in the fund;

1           (4) in a decision dated March 18, 1986, a superior court of the  
2 state ruled in City of Barrow, et al. v. State, et al., 1JU-85-2634 Civil,  
3 that the state violated the terms of 42 U.S.C. 6508 by failing to establish  
4 a rational system by which political subdivisions impacted by oil and gas  
5 development in the National Petroleum Reserve - Alaska could apply for and  
6 receive funds on a priority basis; the court has required the state to  
7 segregate and account for all funds received under 42 U.S.C. 6508 before  
8 1984, including money received under 42 U.S.C. 6508 that has been deposited  
9 in the permanent fund under AS 37.13.010 or appropriated to the National  
10 Petroleum Reserve - Alaska special revenue fund under ch. 94, SLA 1984, but  
11 excluding funds expended before 1984 by general fund appropriations; it  
12 also appears from the decision that the court would make National Petroleum  
13 Reserve - Alaska money deposited in the public school fund (AS 37.14.110)  
14 subject to the same segregation and accounting requirements as the money  
15 deposited in the permanent fund; and

16           (5) because of the continuing nature of congressional appro-  
17 priations under 42 U.S.C. 6508, and in order to rectify the state's past  
18 failure to establish a system by which claims of local governments to 42  
19 U.S.C. 6508 funds could be determined and dealt with on a priority basis,  
20 it is necessary to change the National Petroleum Reserve - Alaska special  
21 revenue fund regarding segregation and allocation of the money received  
22 under 42 U.S.C. 6508 and to establish criteria by which appropriations may  
23 be made from the fund to impacted municipalities.

24       \* Sec. 2. Section 2, ch. 94, SLA 1984 is amended to read:

25           Sec. 2. NATIONAL PETROLEUM RESERVE, ALASKA, SPECIAL REVENUE  
26       FUND. (a) The National Petroleum Reserve - Alaska special revenue  
27       fund is established. The fund consists of all money disbursed to the  
28       state by the federal government under 42 U.S.C. 6508 (P.L. 96-514)  
29       since December 12, 1980, less the amount deposited in the general fund

1 and expended by the state by general fund appropriations before  
2 June 9, 1984 [SHALL CONSIST OF MONEY RECEIVED BY THE STATE FROM THE  
3 FEDERAL GOVERNMENT UNDER 43 U.S.C. 1337 (P.L. 96-514)].

4 (b) The commissioner of revenue shall manage the National Petro-  
5 leum Reserve - Alaska special revenue fund [IN ACCORDANCE WITH AS 37.-  
6 10.070].

7 (c) The Department of Community and Regional Affairs shall adopt  
8 regulations under which municipalities impacted by National Petroleum  
9 Reserve - Alaska oil and gas development under 42 U.S.C. 6508 may  
10 apply for and be eligible to receive grants to alleviate the impact.  
11 The department shall give priority in the allocation of grants to  
12 municipalities that are experiencing or will experience the most  
13 direct or severe impact from oil and gas development under 42 U.S.C.  
14 6508 within the National Petroleum Reserve - Alaska. The department  
15 shall fund all meritorious grant applications out of the money appro-  
16 priated to it each year. Within 10 days after the convening of each  
17 regular session of the legislature, the department shall submit to the  
18 legislature a list of all municipalities that have received grants, a  
19 list of all municipalities determined by the department to be eligible  
20 for further grants, a recommendation of the amount of money to be  
21 granted for those additional applications, and written justification  
22 of each past and potential grant [THE COMMISSIONER OF REVENUE SHALL  
23 PAY TO THE SUBDIVISIONS OF THE STATE THAT ARE MOST DIRECTLY OR SEV-  
24 ERELY IMPACTED BY DEVELOPMENT OF OIL AND GAS LEASED UNDER 43 U.S.C.  
25 1337 THE AMOUNT APPROPRIATED BY THE LEGISLATURE FROM THE FUND FOR THAT  
26 PURPOSE. IT IS THE INTENT OF THE LEGISLATURE THAT THE AMOUNT APPRO-  
27 PRIATED FOR PAYMENT TO SUBDIVISIONS EQUAL 50 PERCENT OF THE AMOUNT  
28 RECEIVED FROM THE FEDERAL GOVERNMENT UNDER 43 U.S.C. 1337 AND THAT  
29 THIS PERCENTAGE BE REVIEWED ANNUALLY BY THE LEGISLATURE].

1           (d) It is the intent of the legislature that each year of  
2 the money in the National Petroleum Reserve - Alaska special revenue  
3 fund be made available for appropriation by the legislature to munic-  
4 ipalities that demonstrate under (c) of this section present impact,  
5 or the need to determine or plan for future impact, from oil and gas  
6 development under 42 U.S.C. 6508. It is the intent of the legislature  
7 that an initial appropriation be made to the Department of Community  
8 and Regional Affairs to cover anticipated impact grants, and that  
9 additional funds be made available through supplemental appropriations  
10 if the impact is greater than anticipated and the legislature con-  
11 siders the additional grants proposed by the department to be meri-  
12 torious [AMOUNTS RECEIVED BY THE STATE UNDER (a) OF THIS SECTION AND  
13 NOT PAID UNDER (c) OF THIS SECTION SHALL BE USED BY THE STATE FOR THE  
14 FOLLOWING ACTIVITIES AND SERVICES:

15           (1) PLANNING;

16           (2) CONSTRUCTION, MAINTENANCE, AND OPERATION OF ESSENTIAL  
17 PUBLIC FACILITIES; AND

18           (3) OTHER NECESSARY PUBLIC SERVICES].

19           (e) A municipality may use the funds received under (d) of this  
20 section only for the following activities and services to alleviate  
21 the impact of the oil and gas development under 42 U.S.C. 6508 within  
22 the National Petroleum Reserve - Alaska [AMOUNTS PAID TO SUBDIVISIONS  
23 OF THE STATE UNDER (c) OF THIS SECTION SHALL BE USED BY THE SUBDIVI-  
24 SIONS ONLY FOR THE FOLLOWING ACTIVITIES AND SERVICES IN CONJUNCTION  
25 WITH DEVELOPMENT OF THE NATIONAL PETROLEUM RESERVE IN ALASKA AND A  
26 PROGRAM OF COMPETITIVE LEASING OF OIL AND GAS FROM THAT RESERVE]:

27           (1) planning;

28           (2) construction, maintenance, and operation of essential  
29 public facilities by the municipality [SUBDIVISIONS]; and

1                   (3) other necessary public services provided by the munic-  
2                   ipality [SUBDIVISIONS].

3           \* Sec. 3. Section 2, ch. 94, SLA 1984 is amended by adding new sub-  
4 sections to read:

5                   (f) Funds appropriated under (d) of this section may not be used  
6                   for the retirement of municipal debt.

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

10                   (1) 50 percent to the principal of the Alaska permanent  
11                   fund;

12                   (2) .5 percent to the public school fund (AS 37.14.110);  
13                   and

14                   (3) the remainder to the general fund for use by the state  
15                   for the following facilities and services:

16                               (A) planning;

17                               (B) construction, maintenance, and operation of essen-  
18                   tial public facilities; and

19                               (C) other necessary public services.

20           \* Sec. 4. This Act takes effect immediately in accordance with AS 01.-  
21 10.070(c).

4/B

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 4/28/86

**REQUEST**

Bill/Resolution No. : CSFB 491 (Fin)  
 Title : An Act establishing a National  
 Petroleum - Alaska Special Reserve  
 Fund  
 Sponsor : Adams by Request  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Community & Regional Affairs  
 BRU : Local Government Assistance  
 \_\_\_\_\_  
 Components : Training & Development  
 Grants Administration  
 \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE						
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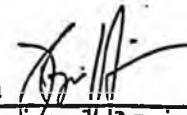
**FUNDING : (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

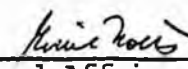
**POSITIONS :**

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

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Doug Griffin   
 Division : Municipal & Regional Assistance

Phone : 465 4750  
 Date : 4/28/86

Approved by Commissioner :   
 Agency : Community & Regional Affairs

Date : 4/28/86

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA  
DEPARTMENT OF REVENUE

MEMORANDUM

TO: Milt Barker  
Deputy Commissioner

FROM: Brian C. Andrews  
Comptroller



DATE: April 10, 1986

RE: National Petroleum Reserve - Alaska (NPRA) Revenues

To date, the State has received five payments constituting the 50% disbursed obligation of the Federal Government of NPRA revenues pursuant to P.L. 96-514. The receipts were deposited in the General Fund, Permanent Fund (AS 37.13.010), Public School Fund (AS 37.14.110), and NPRA Special Revenue Fund (Ch. 94, SLA 1984) in the following amounts:

<u>Date</u>	<u>General Fund</u>	<u>Permanent Fund</u>	<u>Public School Fund</u>	<u>NPRA Special Revenue Fund</u>	<u>Total</u>
12-03-82	\$17,227,054.25	\$17,401,064.91	\$174,010.65	\$ -	\$34,802,129.81
11-08-83	816,490.18	824,737.55	8,247.37	-	1,649,475.10
01-03-85	-	3,784,368.48	-	3,784,368.47	7,568,726.95
06-19-85	-	1,671,217.79	-	1,671,217.79	3,342,435.58
01-29-86	-	635,779.75	-	635,778.75	1,271,557.50
<b>Total</b>	<b>\$18,043,544.43</b>	<b>\$24,317,168.48</b>	<b>\$132,258.02</b>	<b>\$6,091,365.01</b>	<b>\$48,634,324.94</b>

The accounting contact at the Department of Natural Resources is Myrtle Paulk. The AKSAS collocation code number and account number for the NPRA Revenue fund are 1044119 and 6306.

BCA/mem

17401054.91 +  
 824737.55 +  
 3784368.48 +  
 1671217.79 +  
 635779.75 +  
 24517188.68 \*  
 3784368.47 +  
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 34802129.81 +  
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 7568726.95 +  
 3342435.58 +  
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 48634324.94 \*  
 34709100.81 \*  
 1649475.10 +  
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HB 491 is an attempt to clean-up NPR-A legislation passed in the 1984 session, based on a March 1986 superior court ruling.

The Superior Court found that the State violated the terms of 42 U.S.C. 6508...which is the federal law which provides that the state receives 50% of the funds received from competitive leasing of oil and gas in the National Petroleum Reserve --Alaska. This law mandates that in the allocation of these funds, the state has to give priority to subdivisions most severely or directly impacted. (See the chart, prepared by the Department of Revenue in your bill file regarding the disposition of income from NPR - A.)

The Superior Court, in its March 18, 1986 ruling requires

- 1) the state to segregate and account for the funds received,
- and 2) state must set up a system by which impacted communities can apply for and receive funding on a priority basis.

The 1984 legislation set up a separate revenue fund to account for monies which were received by the state. However, the State failed to set up a system by which impacted communities could apply for and receive funding on a priority basis.

This bill would set up a rational system by which impacted communities would be able to apply for and receive funding.

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

May 9, 1986

The Honorable Frank Ferguson  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: CSHB 491(Fin)

Dear Senator Ferguson:

We were asked to provide a letter explaining the financial implications of (1) P.L. 96-514 (42 U.S.C. 6508), (2) the recent superior court decision in City of Barrow v. State, 1JU-85-2634 Civil, and (3) CSHB 491(Fin).

The federal law provides that the state is to receive 50 percent of federal revenues from oil and gas leasing in the National Petroleum Reserve-Alaska ("NPRA"). In allocating those funds, the federal law requires the state to give priority to subdivisions of the state most directly or severely impacted by NPRA leasing.

In the court decision, the superior court held that the state had violated the provision of federal law requiring the state to give priority to the subdivisions of the state most directly or severely impacted by NPRA leasing. It directed that a fund be reconstituted to afford the opportunity for those subdivisions to demonstrate impacts entitling them to priority to the funds. At the same time, the superior court ruled that not all of the monies received by the state under the federal law should be placed in the reconstituted fund. Instead, the ruling directed the state to reconstitute a fund consisting of money received under the federal law but excluding funds expended prior to 1984 by general fund appropriation.

This bill is designed to implement the federal law as construed by the superior court. It is not only consistent with the superior court's decision, but accomplishes precisely what the superior court ordered. As currently written, it affords subdivisions of the state the opportunity to apply for funds to alleviate impacts of NPRA leasing. To the extent subdivisions

The Honorable Frank Ferguson

May 9, 1986  
Page 2

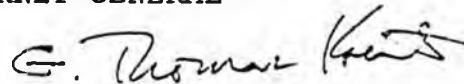
demonstrate direct or severe impact from NPPA leasing, under the federal law they are entitled to a priority to those funds. Once that priority use has been satisfied, any remaining funds become subject to the provisions of state law, including the automatic deposit in the Alaska Permanent Fund.

In brief, the bill as presently drafted satisfies the requirements of both federal and state law. Both the plaintiffs in the superior court litigation and the Administration are in agreement on this point.

Sincerely,

HAROLD M. BROWN  
ATTORNEY GENERAL

By:



G. Thomas Koester  
Assistant Attorney General

GTK:dlm

cc: Commissioner Nordale, DOR  
Commissioner Notti, C&RA  
Dave Rose, Alaska Permanent Fund

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
2 FIRST JUDICIAL DISTRICT AT JUNEAU

3 CITY OF BARROW, CITY OF WAINWRIGHT, )  
and NORTH SLOPE BOROUGH, )

4 Plaintiffs, )

5 v. )

6 STATE OF ALASKA, WILLIAM SHEFFIELD, )  
7 Governor of Alaska, MARY NORDALE, )  
8 Commissioner, Department of )  
Revenue, State of Alaska, )

9 Defendants. )

FILED IN THE TRIAL COURTS  
STATE OF ALASKA, FIRST DISTRICT  
AT JUNEAU

MAR 18 1986

Clerk of Court

By PB Deputy

No. 1JU-85-2634 Civil

10  
11 SUMMARY ORDER

12 Plaintiffs move for summary judgment on their  
13 complaint for declaratory relief. Specifically, they seek a  
14 judicial declaration that the defendants (hereinafter, the  
15 State) have violated the terms of P.L. 96-514 (42 U.S.C. 6508)  
16 by (a) failing to segregate funds received from the federal  
17 government, (b) failing to establish a system by which political  
18 subdivisions impacted by oil and gas development in the National  
19 Petroleum Reserve - Alaska (hereinafter, NPR-A) could apply for  
20 or receive funds to impacted subdivisions on a priority basis as  
21 required by the federal law and (c) appropriating those funds to  
22 the general use of the State of Alaska. (Plaintiffs alterna-  
23 tively seek parallel declaratory relief on the basis of breach  
24 of fiduciary duty to administer a trust created by P.L. 96-514.)  
25 Plaintiffs additionally seek a declaration that ch. 94, SLA  
26 1984, requires all funds (past or future) received by the State  
27 from the federal government under P.L. 96-514 to be placed in a  
28 special revenue fund and made available for appropriation by the  
29 legislature under a system which complies with the requirements  
30 of P.L. 96-514. Lastly, plaintiffs seek injunctive relief  
31 (a) requiring the State to segregate and account for all funds  
32 received under P.L. 96-514 and to administer those funds in

1 accordance with law and (b) prohibiting the State from expending  
2 any P.L. 96-514 revenues (past or future) until a system is  
3 established for lawful administration and disposition of such  
4 funds.

5 The State has filed a cross-motion for summary judg-  
6 ment, arguing first that the plaintiffs' complaint does not  
7 state a cause of action. The State argues to this result from  
8 its conclusion that P.L. 96-514 imposes no judicially enforce-  
9 able conditions on Alaska's receipt of NPR-A revenues.  
10 Additionally, the State argues (a) that the plaintiff municipal-  
11 ities have no right to share in NPR-A revenues in advance of  
12 actual commercial production from NPR-A; (b) that the State is  
13 entitled to deposit a portion of NPR-A revenues directly into  
14 the Alaska Permanent Fund upon receipt; (c) that the State is  
15 under no obligation to adopt specific procedures whereby  
16 political subdivisions may apply for and receive NPR-A funds;  
17 (d) that plaintiffs' delay in bringing this action bars their  
18 claims for relief as to moneys already expended by the State;  
19 (e) that any State obligation with respect to NPR-A funds should  
20 be deemed satisfied through the sharing of state revenues with  
21 the plaintiff municipalities under other programs; and (f) that  
22 ch. 94, SLA 1984, does not affect NPR-A revenues which were  
23 received and spent by the State prior to the date on which that  
24 law became effective.

25 The parties have both requested expedited handling of  
26 this motion. Oral argument was heard one week after the  
27 briefing was completed. In order to avoid further delay<sup>1</sup> in  
28  
29

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30 1. The six-week period during which this case has  
31 been held under advisement coincides almost exactly with the  
32 period during which the undersigned has been the only superior  
court judge present in Juneau.

1 announcing the court's decision, the court's conclusions on the  
2 above issues are set out below in summary fashion.

3 1. Mandatory Duty Regarding Allocation of NPR-A Revenues.

4 A. P.L. 96-415 provides that half of all receipts  
5 from sales, rentals, bonuses and royalties on leases pertaining  
6 to lands in the National Petroleum Reserve - Alaska shall be  
7 paid by the federal government to the State of Alaska "for  
8 (a) planning, (b) construction, maintenance and operation of  
9 essential public facilities, and (c) other necessary provisions  
10 of public service." In the allocation of such funds, the  
11 federal act establishes a mandatory duty on the State of Alaska  
12 to "give priority to use [of NPR-A funds] by subdivisions of the  
13 state most directly or severely impacted by development of oil  
14 and gas leased under [P.L. 96-514]."

15 B. The duty imposed by P.L. 96-514 ultimately falls  
16 upon the Alaska Legislature (because it has the spending power),  
17 and it includes the duties to examine the claimed needs of  
18 subdivisions arising from oil and gas development impacts, to  
19 evaluate them and, if the claimed needs are found to exist, to  
20 rank them in order of priority, and to meet or satisfy them out  
21 of NPR-A revenues.

22 C. The duty set out above may be met through exist-  
23 ing entities and the budget review process; it is not necessary  
24 that a new apparatus be created to receive NPR-A claims.

25 2. When the Duty Arises.

26 The duty arises upon the commencement of any "develop-  
27 ment" of the subject tracts. Because "development" includes  
28 "any step taken in the search for . . . hydrocarbons" (as well  
29 as capture, production and marketing of same), it is clear that  
30 the duty arises well before actual commercial production and  
31 exists at least as early as when test wells are being drilled.  
32 Of course, in evaluating claimed impact needs, and in

1 determining whether they truly exist, the legislature certainly  
2 may take into account the likely pace of exploration, the  
3 likelihood of further exploration, the likelihood of actual  
4 commercial production which may result and its likely pace, etc.

5 3. Automatic Deposit into Permanent Fund.

6 The State cannot, consistent with its obligations  
7 under P.L. 96-514, automatically deposit 50% (or any amount) of  
8 all NPR-A revenues into the Alaska Permanent Fund. Such action  
9 clearly contravenes the mandatory duty placed on the State by  
10 the very law which authorizes payments to the State (since such  
11 payments are made on the condition that the State "give priority  
12 to use [of such funds] by subdivisions of the state most  
13 directly or severely impacted" by the developments of leased  
14 lands). Rather than a direct deposit to the permanent fund, the  
15 State must first resort to the process referred to in Parts 1-B  
16 and 1-C above to examine the claimed needs of impacted subdivi-  
17 sions and to rank any found to exist. Because the language of  
18 the federal act is so broad concerning the allowable objects of  
19 state expenditure of NPR-A funds ("other necessary provisions of  
20 public service"), it is conceivable that an allocation of NPR-A  
21 revenues to the permanent fund might be allowable after the  
22 State complies with the mandatory duty imposed on it to evaluate  
23 needs and establish priorities. But this difficult question  
24 need not be resolved now, for on the undisputed facts before the  
25 court the State has made no effort at all to meet the duty  
26 imposed upon it. The automatic deposits into the permanent fund  
27 clearly violate the federal law.

28 4. Plaintiffs' Delay in Filing Lawsuit.

29 By virtue of their delay in bringing this action,  
30 plaintiffs are barred from obtaining relief as to any moneys  
31 already expended by the State. Because the State is under a  
32 duty under federal law to undertake an evaluative process to

1 prioritize claims, and because it would be impossible to  
2 recreate the conditions under which that process would have  
3 taken place in 1982 and 1983 (for example), the State would be  
4 prejudiced by an order now requiring it to place into a special  
5 fund monies which have been expended for other purposes and an  
6 order requiring it to make allocations based on a system of  
7 priorities which cannot be recreated. There is no bar, however,  
8 as to those funds which have been placed in the NPR-A reserve  
9 account since 1984, and there is no bar as to those funds  
10 deposited directly into the Permanent Fund.

11 5. Satisfaction.

12 Summary judgment on this defense is denied. Even  
13 assuming that the amount of development-related impact needs of  
14 the plaintiffs for the period 1981 - 1985 could somehow be known  
15 by this court without formal legislative determination under the  
16 process mandated by the federal act, there would remain factual  
17 matters in dispute. The court, however, adopts the position of  
18 the State that it may show satisfaction to the extent that it  
19 shows that a given appropriation to plaintiffs was for needs  
20 arising out of oil and gas development-related impacts.

21 6. Ch. 94, SLA 1984.

22 Having determined that federal law imposes a mandatory  
23 duty upon the State as set out above, it is unnecessary to  
24 consider whether state law too forbids the practices complained  
25 of here by plaintiffs. Under the supremacy clause of the  
26 federal constitution, federal law controls. Whether ch. 94, SLA  
27 1984, also requires, as a matter of state law, that which  
28 P.L. 96-514 requires therefore need not be decided.

29 CONCLUSION

30 Having reached the above conclusions, the court  
31 declares the rights of the parties and orders as follows:

32 //

- 1 (1) The State has violated P.L. 96-514 by failing to establish  
2 a system by which political subdivisions impacted by oil  
3 and gas development in the NPR-A could apply for and  
4 receive funds on a priority basis.
- 5 (2) The State has violated P.L. 96-514 by appropriating NPR-A  
6 funds to the general use of the State of Alaska without  
7 giving priority to those uses specified in P.L. 96-514.
- 8 (3) The State is required to segregate and account for all  
9 funds received under P.L. 96-514, other than those already  
10 expended.
- 11 (4) The State is required to administer funds received under  
12 P.L. 96-514 in such a way that it gives priority to the use  
13 of such funds by subdivisions most directly or severely  
14 impacted by development of oil and gas leased under  
15 P.L. 96-514.
- 16 (5) As to the defense of satisfaction, that matter must be  
17 reserved for trial on the factual issue whether any appro-  
18 priations to plaintiffs during the years in question were  
19 for needs arising from impacts related to oil and gas  
20 development.

21 The matter will be scheduled for trial at counsel's  
22 request upon the filing of a proposed scheduling order signed by  
23 all parties, or a scheduling conference will be set if counsel  
24 are unable to agree upon a schedule for trial.

25 IT IS SO ORDERED.

26 DONE at Juneau, Alaska, this 18<sup>th</sup> day of March, 1986.

27  
28 Walter L. Carpeneti  
29 Walter L. Carpeneti  
30 Superior Court Judge  
31  
32