

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

953 SCOMM44: HOUSE POWER ALTERNATIVES STUDY COMM. 1979-80

The Honorable Jay S. Hammond
Governor

May 2, 1975

- 5 -

have specific purposes attached to them." Ibid., 2298. With respect to the exception in section 7 (then section 8), the committee spokesman said:

There are some federal participation programs which do require specific things that might conflict with a total prohibition on this subject We have provided that any funds, which are allocated at the time this constitution is approved, do not come under this provision Ibid., 2302.

By express language in the committee proposal and in its explanation, we then had a "total" prohibition on any dedication of any public revenues but for two explicit exceptions. That this included proceeds from the conveyance of state lands or interests in state lands cannot be denied. Indeed, the subject was quickly brought up with respect to school lands. In response to questions, the committee spokesman explained that if Congress made a grant of lands dedicated for school purposes, the federal exception clause would apply and funds could be dedicated. The necessary inference is, of course, that if the land grant were general, the proceeds could not be dedicated. Ibid., 2317-19.

During this colloquy, the chairman remarked of then section 8 (prohibition against dedicated funds) that the committee wished to postpone its consideration by the Convention because it had a number of changes to recommend. Ibid., 2318.

The Honorable Jay S. Hammond
Governor

May 2, 1975

- 6 -

When the section was brought up the following day, the committee moved to delete the phrase: "All public revenues shall be deposited . . ." and substitute the phrase "The proceeds of any state tax or license . . .". Ibid., 2361. If we use a plain-language rule to interpret this alteration, we must conclude that a substantive change of dramatic proportions was proposed and adopted, i.e., from a broad prohibition against dedicating any revenues to a lesser prohibition against dedicating tax or license revenues. The record, however, indicates nothing of the sort being intended or perceived.

The immediate result was a flurry of questions and subsequent debate over including the proceeds of licenses in the prohibited category. Ibid., 2361-2376. Debate ensued on a motion to strike the word "license". It revealed a strong majority against dedicated funds of whatever kind and a vote against the amendment of 44 to 10. Ibid., 2377. It also revealed, almost certainly, the origins and intent of the committee's amendment from "all public revenues" to "the proceeds of any tax or license."

During the debate, a delegate asked about the use of sinking funds to retire bonds. Answering for the committee, Delegate White responded as follows:

. . . [T]his suggested committee change came about because under the old language where it said 'All revenues shall be deposited without

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 7 -

allocation . . . ' we ran into a situation where we had listed seven exceptions that we were afraid we were going to have to make. By going to the tax itself and saying that the tax shall not be earmarked, we eliminated all seven of those exceptions. Now in this case the sinking funds for bonds, all this prohibits is the earmarking of any special tax to that sinking fund. You could still set up a sinking fund from the general fund or the state treasury. Ibid., 2363.

The "situation" the committee "ran into" was a memorandum of January 4, 1956, consisting of comments by the consultants from the Public Administration Service (PAS) on the committee's proposal. Files. The comment on dedicated funds is set out in its entirety below:

At the request of the Committee on Finance and Taxation, finance specialists on the Public Administration Service staff in Chicago prepared comments on the Finance Committee proposal. These comments, supplemented as a result of Mr. Sady's discussions with these specialists, follow:

Section 8: The intended purpose of this section to prohibit the earmarking of certain revenues for special purposes is certainly laudable. It is doubtful, however, that a strict interpretation of this provision could be applied. Legal and contractual provisions will require the segregation of certain moneys, e.g., pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts which the state might collect on behalf of local government units.

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 8 -

This section might be revised by the deletion of the words in brackets and by the addition of the underlined words, as follows:

"Section 8: All public revenues shall be deposited in the State treasury without allocation for special purposes. [; except where state participation in Federal programs will thereby be denied.] This provision shall not prohibit the continuance of any allocation existing upon the date of ratification of this Constitution by the people of Alaska, nor the earmarking of tax revenues and other receipts where necessary to enable the State to participate in Federal programs, to repay public debt, to maintain any individual or corporate or other local government equity therein, or to maintain duly established revolving funds." Ibid.

The jump from the amendments proposed by PAS to those of the committee is not explained in the records of the Convention. But it is clear that the several exceptions listed in the PAS memorandum are those referred to in quotation from the debate, supra, and that the committee proposed its change for no other purpose than meeting the problems raised by the memorandum: "By going to the tax itself and saying that the tax shall not be earmarked, we eliminated all seven of those exceptions." 4 MINUTES, 2363 (1956).

The important thing to note is that no intent was shown to limit the class of revenues which could not be dedi-

The Honorable Jay S. Hammond
Governor

May 2, 1975

- 9 -

cated. 2/ Rather, the intent of the amendment was to change the language so as to avoid setting forth specific exceptions "[b]y going to the tax itself" Id.

In a later discussion of the article on the initiative and the prohibition there against dedicating any "revenues", Delegate White expressed concern that the Committee on Style and Drafting "retain the idea of dedicating of taxes" when it

2/ The committee's records reveal ample consideration of taxes and licenses but none of other revenues. The committee focus may have inadvertantly led it to an implicit understanding that the phrase "taxes or licenses" covered all governmental revenues. Ironically, by changing the original language: "All public revenues shall be deposited . . . without allocation . . ." to the phrase: "The proceeds of any state tax or license . . . shall not be allocated . . .", the committee (and the Convention) failed to express the intended result. By its plain language, the prohibition on dedications applies to the "proceeds of any tax or license." Contrary to the expressed intent, 4 MINUTES 2363 (remarks of Delegate White), the prohibition is not directed at the tax but, rather, at the proceeds. Since the general fund consists of those proceeds, under the terms of the literal language, one could not "set up a sinking fund from the general fund or the state treasury." Id.

Because interpreting Section 7 by its plain language so as to prohibit sinking funds, retirement funds, and the like, would thwart the expressed will of the Convention, a plain-language interpretation would be improper. Instead, the section should be interpreted to give it its full effect, i.e., to except certain necessary dedications arising from contractual obligations routinely entered into by every state. PAS Memorandum, supra.

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 10 -

came to the finance article. Delegate Sundborg took this to refer to "taxes" being more limited than "revenues", i.e., not to include more than taxes, but Delegate White stated that the reason was otherwise:

The reason we made the distinction . . . is because all proceeds coming to the state are revenues really, and you have to dedicate or allocate revenues to special purposes, whereas what we are trying to get at is the allocation or dedicating or earmarking of the proceeds of a particular tax to a particular purpose. 4
MINUTES 2969.

In other words, the prohibition of Section 7 was aimed at revenue sources, and the Convention's concern, then, was not to exempt some sources of revenue from the prohibition against dedications but, rather, to exempt certain kinds of necessary dedications of revenues from that prohibition after their receipt. As a sampling of the debates clearly shows, the Convention clearly intended to prohibit any new dedications of any source of revenues:

WHITE: Mr. Emborg, the committee's idea here is to prevent earmarking for anybody except in the case outlined I think I can speak for a majority of the committee in saying that you can go on making exceptions to this for deserving groups ad infinitum. But the committee feels that if you accept the principle of not earmarking, it puts everyone in the same position and that the legislature will then be . . . able to decide each case

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 11 -

on its own merits. If you go the other route and allow for earmarking . . . you are then back to the situation that most states now find themselves in, where an everincreasing percentage of their revenues are earmarked for special purposes and an everdecreasing amount is available to the general fund . . . So the committee would suggest that the Convention accept the idea of preventing earmarking or reject it. 4 MINUTES, 2364 (emphasis added.)

In response to a typical argument that ". . . unless you have a fair share of earmarked funds for special certain purposes, particularly public works . . . you often times do not get them", the answer was: "They have to sell their viewpoint [to the legislature] along with everybody else." Ibid., 2365, 2367.

The suggestion was raised that a name other than "license" might be used to avoid the prohibition. The committee response was as follows:

AWES: I think. . . the odds are all in favor of the court saying these are all licenses in fact, and bringing them within the restrictions of this section. . . . I think I might give a few indications of the committee's thinking at the time we adopted this proposal. The latest figures that we had before us, about 27 per cent of the funds of Alaska were earmarked and with the figure of 27 per cent, I think Alaska was right among the lowest ranking with the states in the matter of earmarking. Texas . . . 90 per cent . . . the majority . . . around 50 per cent up to 75 per cent of their funds. . . . I

think earmarking is bad; from an accounting standpoint it's bad. It is inefficient, undoubtedly, because it deprives the legislature of that adaptability that you get when you take a certain amount of money with no strings attached and allocate it without limitations. I think inefficiency is one of the big arguments against earmarking. I think the other one is that, eventually, you do get so many funds earmarked that the legislature just does not have the money to work with for current operating expenses The committee felt . . . after seeing the extent to which earmarking is growing in the states and the impossibility of doing away with earmarking once you get it, that the advantage is weighted in favor of limiting earmarking [to certain exceptions] and that is the reason we adopted the provision that we did. Ibid., 2367-68 (emphasis added).

In other words, it mattered little to the committee what name the revenues had, it was prohibiting, subject to certain exceptions, the dedication of sources of revenues. It did not want the legislature's hands tied by any additional dedicated funds. And it felt that "the odds were all in favor of the court" upholding its design if sources of revenue were designated by names other than "tax or license."

Another member of the committee, one who did not originally favor the committee's proposal, saw it as a reasonable compromise:

PERATROVICH: Mr. President . . . I do not say that we should go overboard and earmark all the revenue that we take in . . . but I think . . . there is some good derived from such an [existing] program I was satisfied with the language here. I figure that the compromise, that the allocations that are now in existence would be retained Ibid., 2369-70 (emphasis added).

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 13 -

The "compromise" was, of course and as stated, that the existing dedications could be retained. But this could be a compromise only if no new dedications of any source of revenue could be created.

Another member of the committee, agreeing on the value of existing dedications for highways, airports, and schools, cautioned on the needs of other programs:

BARR: Mr. President . . . The health program demands an immense amount of money so, therefore, the legislature should have a fair/size sum in the general fund subject to appropriation for those purposes. I am afraid if we had 50 per cent of our funds earmarked, we would have practically nothing left for our health program and things of that sort. Ibid., 2370-71 (emphasis added).

The same member pointed out, in arguing against an amendment to delete the word "license", that the amount of license fees received in fiscal 1954-55 was \$2 million out of a total tax of \$15.7 million. The Convention was unwilling to exempt 13 per cent of the then revenues from the prohibition against dedications (although a substantial percentage of license fees were already dedicated). It hardly seems likely that it intended to exempt the revenues from the leasing of resources. Consider the following from the debate on deleting the word "license":

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 14 -

AWES: I . . . would like to make a few more comments on the amendment that is now before us. I think the question is much more fundamental, much more basic than just the question of whether we will strike 'or licenses'. The question goes right to the heart of the matter. Do we want earmarking or do we not? Once you strike 'licenses' and then you make this exception and that exception, and what it really amounts to is an admission that you really don't want to do away with earmarking As soon as [additional] exceptions are made to this section, then I think the section should be stricken. Ibid., 2374.

On the motion to strike "or license", the vote was 44 against and 10 for. Ibid., 2377. On a subsequent motion to strike the entire section, the vote was 41 against and 8 for (6 absent). By an overwhelming majority, the Convention wanted no additional exceptions and wanted no additional earmarking. Delegate Herman expressed the sentiment precisely:

HERMAN: I am not opposed to funds for roads . . . and I think the funds that are already earmarked are probably properly earmarked, but I would hate to see the door left open to earmarked additional funds with the probable effect of reducing the general fund to the point where the services to the citizens of the Territory had to be seriously curtailed. I oppose striking section 7. Ibid., 2409 (emphasis added).

Having determined that there would be no additional exceptions and that there would be a prohibition, the Convention then debated whether the existing dedications should also be

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 15 -

prohibited, i.e., whether the compromise should be retained.

The proposed amendment was moved by Delegate Buckalew.

BUCKALEW: Mr. President I just want to point out to the delegates that the committee has admitted that it is a bad practice to earmark funds; they have admitted that the sensible, sound way to run a state is to abolish this practice which leads to evils as far as the fiscal management of the state is concerned. I ask you to let the new State of Alaska . . . start off with a clean slate and no earmarked funds at all. . . . (emphasis added).

PERATROVICH: I would like to express my view. . . . I, too, felt that after I heard the arguments in the committee, that perhaps it was dangerous to give free rein in the new state in earmarking funds. However, I realize . . . that there was some good being accomplished by those earmarked funds that we have on the books today. . . . [O]ur proposal here is the outcome of compromise. We went both sides . . . perhaps it is a good thing to retain the provisions that we now have on the books but not permit any further earmarking of funds. . . .

* * * *

NERLAND: [I]n spite of a feeling by the committee that earmarked funds, in general, should be frowned upon, it was felt that those now on the statute books should be left in effect as long as the legislature saw fit to leave them there.

* * * *

WHITE: Mr. President I can only say that . . . if this convention decides -- as it apparently has decided -- that earmarked funds are bad, then all earmarked funds are bad and we should . . . wipe them out here and now. . . .

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 16 -

The proposed amendment failed on a voice vote, and the compromise was retained: No new earmarked funds, but those existing may remain. Ibid., 2413-2416 (emphasis added).

The debates show conclusively (as do the committee records) that the real concern was about earmarked funds, not taxes or licenses, but funds. At one point, the section used the words "all public revenues". This was amended to "proceeds of any tax or license", but the record shows that the purpose of the change was not to reduce the prohibition but, rather, to allow necessary allocation of revenues to reduce the prohibition or to enlarge the exceptions. The committee's amendment from "all public revenues" to "proceeds of any tax or license" was adopted by a vote of 47 to 7. The very same delegates who defeated the efforts to reduce or eliminate the prohibition and who defeated the amendments to enlarge the exceptions were those who voted for the change from "all public revenues" to "proceeds of any tax or license". Indeed, Delegate White, who supported the elimination of all existing dedications, was the principal proponent and committee spokesman for that change. On this record, it is difficult to see how the committee's amendment can reasonably be interpreted as opening the door to create new dedicated funds from resource revenues. On the record, any new dedication is precisely what the Convention overwhelmingly voted to prohibit.

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 17 -

The 1969 Op. Atty. Gen. No. 5 states that the Convention simply did not consider oil revenues. The record contradicts this. An attempt was made to amend section 7 so as to freeze existing dedications so that they could not be repealed by the legislature. Questions were raised, among them, the following:

STEWART: How would royalties, for instance, on the production of oil be regarded under this provision? Would they be considered taxes or licenses?

PRESIDENT EGAN: Does the Chairman . . . have the answer . . . or anyone on the committee? Mr. Nolan? [member of the committee]

NOLAN: Mr. President, I would imagine that they would just go into the general fund.

STEWART: I was thinking if they were earmarked . . . [before the prohibition took effect] we can see the very, very large revenues deriving from oil lands. If they were earmarking them, for instance, for schools even, it might be that the revenue from those lands would amount to millions and millions a year, far beyond even our requirements for schools.

* * * *

NOLAN: They wouldn't be earmarked because they are not under any existing law now, the earmarking of them, so this section [exceptions] would not apply to it. It would go into the general fund. Ibid., 2381-2382 (emphasis added).

Not only did the Convention consider oil revenues, but it was advised by the committee spokesman that the prohibition

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 18 -

against dedicating the proceeds of any tax or license would require that, there being no existing dedication, oil revenues be placed in the general fund, i.e., that they could not be dedicated. The committee did not say whether oil revenues were a tax or a license, but it clearly thought they were covered and advised the Convention to that effect. This is, of course, consistent with the similar colloquy concerning school land and general land grants. Revenues from the former could be dedicated (federal requirement) but not from the latter. 3 MINUTES 2317-19. (While this earlier discussion occurred before the amendment from "all revenues" to "proceeds of", the committee had apparently already decided upon that change and the colloquy should be read in that light. See remarks of Delegate Nerland, Ibid., 2318.)

Arguably, the term "any tax or license" is broad enough to include royalties on oil or gas imposed by the state. A "royalty" is a share of the product or profit paid to the owner of the property. Black's Law Dictionary (rev. 4th ed. 1968). And a "royalty bonus" is simply consideration for the mineral lease paid over and above the royalty. Id. Since a "tax" is a pecuniary burden levied on individuals or property to support the government or a ratable portion of the produce of property levied by the sovereign, and since a license (a) generally consists of a charge for engaging in an activity otherwise unlawful or tortious, or (b) is simply another means of raising revenue for the govern-

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 19 -

ment, or (c) both, id., it is reasonable to suggest that the term as used in section 7 is broad enough to include royalties and royalty bonuses (lease bonuses). As we have seen, no one at the Convention suggested that royalties were not covered by section 7, and a spokesman for the Committee on Finance and Taxation said that they were. All royalties are not taxes; most are payable to private property owners. But when paid to governments, they do not differ substantively from taxes. (Royalties paid by American corporations to foreign governments are treated as taxes under the Internal Revenue Code. Larger fictions exist at law.)

But something more than royalties is at stake here. Suppose Alaska were to produce and sell its own oil and gas, rear and sell fish or shell fish, mine and sell copper or gold. It already sells timber and leases land for farming and grazing. Indeed, the very concept of the land grants to Alaska from Congress was that the new state would become wealthy through the sale of its newly acquired resources. 1958 U.S. Code Cong. & Adm. News 2933, et seq. And the Convention was well aware of this. 3 MINUTES 2319; 4 MINUTES 2449, et seq. Accordingly, a gentle fiction that the term "tax or license" includes royalties does not suffice. Either the Convention prohibited the dedication of any and all additional funds or it did not. The plain language of section 7 says that it did not. The plain language of the

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 20 -

Convention's debates compels the conclusion that it did:

The question goes right to the heart of the matter. Do we want earmarking or do we not? . . . As soon as exceptions are made to this section, then I think the section should be stricken. Ibid., 2374.

The Convention answered that question with a resounding vote against earmarking and against any exceptions other than those existing and those required by federal law.

That the Convention intended to prohibit any new dedicated funds of whatever description is further demonstrated by the record. A motion was made to change the cut-off date for existing dedications from "the date of ratification" of the Constitution, i.e., 1956, to the "effective date" of the Constitution, i.e., sometime in the indefinite future. 5 MINUTES 3415. Opponents of the motion offered the following:

. . . . It seems to me that if we adopt the provision as it now stands without the amendment, all we are doing is saying 'dedicated funds existing as of April 1956'; that is all we are saying To me it seems vital that this existing language be maintained or that some other language be put in which would freeze the existing earmarked funds. Otherwise, we are opening up ourselves, and not just ourselves but the people of Alaska, up to a race for earmarked funds prior to the date of ratification, and that would seem a most dangerous thing to do. I see no reason why we cannot say, 'as of such and such a date, any funds existing can continue.' Ibid., 3417 (emphasis added).

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 21 -

* * * *

. . . . In substance, the effect of [the] amendment would be that, until the time that we received statehood, the legislature can go ahead and continue to earmark funds, and all of those earmarked funds then would, in substance, be exempt under the Constitution. . . . We would then be in the identical position of those states that have 90 per cent of their funds earmarked. The intent of this section -- and it is clear and patent and only a sophist could insist that it is something other than what it reads -- is that sometime this year, in the spring, at ~~that~~ date, at a precise date on which this Constitution is ratified, that earmarked funds or dedicated funds existing at that time will at least be permitted to continue under statehood, and it means, in substance, if at that time no limited funds are earmarked, that that is the cut-off date. . . . There will be no more earmarked funds, and earmarked funds which are created by the legislature in future years will not be subject to the [exemption] provisions of this article. If we substitute the words "effective date", it means that the whole validity of section 7 is done away with, because the legislature from year to year to year can and will dedicate more and more funds and, eventually, by the time this Constitution becomes effective, the section will be completely ineffective. . . . [T]he intent of the article would be destroyed by the amendment. Ibid., 3418-3419 (emphasis added).

The proposed amendment failed on a voice vote. Ibid., 3420.

The Convention clearly intended that neither the Governor nor the legislature should be deprived of "real control over the finances of the state." 6 MINUTES, Appendix V, 111. It recognized the need for allocating or earmarking of funds

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 22 -

once received for contractual obligations and the like, supra., pp. 4-7, but it firmly opposed any additional earmarking of revenues for any purpose. E.g., 4 MINUTES 2409. It expressly sought to avoid

. . . the situation that most states now find themselves in, where an ever-increasing percentage of revenues are earmarked for special purposes and an ever-decreasing amount is available to the general fund. . . . Ibid., 2364.

The situation the Convention expressly sought to avoid is precisely the situation that is developing. The renewable resources fund, AS 34.11.010, the proposed Alaska mineral lease bonus fund, CSHB 324, the proposed fund for parks and recreation, SB 147, and the proposed fund for hydro-electric projects, CSHB 171 and SB 185, demonstrate a trend toward "an ever-increasing percentage of revenues" being dedicated to special purposes. In spite of the Convention's clearly expressed intent that "[t]here will be no more earmarked funds. . . .", 4 MINUTES 3419, and in spite of the express command that there will be no new dedications, even of oil and gas royalties, 4 MINUTES 2381-2382, this is precisely what is happening.

The legislature has dedicated 5 per cent of oil and gas bonuses, rentals, and royalties, up to a maximum fund of

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 23 -

\$250 million in a renewable natural resources development fund. AS 37.11.010. Since the permanent fund arises only from surpluses in the development fund, the maximum might never be reached. Similar schemes are proposed for special funds for parks and recreation (1 per cent), SB 147, and for hydro-electric power (15 per cent), HB 171 and SB 185. 3/ By far the most far reaching proposal to date is the Alaska mineral lease bonus permanent fund, CSHB 324.

With 5 per cent of bonus-royalty (bonus-lease) revenues already dedicated, AS 37.11.010, the proposal for the lease bonus permanent fund would dedicate an additional 90 per cent from which only the income may be expended, thereby effectively dedicating still more revenues and effectively depriving the Governor and the legislature of "any real control over the finances of the state." 6 MINUTES, App. V, 111.

It is well settled that constitutions and legislative acts are to be interpreted in accordance with their purpose.

3/ CSHB 171 deletes the 15 per cent dedication and, instead, establishes a loan fund dependent upon annual appropriations. To this extent, it does not offend the constitutional prohibition. However, those appropriations are to be made from the Alaska mineral lease bonus permanent fund, CSHB 324, which does dedicate revenues and would be unconstitutional.

The Honorable Jay S. Hammond
Governor

May 2, 1975
- 24 -

Alaska Public Employees Ass'n v. State, 525 P.2d 12 (Alaska 1974). Section 7 of Article IX of the state Constitution can be given its intended effect and serve its repeatedly expressed purpose only if the words "proceeds of any tax or license" are interpreted to mean what their framers clearly intended, i.e., the sources of any public revenues.

Accordingly, it is our conclusion that the dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever is limited by the state Constitution to those existing when the Constitution was ratified or required for participation in federal programs.

Very truly yours,

Avrum M. Gross
Attorney General

AMG:pg:JLH

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

SENATE FINANCE COMMITTEE

February 27, 1979

8:45 a.m.

Vice Chairman Hohman called the meeting to order at 8:45 a.m. Senators Hohman, Dankworth, Bennett, Ray and Hackney were present. Also present were: fiscal analysts Milt Barker and Bob Grogan, Senators Stimson and Kerttula, from the Department of Public Safety Ray Tremblay, Fred Walstad and Jos MaPranath, trustees for the Alaska Renewable Resources Corporation William Spear and Phil Hubbard, and members of the press.

PRESENT

Vice Chariman Hohman advised that the agenda would be as follows: first, hearings on appointment of trustees to the Alaska Renewable Resources Corporation; HB 78 (supplemental appropriation to DOT and Public Facilities for funding of transportation programs during final quarter of FY 79); and operating budget for Natural Resources.

AGENDA

Chairman Hohman introduced fiscal analyst Milt Barker to give the committee information regarding the Renewable Resources Fund and the Renewable Resource Permanent Fund.

RENEW.
RES. FUN

Mr. Barker indicated to the committee that the Renewable Resources fund was established in 1974 with the Renewable Resources Permanent Fund being established after that date. Mr. Barker informed the committee that there has been some question as to whether or not there was a "dedication" of funds. The Renewable Resources fund is funded by 5% of the revenues from the oil and gas royalties.

Last session, Ch. 179 established the Renewable Resources Corporation and changed the dedication of 5% with half of it going to the Renewable Resources Permanent Fund and half of it going to the Renewable Resources Development Fund.

RENEW.
RES. COR

Mr. Barker stated that by statute the operating budget was to be funded by the general fund. This year's Renewable Resources fund has pretty much been absorbed by the Governor, Mr. Barker said, in the Big Delta Agriculture bill, with the operating budget being funded from the Renewable Resources Fund rather than the general fund.

Mr. Bill Spear, recently nominated by the Governor to fill the position of trustee for the Renewable Resources Corporation appeared before the committee to give his statement and answer questions.

BILL
SPEAR

Mr. Spear stated he had requested the appointment and hoped the committee would concur.

Mr. Spear said the Corporation was set up as a venture capital bank. It is not a research and development bank, but one that will try to make existing research feasible. This bank can do any type of financing including grants. It could possibly even get into patents and copyrights. Mr. Spear said the Corporation would not only make money (which, he said, was not necessarily one of its functions, however, it was an implied function) but also create jobs for many Alaskans.

Mr. Spear said the trustees will monitor closely any projects they get into. He said they hope to build a mood or attitude in the state of "earned Alaska". Both small-scale and large-scale ideas will be brought before the Corporation which will require independence from both the Legislature and Administration.

Senator Kerttula asked Mr. Spear for his background - what made him feel he was qualified for the position. Mr. Spear gave a brief summary of his schooling and prior work experience.

There was much discussion back and forth between the committee members and Mr. Spear regarding the determination of who would receive funds. Mr. Spear explained it would be those people with good ideas who would be willing to stick by their ideas for four or five years to see them come to fruition, those with technical skill.

When requested by Senator Bennett to give his list of priorities, Mr. Spear said "That's one of the things we'll have to wrestle with: development of general capital budget, type of financing, questions we'll have to resolve."

Senator Dankworth made numerous references to the fact that Mr. Spear had ruled out timber, bottom fish, agriculture and tourism from any priorities he might have. He said it seemed a little ridiculous to hire four \$50,000 a year employees to head up a corporation without any ideas of what they would do and no funds to do it with. Senator Dankworth suggested instead of a corporation there be a committee formed and pay them each time they met rather than pay the large salary of four trustees. Senator Dankworth asked "Does it really take that many people to look at it?" Mr. Spear responded that the corporation was set up by the Legislature and he supposed that was what they wanted. Senator Dankworth said "the people are paying for it. Let's keep from spending so much of their money."

In response to Senator Ray's question regarding transportation being a form of a renewable resource, Mr. Spear said electric cars could serve 70 to 80% of the needs in

Juneau. He said he felt that form of energy was a renewable resource. He said if you wanted to make alcohol out of Delta barley and run cars off of it, yes, it's a renewable resource.

(Senator Ray left the meeting at this time - 9:43 a.m.)

Senator Hackney remarked that according to the Attorney General's opinion, Mr. Spear and Mr. Hubbard were appearing before the committee only as a courtesy. The Governor could appoint them whether or not they were approved by the Legislature.

At 10:00 a.m. the committee recessed until 10:41 a.m. When the committee reconvened, Senators Hohman, Bennett, Dankworth, Ray, Hackney and Kerttula were present.

Mr Phil Hubbard was introduced to the committee as the other executive appointment to the Board of Trustees of the Alaska Renewable Resources Corporation.

Senator Dankworth asked: "If the Legislature wants to spend \$8 million on agriculture, do you feel it should be in your fund to look after?" Mr. Hubbard responded that if the legislature appropriates the funds, that negates the purpose of the corporation. He said that the legislature requires that the Corporation submit a budget of different types of projects and mechanisms used in that project. The budget is submitted to the legislature so they can redirect their priorities of the Corporation.

Senator Dankworth then questioned: "If you don't see timber and tourism, and the legislature takes care of the agriculture and hydro electric, what do you see as the work that you will be doing?" Mr. Hubbard responded that timber is one of the highest priorities in Southeast at the present time. Timber in Haines is a big need felt by the Corporation. Building hotels and lodges for tourism is being taken care of by business loans.

In response to a question by Senator Bennett regarding would state land be available for use or lease to people for development, Mr. Hubbard said he had not been informed that that would be the case.

Senator Ray stated that he felt the Corporation needed some legal construction and asked Mr. Hubbard for his word that he, Mr. Hubbard, would do what he could do to clean up the Corporation. Mr. Hubbard said "You have my pledge."

Senator Bennett made the remark that loaning money at 5% when inflation is 7%, just didn't make good sense to him. Mr. Hubbard responded that he hoped they weren't in the loan making business. He said he anticipated that much of what they would be doing would be similiar to the Haines project. He said many projects just need a little "umph" behind them to get them going and that the return might be 20 times the investment. "Investments, grants, marketing assistance, etc. is what we will be doing" he said.

Senator Hohman asked Mr. Hubbard if the Board had met. Mr. Hubbard said he and Mr. Spear were the Board. They had been appointed by the Governor on January 15 and had spent time together and also with Speaker Gardiner trying to make sense out of the Corporation. Mr. Hubbard said an Executive Director of the Corporation had been appointed, Mr. Jack Milns from Ketchikan, at a salary of \$4100 per month or \$49,200 per year. There were questions between the committee and Mr. Hubbard regarding the problem of residency with Mr. Milns. Mr. Hubbard assured the committee that Mr. Milns would have resided in Alaska for three years on July 1, 1979, at which time he would become a trustee. Senator Kerttula said "If we're using State funds to pay salaries, we should be able to demand that the residency requirement be upheld.

In answer to Senator Hohman's question regarding the Alaska Housing Finance Corporation, Mr. Hubbard said "The AHFC at \$5 million should not even be considered in the same line as this Renewable Resources Fund."

Senator Hohman asked if Administration had requested any changes in the program that Mr. Hubbard was aware of. Mr. Hubbard responded in the negative. He stated that he would go through it one more time with Speaker Gardiner to see if Mr. Gardiner felt there should be any changes. Senator Hohman said they should be concerned with the attitude of the Attorney General and his opinion on the legality of the Corporation. Mr. Hubbard assured the committee that he would attempt to make whatever changes were necessary to run the Corporation smoothly.

(At this time [11:25 a.m.] Senator Ray left the meeting.)

The committee took up the Natural Resources budget which is continued under Log Notes with today's date.

SF 79-15-2 (46-end)
SF 79-16-1 (1-end)
SF 79-16-2 (1-555)

ARRC Capital Budget

Financing Mechanism	11/15J	Resource Sector
---------------------	--------	-----------------

Equity Investments	\$8,100,000	Renewable
--------------------	-------------	-----------

Fisheries							
Salmon		Bottom Fish		Shell Fish		Other	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$3,500,000							

Timber							
Spruce		Cedar		Birch		Hemlock	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$2,000,000							

Agriculture							
Milk		Rape & Barley		Potatoes		Animal Husbandry	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$2,000,000							

Alternate Energy							
Wind		Geo/Ther		Solar		Wood	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$6,000,000 Ag prod.							

- A.
- Pre-Investment Advice
 - Tech. & Mngmnt. Advice
 - Commercial Demonstration
 - New Products
 - identification
 - marketing

ARRC may assist through such financial mechanisms as:

- Corporate finance; (a) common stock (b) preferred stock, (c) convertible prfrd (d) straight debt, (e) convertible debt (f) debt w/warrants
- Municipal Revenue Bond Issues Participation (four types of tax exemp)
- Leveraged Lease Agreements (two types may apply to trust groups)

* P/p = Primary Production S/p = Secondary Processing and Marketing

Grants	\$900,000	Renewable
--------	-----------	-----------

Fisheries							
Salmon		Bottom Fish		Shell Fish		Other	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Timber							
Spruce		Cedar		Birch		Hemlock	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Agriculture							
Milk		Rape & Barley		Potatoes		Animal Husbandry	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Alternate Energy							
Wind		Geo/Ther		Solar		Wood	
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$300,000							

- A.
- Research and Development
- Maximum 10% of appropriation

(GF)

HOUSE FINANCE COMMITTEE REPORT
ON CS HB682 (Finance)

The Renewable Resources Development Fund was established by the legislature in 1974 to provide for the rehabilitation, enhancement, and development of the state's renewable resources. The Fund consists of at least five percent of all mineral lease bonuses and royalties, and rentals from state lands. The proposed legislation establishes the Alaska Renewable Resources Corporation to invest half of the receipts of the Fund in renewable resource-based industries. The other half of the Fund would be saved through the Renewable Resources Investment Fund. The name of the Renewable Resources Permanent Fund (AS 37.11.050) is changed to the Renewable Resources Investment Fund to avoid confusion with the Alaska Permanent Fund (Article 9, section 15 of the Alaska State Constitution).

Investments of the Alaska Renewable Resources Corporation (ARRC) would focus on new products, markets, and technologies which are the key components of expanded renewable resource-based economic activity. Products and markets result from any economic use of the resources, while technologies include the methods for managing, harvesting, processing, or delivering the goods to market. ARRC would also provide funds for the applied research, development and demonstration of new renewable resource-based activities, and the seed capital necessary to introduce them into commercial markets.

For the earliest stages of renewable resource industry development (applied research and development), the Committee does not envision ARRC funding of general or basic research by the university or other scientific research organizations. This type of research is covered by other programs. Rather, ARRC-funded applied research and development activity would utilize the fruits of basic research to develop specific products or processes for commercial purposes.

In addition to stimulation of new economic activity based on the state's renewable resources, investment goals also include the maintenance or expansion of resource productivity, the development of in-state and export markets, and the expansion of resident employment, income, and governmental revenues from renewable resource development.

The term renewable resources is defined in terms of the resource base, which remains relatively constant over time, rather than in terms of economic activity, which changes over time. Accordingly, non-human living organisms, air, land, water, and naturally recurring energy systems are intended as the target of investment activity. In the tourism industry, for example, the Committee contemplates investment in the resources on which the industry is partially based, such as sport fishing, but not such capital components of the industry as hotels and lodging facilities.

An integral part of the bill is the concept of achieving an appropriate use of the resources. As trustees of our renewable resources the state is constitutionally directed to seek the most beneficial uses. ARRC investment decisions should consider both expected financial returns and the effects of resource development on both the target resource and on other resources. Achieving appropriate resource use at the inception of economic activity will greatly benefit the state and its residents by avoiding longer-run regulatory and rehabilitation burdens resulting in more stable economic activity based on all of the state's renewable resources.

In its deliberations, the Committee determined that the most effective method of investment includes both equity and debt secured by a variety of mechanisms to provide a return to the corporation when an investment starts to generate income. Such methods maximize incentives for entrepreneurship through ARRC sharing of the risks inherent in new ventures and imposing no debt service burdens until the enterprise is earning income. The corporation would in turn receive high returns from its successful investments, commensurate with the risks undertaken.

The Committee identified three important types of activity which may have no income producing potential (depending on the specifics of the project) and therefore must be funded by grants. These include applied research (which directs basic research toward specific products and processes for commercial purposes), one-time-only demonstration, and common property resource projects where the benefits accrue to the general public. Funds available for grants are limited to ten percent of the corporation's annual appropriation and to ninety percent of a project's costs.

In addition to the lack of start-up capital, the Committee found that another major obstacle to renewable resource development is a shortage of Alaskans trained in new harvesting, processing, or marketing techniques and business management skills. CS HB682 provides for the corporation to finance technical assistance to supplement the expertise of its applicants. The corporation is specifically forbidden, however, from managing its projects. The costs of this assistance are to be repaid by the borrower.

The flow of funds, as established in AS 37.11 (Renewable Resources Development Fund), begins with the deposit of at least five percent of all mineral lease bonuses and royalties, and rentals from state lands, into the Renewable Resources Development Fund. Under the proposed legislation, half of this amount would be allocated to the ARRC and half would be allocated to the Renewable Resources Investment Fund. Under existing law (AS 37.11.060), only those funds not expended out of the Development Fund would be deposited in the Investment Fund. When the Investment Fund reaches \$250 million, the five percent flow into the Development Fund ceases and the only further source of money under this program is the income from the Investment Fund. The Committee was concerned that this system creates an incentive to spend out of the

Development Fund to prevent the Investment Fund from ever reaching the \$250 million cap. Therefore the fifty-fifty split was devised as a "forced savings" both to remove this incentive to spend and to insure the availability of Investment Fund income in perpetuity.

Investment Fund principle under the bill would be invested by the treasury division of the Department of Revenue in secure investments (under AS 39.35.110). The earnings from these investments would be available for legislative appropriation to programs for the rehabilitation, enhancement, and development of the state's renewable resources. The bill proposes as the primary use of Investment Fund income the restoration of the state's renewable resources. Because restoration of public natural resources in most cases is not a direct profit generating activity, the state must take the lead in performing this essential public purpose. Restoration includes such activities as fish hatcheries, land reclamation and habitat improvement.

The allocation into the corporation would be available for investments or grants as described above. The corporation would be subject to the Executive Budget Act (37.07) and may expend money only as appropriated by the legislature. The earnings from corporation investments, and unexpended or unobligated appropriations from previous fiscal years, may be retained by the corporation for expenditure through subsequent appropriations. The operating budget of the ARRC would come from legislative appropriations from the general fund.

**RENEWABLE RESOURCES
DEVELOPMENT FUND
AS OF JANUARY 31, 1979**

SLA 1978 CHAPTER	DEPT./PROJECT	APPROPRIATED FROM R.R.D. FUND	EXPENDED R.R.D. FUND	FROM: GEN'L FUND	TOTAL RECEIPTS
	<u>Special Appropriations</u>				
163	Comm. & Ec. Dev. -				
	Geothermal	245,000	-0-	-0-	
171	Nat'l Resc.-				
	Big Delta	4,793,000			
	Gov. Ofc.- Spc. Proj.		-0-	3,832,200	
	Comm. & Ec. Dev.		-0-	466,800	
	<u>Gen'l Appropriation Act</u>				
113	Fish & Game -				
	Capital Proj.	1,279,700	738,628	-0-	
	Nat'l Resc. -				
	Homesite Survey	2,027,400	-0-	909,953	
	Nat'l Resc. -				
	Aggie. Loans	200,000	-0-	200,000	
	Revenue - Fish &				
	Aggie. Bk.	2,000,000	-0-	-0-	
	<u>Allocated By Statute</u>				
179	Revenue - R.R. Corp.	299,304 (1)	-0-	-0-	
	<u>Revenue</u>				
	Fund 125 - R.R.D.				5,986,088
	Sub-Totals	\$10,844,404	\$738,628	\$5,408,953	\$5,986,088
SLA 1979	<u>Supplemental Appropriation</u>				
SB62	Gov. Ofc. - Spec.				
	Proj. - Delta	8,070,600	-0-	-0-	
	Totals	<u>\$18,915,004</u>	<u>\$738,628</u>	<u>\$5,408,953</u>	<u>\$5,986,088</u>
			<u>\$6,147,581</u>		

(1) Assumed to be 5% of receipts of the fund;
amount shown is for seven months only.

ROL-025-3500
1971-72

UNRESTRICTED

STATE OF ALASKA
CURRENT FISCAL YEAR
07/01/73 THROUGH 03/31/79

PAGE 100

DEPT NATURAL RESOURCES
PGM MINERAL RESOURCES
DIV MINERAL & ENERGY MGT

ESTIMATES

RECEIPTS

REFUNDS

TRANSFERS

RECEIVABLES

UNREAL-EXCHG

COLLOCATION DESCRIPTION
10-43-7-200 AK REVENUE RESOURCES

FUND ACCT
125 6200

BUDGETARY DESCRIPTION
04-43-04-02-00 MINERAL & ENERGY MGT
PETROLEUM MGT

525 COAL RENTAL LEASE
527 COAL RENTAL LEASE
530 COAL RENTAL LEASE
533 COAL RENTAL LEASE
537 COAL RENTAL LEASE
540 COAL RENTAL LEASE
547 COAL RENTAL LEASE

625.73
3,409.47
1,104.65
66,885.32
25.00
135,904.20
121.85
8,656,840.35

FORP TOTAL AK REVENUE RESOURCES

9,334,795.15

9,334,795.15

COLLOCATION DESCRIPTION
10-43-4-207 ALASKA PERMANENT FND

FUND ACCT
720 0200

BUDGETARY DESCRIPTION
04-43-04-02-00 MINERAL & ENERGY MGT
PETROLEUM MGT

304 OIL GAS LEASE ROYAL
305 OIL GAS LEASE ROYAL
326 COAL RENTAL LEASE
327 COAL RENTAL LEASE
330 COAL RENTAL LEASE
333 COAL RENTAL LEASE
337 COAL RENTAL LEASE
340 COAL RENTAL LEASE
347 COAL RENTAL LEASE

160,155.64
4,422.02
3,128.69
16,124.31
3,065.00
435,697.49
679,447.57
42,815.15
50,415,559.32

160,155.64
4,422.02
3,128.69
16,124.31
3,065.00
435,697.49
679,447.57
42,815.15
50,415,559.32

FORP TOTAL ALASKA PERMANENT FND

51,743,935.25

51,743,935.25

COLLOCATION DESCRIPTION
10-43-4-203 RES FOR CAP OILLAY

FUND ACCT
100 5510

BUDGETARY DESCRIPTION
04-43-04-02-00 MINERAL & ENERGY MGT
PETROLEUM MGT

304 OIL GAS LEASE ROYAL
305 OIL GAS LEASE ROYAL
326 COAL RENTAL LEASE
327 COAL RENTAL LEASE
330 COAL RENTAL LEASE
333 COAL RENTAL LEASE
337 COAL RENTAL LEASE
340 COAL RENTAL LEASE
347 COAL RENTAL LEASE

100,155.64
4,422.02
3,128.69
16,124.31
3,065.00
435,697.49
679,447.57
42,815.15
50,415,559.32

100,155.64
4,422.02
3,128.69
16,124.31
3,065.00
435,697.49
679,447.57
42,815.15
50,415,559.32

FORP TOTAL RES FOR CAP OILLAY

32,047,961.29

32,047,961.29

FUND NUMBER	PRIOR DAY CASH WITH TREASURY	RECEIPTS TODAY	DISBURSEMENTS TODAY	NET CHANGE TODAY	CURRENT CASH WITH TREASURY	CURRENT INVESTMENT
100	122,150,633.50-	4,865,305.91	23,598,835.95	18,733,530.04-	140,884,163.54-	741,172,201.49
101	0.00	0.00	0.00	0.00	0.00	0.00
102	1,038,726.57	6,302.32	0.00	6,302.32	1,045,028.89	5,000,000.00
120	479,343.07	0.00	0.00	0.00	479,343.07	0.00
121	121,204.00	0.00	0.00	0.00	121,204.00	0.00
123	2,523,038.27	36,679.50	0.00	36,679.50.	2,559,717.77	0.00
124	1,848,886.45	13.00	10,641.72	10,628.72-	1,838,257.73	0.00
125	9,676,310.00	999.98	0.00	999.98	9,677,309.98	0.00
126	673,363.25	0.00	0.00	0.00	673,363.25	0.00
128	1,681,156.62	0.00	0.00	0.00	1,681,156.62	0.00
175	3,559,970.17	0.00	0.00	0.00	3,559,970.17	0.00
199	32,850,000.00-	0.00	0.00	0.00	32,850,000.00-	32,850,000.00
201	0.00	0.00	0.00	0.00	0.00	0.00
202	0.00	0.00	0.00	0.00	0.00	0.00
204	4,008.80	0.00	0.00	0.00	4,008.80	0.00
206	177,918.16	0.00	0.00	0.00	177,918.16	0.00
207	1,510,838.04	0.00	0.00	0.00	1,510,838.04	0.00
208	6,517,435.64	0.00	0.00	0.00	6,517,435.64	0.00
209	13,819,389.80	6.60	401.47	394.87-	13,818,994.93	0.00
210	249,400.00	0.00	0.00	0.00	249,400.00	0.00
240	1,400,988.72	0.00	0.00	0.00	1,400,988.72	0.00
251	0.00	0.00	0.00	0.00	0.00	0.00
252	0.00	0.00	0.00	0.00	0.00	0.00
253	1,360.60	0.00	0.00	0.00	1,360.60	0.00
254	0.00	0.00	0.00	0.00	0.00	0.00
255	2,449,341.92	0.00	0.00	0.00	2,449,341.92	0.00

ALASKA RENEWABLE RESOURCES CORPORATION

BOX 1647

• JUNEAU, ALASKA 99802 •

(907) 465-4616

TO: Governor Jay S. Hammond
Pouch A
Juneau, Alaska 99811

FROM: Phil Hubbard *[Signature]*
Wm. E. Spear

SUBJECT: Budget Amendment
Request FY 80

FY 80 Operating Budget:

The operating budget prepared and submitted by the Department of Revenue has been amended to provide for the staffing, travel and contractual ~~services~~ of the Corporation. The amended request of ~~\$642.4~~ reflects our assesment of the first year's requirements for planning, project analyses and financial strategy development. It is recommended that the funding source be changed to the General Fund in accord with AS 37.12.095(b). *[Handwritten mark]*

FY 80 Capital Budget:

AS 37.12.020(a) and (b) allocate to ARRC five percent of the receipts from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land. Fifty percent of those receipts are to be placed in the Renewable Resources Investment Fund to be invested in perpetuity by the Treasury Division following investment policy consistent with the prudent-man rule.

The remaining fifty percent is allocated to the ARRC Development Fund for investments by the Trustees, subject to appropriation by the legislature. Budgets for the Development Fund are specified by the act to, "include amounts of proposed financial assistance broken down by financing mechanism and resource sector affected..." A maximum of ten percent of the Development Fund may be used for Grants. The stated purpose of ARRC and its budget procedures (AS 37.12.095) do not provide for naming specific projects within its capital request documentation.

FY 80 revenue estimates for the Renewable Resource Development Fund are projected by the Treasury Division to be \$18,000.0. Therefore, \$9,000.0 would be available for the Investment Fund and \$9,000.0 for the Development Fund.

Inasmuch as ARRC was not established during the regular budget-review cycle, it is now recommended that the Governor's request be amended to appropriate to ARRC its \$9,000.0 entitlement.

Limited by statute (AS 37.12.080), ten percent (\$900.0) would be available for grants. The Trustees view the amount as a reasonable sum to be split among four major resource sectors. The four sectors are Fisheries, Timber, Agriculture, and Renewable Energy.

The Trustees feel the investment of the Development Fund in private enterprise is the distinguishing feature of its activities. Therefore, the major emphasis of the Development Fund will be directed for equity investments in the private sector.

This investment activity sets ARRC apart from normal line agencies where resources are expended on government programs and government personnel. Investments in private companies flow directly into the private sector, assisting start up and expansion of business activities.

ARRC has considerable tasks to perform in coming months. With that in mind, the Governor may wish to request partial funding (perhaps 75%) of the capital budget so that the legislature has an opportunity to further evaluate the progress of the corporation in January, 1980. Unless an appropriation is made to ARRC, prospective firms, individuals and ideas are not likely to surface. A budget request amendment by the Governor and an appropriation by the legislature will be indicative of their support for implementing the act.

TO: Senator John Sackett

DRAFT

FROM: Governor Jay S. Hammond

Please amend Executive Budget FY 80 Request to provide for a decrease in the operating budget and a change of funding source for the Alaska Renewable Resources Corporation as follows:

FY 80 Request: \$859.7 Source: Renewable Resource
Development Fund

FY 80 Request

Amended: \$642.4 Source: General Fund

At the request of the Board of Trustees, the Alaska Renewable Resources Corporation has been authorized to prepare an investment budget for immediate submission to the legislature. Time did not permit the corporation to participate in the normal budget process this year and it had been anticipated that its first investment budget would be submitted next year. The trustees have asked for the

opportunity to place a proposed budget before this legislature, and I have conditionally agreed. Their proposal will have my approval if it can be incorporated into the state's budget without exceeding my prescribed ceiling. In other words, for every dollar added to the corporation's investment budget, one must be subtracted from somewhere else.

It is my understanding that the Department of Revenue and the Legislative Affairs Agency are estimating the Renewable Resources Development Fund will accrue \$18,000.0 in FY 80. It is requested, therefore, pursuant to ARRC enabling legislation, that the corporation's capital budget for FY 80 be established at \$9,000.0, representing the fifty per cent entitlement provided for by statute.

ALASKA RENEWABLE RESOURCES CORPORATION

BOX 1647

JUNEAU, ALASKA 99802

(907) 465-4616

To: Honorable John Sackett, Chairman
Senate Finance Committee

From: W.E. Spear
H.P. Hubbard

Subject: FY80 Budget
Request

During the Corporation's initial startup period, well-defined goals, objectives, procedures and financial plans must be developed. Specifically, the Corporation will require active involvement with the private sector and detailed analyses of its enterprises and proposals.

The following changes in the Corporation's FY80 budget request should allow sufficient public contact, as well as project evaluation, and the development of a corporate strategy for reaching its goals:

CODE	FY 80 REQUEST	CHANGE	FY 80 AMENDED
0100	408.5	Delete: Ex. Director 50.3 Grants Off. 28.9 Clerk III 12.7 Acct. IV 25.0 Add: Admin.Asst.III 21.6 122.0 (30.0%)	286.5
0200	48.1	Delete: In-State Trans 4.3 Out-State Trans 7.0 Add: In-State Per diem 2.9 8.4 (17.5%)	39.7
0300	398.0	Delete: Safekeeping 50.0 Audit 25.0 Other Fees 11.9 86.9 (21.8%)	311.1
0400	<u>5.1</u>	(No change)	<u>5.1</u>
Total	859.7	217.3 (25.3%)	642.4

ALASKA RENEWABLE RESOURCES CORPORATION

BOX 1647

JUNEAU, ALASKA 99802

(907) 465-4616

To: Honorable John Sackett, Chairman
Senate Finance Committee

From: W.E. Spear
H.P. Hubbard

Subject: FY80 Budget
Request

During the Corporation's initial startup period, well-defined goals, objectives, procedures and financial plans must be developed. Specifically, the Corporation will require active involvement with the private sector and detailed analyses of its enterprises and proposals.

The following changes in the Corporation's FY80 budget request should allow sufficient public contact, as well as project evaluation, and the development of a corporate strategy for reaching its goals:

CODE	FY 80 REQUEST	CHANGE	FY 80 AMENDED
0100	408.5	Delete: Ex. Director 50.3 Grants Off. 28.9 Clerk III 12.7 Acct. IV 25.0 Add: Admin. Asst. III 21.6 122.0 (30.0%)	286.5
0200	48.1	Delete: In-State Trans 4.3 Out-State Trans 7.0 Add: In-State Per diem 2.9 8.4 (17.5%)	39.7
0300	398.0	Delete: Safekeeping 50.0 Audit 25.0 Other Fees 11.9 86.9 (21.8%)	311.1
0400	5.1	(No change)	5.1
Total	859.7	217.3 (25.3%)	642.4

ARRC Capital Budget

Financing Mechanism	Resource Sector
---------------------	-----------------

Equity Investments	\$8,100,000
--------------------	-------------

Fisheries							
Salmon	Bottom Fish	Shell Fish	Other				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$3,500,000							

Timber							
Spruce	Cedar	Birch	Hemlock				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$2,000,000							

Agriculture							
Milk	Rape & Barley	Potatoes	Animal Husbandry				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$2,000,000							

Alternate Energy							
Wind	Geo/Ther	Solar	Wood				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$600,000							

ARRC may assist through such financial mechanisms as:

I. Corporate finance; (a) common stock (b) preferred stock, (c) convertible preferred (d) straight debt, (e) convertible debt (f) debt w/warrants

II. Municipal Revenue Bond Issues Participation (four types of tax exempt)

III. Leveraged Lease Agreements (two types may apply to trust groups)

* P/P = Primary Production S/P = Secondary Processing and Marketing

Grants	\$900,000
--------	-----------

Fisheries							
Salmon	Bottom Fish	Shell Fish	Other				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Timber							
Spruce	Cedar	Birch	Hemlock				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Agriculture							
Milk	Rape & Barley	Potatoes	Animal Husbandry				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$200,000							

Alternate Energy							
Wind	Geo/Ther	Solar	Wood				
P/P	S/P	P/P	S/P	P/P	S/P	P/P	S/P
\$300,000							

A.
Research and Development
Maximum 10% of appropriation

A.
- Pre-Investment Advice
- Tech. & Mngmnt. Advice
- Commercial Demonstration
- New Products
 - identification
 - marketing
B.
Maximum of \$1,500,000
per project: 49% ownership

1979				1980				1981			
1st Qtr	2nd Qtr	3rd	4th	1st Qtr	2nd	3rd	4th	1st Qtr	2nd	3rd	4th
<u>SETTING UP THE CORP.</u> 1. ARTICLES, BY-LAWS. 2. GOALS, STRATEGIES, OBJECTIVES 3. BUDGETS 4. STAFFING & INTERNAL PROCEDURES 5. DISBURSEMENT CRITERIA 6. PLAN FOR YEAR 1				<u>FOLLOW-UP INITIAL PROGRAM</u>							
<u>STARTING INITIAL PROGRAM</u> 1. DEFINING SPECIFIC PROJECTS 2. QUANTIFY CANDIDATE PROJECTS 3. NEGOTIATING THE ARRANGEMENTS 4. PLACE INVESTMENTS & OTHER FUNDS 5. INSTALL MONITORING AND EVALUATION SYSTEM				<u>PLANNING 1980, 81, 82</u> 1. SPECIFIC OBJECTIVES 2. EVALUATE 1979 3. DEFINE SPECIFIC PROJECTS 4. BUDGETS 5. STAFF ACTIVITIES							
				<u>INITIATE 1980 PROGRAM</u> 1. NEGOTIATE THE ARRANGEMENTS 2. PLACE THE INVESTMENTS AND OTHER FUNDS							
				<u>PREP FOR 1981 PROGRAM</u> 1. DEFINE CANDIDATE PROJECTS 2. QUANTIFY CANDIDATE PROJECTS 3. INITIATE NEGOTIATIONS							
				<u>PLAN 1981</u>				<u>PLAN 1982, 83, 84</u> 1. REVIEW GOALS, STRATEGIES & OBJECTIVES 2. REVIEW 1979, 1980 FOR EFFECTIVENESS 3. PLAN CAPITAL AND R.O. I.			

2/27/79
S.N. MINNES

08-02-01-00-00 (02-72-5-02-00-00)

STATE OF ALASKA -- COMPONENT_BUDGET_SUMMARY

13:41

1/23/79

CATEGORY: DEVELOPMENT
AGENCY: DEPARTMENT OF ADMINISTRATIONPROGRAM: SURPLUS PROPERTY
SUB-PROGRAM:

EXPENDITURES & FUNDING	FISCAL YEAR 1980												
	(01) FY78 ACT	(02) FY79 ATH	(03) FY79 YTD	(04) RP & SUP	(05) MAINT	(06) REQUEST	(07) GOV AND	(08) GOVERNOR	(09) HOUSE	(10) SENATE	(11) F.C.C.	(12) BILLS	(13) LEG.REC.
01 PERS. SERV.	109.4	204.7		1.6	213.5	213.5			213.5				
02 TRAVEL	.3	1.9			2.0	2.0			2.0				
03 CONTRACTUAL	7.1	24.7			26.2	26.2			26.2				
04 COMMODITIES	5.3	10.2			10.8	10.8			10.8				
05 EQUIPMENT		.2			.2	.2			.2				
06 LANDS/BLDG													
07 GRANTS, CLMS													
08 MISC.													
** TOTAL EXPEND	122.1	241.7		1.6	252.7	252.7			252.7				
09 I-A TRANSFER	1.0												
10 FED. RECEIPT													
11 G. F. MATCH													
12 GENERAL FUND													
13 PGM RECEIPTS													
14 OTHER FUNDS	122.1	241.7		1.6	252.7	252.7			252.7				
15 FULL-TIME	8.1	8.0			8.0	8.0			8.0				
16 PART-TIME													
17 TEMPORARY	2.0	2.0			2.0	2.0			2.0				
18 MAN-MONTHS	109.2	108.0			108.0	108.0			108.0				

REVISED PROGRAMS, GOVERNOR AMENDMENTS, SUPPLEMENTAL & SPECIAL APPROPRIATIONS AND FISCAL NOTES...

08-04-01-00-00 (04-71-1-25-00-00)

STATE OF ALASKA -- COMPONENT BUDGET ANALYSIS

13:41

1/23/79

CATEGORY: DEVELOPMENT
AGENCY: DEPARTMENT OF REVENUEPROGRAM: AK. RENEWABLE RESOURCES CORP.
SUB-PROGRAM:

* * * * GOVERNOR ANALYSIS * * * *

OBJECT GROUP	VARIATION		DESCRIPTION: GOVERNOR VERSUS FY79 ATH
01 PERS. SERV.	216.6	112.9%	FUND 9 POSITIONS FOR FULL YEAR, 216.6 (ADDITIONAL 58.5 MONTHS).
02 TRAVEL	25.1	109.1%	INFLATION, 1.4; COSTS ASSOCIATED WITH ADDITIONAL MAN MONTHS, 23.7.
03 CONTRACTUAL	230.0	136.9%	INFLATION, 10.0; COSTS ASSOCIATED WITH ADDITIONAL MAN MONTHS, 220.0.
04 COMMODITIES	3.0	142.9%	INFLATION, .1; COSTS ASSOCIATED WITH ADDITIONAL MAN MONTHS, 2.9.
05 EQUIPMENT	-15.0	-100.0%	
** TOTAL	459.7	114.9%	

FUNDING SOURCE CHANGED TO ALASKA RENEWABLE RESOURCE FUND.

* * * * PROGRAM DESCRIPTION & PRIOR YEAR INFORMATION * * * *

1978 LEGISLATION - CH. 179 RENEWABLE RESOURCES FUNDS \$400.0 FISCAL NOTE.

UNAUTHORIZED POSITIONS - CH. 179 AUTHORIZED ONLY 6 FULL-TIME POSITIONS.

08-04-01-00-00 (04-71-1-25-00-00)
 CATEGORY: DEVELOPMENT
 AGENCY: DEPARTMENT OF REVENUE

STATE OF ALASKA -- COMPONENT_BUDGET_SUMMARY

13:41

1/23/79

PROGRAM: AK. RENEWABLE RESOURCES CORP.
 SUB-PROGRAM:

EXPENDITURES & FUNDING	FISCAL YEAR 1980												
	(01) FY78 ACT	(02) FY79 ATH	(03) FY79 YTD	(04) RP & SUP	(05) MAINT	(06) REQUEST	(07) GOV AND	(08) GOVERNOR	(09) HOUSE	(10) SENATE	(11) F.C.C.	(12) ATLs	(13) LEG.REC.
01 PERS. SERV.		191.9			408.5	408.5		408.5					
02 TRAVEL		23.0			48.1	48.1		48.1					
03 CONTRACTUAL		168.0			398.0	398.0		398.0					
04 COMMODITIES		2.1			5.1	5.1		5.1					
05 EQUIPMENT		15.0											
06 LANDS/BLDGS													
07 GRANTS, CLMS													
08 MISC.													
** TOTAL EXPEND		400.0			859.7	859.7		859.7					
09 I-A TRANSFER													
10 FED. RECEIPT													
11 G. F. MATCH													
12 GENERAL FUND		400.0			859.7	859.7							
13 PGM RECEIPTS								859.7					
14 OTHER FUNDS													
15 FULL-TIME		9.0			9.0	9.0		9.0					
16 PART-TIME													
17 TEMPORARY													
18 MAN-MONTHS		49.5			108.0	108.0		108.0					

NO

What do they want to do and why?

Should their budget come out of operating revenues?

Gardiner

Review confirmation minutes of Senate finance?

listen to tape

On record - what their budget should be?
what do they want to do?
Why?

Problems with

Governors Office

AG opinion

Request on dedication

9am - Renewable Resource

2³⁰ pm

Technology

How are they duplicating Economic Ent.
Power Dev. etc.

— Plans for Small Grants Program?

Request
original

Article 4. Recovery of Money or Property Illegally Paid or Diverted.

Section

90. Action by attorney general
100. Costs of action and disposition of amount recovered

Sec. 37.10.090. Action by attorney general. Whenever money, funds, or property of a city, school district, municipal government, or the state are illegally paid or are diverted for an illegal purpose, or paid to a person not authorized by law to receive them, they may be recovered by an action instituted by the attorney general. When it appears to the attorney general that it is more advantageous to begin or conduct the action with additional counsel, he may choose and authorize additional counsel to bring the suit in the name of the proper party. (§ 12-5-1 ACLA 1949)

Am. Jur. reference. — 42 Am. Jur., Public Funds, § 83 et seq.

Sec. 37.10.100. Costs of action and disposition of amount recovered. (a) The necessary and reasonable costs of the suit and of the additional counsel shall be advanced by the state, and a sum recovered in the suit shall be deposited in the state treasury.

(b) However if the sum recovered belongs to a city, school district, or municipal government, the sum shall be transferred to it, less sums advanced by the state in the suit, and not already repaid to it. The Department of Administration may pay to the city, school district or municipal corporation the sums belonging to it, upon warrants drawn as provided by law. The warrants shall be based upon vouchers approved by the attorney general. (§ 12-5-2 ACLA 1949)

Chapter 11. Renewable Resources Funds.

Article

1. Alaska Renewable Resources Development Fund (§§ 37.11.010 — 37.11.040)
2. Alaska Renewable Resources Permanent Fund (§§ 37.11.050 — 37.11.090)
3. Alaska Economic Disaster Impact Fund (§ 37.11.100)

Legislative history report. — For report on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Article 1. Alaska Renewable Resources Development Fund.

Section

10. Alaska renewable resources development fund
20. Fund authorization level

Section

30. Fund utilization
40. Fund balances

Sec. 37.11.010. Alaska renewable resources development fund. There is established as a separate fund the Alaska renewable resources development fund. Funds apportioned by § 20 of this chapter for deposit in the Alaska renewable resources development fund are to guarantee the enhancement and development of the state's renewable resources. (§ 1 ch 130 SLA 1974)

Editor's note. — Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the balance in the Alaska renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000,

AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources development fund (AS 37.11.010) lapses into the general fund."

Sec. 37.11.020. Fund authorization level. Not less than five per cent of the receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be deposited in the Alaska renewable resources development fund. These deposits shall be invested in accordance with AS 37.10.070 (investment of surplus state funds) and the resulting interest shall accrue to the fund. (§ 1 ch 130 SLA 1974)

Editor's note. — Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the balance in the Alaska renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000,

AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources development fund (AS 37.11.010) lapses into the general fund."

Sec. 37.11.030. Fund utilization. Appropriations from this fund shall provide funding for capital and operating expenditures for the rehabilitation, enhancement and development of renewable resources programs. Plans for expenditures from this fund shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of his annual budget presentation to the legislature. (§ 1 ch 130 SLA 1974)

Editor's note. — Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the balance in the Alaska renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000,

AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources development fund (AS 37.11.010) lapses into the general fund."

Sec. 37.11.040. Fund balances. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be transferred

to the Alaska renewable resources investment fund. (§ 1 ch 130 SLA 1974; am § 4 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "investment fund" for "permanent fund" at the end of the section.

Editor's note. — Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the balance in the Alaska

renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000, AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources development fund (AS 37.11.010) lapses into the general fund."

Article 2. Alaska Renewable Resources Permanent Fund.

Section

50. Alaska renewable resources investment fund
60. Fund principal

Section

70. Utilization of fund income
80. Protection of principal
90. Investments

Cross reference. — As to the Alaska Renewable Resources Corporation, see AS 37.12.

Sec. 37.11.050. Alaska renewable resources investment fund. There is established as a separate fund the Alaska renewable resources investment fund. Funds apportioned by § 60 of this chapter for deposit in the investment fund are to be held perpetually in trust for the benefit of both present and future generations of Alaskans. (§ 1 ch 130 SLA 1974; am § 5 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "investment fund" for "permanent fund" in the first and second sentences.

Sec. 37.11.060. Fund principal. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be deposited in the investment fund. These deposits shall be considered fund principal and shall be invested in perpetuity in accordance with § 90 of this chapter. (§ 1 ch 130 SLA 1974; am § 6 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "investment fund" for "permanent fund" at the end of the first sentence and "§ 90 of this chapter" for "AS 37.10.070 (investment of surplus state funds)" at the end of the second sentence.

Sec. 37.11.070. Utilization of fund income. (a) Income received from investment of investment fund principal shall not be held in trust, but shall be used to provide funding for capital and operating appropriations for the rehabilitation, enhancement and development of renewable

resources programs. The primary purpose of the programs shall be to restore the renewable resources of the state for common beneficial uses.

(b) Plans for expenditures from fund income shall be prepared in detail by the cooperative efforts of the Departments of Natural Resources, Fish and Game, Environmental Conservation, and Commerce and Economic Development, and shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of his annual budget presentation to the legislature. Not less than 80 per cent of the total plan submitted each year shall be apportioned for direct capital expenditures or investments (§ 1 ch 130 SLA 1974; am § 7 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment designated provisions of this section as subsection (a), substituted "investment fund" for "permanent fund" in the first sentence of subsection (a), rewrote the second sentence of subsection (a), and added subsection (b).

Sec. 37.11.080. Protection of principal. A transaction involving investment fund principal which results in an actual dollar loss of principal shall be reimbursed in full from fund income before any additional income is expended. (§ 1 ch 130 SLA 1974; am § 8 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "investment fund" for "permanent fund."

Sec. 37.11.090. Investments. Investment responsibility for the Alaska renewable resources investment fund shall reside with the treasury division of the Department of Revenue. The treasury division may invest the Alaska renewable resources investment fund in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule. (§ 9 ch 179 SLA 1978)

Article 3. Alaska Economic Disaster Impact Fund.

Section

100. Alaska economic disaster impact fund

Sec. 37.11.100. Alaska economic disaster impact fund. (a) There is established a separate fund known as the Alaska economic disaster impact fund which shall be administered by the Department of Commerce and Economic Development. Funds designated in this section and apportioned by statute for deposit in the Alaska economic disaster impact fund are for grants or loans to assist economically impacted communities within areas designated by a proclamation under AS 44.33.285. The Department of Community and Regional Affairs, in

consultation with the Department of Fish and Game, shall determine which communities are economically impacted fishing communities.

(b) If the economic disaster is due to a fisheries failure based on consideration of need, the legislature may appropriate to the Alaska economic disaster impact fund from the renewable resource fund (ch. 130, SLA 1974). If there is an insufficient balance in the renewable resource fund to meet emergency needs that may be determined under the provisions of AS 44.33.285, the legislature may appropriate from the general fund. The Alaska economic disaster impact fund balance may not exceed \$5,000,000. The commissioner of revenue, after determining that there is in the Alaska economic disaster impact fund a surplus above an amount sufficient to meet anticipated demands, may invest the surplus as provided in ch. 10 of this title. Interest derived from investment of these surplus funds shall be deposited to the renewable resource fund. If the economic disaster is due to other than a fisheries failure, the legislature may appropriate from the general fund to the Alaska economic disaster fund to meet emergency needs.

(c) Unappropriated or otherwise unencumbered balances remaining in the Alaska economic disaster impact fund at the close of each fiscal year shall not lapse as provided in AS 37.25.010 but shall be available in perpetuity for fund purposes.

(d) Within the first 10 days of each legislative session the commissioner of commerce and economic development shall submit to the legislature a detailed report of all expenditures from the fund and all actions taken under AS 44.33.285. (§ 9 ch 277 SLA 1976)

Chapter 12. Alaska Renewable Resources Corporation.

Section	Section
10. Alaska renewable resources corporation created	70. Powers
15. Purposes	75. Duties
20. Allocation	80. Financial assistance
25. Board of trustees	85. Eligibility for financial assistance
30. Composition of the board of trustees	90. Reports and publications
35. Term of office	95. Budget and appropriations
40. Removal and vacancies	100. Annual audit
45. Qualifications of board members	105. Cooperation with other agencies
50. Quorum	110. Tax exemption
55. Compensation of board members	115. Technical assistance
60. Employment of personnel	120. Public access to information
65. Conflicts of interest	125. Definitions

Cross references. — As to the Alaska Renewable Resources Investment Fund, see AS 37.11.050 et seq. As to termination of the Alaska Renewable Resources Corporation, see AS 44.66.010.

Editor's note. — Section 1, ch. 179, SLA 1978, provides: DECLARATION OF POLICY. It is the policy of the state to

"(1) rehabilitate, enhance, and develop its renewable resources and, insofar as is consistent with sound resource management policies, develop its human resources by providing maximum opportunities for employment and a higher standard of living for its citizens; and

"(2) utilize the funds set aside under ch. 11 of this title to further the (A) development of renewable resources that will contribute to a stable self-sustaining state economy, employment opportunities, and lifestyle alternatives for its citizens, and (B) commercial, traditional, and common uses of the state's renewable resources."

Section 2, ch. 179, SLA 1978, provides: FINDINGS. (a) The legislature finds that Alaska has renewable resources that are not being utilized to their full potential. Many problems which confront the state, including high unemployment and unstable economy, could be mitigated by the expanded use and development of its renewable resources.

"(b) It is further found that Alaska's economy has historically depended upon sporadic and non-stable development.

"(c) It is further found that several key factors have contributed to the slow development of renewable resource industries, including,

"(1) insufficiency of research and development financing and venture capital financing;

"(2) a lack of knowledge within the business and financial communities about conditions affecting renewable resource industrial development in the state and a lack of scientific information concerning many resources; and

"(3) a lack of technology appropriate to Alaska.

"(d) It is further found that the state's policy of assisting the development of viable industries is best accomplished by providing assistance to the private sector to identify and demonstrate new products, markets, and technologies."

Legislative history report. — For report on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Sec. 37.12.010. Alaska Renewable Resources Corporation created. There is created the Alaska Renewable Resources Corporation to carry out the purposes of this chapter. The corporation is a public corporation of the state and an instrumentality of the state within the Department of Revenue, but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.015. Purposes. The purposes of the corporation are to

(1) facilitate the rehabilitation, enhancement, and development of the state's renewable resources so as to strengthen the self-sustaining sectors of the state economy;

(2) sponsor research and development of technologies and innovations for the rehabilitation and enhancement of the state's renewable resources to achieve an appropriate use of the resources;

(3) identify new products, markets, and technologies for renewable resource industries in the state which will constitute an appropriate use of the resources; stimulate the research and development of these products, markets, and technologies; assist in the demonstration of their technical and economic feasibility; and assist in their introduction into

Commercial markets

Sec. 37.12.020. Allocation. (a) There shall be allocated to the corporation from the receipts described in AS 37.11.020 five per cent of the total receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land. Payments of the amount allocated by this section shall be made to the corporation by the Department of Revenue on a monthly basis.

(b) Fifty per cent of all actual receipts of the corporation, from whatever source except receipts from the corporation's investments, shall be deposited into the renewable resources investment fund (AS 37.11.050). (§ 3 ch 179 SLA 1978)

Sec. 37.12.025. Board of trustees. A board of trustees of the corporation is established as its governing body. (§ 3 ch 179 SLA 1978)

Sec. 37.12.030. Composition of the board of trustees. The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. The board shall annually elect a chairman from among its members. A chairman may not succeed himself. (§ 3 ch 179 SLA 1978)

Sec. 37.12.035. Term of office. The members of the board of trustees shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. The initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years. (§ 3 ch 179 SLA 1978)

Sec. 37.12.040. Removal and vacancies. (a) The governor may remove a board member from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a board member may not participate in board business and may not be counted for the purpose of establishing a quorum. A suspended member shall continue to receive his salary as a board member until the legislature in joint session consents to his removal. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the board member shall be reinstated to his position.

(b) A vacancy on the board shall be promptly filled by appointment by the governor and confirmation by a majority of members of the legislature in joint session. An appointee to fill a vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. If a vacancy arises on the board while the legislature is not in session, the governor may appoint an interim board member until the legislature in joint session fails to confirm the interim

(c) A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board. (§ 3 ch 179 SLA 1978)

Sec. 37.12.045. Qualifications of board members. (a) No person may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position, or employment, whether elective or appointive, except as a member of the armed forces of the United States or the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.050. Quorum. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. (§ 3 ch 179 SLA 1978)

Sec. 37.12.055. Compensation of board members. Board members are in the exempt service under AS 39.25 and receive an annual salary within Range 30 of the salary schedule for state employees established by AS 39.27.011. (§ 3 ch 179 SLA 1978)

Sec. 37.12.060. Employment of personnel. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. The executive director and all employees of the board are in the exempt service under AS 39.25. (§ 3 ch 179 SLA 1978)

Sec. 37.12.065. Conflicts of interest. (a) Members of the board of trustees are subject to the provisions of AS 39.50.

(b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, he shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest. (§ 3 ch 179 SLA 1978)

Sec. 37.12.070. Powers. In carrying out the corporate powers of the corporation, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the corporation;
- (4) enter into any agreements necessary to the exercise of its powers and functions;
- (5) accept grants from and contract with the federal government and the state or its political subdivisions and to that end comply with the provisions of federal, state, or local programs where necessary, except

HB 12
(16) make
black grants
to CSUT
for conservation
purposes.

or local government position is funded or partially funded in connection with a project;

(6) accept grants and loans from other sources than those in (5) of this section to be held and used for the purposes of the corporation;

(7) appear in behalf of the corporation before boards, commissions, departments, or other agencies of municipal, state, or federal government;

(8) acquire, hold, use, lease, sell, or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in it;

(9) hold, as a means of securing the providing of financial assistance, patents, copyrights, trademarks, royalties, or any other evidences of protection or exclusivity issued under the laws of the United States or any state or nation;

(10) prepare, publish, and distribute technical studies, reports, bulletins and other materials it considers appropriate;

(11) invest, in such form as it considers appropriate, in projects which are economically viable and income-producing;

(12) provide grants for projects having broad public application which do not have direct income-producing potential;

(13) adopt regulations governing the exercise of its corporate powers;

(14) deposit funds, or invest surplus funds through the treasury division of the Department of Revenue which may invest in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule;

(15) do all acts and things necessary or desirable to carry out the purposes of the corporation. (§ 3 ch 179 SLA 1978)

(16) CS HB12

Sec. 37.12.075. Duties. In carrying out the purposes of this chapter, the board shall

(1) seek to maintain the productivity of healthy renewable resources and expand the productivity of depleted or underutilized renewable resources;

(2) provide financial assistance for projects which the board finds will accomplish the purposes of the corporation as set out in § 15 of this chapter;

(3) promote the utilization of the state's renewable resources in the state and the development of import substitution and export markets;

(4) annually prepare long-range operating and financial plans and the budget for the forthcoming year;

(5) monitor approved projects for compliance with this chapter and provide operational and performance evaluations (post-audits) of projects receiving financial assistance and an overall assessment, expressed in qualitative and quantitative terms, of the degree to which the purposes of the corporation, as set out in § 15 of this chapter, have been achieved; and

(6) attempt to fund activities which will tend to maximize returns to the state and local governments and its citizens in such forms as tax revenues and resident employment and income. (§ 3 ch 179 SLA 1978)

Sec. 37.12.080. Financial assistance. (a) In providing financial assistance, the board shall

(1) consider the proposals of qualified applicants only after the applicant has submitted a detailed proposal in the form prescribed by the board; no assistance may be approved by the board unless it finds, in writing, that

(A) the proposed project, if successful, will further the purposes of the corporation as set out in § 15 of this chapter;

(B) the application contains an adequate plan for project implementation, including, when applicable, a complete business, financial and marketing plan for commercial activities;

(C) sufficient capital is not available from other sources on reasonable terms;

(D) the applicant has agreed that if new renewable resource industrial activity results from the proposed project, his best efforts will be employed to keep that activity in the state for a minimum period of time specified by the board;

(E) the applicant demonstrates that sufficient technical and business expertise to accomplish the objectives of the proposed project is available;

(F) all costs, including additional governmental cost, associated with and ancillary to the project and future obligations generated by the project have been identified, including any necessary operating, maintenance, or other support costs for the life of the project;

(G) potential resource use conflicts that may result from the proposed project are identified and evaluated, and when necessary, plans to mitigate or resolve those conflicts and to preserve for the future options for the use of the state's renewable resources are included in the application;

(2) use the financial mechanism most appropriate to the conditions of the applicant and the proposed project and which will most effectively utilize the funds available; grants may be made by the board of up to 90 per cent of the total project costs for the following purposes:

(A) projects for the applied research and development of products, technologies, or innovations for the rehabilitation, enhancement, or development of the state's renewable resources;

(B) projects for the demonstration, on a one-time basis, of the economic or technical feasibility of a new product, market, or technology involving a renewable resource; or

(C) projects for the rehabilitation, enhancement, or development of a common-property resource where the benefits from the project cannot be captured by any single economic unit;

(3) in evaluating projects, consider the preferences and priorities of the residents of the region in which the project is to be located;

(4) require investments made by the corporation to be secured by means determined to be appropriate by the board.

(5) The board may not

(1) invest or otherwise provide assistance of more than five per cent of the resources of the corporation or \$1,500,000, whichever is less, in a single project or applicant unless the legislature has approved the investment by concurrent resolution;

(2) invest in more than 49 per cent of the outstanding corporate stock or other corporate obligations issued by an applicant unless the legislature has approved the investment by concurrent resolution;

(3) make a loan for a period in excess of 30 years unless the legislature has approved the loan by concurrent resolution;

(4) assume the responsibility for management of any project in which it has invested and may not exercise voting rights for that purpose or for any other purpose which is within the scope of managerial control; or

(5) provide funds to any state agency unless that expenditure is included in the corporation's annual budget;

(6) allocate to grants more than 10 per cent of the annual appropriation of the corporation.

(c) Nothing in this section prevents the board from taking such action and exercising such rights as it considers necessary for the protection of its financial interests in the event of

(1) actual or threatened default on any of the board's investments;

(2) actual or threatened insolvency of a project in which the board has made an investment; or

(3) any other immediate or actual circumstance or event which jeopardizes an investment made by the board.

(d) Projects for which financial assistance is granted shall comply with all applicable provisions of law. (§ 3 ch 179 SLA 1978)

Sec. 37.12.085. Eligibility for financial assistance. The board may provide financial assistance if it finds that an applicant is qualified to receive assistance. An applicant is qualified if

(1) he has submitted a proposal to the board in accordance with § 80(a)(1) of this chapter;

(2) he is a resident of the state for three years or, if the applicant is a partnership, corporation, or other association, the majority interest is beneficially owned by residents of the state and a majority of the owners are residents of the state; and

(3) his projects which have previously received financial assistance from the corporation, if any, have complied with all requirements of that assistance and have performed with sufficient success or promise to

Sec. 37.12.090. Reports and publications. (a) The board shall prepare and distribute in non-technical language materials describing the purposes and activities of the corporation.

(b) The board shall publish an annual report for the governor, the legislature, and the public at the time of submitting its annual budget request. Each annual report shall include financial statements and audit reports, a statement detailing the sources from which the corporation received money, a statement detailing the investments made by the corporation, a summary and evaluation of the data required by § 75(5) and (6) of this chapter, a list of public facilities required by or complementary to the corporation's investment activity, and any other information that the board of trustees believes would be of interest to the recipients of the report. (§ 3 ch 179 SLA 1978)

Sec. 37.12.095. Budget and appropriations. (a) The corporation may expend money only as appropriated by the legislature. The corporation is subject to the Executive Budget Act (AS 37.07) except as provided in (b) and (c) of this section.

(b) The budget of the corporation shall include the categories and amounts of proposed financial assistance broken down by financing mechanism and resource sector affected and all funds received by the corporation whether through allocations made by this chapter, appropriation, or otherwise. The total amount of the corporation's operating budget shall be specified separately in its budget and be appropriated from the general fund.

(c) The unexpended and unobligated portion of the appropriations, other than appropriations for operating expenses, does not lapse into the general fund at the end of a fiscal year, but remains available for appropriation as provided in this section in subsequent fiscal years. (§ 3 ch 179 SLA 1978)

Sec. 37.12.100. Annual audit. The corporation shall have its financial record audited annually by an independent outside auditor. The legislative auditor may prescribe the form and content of the financial record of the corporation and shall have access to these records at any time. (§ 3 ch 179 SLA 1978)

Sec. 37.12.105. Cooperation with other agencies. All departments, agencies, and public corporations of the state shall provide information, services and facilities to the corporation on its request. The corporation shall reimburse the department, agency, or corporation for expenses reasonably incurred on the corporation's behalf. (§ 3 ch 179 SLA 1978)

Sec. 37.12.110. Tax exemption. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state. (§ 3 ch 179 SLA 1978)

Appt 1/15

warrant further and.

Sec. 37.12.115. Technical assistance. (a) The corporation may provide financing for pre-investment activities including feasibility studies, when, in its opinion, the proposed project is of high priority and the financing is not available from other sources on reasonable terms and conditions. Amounts so advanced may form a part of a later investment if the enterprise or project is financed by the corporation.

(b) The corporation may provide funding for technical and management advice and assistance to qualified applicants as it considers necessary in the circumstances. (§ 3 ch 179 SLA 1978)

Sec. 37.12.120. Public access to information. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of reports, items, persons, or enterprises. (§ 3 ch 179 SLA 1978)

Sec. 37.12.125. Definitions. In this chapter, unless the context otherwise requires,

(1) "applicant" means a person making application to the corporation for financial assistance;

(2) "board" means the Board of Trustees of the Alaska Renewable Resources Corporation;

(3) "corporation" means the Alaska Renewable Resources Corporation;

(4) "project" means products, markets, innovation, or technological developments for the rehabilitation, enhancement, or development of renewable resources and includes applied research for those products, markets, or technological developments;

(5) "rehabilitation, enhancement, and development" means any activity or program which improves the health and well-being of a renewable resource or renewable resource population leading to an increase in the quality or productivity of the resource and to an increase in the benefits derived from the resource to the citizens of the state;

(6) "renewable resource" means non-human living organisms; natural components of the environment, including the air, land, and water; and energy systems which are naturally recurring or replenished. (§ 3 ch 179 SLA 1978)

Chapter 14. Trust Funds.

Article

1. Mental Health Fund (§§ 37.14.010 — 37.14.050)
2. University Fund (§§ 37.14.060 — 37.14.100)
3. Public School Fund (§§ 37.14.110 — 37.14.150)
4. Custody and Investment of Trust Funds (§§ 37.14.160 — 37.14.170)

A.R.R.C.
MARCH 1989
J.N. MINNES

CRITERIA FOR APPROVAL of PROJECTS

I. DOES IT FIT WITH A.R.R.C.'s MISSION

1. Renewable Resource
2. Self Sustaining
3. Appropriate Use of the Resource
 - Maintenance of a healthy resource
 - Expand productivity of a depleted or underutilized resource
4. Increase Benefits to State's Citizens
 - import substitution
 - employment opportunities
 - higher standard of living
 - lifestyle alternatives
 - Taxes

II Is it a VIABLE BUSINESS

1. Management is sound
2. Markets, Sales - Substantially OK
3. Technology is feasible, pilot work complete
4. Plant and equipment well designed and functional
5. Personnel are experienced and reliable
6. Business plan well thought through
7. No major legal problems
8. Corporate structure is sound

A.R.R.C.
MARCH 1979
J.N. MILNES

III WHAT FINANCING IS NEEDED? AND WHAT IS THE BEST APPROACH FOR A.R.R.C.

1. GRANT
2. EQUITY
3. LOAN
4. TERM
5. TAKE OUT MECHANISM and
TIMING
6. DESIRED LEVERAGE

SCOMM

#44: 7

Amended
1980

For an Act entitled: "An Act establishing the Prudhoe Bay Oil and Gas Royalty Trust of ~~1981~~ 1980; and providing for an effective date.

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

Section 1. AS 13 is amended by adding a new chapter to read:

CHAPTER 37 PRUDHOE BAY OIL AND GAS ROYALTY TRUST OF 1980

ARTICLE 1. POLICY, PURPOSES, FINDINGS AND

FORMATION OF TRUST

Sec. 13.37.010. POLICY, PURPOSES AND FINDINGS.

(a) It is the duty and policy of the state with respect to the natural resources belonging to it and the income derived from them to provide for their utilization, development, and conservation for the maximum benefit of its people.

(b) The purposes of this chapter are:

(1) to transfer part of Alaska's petroleum wealth to its people in the form of income-producing assets;

(2) to encourage increased awareness and involvement by the people of Alaska in the management of natural resource production and development.

(c) The legislature finds

(1) that it is in the public interest and in the furtherance of a public purpose to distribute a portion

*difference between
increasing wealth as opposed to income*

*vs. income
? or just
receive
income*

*to increase
personal wealth
equitable*

of Alaska's energy wealth to the people of Alaska in the form of income producing assets in order to increase their involvement and awareness regarding the management of the state's natural resources;

(2) that a mechanism by which the state distributes a portion of its resource royalties will best promote the state's interests in producing a more personal and direct stake in the impact of decisions involving the state's natural resource production and development.

at Rev.

Sec. 13.37.020. CREATION OF TRUST. The commissioner shall create by trust indenture a trust in accordance with the provisions of this chapter. The trust shall be known as the Prudhoe Bay Oil and Gas Royalty Trust of 1980 and the trustee may transact its affairs in that name.

Sec. 13.37.030. TRUST INDENTURE. (a) The Commissioner of Natural Resources shall execute the trust indenture on behalf of the State. The trustee shall also execute the trust indenture as trustee for the trust. After execution, the trustee shall register the trust in accordance with AS 13.36.

(b) The trust indenture shall include:

- (1) the name and purpose of the trust;
- (2) powers and duties of the trustee;
- (3) the nature and rights of the holders of the beneficial interests;
- (4) accounting and distribution methods and procedures;
- (5) liability of trustee;
- (6) duration, revocation and termination of

(7) limitations of the powers and rights of the trustee and the certificate holders; and

Sec. 13.37.040. AMENDMENTS TO TRUST INDENTURE.

(b) An amendment may not be made to the trust indenture which would increase the power of the trustee to engage in business or investment activities or alter the rights of the certificate holders in relation to each other.

Sec. 13.37.060. THE TRUST ESTATE. The assets of the trust shall consist of the royalties conveyed to the trust under sec. 070 of this chapter.

-3-

*which actual
leases*

to the trust a portion of the state's royalty interest in leases or properties of the state as authorized by law.

(b) The deed must indicate that the conveyance is only of the state's royalty interest and not the entire mineral interest which will be retained by the state. The conveyance of the royalty interest must be for so long as there is production in paying quantities from the leases or properties described in (a) of this section. After production in paying quantities has ceased, the royalty interest must revert to the state.

(c) The conveyance to the trust is subject to the prior obligations of the state to make payments from the royalty interest to the Alaska Permanent Fund under art. IX, sec. 15 of the Alaska State Constitution and AS 37.13.010, the Alaska Renewable Resources Development Fund under AS 37.10.011, [and the Alaska Native Fund under sec. 9(b) of the Alaska Native Claims Settlement Act (Public Law 92-203 43 U.S.C. 1601 et seq.)] The conveyance is also subject to the rights and obligations of the lessor and lessee of the leases and properties described in (a) of this section including the right to a reduction in royalty as authorized by AS 38.05.180(j), the right to enter into storage or exchange agreements concerning royalty under AS 38.05.180(1), the right to elect to take royalty in kind or in value as authorized by AS 38.05.182 and any future sales, exchanges or other disposal or encumbrance which the Commissioner of Natural Resources is presently authorized by law or may be authorized by law in the future to make or place upon the royalty interest.

*50% of income
of x leases*

*income
not interest*

(d) If at the time of conveyance the royalty interest is subject to contracts of sale, the conveyance must expressly identify the contracts and state that the conveyance is subject to them and does not limit the state's rights, duties, and obligations under them.

(e) The royalty interest conveyed under this section includes the interest of the state in the net proceeds from a sale, exchange or other disposition of royalty oil and gas taken in kind from the properties described in (a) of this section.

ARTICLE 2. TRUSTEE.

Sec. 13.37.080. SELECTION OF TRUSTEE (a) The commissioner shall be the trustee for the trust. The commissioner may, however, appoint other persons to act as its agent in administering the trust including a bank or trust company licensed under AS 09.

Sec. 13.37.090. POWERS AND DUTIES OF TRUSTEE. The trustee shall have the duties of preserving the trust estate, the collection of the income from the trust estate, the payment of expenses, and the distributions of the net proceeds of the trust estate to the certificate holders. The powers of the trustee shall not extend beyond those necessary and incidental to carrying out of these duties and shall be restricted to:

(1) the power to manage, conserve and protect the royalties that it would have if it were the absolute owner of the royalties;

(2) the power to temporarily accumulate cash as a reserve for liabilities or for distribution at the next

distribution date and to invest those reserves in accordance with sec. 130 of this chapter;

(3) the power to prosecute or defend, and to settle by arbitration or otherwise any claim of or against the trust, to waive or release rights of any kind and to pay or satisfy any debt, tax or claim upon evidence considered sufficient;

(4) the power to employ oil and gas consultants, accountants, attorneys and other professional and expert persons and to employ or contract for clerical and other administrative assistance and to make payments of all fees for services or expenses in any manner thus incurred out of the trust;

(5) the power to use all money received by it in the payment of all liabilities and obligations incurred by it in connection with the trust including all expenses, taxes, liabilities, compensation to it and compensation to persons employed by it.

Sec. 13.37.100. NO POWER TO ENGAGE IN BUSINESS OR MAKE INVESTMENTS. The trustee may not, in its capacity as trustee under the trust acquire any oil and gas lease, mineral interest, or royalty other than the royalties conveyed under sec. 70 of this chapter or except as provided in sec. 1³/₂₀ of this chapter acquire any other asset or engage in any business or investment activity of any kind.

Sec. 13.37.110. LIABILITY OF TRUSTEE. The trustee's standard of care and liability shall be determined in accordance with AS 13.36.

Sec. 13.37.120. COMPENSATION OF TRUSTEE. The

trustee shall be compensated for its expenses in administering the trust but shall receive no other compensation for its services.

Sec. 13.37.130. INVESTMENT OF CASH RESERVES. (a)

The trustee shall invest the temporary cash reserves established under secs. 140 and 260 of this chapter in:

(1) obligations of or obligations insured or guaranteed by, the United States or agencies or instrumentalities of the United States;

(2) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obligations or corporations in which the United States is a shareholder or member;

(3) certificates of deposits issued by the United States domestic banks which are members of the Federal Deposit Insurance Corporation and secured as to the payment of principal and interest in accordance with Alaska law.

Sec. 13.37.140. PAYMENT OF LIABILITIES. (a) The trustee may use all money received by it in the payment of all liabilities of the trust, including but not limited to, all expenses, taxes, liabilities incurred of all kinds, compensation to it for its expenses, and compensation to persons employed by it. If a liability is contingent or uncertain in amount or is not currently due and payable, the trustee may establish a temporary cash reserve for its payment. The trustee may not pay any liability of the trust with funds set aside under sec. 250 of this chapter for the payment of a monthly distribution amount unless there are no other

available funds in the trust estate and the trustee is satisfied that on the distribution date there will be sufficient funds to pay the monthly distribution amount. If funds set aside under sec. 240 of this chapter are used, the amount used shall be treated as a liability of the trust and shall bear interest at the rate of funds invested under sec. 130 of this chapter.

(b) If at any time the cash on hand and to be received by the trustee is not, or will not, in the judgment of the trustee, be sufficient to pay liabilities of the trust as they become due, the trustee is authorized to borrow the funds required to pay those liabilities. If the trustee borrows funds under this subsection, no further distributions will be made to the certificate holders except previously determined monthly distribution amounts, until the indebtedness created by the borrowings has been paid in full. To secure payment of the indebtedness, the trustee is authorized to mortgage, pledge, grant security interests in or otherwise encumber and to include any and all terms, powers, remedies, covenants, and provisions considered necessary including without limitation the power of sale with or without judicial proceedings the trust estate, or any portion of the trust estate including all or any part of the royalties.

ARTICLE 3. TERMINATION OF TRUST AND LIQUIDATION.

Sec. 13.37.150. DURATION, REVOCATION AND TERMINATION OF TRUST. (a) The trust shall be irrevocable. The trust shall be terminable only as provided in this section and shall continue until so terminated.

(b) The Trust shall terminate upon the first to occur of the following events or times:

(1) at the time as its net revenues for each of two successive years are less than \$1,000,000;

(2) the termination of production from the properties for which the royalties are due;

(3) a vote in favor of termination by the certificate holders present or represented at a meeting held in accordance with sec. 280 of this chapter.

Sec. 13.37.160. LIQUIDATION. (a) Upon termination of the trust, the trustee shall proceed to liquidate and wind up the affairs of the trust. For the purpose of liquidating and winding up the affairs of the trust at its termination, the trustee shall continue to act and exercise each power until its duties have been fully performed and the trust estate has been finally distributed. Upon the termination of the trust, the trustee shall sell for cash in one or more sales all the properties other than cash then constituting the trust estate. The trustee shall, as promptly as possible, distribute the proceeds of any such sales and any other cash in the trust estate according to the respective interests and rights of the certificate holders, after paying, satisfying and discharging all of the liabilities of the trust; or, when necessary, setting up reserves in amounts as trustee in its discretion considers appropriate for contingent liabilities. Upon making final distribution to the certificate holders, the trustee shall be under no further liability except as provided in sec. 110 of this chapter.

ARTICLE 4. BENEFICIAL INTERESTS.

Sec. 13.37.170. CREATION OF BENEFICIAL SHARES AND CERTIFICATES. (a) The entire beneficial interest in the trust shall be divided into a total number of units represented by the value of the royalties conveyed to the trust divided by \$50. The ownership of the units shall be evidenced by certificates in substantially the following form.

CERTIFICATE OF BENEFICIAL INTEREST

IN

THE PRUDHOE BAY OIL AND GAS ROYALTY TRUST OF 1980

Created by, Issued under, and subject to the Prudhoe Bay Oil and Gas Royalty Trust of 1980 Indenture dated as of _____

THIS CERTIFIES THAT _____ is the owner of _____ Units of Beneficial Interest ("Units") in that certain Trust known and designated as the Prudhoe Bay Oil and Gas Royalty Trust of 1980, created and established under the terms of the above-referenced Indenture by and between the State of Alaska, as Trustor, and _____, as Trustee, a duplicate original of which Indenture is, for the information of all concerned, held by said Trustee at its office. The Indenture is hereby referred to and made a part of this Certificate for all purposes, and the owner of this Certificate by accepting the same consents to, and becomes bound by, all the terms and provisions of the Indenture. The Units represented by this Certificate are transferable on the books of the trustee by the holder in person, or by duly authorized attorney, upon surrender of this Certificate, properly endorsed, to

the trustee.

WITNESS the seal of the Trustee and the signature of its duly authorized officer.

DATED _____

_____, TRUSTEE

By _____

Authorized Officer

By _____

Authorized Officer

(b) Initially, the state shall own all of the units and the trustee shall issue a certificate in name of the state for those units. However, the commissioner shall distribute the units in accordance with sec. 180 of this chapter. Upon that distribution, the trustee shall forthwith issue certificates to those persons evidencing the number of units distributed to him or her, and a certificate in the name of the state for those units remaining.

Sec. 13.37.180. DISTRIBUTION OF UNITS. (a) After the conveyance of the royalties to the trust under sec. 70 of the chapter, the commissioner shall determine the value of royalties conveyed in accordance with AS 43.17.080 and divide that total value by \$50 to determine the total number of units in the trust. The number of units determined under this section shall fix the total number of units in the trust and no additional units in the trust may be created. The trustee shall then issue a certificate as described in

sec. 170 of this chapter in the name of the State of Alaska representing the ownership of all the units in the trust.

(b) The commissioner shall then distribute 10 percent of the total units to eligible individuals in accordance with AS 43.17.090. After the distribution under this section, the trustee shall issue certificates as described in sec. 70 of this chapter to the eligible individuals representing the units distributed to them and then issue a new certificate as described in sec. 70 of this chapter in the name of the State of Alaska for the remainder of the units which have not been distributed.

(c) After the distribution under (b) of this section, the commissioner shall distribute the remaining units in accordance with AS 43.17.100, 43.17.110, and 43.17.130. After the distribution under this section, the trustee shall issue certificates as described in sec. 70 of this chapter to the eligible individuals representing the units distributed to them, and then issue a new certificate in the name of the State of Alaska for the remainder of the units which have not been distributed.

(d) The commissioner may not distribute units of the trust under AS 43.17.120 and the commissioner shall hold units not distributed under this section in the name of the state.

Sec. 13.37.190. OWNERSHIP AND TRANSFERABILITY OF UNITS. (a) An eligible individual who has received a unit in the trust under this chapter may not be required to return, sell, or otherwise relinquish that unit as a result of ceasing to be a resident. A unit may not be sold,

given, assigned, transferred, or otherwise conveyed except by inheritance to an individual who is not a resident, and the trustee may cancel any certificates representing units sold, given, assigned, transferred, or otherwise conveyed, except by inheritance, to persons other than an individual who is a resident.

(b) An individual may not own directly or indirectly more than 5 percent of the total units in the trust, and the trustee may not distribute to any person directly or indirectly payments under the trust in excess of that amount attributable to 5 percent of the total units in the trust. For purposes of this subsection, the rules prescribed by section 318 of the Internal Revenue Code (26 U.S.C. §318) for determining the ownership of stock shall apply for determining the ownership of units of the trust.

Sec. 13.37.200 RIGHTS OF CERTIFICATE HOLDERS.

(a) The certificate holders shall own pro rata the beneficial interest in the trust, and shall be entitled to participate pro rata in the rights and benefits of the certificate holders under this chapter. A certificate holder, by assignment or otherwise, takes and holds the same subject to all the terms and provisions of this chapter, which shall be binding upon and inure to the benefit of the successors, assigns, legatees, heirs and personal representatives of the certificate holder. By an assignment or transfer of one or more units represented by a certificate, the assignor shall part with, all of his or her beneficial interest attributable to it, all his rights in, to and under such certificate and all interests, rights and benefits

active
holders
vs.
passive
trust

under this trust of a certificate holder which are attributable to that unit or units as against all other certificate holders and the trustee.

(b) The certificates, units, and the rights, benefits and interests evidenced by either or both including the entire beneficial interest are and shall be held and construed to be in all respects as intangible personal property, and the units and certificates evidenced by them shall be bequeathed, assigned, disposed of and distributed as intangible personal property.

(c) A certificate holder does not have any legal or equitable interest in or to any real property interest which is a part of the trust estate, including, without limitation the royalties or any part of it, but the sole interest of each certificate holder shall be his beneficial interest and the obligation of the trustee to hold, manage and dispose of the trust estate and to account for the trust estate as provided in this chapter. A certificate holder may not call for or demand or secure any partition during the continuance of the trust or during the period of liquidation and winding up under sec. 160 of this chapter.

Sec. 13.37.210. EXECUTION OF CERTIFICATES. All certificates shall be signed by the trustee or a duly authorized agent of the trustee.

Sec. 13.37.220. REGISTRATION AND TRANSFER OF UNITS. The units may be transferred by the certificate holders in accordance with sec. 190 of this chapter and this section. The units shall be transferrable as against the trustee only on the records of the trustee upon the surrender

of certificates and compliance with such reasonable regulations as it may prescribe. A service charge may not be made for a transfer of a unit. Until a transfer, the trustee may treat the owner of any certificate as shown by its records as the owner of the units evidenced by them and is not charged with notice of any claim or demand respecting a certificate or the interest represented by any other party. A transfer of a unit shall, as to the trustee, transfer to the transferee as of the close of business on the date of transfer all of the right, title and interest of the transferor in and to the beneficial interest. The death of any certificate holder shall not entitle the transferee to an account or valuation for any purpose, but such transferee shall succeed to all rights of the deceased certificate holder under this chapter upon proper proof of title, satisfactory to the trustee.

Sec. 13.37.230. DETERMINATION OF OWNERSHIP OF CERTIFICATES. In the event of any disagreement between persons claiming to be transferee of any certificate holder, the trustee shall be entitled at its option to refuse to recognize the claims so long as the disagreement continues. In so refusing, the trustee may elect to make no delivery or other disposition of the interest represented by the certificate involved, or any part of it, or of any sum or sums of money accrued or accruing under it, and, in so doing, the trustee shall not be or become liable to any person for the failure or refusal of the trustee to comply with such conflicting claim and the trustee shall be entitled to continue so to refuse to so act, until:

(1) the rights of the adverse claimants have been adjudicated by a final judgment of a court assuming and having jurisdiction of the parties and the interest and money involved; or

(2) all differences have been adjusted by valid agreement between said parties and the trustee shall have been notified in writing signed by all of the interested parties.

ARTICLE 5. ACCOUNTING AND DISTRIBUTION.

Sec. 13.37.240. FISCAL YEAR AND ACCOUNTING METHOD. The trustee may adopt any fiscal year and may change its fiscal year from time to time as it elects, and shall maintain its books in accordance with generally accepted accounting principles.

Sec. 13.37.250. DISTRIBUTIONS. (a) The trustee shall determine the monthly distribution amount for each month and on the monthly record date for that month shall establish a cash reserve equal to that amount. During the months of January, April, July and October of each year, the trustee shall for each of the immediate preceeding three months, distribute pro rata the monthly distribution amount for that month, together with interest earned on that amount from the monthly record date for that month to the payment date, to the certificate holder on the monthly record date for that month.

(b) The monthly distribution amount shall be the amount determined by the trustee equal to the excess, if any, of:

(1) the cash received during a calendar

month which is attributable to the royalties plus any decrease in a cash reserve established by the trustee for the payment of any liabilities of the trust plus any other cash receipts of the trust during the month other than interest earned on the monthly distribution amount for any other month; over

(2) the liabilities of the trust paid during that month plus the amount of any cash reserve established or increased by the trustee for the payment of any future or contingent liabilities of the trust.

(c) The monthly record date for each shall be the close of business on the last business day of the month.

Sec. 13.37.260. TAX REPORTING. For tax purposes, the trustee shall file returns and statements as in its judgment are required to comply with applicable provisions of law and to permit each certificate holder to correctly report his share of the income and deductions of the trust.

Sec. 13.37.270. REPORTS TO CERTIFICATE HOLDERS. At the end of each calendar quarter, the trustee shall mail to each person who was a certificate holder of record on a monthly record date during that quarter a report which shall show, in reasonable detail, the assets, liabilities, receipts and disbursements of the trust for the quarter and for each month in the quarter. Within 90 days following the end of each fiscal year, the trustee shall mail to each person who was a certificate holder of record for a date to be selected by the trustee, an annual report containing financial statements audited by a nationally recognized firm of independent public accountants selected by the trustee.

ARTICLE 6. MEETINGS

Sec. 13.37.280. MEETINGS OF CERTIFICATE HOLDERS.

(a) A meeting of the certificate holders may be called for purposes of terminating the trust under sec. 150 of this chapter or for amending the trust indenture under sec. 40 of this chapter.

(b) A meeting of the certificate holders may be called for the purposes specified in (a) of this section by the trustee or by certificate holders owning not less than 5 percent in number of the units represented by the then outstanding certificates. All meetings shall be held at a time and at a place in the state as the notice may designate.

(c) The notice of every meeting of the certificate holders shall be in writing, be signed by the trustee or the certificate holders calling the meeting, set forth the time and place of the meeting, and matters proposed to be acted upon at the meeting. The notice shall be given in person or by mail not more than 60 days or less than 30 days before the meeting is to be held to all of the certificate holders of record not more than 60 days before the date of the meeting.

(d) If the notice is given to certificate holders by mail, it shall be directed to him or her at the last address as shown on the records of the trustee and shall be considered duly given when so addressed and deposited in the United States mail, postage prepaid. No matter other than that stated in the notice shall be acted upon at any meeting.

Sec. 13.37.290. VOTING. At a meeting of the certificate holders, the presence in person or by proxy of

certificate holders holding a majority of the units outstanding as of the record date for determining the right to receive notice of the meeting, shall constitute a quorum. Any matter shall be considered to have been approved by the certificate holders if it is approved by the vote of a majority in interest of such certificate holders constituting a quorum, although less than a majority of all of the units at the time outstanding. A certificate holder shall be entitled to one vote for each unit owned by him or her and certificate holder may vote in person or by a duly executed written proxy.

Sec. 13.37.300. CONDUCT OF MEETINGS. The trustee may make reasonable regulations as it may consider necessary for any meeting of the certificate holders, for the appointment of proxies, the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates or other evidence of the right to vote, the preparation and use at the meeting of a list authenticated by or on behalf of the trustee of the certificate holders entitled to vote at the meeting and other matters concerning the conduct of the meeting as it shall consider necessary.

ARTICLE 7. GENERAL PROVISIONS

Sec. 13.37.310. INSPECTION OF TRUSTEE'S BOOKS. A certificate holder and his authorized agents, attorneys, and auditors shall have the right during reasonable business hours to examine, inspect and make audits of the Trust and the records of the trustee in reference to the trust.

Sec. 13.37.320. RULE AGAINST PERPETUITIES. The conveyance of royalties to the trust, the transfer of the

beneficial interests in the trust, or the duration of the trust itself shall not be considered as violating the so-called rule against perpetuities or any law restricting or limiting the duration of trusts, and the trust to be created under this chapter may continue for that time as may be necessary to accomplish the purposes for which it was created.

Sec. 13.37.330. WAIVER. The provisions of AS 38.05.125, 38.05.183 and AS 38.06 shall not apply to a conveyance under this chapter.

Sec. 13.37.340. DEFINITIONS. In this chapter:

(1) "beneficial interest" means an equitable interest in cash of the trust estate including without limitation the proceeds from the conversion of the royalties to cash, and in the right to cash from such conversion of royalties, but does not include any legal or equitable title in or to the royalties as any part of the royalties;

(2) "certificate" means a certificate issued by the trustee evidencing ownership of one or more units;

(3) "certificate holder" means the owner of a certificate as reflected on the books of the trustee;

(4) "commissioner" means the Commissioner of Revenue;

(5) "conveyance" means the transfer of royalties to the trust by the state;

(6) "eligible individual" means an individual who is a resident as of an eligibility date determined by the commissioner.

(7) "individual" means a natural person;

(8) "resident" means an individual who

maintains a permanent place of abode in the state with the intention of making the state his permanent place of residence and who resides in the state continuously except for temporary purposes only and with the intent of returning; a person may not be considered to have gained a residence solely by reason of his presence and he may not lose it solely by reason of his absence while in the civil or military service of this state or of the United States or by reason of his absence because of marriage to a person engaged in the civil or military service of this state or the United States; a person may not be considered to lose his residence while a student at an education institution, while in an institution at public expense, while confined in prison, while engaged in the navigation of waters of this state, of the United States, or of the high seas, or while residing upon an Indian or military reservation; a minor takes the residence of his parent or of his legal guardian; a married woman may establish her own residence and does not presumptively take the residence of her husband;

(9) "royalties" means the royalties conveyed to the trust pursuant to this chapter.

(10) "trust" means the trust created by and administered under the terms of this chapter and the trust indenture;

(11) "trustee" means the entity serving as trustee of the trust and includes any successor trustee;

(12) "trust estate" means the assets held by trustee under the trust and shall include both income and principal;

(13) "trust indenture" means the trust indenture originally executed by the Commissioner of Revenue and the trustee under this chapter, or if amended or supplemented, as so amended or supplemented;

(14) "unit" means an undivided fractional interest in the beneficial interest.

Sec. 2. The enactment of this Act shall constitute approval of a plan under AS 43.17.040. After enactment, the Commissioner of Revenue shall implement the plan in accordance with this Act and AS 43.17, subject to necessary appropriation. Notwithstanding the approval under this section, the Commissioner of Revenue may submit to the legislature by the thirtieth day of First Session of Twelfth Legislature a revised plan if in his judgment a revised plan is necessary to fully accomplish the policy, purposes and findings under this Act and AS 43.17, or if in his judgment a revised plan is necessary to provide complete information concerning the plan. A revised plan submitted under this section is subject to legislative approval under AS 43.17.040.

Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

JUNEAU

"The Voice of Alaska"

VOL. 74 NO. 64

JUNEAU, ALASKA, MONDAY

New oil revenue plan s

By ROXINNE ERVASTI
Associated Press Writer

A new proposal for sharing the state's oil revenues with citizens is making the rounds of the State Capitol and will probably be introduced as legislation soon.

The idea is to give everyone a small share of the royalty income that now flows to the state treasury and to sell shares in the balance at a low price.

In addition, the state would turn over to citizen-investors large-scale projects, such as a conditioning plant for North Slope natural gas, after they are constructed. And, the state would establish mutual funds and real estate trusts for citizen-investors.

In order to allow those who do not have money to invest, citizens could pledge their permanent fund dividends and state income tax refunds and credits, or take out loans, toward the long-term purchase of the shares.

"A lot of people would like to pass this to counter the Alaska

General Stock Ownership Corporation initiative," said House Speaker Terry Gardiner. "This idea hasn't been subject to a rigorous review, so we'll have it introduced as a bill for review, and public input."

The AGSOC initiative has been certified for the November election ballot. Under it, a private corporation, but with all citizens as stockholders, would be set up. Some legislators who first endorsed the proposal of Sen. Mike Gravel are now having second thoughts about it, particularly because the electorate and shareholders would be the same.

As for investment in the state's oil through the proposed "energy resource trusts," Gardiner said: "Now, if you want to invest in Alaska oil, you have to buy stock in Exxon. This would give people a chance to invest directly in Alaska."

Dr. Arlon Tussing, a consultant, wrote the proposal at the request of Gov. Jay Hammond. He briefed the governor and a group of House members on it Friday.

★ ★ ★ ★ ★ ★ **EMPIRE**

Alaska's Capital City"

MONDAY, MARCH 31, 1980

12 PAGES 25¢

surfaces in Legislature

Tussing said the royalty trusts are probably the only parts of the proposal that could be put into effect this year. He suggests one for Prudhoe Bay revenues, in which shares of 5 to 15 percent of the revenues would be given free to Alaskans, and the rest sold at a conservative price with a limit of 5 percent ownership of any individual or group. A separate trust is suggested for revenues from Beaufort Sea leases.

Tussing told the seven House members at the briefing that the state's economic base, excluding oil production, is the same now as it was in the mid-1960s — fishing, tourism, timber. After the oil industry winds down, and the natural gas pipeline is built, he said, "how are the people going to be supported?"

Tussing quoted other economists who have said that Alaska would have to produce $5\frac{1}{2}$ times the United States' entire coal production to replace the revenues from Prudhoe Bay, or equal the entire world catch of fish if fisheries were to replace those revenues.

"There's little chance the state can fill the gap" he said. "A lot of

people are going to have to leave, so you might as well give them a nest egg."

Here are some of the various proposals:

--Prudhoe Bay Oil and Gas Royalty Trust: The state would set aside certain tracts under lease and royalties in excess of current levels would be conveyed to shareholders. Revenues would therefore increase rapidly with the decontrol of oil, with \$100 to \$200 distributed the first year, but then fall off as production declines.

—Beaufort Sea Oil and Gas Royalty Trust: Royalties from 1979 leases would be set aside for distribution and there would be some speculation on the part of those who want to buy shares since the field is not yet in production. The state's right to take royalty in-kind, for refinery or petrochemical uses, would not be impaired, and citizens would be less inclined to allow discounts or give-aways of the state's royalty.

—Industrial Development Projects: When the state invests more than \$100 million in an industrial project.