ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

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

Arlon 3/27

— origination — H Finance Report
Alternatives to AGSOC
+ BCRI Corp
Synthesize alternatives in draft legislative form

Dept of Revenue

— Royalty pass through

— financing of conditioning plant, distribution of equity interest via shares

— mutual fund, REIT's, GSP
existing ~~businesses~~

— provide financing for purchase of extra shares
distribution — 5 - 15 % free
rest - financed by subscription
10% down payment
easy terms

carrying charges are less than earnings
Royalty Trust
resale only to eligible Alaskans

Value of Prudhoe = world's seafood catch
= 5½ x US Coal Production

Mandated Administration Proposals)

Royalty Trust proposals -

STATE OF ALASKA

JAY S. HAMMOND, Governor

OFFICE OF THE GOVERNOR

DIVISION OF POLICY DEVELOPMENT AND PLANNING

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ALASKA CITIZENS WEALTH OWNERSHIP PROGRAM

A Brief Summary

1. What is the purpose?

   - transfer wealth to people;
   - means for direct participation by individuals in newly organized enterprises;
   - greater resident control over existing Alaskan industries; and
   - wider participation in and understanding of capitalist system through wider ownership.

2. Who organizes or runs the Program?

   - the program is housed in the Department of Revenue;
   - the Commissioner must propose at least one wealth distribution plan but not more than three to the Legislature each session;
   - the Legislature may approve or amend the plan and appropriate any sums required for its implementation;
   - some plans may require the creation of new private organizations, such as GSOC's or mutual funds.

3. What types of assets could be distributed under the Program?

   - Energy Resource Trusts, which pass on a portion of the State's oil and gas royalties directly to holders of certificates in the trust;
   - Industrial Development Projects, which are major projects involving State financial participation which would be distributed by the State to residents;
   - General Stock Ownership Corporations, which are widely held corporations organized under sub-chapter U of the Internal Revenue Code;

- Investment Funds, which are regulated investment companies (mutual funds) holding securities of corporations doing business in Alaska;

- Real Estate Trusts, which invest in Alaska real estate developments; and

- Existing Private Enterprises, large blocks of shares of which could be purchased by the State and distributed to residents.

4. Who is eligible for participation in the program?

   - all Alaska residents as defined in the bill;

   - eligibility for each Plan is established by dates included in the Plan.

5. What State appropriations would be required?

   - an appropriation of the assets to be distributed under the plan; and

   - amounts required to administer the Program.

6. What actions would be mandatory?

   - only that the Commissioner of Revenue prepare and present at least one Plan and not more than three Plans for each legislative session.

7. What actions would be elective?

   - legislative adoption of a Plan and appropriations necessary to implement it; and

   - individual participation in a Plan.

8. What would individual residents receive?

   - free distribution of a minor portion of the assets included in a Plan;

   - an option to purchase additional shares or securities in the remaining assets; and

   - the assets distributed under the Program would be the unencumbered private property of the beneficiaries except as otherwise provided by law.

MEMORANDUM

TO: T. Gardiner

FROM: J. Sund

DATE: March 12, 1981

RE: Proposed Committee Substitute for HB 33.

General Comments:

The proposed CS for HB 33 is nine (9) pages long versus the original bill which is fourteen (14) pages long. The major reason for the shortening of the bill was a decision to delete the sections in the original HB 33 starting on page 7, with section 43.17.080 - page 10, 43.17.110. Those sections detailed out the method for distributing units in a proposed plan.

The proposed CS adopts the policy that the proposal for a distribution plan to the Legislature shall contain the details regarding the distribution of the units. Different methods of distribution are more acceptable for different types of enterprises. The proposed CSHB 33 on Page 6, line 14, section 43.17.110 deal with distribution. The title of the paragraph should probably be just "Distribution" and the word "Free" should be deleted. That section mandates that the Commissioner should propose a method of distribution with each plan submitted to the Legislature.

The major addition to HB 33 involves the setting up of a public process for the origination for distribution plans. In CSHB 33, page 2, line 19, an Investement Advisory Council is created to advise the Commissioner of Revenue regarding potential proposals for a portfolio plan. Page 4, line 23, establiches a provision for hearings to be held throughout the State regarding proposed plans is set out.

There are specific work drafting changes made at the following locations in the bill. Examining HB 33 as follows:

Page 1, line 14-15. Redrafted.

Page 1, line 19-20. Deleted.

Page 1, line 22. "by residents" changed to "by State residents".

Page 1, line 26. Add, "business enterprise and local industry".

Page 1, line 27-Page 2, line 1. Delete, it has been incorporated in sub-section 5.

Page 2, line 5. After "their", add "income and their".

Page 2, line 12. After "mechanism", delete "allowing the State to distribute a part of its ownership interests". Replace with, "to provide a means for direct participation by state residents".

Page 2, line 13. After "enterprises", delete "to residents".

Page 2, line 24. Add a new section, titled Investment Advisory Counsel, found in the CSHB 33 at Page 2, line 19-28.

Page 3, line 5. Delete (c)"a state general stock ownership corporation".

Page 4, line 17. Add a new subsection (c)"a portfolio plan developed by the department shall be submitted to the Investment Advisory Council". That's found in the CS, Page 4, line 21.

Page 4, line 17. Add new section entitled "Hearings". It is found in the CS at Page 4, line 23-Page 5, line 1.

Page 4, line 18. After "portfolio plans", delete "to the second session of the twelfth legislature and to both regular sessions of the thirteenth legislature. This submission shall be made". Replace the deleted line with "to the legislature".

Page 4, line 21. Add a new sentence, "a portfolio plan shall include a report containing public comments on the plan and identifying recommendations submitted by the public which are included in the plan".

New line is found in the CS at, Page 5, line 4-7.

Page 5, line 4. After the word "require" add a period and delete all language from Page 5, line 5-22.

Page 5, line 27. After the work "sold" insert "."; delete the rest of line 27 and all of line 28.

Page 6, line 5. After "project", delete "a State general stock ownership corporation".

Page 6, line 14. After "methods", insert ".". Delete the remainder of Page 6, line 14-25.

Page 6, line 28. Insert a new section, entitiled Disposition of proceeds. "the Commissioner shall deposit net proceeds for sale of units under this chapter into the general fund." That's found in the CS, Page 6, line 11-13.

Page 7, line 2. After "them", delete the remainder line 2-4. Replace with "the Commissioner shall establish a methods for distribution of units under this section". A technical note, the CS at Page 6, line 14 the title should probably delete the word "free", so that it just states "distribution".

Page 7, line 5. Delete all material from Page 7,line 5-Page 11, line 1.

Page 11, line 3. Delete the entire section through line 9 and replace with the following "a portfolio plan may include restrictions on the transfer or disposition of units". That can be found in the CS at Page 6, line 20 and 21.

Page 11, line 10. Delete the entire section, lines 10-17.

Page 12, line 28. Delete line 28-29.

Page 13, line 2. Delete line 2-6.

Page 14, line 1. Delete line 1-4.

Page 14, line 17. Delete line 17-18.

Page 14, line 22. Section 3 , "We may reconsider the effective date clause on this act in light of the royalty trust bill which is being written. The royalty trust bill date should be prior to the effective date of this bill.

MEMORANDUM

TO: CHAIRMAN GARDINER
FROM: JOHN SUND
DATE: MARCH 24, 1981
RE: CONCEPTUAL OUTLINE OF ROYALTY TRUST BILL

The proposed Royalty Trust of 1981 is distributed today in very rough draft condition. The cleaned up version should be available shortly.

THE BILL ORGANIZATION

The purpose is to establish a mechanism to distribute a portion of the states income directly to the residents of the state. Basically the bill does the following:

1.0	Article 1.	Establishment of a Trust.	pages 2-5
2.0	Article 2.	The Trust Estate.	pages 5-7
3.0	Article 3.	Beneficiary Certificates.	pages 8-10
4.0	Article 4.	Eligibility.	page 11
5.0	Article 5.	Distribution of Units.	page 11-14
6.0	Article 6.	General.	pages 14-15
7.0	Article 7.	Definitions.	pages 15-17

The difficult parts of this bill are;

Article 2. The manner in which the asset which will be the trust principle is conveyed from the state to the trust.

Article 5. The manner in which the trust principle is distributed.

There are several crucial policy decisions that must be considered by the committee. Most of the issues have been raised in material that has been distributed to the committee at the last meeting.

THE CONCEPT

The asset. It is assumed that the asset will have an annual income level of about $200,000,000.

The Trust. The trust will be merely a conduit for the purposes of distributing the annual income accruing to the trust.

Acquisition. The trust will acquire the trust principle by a negotiated purchase from the state. The terms of payment will allow for the payment from future revenues.

Eligibility. All residents of the state as of January 1, 1982 would be eligible to.

Distribution of Certificates. Twenty-five percent (25%) of the beneficiary certificates will be distributed free. Seventy-five percent (75%) would be purchased at a fixed option price at the time of the initial distribution. A purchase warrant would be issued for the purchase of the 75% at the time of the initial distribution.

Distribution of trust income. The income to the trust would first be used to pay for the purchase of the asset. The remainder would be distributed to the certificates.

Issued and unissued certificates. 25% of the certificates are issued immediately and 75% remain unissued until the purchase warrants are exercised. POLICY DECISION. What happens to the revenue accumulating to the unissued certificates? This proposed draft provides that the accumulated amount be distributed with the certificates as the purchase warrants are exercised.

There are many unanswered questions that must be resolved. Primarily the issues deal with the numbers. What size of asset, what will it cost, what would remain for distribution, what effect on the certificate holders, various other financial and tax matters. It is my recommendation that the committee consider contracting for assistance on these matters.

Sund 3/18/81

Original sponsors: Gardiner etc.

IN THE HOUSE BY GARDINER ETC

HOUSE BILL NO. ___.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Royalty Trust of 1981.

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

* Section 1. DECLARATION OF POLICY, PURPOSES AND FINDINGS. (a) It is the policy of the state to provide for the use, development, and conservation of the state's natural resources and the income derived from them for the maximum benefit of its people.

(b) The purposes of this Act are to

(1) increase the income of state residents by transferring part of the wealth derived from the natural resources of the state to them;

(2) provide a means for the direct participation of state residents in the financing of business enterprises which benefit the state, and to provide residents with the opportunity to share in potential profits;

(3) encourage greater participation in and understanding of the capitalist system by state residents through a wider distribution of economic interests in state business enterprises;

(c) The legislature finds that

(1) it is in the public interest and furthers a public purpose to distribute a part of Alaska's wealth derived from natural resources to state residents to increase their income and their involvement and awareness regarding the management of the state's natural resources, development of its local industry, and the capitalist system;

(2) a mechanism allowing the state to distribute a part of its resource wealth to residents will best promote the state's interest in creating direct involvement by residents in the decisions concerning the state's natural resource management.

(d) Except as otherwise required by law, it is intended that distributions to residents under this Act shall be unencumbered property.

* Sec. 2. AS 43 is amended by adding a new chapter to read:

CHAPTER 90. ALASKA ROYALTY TRUST OF 1981.

ARTICLE 1. ESTABLISHMENT OF A TRUST.

Sec. 43.90.010. ESTABLISHMENT OF A TRUST. There is established in the Department of Revenue the Alaska Royalty Trust of 1981 to carry out the purposes of this chapter.

Sec. 43.90.020. TRUSTEE. The commissioner of revenue or his agent or designee is the trustee of the trust fund established in this chapter and shall:

(1) act as the official custodian of the securities and cash belonging to the trust;

(2) receive transfers and appropriations of cash and securities to the trust;

(3) invest and reinvest the principal of the trust in accordance with AS 37.10.070;

(4) collect interest, dividends and royalties earned on assets, securities and investments of the trust;

(5) provide for the distribution and sale of share certificates in the trust to eligible beneficiaries; and

(6) determine and make distributions of trust income to the beneficiaries of the trust.

Sec. 43.90.030. TRUST PURPOSE. The purpose of the trust is to provide an efficient and practical means of permitting each certificate holder to receive his pro rata share of the proceeds attributable to the royalties conveyed to the trust. This purpose is realized by retaining and collecting the cash proceeds of royalties and to distribute that cash, net of expenses and liabilities of the trust, to the certificate holders pro rata on a quarterly basis.

Sec. 43.90.040. 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. 43.90.050. PAYMENT OF LIABILITIES. 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. ___ of this chapter for the payment of quarterly distributions 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 quarterly distribution amount. If funds set aside under sec. ___ 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. ___ of this chapter.

Sec. 43.90.060. 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 at such time as the termination of production from the properties for which the royalties are due.

Sec. 43.90.070. 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 liquidation 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. The trustee shall, as promptly as possible, distribute the 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. __ of this chapter.

Sec. 43.90.080. FISCAL YEAR AND ACCOUNTING METHOD. The trustee shall adopt the fiscal year of the state and shall maintain its books in accordance with generally accepted accounting principles.

Sec. 43.90.090. REPORTS TO CERTIFICATE HOLDERS. At the end of each fiscal year the trustee shall mail to each person who was a certificate holder of record during the prior year a report which shall show, in reasonable detail, the assets, liabilities, receipts and disbursements of the trust for the year. The report shall contain financial statements audited by a nationally recognized firm of independent public accountants selected by the trustee.

Sec. 43.90.100. REPORT. The trustee shall annually file with governor and the legislature no later than the 30th day after the convening of the legislature each year a report of the activities of the trust for the preceding year.

Sec. 43.90.110. 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 records of the trustee in reference to the trust.

ARTICLE 2. THE TRUST ESTATE.

Sec. 43.90.120. TRUST ESTATE. The assets of the trust shall consist of the royalties conveyed to the trust under sec. .030 of this chapter.

Sec. 43.90.130. CONVEYANCE OF ROYALTIES. (a) The state through the commissioner of natural resources shall negotiate and sell to the trust a portion of the state's royalty interest in leases or properties of the state as authorized by law.

(b) 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(l), 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.

(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.

Sec. 43.90.140. VALUE OF ASSETS CONVEYED TO THE ALASKA ROYALTY TRUST OF 1981. The value of assets contributed to a Alaska Royalty Trust of 1981 is the conservatively appraised value of the assets. A conservatively appraised value for assets is a value determined by generally accepted appraisal methods and shall be calculated using

(1) estimates of resource production volumes having an accuracy confidence level of 75 percent or greater;

(2) an assumed rate of increase in future world prices for resources not exceeding the general rate of price inflation in the United States; and

(3) a discount rate reflecting the judgment of private investors as to the expected rate of return before payment of taxes required to justify incremental investment in the exploration and development of resources comparable to those committed to the Alaska Royalty Trust of 1981.

ARTICLE 3. BENEFICIARY CERTIFICATES.

Sec. 43.90.150. CREATION OF BENEFICIAL SHARES AND CERTIFICATES. The ownership of the units shall be evidenced by certificates in substantially the following form.

CERTIFICATE OF BENEFICIAL INTEREST

IN

ALASKA ROYALTY TRUST OF 1981

Created by, Issued under, and subject to the Alaska Royalty Trust of 1981 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 Alaska Royalty Trust of 1981, created and established under the terms of the above-referenced Indenture by and between the State of Alaska, as Trustor, and the Commissioner of Revenue, 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 ______________________

Sec. 43.90.160. EXECUTION OF CERTIFICATES. All certificates shall be signed by the trustee or a duly authorized agent of the trustee.

Sec. 43.90.170. 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 100 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 100 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 units of the trust.

Sec. 43.90.180. REGISTRATION AND TRANSFER OF UNITS. The units may be transferred by the certificate holders in accordance with sec. ___ of this chapter and this section. The units shall be transferable 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. 43.90.190. 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 4. ELIGIBILITY.

Sec. 43.90.200. ELIGIBILITY. To be eligibile to receive a unit distributed by the trustee under this chapter an individual must

(1) be a resident of the state on January 1, 1982;

(2) apply to the department; and

(3) submit with the application a signed, sworn certification that he was a resident of the state on the eligibility date and other proof of residency as the commissioner may require.

(b) The department shall prescribe and furnish a form for applications and for certification of residency.

ARTICLE 5. DISTRIBUTION OF UNITS

Sec. 43.90.210. NUMBER AND PURCHASE PRICE OF UNITS. The price for each unit shall be $50.00. The commissioner shall determine the total number of units to be distributed by dividing the value of the assets contributed to the trust by $50.00.

Sec. 43.90.220. DISTRIBUTION AND SALE OF BENEFICIAL CERTIFICATES. The Trustee shall determine the total number of units each eligible individual is entitled to obtain from the Trust by dividing the entire number of units as established in sec. .~~120~~ by the total number of eligible individuals as established in sec. ____. The trustee shall distribute twenty-five per cent (25%) of the number of the units to the eligible individuals free without charge. Each eligible individual shall also receive, along with the free units, six purchase warrants. Each purchase warrant shall entitle the holder to purchase the additional seventy-five percent (75%) of the units from the Trust which the individual is entitled.

Sec. 43.90.230. PURCHASE WARRANTS. (a) A purchase warrant entitles an eligible individual to purchase three-quarters of the number of units the individual is entitled according to the following schedule:

(1) one-eighth of the units not later than one year after the purchase warrant was issued;

(2) one-eighth of the units not later than two years after the purchase warrant was issued;

(3) one-eighth of the units not later than three years after the purchase warrant was issued;

(4) one-eighth of the units not later than four years after the purchase warrant was issued;

(5) one-eighth of the units not later than five years after the purchase warrant was issued;

(6) one-eighth of the units not later than six years after the purchase warrant was issued;

(b) Payment for units purchased using a purchase warrant may be made by cash, check, or money order.

(c) A purchase warrant is void if transferred. A purchase warrant may not be used except by an individual who is a resident of the state.

Sec. 43.90.240. DISTRIBUTIONS. (a) The trustee shall determine the quarterly distribution amount for each quarter and on the quarterly record date for that quarter 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 preceding three months, distribute pro rata the quarterly distribution amount for that quarter, together with interest earned on that amount from the quarter record date for that quarter to the payment date, to the certificate holder on the quarterly record date for that quarter.

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

(1) the cash received during a calendar quarter 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 quarter other than interest earned on the quarterly distribution amount for any other quarterly over;

(2) the liabilities of the trust paid during that quarter 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 quarterly record date for each quarter shall be the close of business on the last business day of the quarter.

Sec. 43.90.250. CALCULATION OF THE INDIVIDUAL CERTIFICATE DISTRIBUTION. The individual certificate distribution amount shall be determined by dividing the total quarterly distribution amount by the total certificates as determined in sec. ____, both issued and unissued. The dividend shall be paid to each individual certificate holder of an issued certificate. The remainder shall be retained by the trustee and credited to the unissued certificates. At such time as a purchase warrant is exercised and a certificate is issued the total amount attributable to the certificate to that date shall be paid with the first quarterly dividend to be paid to the certificate holder.

Sec. 43.90.260. PROCEEDS OF THE SALE OF CERTIFICATES. The proceeds from the sale of share certificates shall be placed in the trust account and become part of the trust principle and available for paying the purchase price of the trust asset.

ARTICLE 6. GENERAL.

Sec. 43.90.270. NO POWER TO ENGAGE IN BUSINESS. The trustee may not, in its capacity as trustee under the trust acquire any oil and gas leases, mineral interest, or royalty other than the royalties conveyed under sec. .050 of this chapter or acquire any other asset or engage in any business.

Sec. 43.90.280. LIABILITY OF TRUSTEE. The trustee's standard of care and liability shall be determined in accordance with AS 13.36.

Sec. 43.90.290. 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. 43.90.300. AUTHORITY TO PARTICIPATE IN MARKET. (a) If the commissioner determines that an efficient public market does not exist for the sale of units, he may buy, sell, and trade in units for the purpose of establishing a market.

(b) If the commissioner trades in units as authorized in (a) of this section, he shall maintain an average markup sufficient to compensate the state for the administrative costs of his trading activity and shall publish regularly the bid and asking prices for units traded.

(c) In this section, "efficient public market" means a market in which the units distributed under this chapter have a readily ascertainable market value and in which they may be bought or sold readily without unnecessary or unreasonable transaction costs.

Sec. 43.90.310. WAIVER. The provisions of AS 38.05.125, 38.05.183 and AS 38.06 shall not apply to a conveyance under this chapter.

ARTICLE 7. DEFINITIONS.

Sec. 43.90.320. 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 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 educational 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 person may establish his or her own residence and does not presumptively take the residence of the other spouse;

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

Cook ✓

Original sponsors: Gardiner and Rogers

IN THE HOUSE

BY THE SPECIAL GAS PIPELINE COMMITTEE

CS FOR HOUSE BILL NO. 33 (Gas Pipeline)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing the portfolio of Alaska citizen enterprises; and providing for an effective date."

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

* Section 1. DECLARATION OF POLICY, PURPOSES AND FINDINGS. (a) It is the policy of the state to provide for the use, development, and conservation of the state's natural resources and the income derived from them for the maximum benefit of its people.

(b) The purposes of this Act are to

(1) increase the income of state residents by transferring part of the wealth derived from the natural resources of the state to them;

(2) provide a means for the direct participation of state residents in the financing of business enterprises which benefit the state, and to provide residents with the opportunity to share in potential profits;

(3) encourage greater participation in and understanding of the capitalist system by state residents through a wider distribution of economic interests in state business enterprises;

(4) encourage increased awareness and involvement by state residents in the management of state natural resource production and development, in state participation in business enterprises, and in the development of local industry.

(c) The legislature finds that

(1) it is in the public interest and furthers a public purpose to distribute a part of Alaska's wealth derived from natural resources to state residents to increase their income and their involvement and awareness

regarding the management of the state's natural resources, the development of its local industry, and the capitalist system;

(2) a mechanism allowing the state to distribute a part of its resource wealth to residents will best promote the state's interest in creating direct involvement by residents in the decisions concerning the state's natural resource management; and

(3) a mechanism to provide a means for direct participation by state residents in business enterprises will best promote the state's interest in creating involvement by residents in the decisions concerning state investments and development of local industry.

(d) Except as otherwise required by law, it is intended that distributions to residents under this Act shall be unencumbered property.

* Sec. 2. AS 43 is amended by adding a new chapter to read:

CHAPTER 17. PORTFOLIO OF ALASKA CITIZEN ENTERPRISES.

ARTICLE 1. PORTFOLIO OF ALASKA CITIZEN ENTERPRISES PROGRAM.

Sec. 43.17.010. ESTABLISHMENT OF PROGRAM. The portfolio of Alaska citizen enterprises is established in the department to provide for distribution of state assets to state residents.

Sec. 43.17.020. INVESTMENT ADVISORY COUNCIL. (a) The Investment Advisory Council is established composed of the commissioner and six members [with training and experience in investment] who are appointed by the governor. Appointed members shall serve two-year terms, except that three of the initial members shall be appointed for one-year terms.

(b) The council shall develop proposals for portfolio plans for distribution of state assets which meet the objectives of this chapter. Proposals shall be submitted to the department for detailed study and recommendations in accordance with AS 43.17.030.

Sec. 43.17.030. PORTFOLIO PLANS. (a) The department shall study proposals for portfolio plans and develop portfolio plans for distribution of state assets. A portfolio plan must

(1) provide for contribution or transfer of assets owned by the state or to be acquired by the state;

(2) provide for distribution of interests in the assets owned by the state or to be acquired by the state to eligible residents by issuing certificates representing units of

(A) a state energy resource trust;

(B) a state industrial development project;

(C) a state investment fund;

(D) a state real estate trust;

(E) a business enterprise.

(3) specify the assets to be distributed;

(4) specify how the assets not then owned by the state will be acquired by the state;

(5) specify the date on which an individual must be a state resident to be eligible to participate in the distribution of units under AS 43.17.060 - 43.17.090;

(6) specify how an individual applies for a unit;

(7) specify the types of assets involved, an appraisal of their value, the number of units to be distributed, and the manner in which the units will be distributed;

(8) specify the terms of payment for units to be sold and the number of units to be distributed without charge;

(9) specify restrictions on the transfer or encumbrance by the state of a distributed unit;

(10) provide a financial assessment of the portfolio plan including

(A) administrative costs;

(B) initial costs;

(C) a projection of future costs;

(D) contingent costs or liabilities;

(E) a projection of future earnings;

(F) value of the units in the plan;

(G) probable financial and tax consequences for purchasers and recipients of units;

(11) list and evaluate state and federal laws and regulations affecting the portfolio plan;

(12) propose legislation needed to implement the portfolio plan; and

(13) include other information considered necessary by the commissioner.

(b) If a corporation or trust is needed to implement the portfolio plan, the plan must include

(1) the proposed articles of incorporation and bylaws of the corporation or the proposed trust indenture of the trust;

(2) the names of the incorporators and directors of the corporation or the trustees of the trust or the method of selecting those individuals.

(c) A portfolio plan developed by the department shall be submitted to the Investment Advisory Council.

Sec. 43.17.040. HEARINGS. (a) The Investment Advisory Council shall hold pulic hearings on a portfolio plan. The council shall report recommendations and observations of the public concerning the plan to the commissioner.

(b) After reviewing the report submitted by the Investment Advisory Council and considering public comments, the commissioner may adopt recommended changes to the portfolio plan before submitting it to

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Leg may request plan by resolution

the legislature for consideration.

Sec. 43.17.050. PORTFOLIO PLANS SUBMITTED TO LEGISLATURE. (a) The commissioner shall submit one or more portfolio plans to the legislature on or before the 30th day of each legislative session. A portfolio plan shall include a report containing public comments on the plan and identifying recommendations submitted by the public which are included in the plan.

(b) A portfolio plan may not be implemented until it has been approved by law.

ARTICLE 2. DISTRIBUTION OF UNITS.

Sec. 43.17.080. ELIGIBILITY. (a) To be eligible to receive a unit distributed under AS 43.17.110, an individual must

(1) be a resident of the state on the eligibility date established in the portfolio plan under which the unit is distributed;

(2) apply to the department; and

(3) submit with the application a signed, sworn certification that he was a resident of the state on the eligibility date and other proof of residency as the commissioner may require.

(b) The department shall prescribe and furnish a form for applications and for certification of residency.

Sec. 43.17.090. NUMBER AND PURCHASE PRICE OF UNITS ISSUED. (a) For each portfolio plan the commissioner shall establish a purchase price for each unit to be sold.

(b) The commissioner shall determine the total number of units to be distributed under a portfolio plan by dividing the value of the assets contributed under the plan by the purchase price for a unit established under (a) of this section.

(c) The value of assets contributed to a state industrial development project, a state investment fund, a state real estate trust, or a business enterprise, is equal to the cost to the state of the assets contributed to the portfolio plan, plus an amount that compensates the state for the administrative costs of acquiring, holding, and distributing those assets.

(d) The value of assets contributed to a state energy resource trust is the conservatively appraised value of the assets. A conservatively appraised value for assets in a state energy resource trust is a value determined by generally accepted appraisal methods.

(e) Before a sale of units, the commissioner shall publish notice of the purchase price.

Sec. 43.17.100. DISPOSITION OF PROCEEDS. The commissioner shall deposit net proceeds from the sale of units under this chapter into the general fund.

Sec. 43.17.110. FREE DISTRIBUTION. A part of the units to be distributed in accordance with AS 43.17.090(b) shall be distributed equally without charge to all eligible individuals who apply to receive them. The commissioner shall establish a method for distribution of units under this section.

ARTICLE 3. GENERAL PROVISIONS.

Sec. 43.17.150. DISPOSITION OF UNITS. A portfolio plan may include restrictions on the transfer or disposition of units.

Sec. 43.17.160. AUTHORITY TO PARTICIPATE IN MARKET. (a) If the commissioner determines that an efficient public market does not exist for the sale of units, he may buy, sell, and trade in units for the purpose of establishing a market.

(b) If the commissioner trades in units as authorized in (a) of this section, he shall maintain an average markup sufficient to compensate the state for the administrative costs of his trading activity and shall publish regularly the bid and asking prices for units traded.

(c) In this section, "efficient public market" means a market in which the units distributed under this chapter have a readily ascertainable market value and in which they may be bought or sold readily without unnecessary or unreasonable transaction costs.

Sec. 43.17.170. WAIVER OF RESTRICTIONS. AS 37.10.085 does not apply to the acquisition of assets under this chapter.

Sec. 43.17.180. REGULATIONS. The department may adopt regulations necessary to administer this chapter.

Sec. 43.17.190. PENALTIES. In addition to any criminal penalties imposed, if an individual is convicted of perjury or unsworn falsification on the basis of a certification made under AS 43.17.080 and the conviction is not reversed, he is not eligible for a distribution of units under this chapter.

Sec. 43.17.200. DEFINITIONS. In this chapter,

(1) "assets" means shares of stock, debentures or other debt obligations, royalties or other interests in minerals, or other interests in business enterprises or natural resources;

(2) "business enterprise" means a private corporation engaging or about to engage in the state in manufacturing, transportation, communication, trade, services, natural resource extraction, or natural resource processing, whose securities the commissioner has purchased under AS 37.10, or has proposed to purchase under the terms of a portfolio plan established under this chapter;

(3) "commissioner" means the commissioner of revenue;

(4) "department" means the Department of Revenue;

(5) "eligibility date" means a date established by the commissioner for a distribution of units under a portfolio plan established under this chapter;

(6) "individual" means a natural person;

(7) "resident" means an individual who maintains a permanent place of abode in the state with the intention of making the state his permanent residence and who stays in the state continuously except for temporary absences taken with the intent of returning; an individual is not a resident solely by reason of his presence and does not cease to be a resident solely 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; an individual does not cease to be a resident while a student at an educational 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 in 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;

(8) "state energy resource trust" means a trust established under this chapter the assets of which consist of a right to receive income equal to a specified part of the rentals, royalties, or net profits belonging to the state under specified leases of state land for the extraction of oil, gas, coal, oil shale, or other minerals or a specified part of the revenue from the sale of oil, gas, coal, oil shale, or other minerals taken by the state as in kind royalties under those leases;

(9) "state industrial development project" means a business enterprise engaged or about to engage in the state in manufacturing, transportation, communications, natural resource extraction, or natural resource processing, and to which the state or an agency or subdivision of the state contributes an investment of equity or debt exceeding $100,000,000;

(10) "state investment fund" means a regulated investment company organized in accordance with subchapter M, Chapter 1 of the Internal Revenue Code of 1954 as amended (26 U.S.C. secs. 851 - 855);

(11) "state real estate trust" means a real estate investment trust organized in accordance with subchapter M, Chapter 1 of the Internal Revenue Code of 1954 as amended (26 U.S.C. secs. 856 - 858);

(12) "unit" means an undivided fractional ownership right or interest in a trust, corporation, fund, project or enterprise established under this chapter.

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

(907) 263-1810

UNIVERSITY OF ALASKA
JUSTICE CENTER
3211 Providence Drive
Anchorage, Alaska 99504

December 10, 1980

Representative Hugh Malone
P. O. Box 9
Kenai, Alaska 99611

Dear Mr. ~~Malone~~ Hugh:

As a person who has given special thought to some of these issues, you may find some of this analysis helpful in formulating your own thinking.

The articles were not intended to provide answers so much as to stimulate others, closer to the action, to formulate their own.

Best wishes for the holiday season.

Sincerely,

John E. Havelock

JEH:pb

Alaskan Wealth Management

by

John E. Havelock

This series of articles appeared in The Anchorage Times
October 26 through November 1, 1980

ALASKAN WEALTH MANAGEMENT

PART I

The Midas Touch

The embarrassment of wealth is a legendary topic in every culture. Few children are not familiar with the misfortune of King Midas, who transformed the flowers in his garden and even his precious daughter into inanimate gold. Who has not savored the story of the man given three magic wishes? The tale requires him to use the last one to restore himself to his previous condition after avaricious commands in the exercise of the first two produced unexpected and unwanted results. The parent telling thi tale will often hear from the child, "Well, Daddy, what if he had asked that only one finger would turn things to gold?" or some alternative choice of wishes which could have lead to a more pleasant and successful result.

The child's point is a good one and the principal moral of the story is threefold: not that wealth or power inevitably brings disaster but that it can bring disaster, that impulsive choices (particularly if based on greed) are often wrong and that once made, a choice often has irrevocable consequences.

RELATION TO d-2. Alaskans can find much to agree with in these folk tales as they address the issue of wealth management for the 1980's. It is a matter of considerable disappointment as we enter the second phase of election 80 that few of those who offer themselves as candidates for Alaskan office seem to have considered the magnitude and scope of the premier issue of this time and place.

In part, the dramatic pyrotechnics of the d-2 battle may be credited with overshadowing this area of public policy. For some individuals, the perception of threat to a lifestyle understandably brings out high passion. But the dollar value of the difference between the wealth development potentials in the most recent competing versions of the land settlement do not come close to matching the magnitude of the responsibility involved in managing the billions of dollars which are already in firm prospect from Prudhoe Bay.

While value estimates are inherently volatile as a result of the political control of the price of oil, it is not unreasonab to use numbers in the forty billion dollar-plus range to describe revenue to accrue between now and the year two thousand. Unlike the value of various proposed economic development projects, this is a net return figure, accruing to the state without any more work than it takes to carefully count it. As a people, we Alaskans are to be, for a time, the richest the earth has ever seen but whether this wealth may be the Midas touch is still an open question.

THE MAGIC OF MAGNITUDE. If we have done badly so far both in addressing and failing to address this wealth opportunity which is also a problem, it may be because of the magical aspect of it. The magnitude of the oil revenue is well beyond any ordinary experience of windfall. Thus the earliest public policy reaction was to put a little away for a rainy day by creating a "permanent fund" as if the selection of such a title could resolve the hard investment questions which accompany the stewardship of great wealth. To this "permanent fund" the state dedicated a minor fraction of the income flow, no policy formation attending the management of the remaining bulk of the income.

STRANGENESS OF PUBLIC WEALTH. The other unfamiliar aspect of this wealth is its collective nature. We are at least familiar on a vicarious basis with the private, unanticipated inheritance - the Irish sweepstakes winner or the nephew of humble means who becomes a millionaire when a never-seen uncle dies in Australia.

In the end these models of private wealth management are likely to play a major part in the development of a philosophic policy for the state; but, they are different. For whether these fortunes are squandered in riotous living and fruitless speculative schemes or husbanded for the ultimate benefit of philanthropy, as in the case of Carnegie, Rockefeller and some other great fortunes of the turn of the century, it is still a private matter. The Alaskan return is a subject of public trust.

American history found no room for the accumulation of public wealth. The revenue function of government was to collect no more than was essential to an established minimum of collective needs. To tax beyond the requirements of an operating budget was unthinkable. While state and local governments did experience revenue from the disposition of public resources, notably land, seldom if ever did these revenues rise above the requirements of budget maintenance. In fact, much of America's public land was sold to keep taxes down. It is not surprising then if, after a rainy day gesture, the next response of the Alaska public was to abolish non-oil taxes on a wholesale basis.

PART II

Limitations on Income

The regular session of the legislature is likely to pick up with the same subject as the special session: tax relief. A multibillion dollar state surplus certainly invites the question: What do we collect taxes for?

We can expect a number of lesser taxes to blow away with the wind. The focus of attention is likely to be on property taxes and oil taxes.

ARE OIL TAXES TOO HIGH? In most respects oil can make the most plausible case for tax reduction. The usual justification for taxes is their necessity to meet the ordinary expenses of government services. There is enough money in royalty payments alone to meet all current state expenses. Since the surplus is in large measure a product of the taxation of oil, does not fairness require the repeal of oil taxes?

This argument, which has a firm foundation in the history of state taxation, is not likely fully to carry the day, if only for political reasons. A more limited objective has been outlined by at least one influential leader: to reduce oil taxes to the level pertaining in the average of other states. This may be a pragmatic middle ground but the logic of this position on the purpose of taxation allows total repeal.

PURPOSE OF OIL TAXES. Those who will argue for the existing rate of taxation must argue a more expanded function for tax policy: that resource taxes are intended to recoup part of the value of the oil for the general public. This is certainly the tax philosophy of all major oil producing countries outside of the United States. To some extent it can be said to be the tax position of the federal government with respect to, for example, the "windfall profits" tax.

But is a "fair share" philosophy the right tax position for a state? Maybe the value of the oil should be shared with the rest of the United States through enhanced oil company profits invested in energy investment or reduced prices via the operation of the free market. The industry may also renew their argument that oil taxation is an unfair adjustment of the contract bargained for and entered by them initially in bonus bidding on north slope leases.

EARLY HARVEST OR EXCESS TAXATION? Those resisting the oil tax reduction will argue, as they did in the years that the taxes were raised, that the possibility of increased taxes was part of the original bargain. Variable taxes on resource wealth produced from state land are a reasonable way to assure a reasonable return to the people from that resource. It is not the same thing as a tax on the productivity of labor.

Further, they may point out, this year's large tax and royalty income is a result of the imperatives of pipeline flow requirements and national energy policy, not state interest. State interest alone would dictate drawing on the oil a little at a time as income was needed to supplement state taxes in meeting frugally budgeted state expenditures. These years, the State of Alaska is not just raising money for annual expenditures but taking an early income harvest thrust upon it which will be needed in 10 - 25 years.

DEFERRING INCOME. A major alternative to "giving it back to the oil companies" may be deferred income, an effort to reduce income now in favor of receipt at the time perhaps ten years hence when the oil flow and government revenue are in sharp decline.

LEAVE IN THE GROUND? The likelihood of producing another Prudhoe Bay on state land (including tide and submerged lands) as distinct from federal lands which now hold the most promise, is too small to provide a planning hypothesis for the economy of the state government. Statements from various public optimists notwithstanding, the numbers and planning data from those who are in a position to know in the oil industry do not support the idea of other Prudhoes around the corner. Thus, though bonus bids derived from further oil leasing on state land will exaggerate and prolong the income bubble of the 80's, it will not do so in a substantial way.

On the other hand, one might ask, where do we start in spreading income into the future? What on earth is the state doing in pursuing an active leasing schedule when we have more money than we can use for a decade? Even when, as in the most recent lease offering, the bonus values are a paltry $12,000,000, it would help a little if the state could leave it in the ground a few more years. Investments as good as oil are hard to find. Its value will increase faster in the ground than above. On the other hand, the lead time in developing a field may be long enough that today's leases will mean income more than a decade hence when we will need it again.

TRADING PRESENT OIL FOR FUTURE OIL. A greater impact on revenue flow would result from the enactment or negotiation of deferred income arrangements with the owners of the non-royalty oil. For example, instead of taking one eighth of the oil now, we could agree to take a more limited fraction now in favor of a larger percentage of ownership of oil produced after 1990. Arrangements of this kind might help to keep the state out of ventures in the oil business. On the other hand, since oil is politically priced, as good as the future looks, is oil a commodity which the state should keep as its nest egg?

PART III

Limiting Income: Other than Oil

The flood of income from royalty and taxation on oil wealth quickly washed away the ground under all other forms of taxation. Suddenly we are in a topsy-turvy world in which the functional tension of government is sprung. No longer is the state to squeeze taxes out of those with income to provide services of common demand with (perhaps) a greater emphasis on the call of those least able to help themselves.

The principal functions of government are now distributive. The benefits appear to be painless. Governor Hammond, arguing that at least the concept of payment for services be preserved for the generation of the 90's, finds his pleas swept aside by the deluge in a 24 hour special session of the State House.

The normal status of state government is an equilibrium, after combat, between demands for service and the resistance of the taxpayer. Released, the demand side mushrooms, often in glaring examples of conspicuous consumption or waste. While expenditures climb, all vestiges of counterbalancing revenue from taxation are repealed with little debate except, of course, those on oil.

PRECIPITOUS DECLINE IN REVENUE. Though they receive little attention now, there are justifications of taxations beyond the need to raise general revenue. First, since the revenue is non-recurring, maybe we should be thinking about spreading the income over decades to come. The tax necessities of the future are greatly exaggerated by discharge of the present tax burden. By repealing all taxes, we abandon hope of returning to the normal equilibrium short of the public and private anguish of decades of reimposed and sharply escalating taxes accompanied by sharply declining services. The down curve on the far side of the state wealth bubble has become a precipice.

NEW CLAIMANTS ON THE STATE TREASURY. Since money is plentiful, the argument that a particular state expenditure benefits that part of society that least needs it is lost. The tenuous distributional fairness of governmental activity is jeopardized. Since the money is no longer extracted from the people, expenditures can provide a greater benefit to those that are already well off. If there is no resistance to expenditure from those who must pay, if the pie is not a limited pie, then there is no protest when large portions are sliced out by interests with little traditional claim for need.

If the tourist industry will benefit from expanded national advertising then advertise; if the fisheries will benefit from increased attention to the conservation of the fisheries then add conservation programs and officers; if the construction industry will benefit from public works then build. As well as providing sewers to hard-pressed urban areas, let's use public funds for sewers wherever people live. Suddenly every successful industry in Alaska wants the benefits which are normally distributed for hard fought reasons to distressed industry or to people of generally acknowledged deserving need.

TAXES FOR COMMON COSTS. Ordinarily, government collects taxes not only for general income, but as a service so that all those who benefit from a collective expenditure are compelled to meet their share of the cost. There is no redistributive effect.

When we abandon the principle that taxation shall be required for service that the beneficiary is able to pay, we may be distributing a subsidy not for any social or economic purpose, but because the money is there. The elimination of a tax which goes to pay for a particular service has the same effect as an expenditure for a subsidy. Is this kind of income transfer arrangement justifiable or should the oil companies have their tax dollars back?

This problem becomes more acute when the subsidy is not only in the form of free public services but in direct assistance to private enterprise via subsidized interest rates.

THE THREAT TO FREE ENTERPRISE. Unjustifiable subsidy works like excess calories on the human body. A subsidized industry is not exercised by the free enterprise system but spoons in the dollars. When the subsidy is cut off (as will inevitably be the case), the industry will be uncompetitive and collapse, corrupted by bad economic habits. The inefficient and uncompetitive American shipbuilding industry leads the list of examples of this principle.

From a broader historical perspective, grim predictions of the impact of running out of money on both the public and private sectors may be overdrawn. There are parallels. All America may now be going through a similar crisis as we prepare our appetite for high cost alternative fuels after a generation of super-cheap gasoline. But the nation wonders how we could have read the numbers without realizing that a policy must be available to meet the coming drought in oil. The current national economic gloom is in many respects a consequence of the improvident policies of the 60's and 70's.

Would America be in better shape if we had recognized in our national policies that cheap oil was on the way out and that the country's reserves of this non-renewable resource would inevitably dwindle? The parallel between America a decade ago and Alaska today poses a challenge. But if Alaskans are not prepared to debate the question, it should not be surprising if the results are ultimately sour.

PART IV

Controlling State Expenditure: Demands of the Private Sector

One of the ironies of the present call for limitations on state expenditures is that some of the strongest calls come from those who have been the beneficiaries of the most recent government expansion. A recent estimate gauged that a thousand dollars per capita was appropriated in 1980 to special loan programs while only half that amount went to tax refund distribution.

While long standing government programs enjoyed relatively modest budget increases (considering current inflation rates) last year, major increases in expenditure have been made in direct and indirect support of the business community and private economic enterprise.

Many of the more conservative voices in the state who, one might think, would stand firm against government involvement in the private economy have been heard to urge that all of the Alaska's new wealth be reinvested in private industry in the state without apparent reservation concerning the political and economic consequences of such action.

ROAD TO SOCIALISM. A recent economist visiting the state pronounced his concern that Alaska's wealth would tempt the state to expand service programs thereby pushing the Alaskan people along the road to socialism. Socialism is defined by conventional economists of left and right as government ownership of the means of production.

Alaska is surely one of the most conservative states in a conservative country. If a single voice has been raised in the legislature calling for a massive increase in government programs in the social sector, it has not received much attention. The outcry is all for investment and capital projects.

RIDING THE TIGER. On this trend to government expansion, the itinerant economist could have made his point. If the state does indeed invest its multibillion surpluses annually in businesses within the state, it will own all the non-oil business in the state very quickly. Nor is the legislature likely to avoid supervision of its interest in business because some equity is reserved in private hands if ninety percent of the value consists of invested state wealth. The entrepreneurial community that wishes to ride the state tiger for the advantage of her economic power may end up inside her.

There is a limited market for new capital in Alaska. It is simply not true that billions of dollars worth of economic activity await only the availability of funds to take off. Every touted industry, on close examination (the bottom fishery is a mo recent example) reveals that other major efficiency hurdles in management, transportation, communication and labor impede develo ment.

INFLUENCE OF WORLD MARKETS. The final parameter controlling such developments is the world market price as set by internation competition. You cannot make a submarginal economic prospect profitable by throwing money at it. Alaskans are in some danger of spending billions of dollars in subsidies to prove that principle.

If a big project is, in fact, economically feasible, money experts such as the Inter-American Development Bank's John Elac say there is not likely to be a lack of investment capital to support it. The lesson for Alaskans may be that by investing in projects no one else will buy, we end up with what Belden Daniels has called "lemon socialism" - state ownership of unprofitable industry.

A distinction can be made, however, between major enterprise and small business. Despite the need for great caution in state investment policy, there may be gaps in the supply of money for small scale enterprise, gaps which the state can address - carefully and with a relatively small proportion of its annual revenue. But such programs must use clear loan criteria of general application. One of the greater risks in funny loan programs is corruption.

Before going into the loan business, the question must be asked: to what extent may this need be met by the existing banking structure? There is an old saying that "bad money will chase out good". Private investment will leave Alaska wherever public dollars are made available at interest costs below market.

STATE VENTURE CAPITAL. The kind of capital for which demand is likely to be greatest is venture capital, money for the higher class of risk. Normally, sound investment policy requires that the venture capital investor take a piece of the equity as a way of guaranteeing a reasonable, average return considering the higher proportion of outright losses that will be involved. Again the question arises, may this involve us in socialism? If the state does end up with stock interests, how is it to vote this stock when points of policy are involved?

THE STATE IN THE PRIVATE ECONOMY. There are many possible answers to the overall question asked: what is the proper role of the state in the private economy? Indirect support such as carefully scrutinized communications and transportation facilitie community development, marketing development studies, manpower development, and research avoid some of the problems of excessive involvement cited. But public debate is not helped by impassione cries that Alaska's money be invested in Alaska.

FACING HARD QUESTIONS. Who would argue against such a proposition - to a point? The real questions are not being asked or answered: how much is enough? How is it delivered? Should there be other policy objectives involved? - a regional distributi preference, for example? Who are the beneficiaries? Is this trickle down socialism with an unseemly slice of benefit going to those who need it least? Are we creating an unaccountable bureaucracy of state employed bankers?

Whatever it may do, the economic power of the state today is so great that any role we permit the state to play in the economy could easily slip into a dominant role.

A MINI-FED: Recognizing that fact, it may be that the state, which has already established a series of new banking institutions should limit itself to one more model, the federal reserve system.

The state might exercise a moderating role in the ups and downs of the state's economy through a policy-oriented, deposit and bank interest policy, without pushing us into a state-run state. But in the end, most of our surplus must be invested outside the state to keep the state from taking over the private economy.

PART V

Privatization

It is strange in many respects that the state's citizens, while they have wandered to Norway, Venezuela and even Kuwait to gather experience in wealth management, have paid almost no attention to the single most appropriate example in their own backyard: The Alaska Native Claims Settlement Act. Both in what was intende(and in the results (about which much is knowable but far too littl(known) the Settlement is a forerunner to contemporary state experi- ence.

In 1971, the Congress found itself faced with the prospect of developing a plan of distribution for what then seemed an enormous sum - over $900 million in state and federal revenue to be delivered over more than ten years. In part the Congress was settling a legal claim. But the Congress had a larger objective: to create an economy to support the Alaskan Native people, while preserving the patrimony and without expanding the people's already dangerous dependence on handouts.

The experience with personal distributions in the past settlements of Indian claims had not been good. The money or property quickly seemed to pass through the hands of those intende(to be benefited. Lasting improvements were rare. Examples of profligacy were all too common.

Yet it was recognized that there would be an immediate outcry if something was not realized immediately from adoption of the Act. Accordingly, a provision was includea for a ten percent ash pass through to every beneficiary under it. One wonders here that distribution went. It would be worth having a comprehensive answer, but not all would care to hear.

STATE DISTRIBUTIONS. The State of Alaska is now facing a omewhat similar dilemma. We have a very large amount of money n which, some say, each Alaskan has a pro rata property interest. thers assert that, as a one time yield of the bounty of the earth, t is vested with a trust which includes Alaska generations as yet nborn.

Many hope that in the long run these funds can be used to proide the state with a stable and prosperous economy and a government which provides adequate service on a tolerable tax load. he Statehood Act required that the state reserve an interest in ts subsurface resource precisely because the Congress did not elieve that taxation alone would be enough to sustain the cost f government services in the new state.

Because there is so much, there is a considerable demand that ome of the money be handed out in cash distributions - some would ave it all so handed out. The term used is "privatize" - turn he public wealth into private wealth.

Governor Hammond proposed and the legislature has adopted a cheme to distribute cash according to a plan meeting several ther policy objectives - notably encouraging of savings in the ermanent Fund. His draftsmen, like any who prepare actual prorams of distributions, must answer other tough policy questions oo. Just who is eligible for a distribution; should entitlements be differentiated based on some other policy criteria? Perhaps inevitably, the answers to these questions have met constitution objections. The outcome, as of this writing, is unknown.

CASH OR CAPITAL? Whether or not this particular plan survi constitutional challenge, pressure to distribute funds directly to the people will remain, as it has with public lands. This pressure will balance against concern that some of the wealth be preserved in capital form (as was the intent, for example, of the scheme of the Settlement Act).

The effort to preserve capital could take the form of non-cash distributions. By distributing stock or by having the State a State-created institution or series of State-sponsored institutions hold stock and invest it for the account of individuals, capital will be preserved. The beneficiary may be entitled to freely transfer that entitlement or not but some capital preservation is involved. In a sense this is why the Permanent Fund disbursement program is characterized as a "dividend" program. The Settlement Act allowed for the establishment of a series of gover ment sponsored corporations to preserve the capital appropriated by the Congress.

ELITISM VS. POPULISM. There is at least a whiff of populism vs. elitism in the contending arguments. The populists will say that the people know best how to use "their" cash. The elitists (who will say they are just more worldly-wise populists) will point out that history does not sustain this position.

SURGE IN CONSUMER SPENDING. In our consumer-oriented societ it is unlikely that much of any cash distribution will end up as capital investment. It would be interesting to see what has become of the state tax refund by January 1. Is it disputed that almost all of it will be spent on consumer goods? It would be useful to know just what is occurring. This stimulation of consumer spending does stimulate the economy. The sellers of such goods will reap a profit. But since consumer goods are virtually all manufactured outside this state, there is a very low secondary benefit from the consumer purchase dollar turnover.

On the minus side, a splurge of spending on consumer goods may encourage the unwise expansion of the merchandising sector of the economy - unless this form of handout is to become a regular feature of the economy. Lastly, this kind of distribution is subject to a big federal tax bite and unforeseeable consequences in the reaction of the national public. On the other hand cash handouts are hard to argue with, particularly just before Christmas. The issue is only one of degree.

INVESTMENT TRUSTS. Such objections to cash distribution will not prevent their happening but may temper their amount and frequency. Middle ground positions are likely to prevail. Several schemes are under discussion in government circles involving the distribution of a property interest which is capital in form but which can be alienated for cash. In any case, only a part of the state's surplus will be given over to privatization schemes.

According to one school of thought, distribution of a power of investment may prevent raids on the treasury for big project financing. People tend to push projects, even if unfeasible, if they see some spinoff benefit to themselves. The public will be less inclined to push money into doubtful development schemes in the hope of getting some spinoff benefits from the process, if the citizen can direct that investment himself and sees his main benefit as return on investment rather than spinoff.

Capital distributions certainly operate more equitably than state loan programs which give the benefit to those whose superi financial position allows them to borrow. By letting the citize be the lender, capital distribution gives every citizen a direct stake in state investment policy.

TOO COMPLICATED? Apart from the populist argument, capital distribution schemes are challenged as too complicated to be understood or appreciated by the people. This may be so but the Alaska Native community soon grasped a very complex version of this concept. At the time of the Settlement Act, the Alaska Native community debated many complex issues such as having one big investment trust or a series of regional arrangements and non-profit vs. profit. The latter positions prevailed.

The final challenge to capital distribution may be a philosophical one: do we want to make every Alaskan a capitalist? Thus in the end, optional conversion features will likely be included in any kind of capital distribution program adopted.

PART VI

Limiting Public Sector Growth

While not a popular position today, some privately ask whether the State is now doing all it should to meet public service needs, particularly in rural Alaska. The point is a sore one because costs of delivery, as well as past deficits, make service distributions in rural Alaska something other than equal per capita in comparison with urban areas.

Apparent examples of abuse of service programs in rural Alaska, such as unused school houses, feed the illusion that needs are fully met. Those who have occasion to travel in rural Alaska know that serious deficiencies still exist, the kind of deficiencies that have usually pricked the conscience of the more fortunate into giving something up - it used to be taxes - in favor of the more needy. The urban areas also have a continuing demand for improved public services. The state park system is nowhere near as extensively developed as the U. S. Forest Service, for example. Does limiting public sector growth mean we will never address those needs?

Underlying the division of urban prosperity and rural want lie also some serious unanswered policy questions. What is the minimum level of service that the State should provide to everyone regardless of where he lives? The Molly Hootch case which gave a tentative and hesitant answer to this question in the area of secondary education has potential equivalents, whether or not they rise to the level of a constitutional question, in health, housing, justice administration and many other categorical topi in which the State is involved in providing service.

DISTRIBUTIONAL EQUITY. The question of distributional equ also comes up with the shoe on the other foot. For example, a village which doesn't want the roads which are distributed to urban areas and whose citizens may not benefit from subsidized hydroelectric power projects, should they get payment in lieu o this benefit? If the poor village with high cost of service is in proximity to one of the wells which is the source of wealth, should it get a specially enhanced share? If so, how much? Service equalization needs to go hand in hand with tax equaliza

The measurement of categorical entitlement can also get th State involved in unintended interference with local plans and priorities. This kind of problem has produced a trend national towards general revenue sharing instead of categorial support.

Many of the same people who worry whether the needs of the region are being met are also antagonistic to the further expan of state government. After tax repeal, limitation on state expenditure is the most popular rallying cry for any politician this year. Some very serious problems support the need for a state spending lid.

LOG ROLLING. When the taxpayer no longer stands as an obstacle to raised expenditure, it is easy for those who have o want to acquire an interest in state expenditure to scratch eac other's backs in the time-honored tradition of log rolling. It should not be overlooked tha hose interested in sharing in Sta largesse through "investment" stand shoulder to shoulder with th nterested in direct appropriation.

THE LIMITED PIE. Though the current climate and situation eem to call out for control, little attention has been given so ar to the consequences of various styles of limitations on xpenditures. State expenditure patterns are fluid. An expanding tate role has let new interests in without pushing others out. f a real, blanket lid is imposed, a great many interests will ind that they are displaced. Ironically, in a limited pie, it s the commercial interests which may find themselves the first isplaced as social service need sectors flex political muscle.

To avoid such a result, some large holes are being carved in e proposed lid for capital costs and bonding so that the con- truction industry, for example, which is a leading beneficiary of e state spending process, will not suffer. This is a hole that akes nonsense out of the restriction. Every capital project has ogram costs and maintenance associated with it.

LOCAL GOVERNMENT IMPACT. Another major feature of limitations n state expenditure is its effect in throwing costs back on local overnment, so another hole is proposed to allow unlimited revenue haring. This may have the desirable effect of decentralizing overnment but it will not limit increases in government expenditure

Some desirable policy results may emerge from the examination this rather overrated policy solution. The state may come up th an acceptable estimate of just what this often talked of eficit in services is. The legislature may move towards a compre- ensive program of revenue sharing bearing some relationship to ategorical needs.

At its simplest reduction, there may be a major increase in per capita based distribution to local or regional government, including a regionalized cost-of-living formula, and a devolution of responsibility for traditional governmental service concerns.

The public may be let back in on the budget process via annual voting on the capital budget, or the larger elements in it as was the case earlier when the capital budget was largely funded by bonds.

However, not just an appropriation lid but the full range of necessary policy responses to Alaskan wealth management issues is required by burgeoning oil revenue. The policy issues should be faced directly. While it may provide a small part of the answer, a call for limitations on State spending is simplistic. We cannot adopt such schemes and go home, pronouncing our problem solved.

PART VII

Privatizing the Public Sector

A lid on state government expenditures is just one of the olicy options open to the state in addressing special issues osed by the state's oil wealth. The issue of how we decide how oney is to be spent is also an issue. Categorical formula funding ould result in a massive shift to regional government, in theory overnment closer to the people.

While at the moment investment of state oil money in the tate's private sector is a very popular concept, the full range f choices has not been presented. In a free market the people f the state would not be investment oriented but purchase riented. Given the choice of a cash or loan program, the istribution would be preferred.

While the first splurge would undoubtedly be in consumer oods, in the longer run the average family would be likely to hoose to spend a significant portion of their money on more of he things the State already has provided or could provide in ome way. Recreational opportunity, medical benefits, education r other forms of self-improvement, a retirement fund, a night ut at a sports or civic center, a broader or more current television entertainment spectrum are some of the examples. But the ublic will be averse to such needs if it means "more government."

The commitment of the average citizen to the expansion of the economic base of the state through enlarging the number of jobs available and other supposed objectives of state economic poli(is theoretical rather than arising from direct interest. Gran(many Alaskans feel at least a little uneasy about chronic unem- ployment in some regional sectors of the economy; granted also that many, if not all, Alaskans can look at past boom times as period of improved income and maybe enhanced lifestyle.

But the majority of Alaskans who have been in Alaska for some time are not unemployed, nor facing likely unemployment n(desirous of changing what they are now doing to work in a petro chemical plant: they are interested in expanded benefits and the right to pick those benefits themselves. And this is what they hope to get out of the state's oil wealth. They just don't want the State to expand to provide them.

BENEFIT DRAWING RIGHTS. Among the possible initiativ which Alaska might explore to meet this demand are the distribu tion of benefit drawing rights. This approach has been discuss at some length in the education field but it could be expanded to cover other areas of categorical benefit.

As applied in education, instead of supporting a public school system with a practical monopoly on education, each pers with school age children would get a certain value of education credits which would be donated to a school of the parent's choi These credits may be cashed by the providing institution.

Thus a private or mixed economy of education would be crea bringing the benefits of the competitive market to the education process, allowing the parent/child maximum freedom of selection and reducing the risk of self-serving expansion in one of the eat public bureaucracies.

Secondary education where this concept has received the st extensive discussion may be one of the worst places to try t such a system. A near century of tradition in developing public school system and the public schools' role as the proder of a unifying experience for a pluralistic America may ke an entirely new, privatized delivery system unfeasible and st certainly unpopular with the educational community.

The national food stamp program is another style of benefit titlement. It is plagued by problems of definition of the nefit class that would not carry over to a universal program. atever its demerits it is a program in place. Food is an likely candidate for a state supplementary program.

MEDICAL INSURANCE. The benefit drawing right concept might transferred to other areas where public bureaucracy and the xture of public policies are not considered such a threat. The rchase of medical insurance may be a ripe example.

An insurance benefit drawing right could assure the connued privatization of service management and delivery while lieving the State of the huge financial headaches which result om the failure of large numbers of Americans (whether from their n fault or poverty) to obtain such insurance.

THE CASE AGAINST CASH. In the dilemma created by the failure private choice to prefer public rationality lies the reason disfavor cash distributions. Yes, cash distribution will ximize individual choice, at least to a point. But individual oice will not result in some types of benefits such as roads, parks and clean water which must be purchased collectively. Freeloaders should be forced to pay a share. There is also a larger objection to the free choice, cash distribut. .n. If the money is just handed out many people will spend it most foolish If such people would then go away and die quietly that would be an appropriate solution. But they will not. They will clamour for more to meet the consequences of their failure to meet prac needs and those that have saved their money will end up picking up a double tab.

For this reason, the State should conserve from any handouts, except a benefit drawing right, enough to insure the minin need which the society says we will end up providing on the demand of the improvident or unlucky.

TAX AVOIDANCE. Expenditures on behalf of our citizens to meet collective needs in established areas of public concern can have the additional major benefit of avoidance of federal taxati the flaw in most distributions under active public discussion as well as in the 1980 tax refund of 1979 taxes.

Benefit drawing rights should be tax free if devoted to the traditional functions of government. Further, by transferring his benefit drawing right to another entity which may be a priva provider, the citizen can show his dissatisfaction with a servic in a manner, modeled on the free market system, which is practic forbidden to him under contemporary tax-service systems.

RETIREMENT NEEDS. Similar concern might be given to fundin the needs of citizens of the state with respect to retirement needs. The State is actively and directly involved in one retirement program now, the unique and praiseworthy Pioneer Home system. Fortunately, resident pioneers are not taxed on the attributable income that results from such residence.

One would think that before distributing cash as federally taxable income, or paying off low interest bonds issued in a different inflation climate, the surplus might be dedicated to tax sheltered systems for supporting Alaskan citizens in the lower earning years of later life in or out of a Pioneer Home. There is ample additional social justification if required. If we don't dedicate the distribution, the provident will end up paying for the improvident later anyway.

Localization, regionalization, privatization - these and other options for reorganizing the public sector should be considered. We are a bold frontier people and should not be timid or unimaginative in exploring and adopting bold approaches to the management of our extraordinary wealth. But in our enthusiasm for individualistic ends, we should not forget that many of our needs and desires will require collective action.

PART VIII

Required: A Long Term View

One of the overriding problems with the response of the Alaskan public to Alaska's wealth management has been its fail to recognize the long established distinction between public a private sectors of activity. The State money is seen, extraordinarily, by quite conservative people as the driving force in the state's economy without any assessment of the result th this might have in shifting power among the institutions of th state.

Part of our difficulty arises from the semantic confusion of "the state" meaning the state government, "the state," mean the economic engine of the state, private and public sector, and the "state" meaning the collective will of the people of t state. Because of this confusion, people who might think diff on reflection are embracing quite unsettling concepts, confusi private and public endeavor.

A second problem in overall approach arises from the ment confusion which equates investment savings policy with growth policy.

THE MEANING OF GROWTH. Each of us has a vested interest personal and community growth. I have a vision of where I wan to be twenty years from now and what I hope my community will like - happy people, engaged in satisfying work with ample rec ative and personal development opportunity, leading full lives and me a part of that.

Given an inheritance which could be used to bring this about, each of us is forced to think what steps each of us in the com- unity may take to move in the right direction. First let us ecognize that just spending money will not bring about healthy hange. Growth is a process in which we all engage, building a attern out of individual long term plans and in which capital tilization is only one element. Some expenditure may be involved, ut it is measured and focuses on concrete objectives leading ne step at a time to that hoped for future.

THE MUSIC MAN. Music men will come to town to tell me what hey can do for me, building a fine place, a great industry. But o follow them is to play to their tune surrendering freedom of hoice; nor does the music man care about our dream for the uture.

INVESTMENT POLICY. So hopefully we will avoid buying pie n the sky and follow our own prudent plan. Since the money is ot to be spent as it comes in, for the bulk of the income we dopt an investment policy. This policy is intended to conserve nd enhance assets until they are needed. Investment policy is ocially neutral - to get the maximum return consistent with rudence.

It is not invested in new houses for our citizens or a ower plant. We should have already scheduled such objectives nto our plan for the future. Whether it is called spending or nvestment, putting more money into the community will most likely isrupt a carefully conceived plan. Our excess cash should be

invested for return and safety alone, somewhere where it will n
mess up the community.

CONFUSION OF ACCOUNTABILITY. When social investments aime at long term community goals are mixed with savings investments there is a confusion of accountability from which both ends wil suffer. The social goals are compromised because we are losing money. Social benefits are hard to measure in the mix. The investment goal is compromised because we are handing out unear and unaccounted benefit.

LESSONS OF THE SETTLEMENT ACT. We should gather and apply the lessons of the Native Claims Settlement in the management o these present funds given to all Alaskans. Most of the Settlem Act corporations soon learned the dangers of mixing social poli with savings investment policy. For example, at least one non-profit corporation has been independently established in each region to address social concerns.

The Native Corporations learned, sometimes the hard way, that there are not a lot of great opportunities in Alaska just waiting for investment capital. They also learned that it may b better investment policy to go outside your region and even Alas with most of your funds rather than force investment in local bl sky.

They are also learning that economic activity is not an en in itself. Perhaps investing in steel mills or other heavy industry may make sense from the perspective of the national

ls of India or other undeveloped nations. But most Alaskans
e from a post-industrial age. Their lifestyle expectations
rightfully higher. They come to get away from the steel
ls and assembly lines which employed their fathers. If a steel
l is economically feasible and can be operated consistently
h environmental safety, fine, let someone build it. It is
t of the free enterprise way. But it is a part of someone
e's plan, not ours, so we don't have to spend our own money to
e it happen.

THE SUBSISTENCE WAY. Other Alaskans, though they are not by
cation and experience post-industrial, value a way of life con-
tent with subsistence hunting and fishing. That is not com-
ible with every form of expanded economic activity. Planning
wth for such people is unlikely to include conventional industry.

So it is that we should define our goals as a people and
nd our wealth to achieve those goals where we can, investing
balance according to contemporary standards of prudence.

No, it won't hurt to have a little party once in a while,
we should not accustom ourselves to handouts in support of
lic luxury or private endeavor, either in cash or in subsidized
ns to those of us who are capable of operating as entrepreneurs.

Nor will it hurt for us to give a little thought now and then
the larger purposes of mankind. Alaskans do tend to become
rly involved with the collective Alaskan navel. We might
arge our horizons by asking whether any other frontier - of
wledge, of human aspiration on a world scale, or of dire
rivation - might be addressed by a tithing of our wealth.

A GREAT DEBATE. Above all it is important that we discus among ourselves the policies of our wealth management. A majo debate is in order. Much more public give-and-take is require among those who aspire to lead us and between them and the peo Nor should we rush to make decisions which may have lasting co quences. Time and attention may give Alaskans a special desti Many people before us have wasted great birthrights; none have had such an opportunity to demonstrate wise management of grea resources for the general good and individual freedom. The challenge is breathtaking.

for Malone

Frances A. Ulmer
Director
Division of Policy Development
and Planning

November 14, 1980

Tom Singer
Policy & Program Specialist
Division of Policy Development
and Planning

Royalty Trusts

Attached you will find the following documents:

1. Revised PACE memo focusing on royalty trusts;

2. Original October 1, 1979 RCRIC memo which served as the basis for the Governor's interest in privatization;

3. The March 27, 1980 Tussing final report on PACE (emphasis added for royalty trust sections); and

4. The March 26, 1980 Messenger legal memorandum on remaining legal questions with PACE.

These documents provide a good summary of previous PACE work efforts which can serve as the basis for future ground breaking on royalty trusts. Please note that a draft royalty trust bill was prepared by the Department of Law in preparation for last session and is on file. It is entitled "An Act Establishing the Prudhoe Bay Oil and Gas Royalty Trust of 1980."

Attachments

cc: Governor Jay Hammond

TS/dg

Where there's $'s . . .

Probe finds Massachusetts was up 'for sale'

1/81

The Associated Press

BOSTON—Massachusetts government has been so riddled with corruption that "among those who had money and the influence to strike the bargain, the state was for sale," according to the report of a special commission investigating building contracts.

The panel's report, ending a two-year investigation, outlined a pattern of political bribes and payoffs and concluded that "corruption has been a way of life" in state government.

"It was not a matter of a few crooks," said the report by the Special Commission on State and County Buildings. "The pattern is too broad and pervasive for that easy excuse."

The panel today released a summary of its 2,500-page findings. Parts of it were published earlier today in the Boston Globe and Boston Herald-American.

"In the award of contracts for construction of state and county buildings, corruption has been a way of life," the report said. "For a decade at least, across Republican and Democratic administrations alike, the way to get architectural contracts was to buy them."

The panel said that since Jan. 1, 1968, the state has appropriated more than $17 billion for construction projects. Results of a study of the buildings by the commission "stagger belief," the report said.

"In the sample of buildings which we examined, 76 percent have significant defects, that is, a structural flaw that threatens the safety of the building and results from incompetent design or inferior construction."

The commission estimated the cost for repairing defects in all public buildings at more than $2 billion.

The report said the criterion for getting a state building contract was "whether one pays, not whether one can do the best job. Over time, political influence, not professional performance, comes to be taken for granted as the criterion for doing state work."

The panel said the money took the form of "bonus checks to employees who negotiate them and return the cash; false invoices from supplies which appear as a deductible business expense even while the dollars come back; honoraria for consulting services never performed; fictional business entities through which money is channeled."

The commission traced bribery and kickbacks in public construction projects by investigating thousands of contracts dating back to the early 1960s.

The panel was created in 1978 by Gov. Michael S. Dukakis and reformers in the Legislature after a scandal involving construction at the University of Massachusetts.

Public hearings this year disclosed the link between political contributions and contract awards. Witnesses at those hearings also linked the award of contracts with pressure from gubernatorial money-raisers.

(Among those investigated by the commission was former Massachusetts Lt. Gov. Donald R. Dwight, now publisher of The Minneapolis Star and the Minneapolis Tribune.

(In testimony before the commission in May, William V. Masiello told the commission that he had given Dwight a $2,000 bribe in 1974 to secure a design contract for a proposed state mental health treatment center. Dwight denied the allegations, calling Masiello a professional liar and admitted extortionist.

(Dwight was lieutenant governor from 1971 to 1975. While it was not his job to select architects for state projects, a former aide to Dwight testified that he did so.)

Among those figuring in the report were the administrations of former Govs. John A. Volpe and Endicott Peabody in the 1960s and Francis W. Sargent in the early 1970s.

A commission source said Tuesday that names of more than 100 people have been referred to state and federal law enforcement agencies for possible prosecution. Those names will not be disclosed.

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ARLON R. TUSSING & ASSOCIATES / 880 H St., Suite No. 210, Anchorage, Alaska 99501

MEMORANDUM

TO: Governor Jay Hammond

VIA: Frances Ulmer, Director
Division of Policy Development and Planning

FROM: Arlon R. Tussing

DATE: December 9, 1980

RE: AFTERTHOUGHTS ON PACE

1. The most important lesson from BCRIC is, "ignore the political wise men, the financial experts and the bureaucrats --- DO IT!" There was no significant popular constituency for BCRIC; at the same time, the legal and financial experts gave a million reasons why it couldn't be done or wouldn't work. Once Bill Bennett pushed it through the legislature, however, BCRIC was immensely popular, and everyone around the BC government or legislature wanted to take part of the credit.

2. Another source of BCRIC's spectacular success was its combination of a free distribution with a purchase option. Every resident got something, which guaranteed universal interest, and any resident had the right to buy enough BCRIC stock to make a difference. There are other advantages to combining a free distribution with a purchase option; see point 8 below.

3. The first PACE distribution must be a sure winner. BCRIC distributed stock in profitable, established provincial enterprises, plus some mineral rights. Alaska doesn't have any profitable state-owned business other than oil & gas leasing, however. A royalty trust therefore seems to be the only really suitable asset for the first PACE distribution.

4. The surest asset value for distribution would be an interest in Prudhoe Bay royalties. The experts and state officials generally don't like the idea of a Prudhoe Bay royalty trust, however. I suspect that many of them will always find reasons to oppose any plan that gives up government control over assets of proved value with a significant current revenue stream. Nevertheless, some real problems seem to exist:

1220 19th Ave. N.W., Suite No. 201, Washington D.C. 20036 / 2720 Rainier Bank Tower / Seattle, Washington 98101 / (206) 447 0321

a. Statehood Act. Will Condon, Susan Burke, and Tom Williams seem to worry most about a conflict with the Statehood Act, which prohibits the state from alienating the mineral rights on lands selected under the Act. I'm not a lawyer and I don't propose to go into the question in detail here, but I from a practical standpoint, I don't think conflict with the Statehood Act is an insuperable problem.

b. Public purpose. At least one of the state's lawyers was concerned about reconciling PACE generally and the royalty trust in particular with the state constitution's provision that appropriations be for a "public purpose."

To my imperfect recollection, neither the adverse Supreme Court majority on the resident income tax exemption nor the adverse minority on the permanent fund divdend made the public purpose question central to their objections. In any event, we have both a specific response to this problem [See point 8 below, and a general remedy for any STATE constitutionality problem. [See point 9 below.]

c. Windfall Profits Tax. A more serious problem with a Prudhoe Bay royalty trust may be the treatment of its income under the Windfall Profits Tax (WPT): Crude oil "owned by" a State or local government or a Native corporation is exempt from the WPT, but other Prudhoe Bay oil is subject to a 30 percent marginal rate.

It is not obvious from the law's language that the exemption is waived when income from the sale of State royalty oil is passed directly through a royalty trust to private citizens. I have thought about ways the trust and the distribution might be structured to reduce the likelihood that distributed royalties would be subject to WPT. Whatever the arrangement, and whatever the ultimate outcome in the courts, however, IRS is sure to challenge the exemption, and a final decision might be many years off. Prudhoe Bay natural gas revenues are not subject to WPT.

d. Federal Income Tax. An interest in proved, producing reserves at Prudhoe Bay has an obvious, assessable value. A free distribution of Prudhoe Bay royalty trust shares would surely create a troublesome tax liability for citizens who receive them. IRS is also likely to insist on taxing any really attractive royalty trust purchase plan on the basis of the difference between the market value of the shares and the amount the purchaser actually pays.

I can think of ways to reduce the federal tax burden on a Prudhoe Bay royalty trust distribution, but I doubt whether there is any way to keep it from being substantial.

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a. Statehood Act. Mineral rights on state submerged lands were not obtained by land selection under the Statehood Act, and are not subject to the Act's ban on alienating the mineral estate. Most of the 1979 Beaufort Sea lease sale area meets this test. [I wonder, are any of the leases in the Prudhoe Bay unit on submerged rather than Statehood Act lands?]

b. Windfall profits tax. Crude oil production from Arctic Alaska, other than Prudhoe Bay production, is exempt from WPT.

c. Federal income tax. So long as there are no proved reserves on the Beaufort Sea leases, their value for tax purposes is very speculative. A free distribution of royalty trust shares would nevertheless be taxable as income to the extent of that value.

If the state assigned a low nominal price to shares in a Beaufort Sea royalty trust, however, the IRS would have a difficult time establishing any other price. The tax liability on recipients of a free share distribution would probably be much lighter that on recipients of rights at Prudhoe Bay, and there is a good chance that purchasers of Beaufort Sea royalty trust certificates would avoid the tax entirely.

6. <u>Structuring the royalty trust so that its revenues are very sensitive to wellhead prices or total royalties will make the Alaska public very sensitive to oil and gas management and disposal policy</u>. Consider, for example, a royalty trust that distributed only the Prudhoe Bay oil royalties in excess of $20.00 per barrel, and only the Prudhoe Bay natural gas revenues in excess of 75 percent of the federal ceiling price. Then consider how much sympathy there would be for discounts on royalty oil, gas, or NGLs for the sake of "industrial development."

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8. <u>A royalty trust purchase option has many advantages over a free distribution</u>: Sale at some nominal, low, but defensible price can avoid, mitigate, or dilute the federal income tax liability, public purpose, equal protection, and "right-to-travel" objections to PACE.

Essentially, eligible residents will get exactly what they pay for. Thus, the receipt of shares is not taxable income and persons excluded from the closed class (residents as of a certain date) are not deprived of any right that has demonstrable value. Nevertheless, we can structure a purchase option that is so attractive that every eligible person will want to take advantage of it.

The other merit of a purchase option is, of course, that people value most what they have to make some decision and some sacrifice to obtain. (If we want to educate everybody in the workings and ethic of free enterprise, let's begin with the lesson that "there is no free lunch." A bargain lunch is another matter . . .)

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CONCEPTUAL OUTLINE

for

ROYALTY TRUST IMPLEMENTATION

through

P.A.C.E.

DRAFT

Program Elements	Detailed Components
Assets to be distributed	- select principal amount required based on estimated number of shares and value per share, and desired annual earnings per share level.
	- identify leases whose value or portion thereof equals principal amount and yields royalty cash flow at desired levels for per share value and earnings per share.
	- identify fine-tuning options for structuring Trust so earnings per share are sensitive to wellhead prices or royalty revenues.
	- identify appropriations options and requirements for transfering royalty interest to trust.
Corporate Mechanism for administration of Royalty Trust	- specify details of existing Royalty Trusts (see attachment).
	- identify desired Trust attributes, develop draft Trust indentures and corporate organization.
	- specify options for Trustee, e.g., Commissioner, private trust company, etc.

free dist. vs. sale would affect

$2 Billion!

200 million/yr.

$500 per capita

Trustee - no stated management powers

no voting rights for shareholders

Check Kuparuk production & small royalty exemption / T Williams

Commissioner could ~~[illegible]~~ name - just not designate zip

- specify Trust duties, e.g., maintain principal, pass through income, administer dispersal of share certificates, [limitations on lease negotiation involvement,] etc.

- identify funding source for Trust operating costs. Exec. Budget Act Rev. operating budget

Eligibility to ~~and/or~~ receive free and/or to purchase additional shares

- identify status of durational or other residency requirements. - Here on application date (1/1/82) not retroactive include children, managed by trus

- specify eligibility requirements for participation in Trust.

Disposition of Shares by either gift or sale or both

- select per capita allocation of either free shares or shares for sale or both.

- identify installment sale options, i.e., terms and conditions, duration of State sale, other financing details and limitations. serial warrant options

50/50? 5/95?

- select free share distribution mechanism.

- select share sale mechanism.

- identify and select limitations on transferability of shares.

Timing of distribution

investment powers up to a year?

TS/dg

Frances A. Ulmer
Director
Division of Policy Development
and Planning

November 14, 1980

Tom Singer
Policy & Program Specialist
Division of Policy Development
and Planning

Royalty Trusts

OUTLINE SUMMARY:

1. What is the purpose?

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

- to encourage increased awareness and involvement by the people of Alaska in the management of natural resource production and development; and

- to encourage wider participation in and understanding of the capitalist system through wider ownership.

2. Who organizes or runs a Royalty Trust?

- a Trust is created by the Legislature and approved by the Governor;

- the Trustee could be a Commissioner and/or such trust agents as a bank or Trust Company; and

- the Trustee would receive royalty revenues for the owners of the Trust, and would distribute such revenues directly to the owners in proportion to their ownership interest.

3. What types of assets could be placed in a Royalty Trust?

- rights to or interest in a specified portion of the income from lease rentals, royalties, net profit shares, and/or mineral sale revenues of the State, such as oil and gas leases, coal leases, etc.

4. Who is eligible for participation?

- all Alaska residents as defined in a bill; and

- eligibility for participation in each Trust is established by dates included in a bill.

5. What State appropriations would be required?

   - an appropriation of the assets (royalty interest in lease holding) to be distributed under the Trust; and

   - amounts required to administer the Trust, unless provided directly from Trust income.

6. What actions would be elective?

   - legislative adoption of a Royalty Trust and appropriations necessary to implement it; and

   - individual participation in a Trust.

7. What would individual residents receive?

   - free distribution of a minor portion of the assets included in a Trust;

   - an option to purchase additional shares or securities in the remaining shares of a Trust; and

   - the certificates distributed as evidence of ownership in the Trust would be the unencumbered private property of the beneficiaries except as otherwise provided by law.

INTRODUCTION:

The concept of a Royalty Trust was one of the mechanisms by which State-owned assets could be distributed directly to residents under the Governor's Portfolio of Alaska Citizen Enterprise (PACE). For several reasons, the Governor has determined that Royalty Trusts are the most attractive mechanisms included in PACE. These reasons include the relative certainty of the market values of the asset, the absence of need for State management or business expertise to implement a Royalty Trust, and the simplicity of the concept. The following sections introduce the essentials of the concept as presently understood. Attached memoranda document the work performed to date on Royalty Trusts and can serve as a starting point for future efforts.

PURPOSE:

The overall purpose of a Royalty Trust is to transfer part of the wealth derived from the natural resources of the State directly to its residents. Additional purposes include increased awareness and involvement by residents in the management of State natural resource production and development, and wider participation in, and understanding of the capitalist system through wider ownership (and the ownership of financial securities). An additional purpose is to increase the actual wealth of residents rather than simply their income (as with Permanent Fund dividends). Such increased wealth can be used to offset certain current State activities in the lending arena by providing an asset which an individual can pledge as security, thus increasing the credit worthiness of all Alaskans. This approach was recommended by Coffman and Fry in their study "Capital Shortage in Rural Alaska," prepared for the Governor's Office and the Department of Revenue.

ASSETS:

Basically, the assets which could be distributed to residents through a Royalty Trust include any right to, or interest in a specified portion of the income from any State lease rentals, royalties, net profit shares, and/or mineral sale revenues. The State would identify one or more lease tracts to be included (this could be structured to a target per capita asset value or income stream) and convey the rights to the income from that tract to the Trust. Thus the asset would only be a portion of the State's royalty interest and not the entire mineral interest. This royalty interest must be appropriated by the Legislature to the Trust. The asset would have value and produce income as long as mineral production continues.

MANAGEMENT:

A Trust is a very conventional and well-known financial organization. A Commissioner, and/or such trust agents as a bank or trust company, would be responsible for carrying out the duties of Trustee. Such duties include preserving the Trust estate, collecting income from the Trust estate, paying administrative expenses, and distributing net proceeds to the certificate holders. The Trustee may not engage in any business activities or make investments. Thus the many problems created by other wealth distribution plans are avoided -- there is no requirement for managerial or entrepreneurial activities by the State and no interference with private business activities.

DISTRIBUTION:

Any Alaska resident as defined in the Act would be eligible to receive any free shares in the Trust which may be distributed by the State. An eligible resident would also have the right to purchase additional shares up to some specified limit established to avoid concentration of ownership. Ownership shares would be evidenced by Trust certificates. The value of a Trust share unit could be set at any level deemed appropriate to encourage wide participation, such as \$25, \$50, or \$100.

With respect to the terms and conditions governing the sale of Trust units and the market which will exist for them, a number of options are available. Decisions will be necessary regarding how much of the Trust is distributed free and how much is offered for sale. The financial terms of share sales is also open to discussion, such as whether Permanent Fund dividends can be applied or whether installment sales will be permitted. Sales at attractive terms (perhaps involving subsidies) may also be considered. The ability of non-residents to purchase shares and other aspects of the market for Trust shares needs to be considered. These and other similar issues are addressed in the Tussing report (p. 11 - 22), where one set of options is offered.

CONCLUSION:

Many financial, organizational, and legal details require further refinement. The Tussing report, the Messenger memo, and the draft bill offer some tentative options and raise additional questions. These documents should be reviewed and important policy issues should receive further consideration. Once decisions can be reached, the technicians can proceed to develop a more detailed proposal.

cc: Governor Jay Hammond

TS/dg

Governor Hammond October 1, 1979

Fran Ulmer

by: Tom Singer
Policy Analyst

The British Columbia Resources Investment Corporation - How Does It Relate to the Development and Distribution Options Facing Alaska?

You have asked us for a briefing paper on the British Columbia Resources Investment Corporation (BCRIC) as a result of your meeting with Premier W. R. Bennett. The following outlines the BCRIC concept and its relation to AGSOC and the Permanent Fund.

BCRIC

BCRIC is a mechanism designed to achieve the goal of transferring or returning to the private sector, via the corporate structure, assets which are owned by the public sector. A companion goal is the creation of individual stock ownership among residents of a political jurisdiction. More specifically, in British Columbia the present administration of Premier Bennett found itself owner of a number of formerly private firms which had been socialized by the previous socialist government. In keeping with the principle of private ownership, the Bennett Administration devised BCRIC as a way to return these firms and some other public assets to the private sector, not by sale to large organizations but by gift and sale to the general public in British Columbia.

In 1977, the British Columbia Legislature created BCRIC and handed over the following government-owned assets to it:

- Oil and gas exploration rights to some 2.3 million acres of crown land in northeastern British Columbia.

- 81 percent of the common shares of Canadian Cellulose Company Limited, a large-scale forest products firm.

- 100 percent of the common shares of Kootenay Forest Products Limited, a medium-sized lumber and plywood manufacturer.

- 100 percent of the common shares of Plateau Mills Limited, a mid-sized lumber producer.

- About 10 percent of the shares of Westcoast Transmission Company, which operates a major pipeline in B.C. and is also a partner in the Alaska Highway gas pipeline project.

This past summer eighty percent of the government-owned stock in BCRIC, 12 million shares, was distributed to the public, five shares per resident. The government retained the remaining twenty percent. BCRIC also offered its treasury stock for sale to residents in an attempt to provide additional shares and to raise additional cash. Any resident may own up to 5000 shares. Future residents will have to purchase shares on the open market if they wish to own BCRIC stock. Thus, BCRIC is now eighty percent privately-held.

Although the government retains twenty percent ownership, there are no government representatives on the Board or in management. There are also no guarantees or other government assistance, although Premier Bennett's support and the twenty percent government ownership do strengthen the firm's financial position. There are many other details (see attachments); nevertheless these are the major characteristics. The share offering is reported to have been extremely successful.

BCRIC and AGSOC

As you have probably concluded by this point, BCRIC bears a striking resemblance to AGSOC. Indeed, in many respects, BCRIC is identical to AGSOC. Share distributions are limited to residents. Ownership is limited to avoid concentration. The firm is totally private; Board members are elected by the shareholders; a majority of the Board must also be residents of B.C. and so on. Some differences are that BCRIC does not receive a federal tax break in Canada, nor does the Corporation have to pay out 90% of its earnings annually as would AGSOC.

The critical difference, which of course makes all the difference, is that BCRIC has tangible assets while AGSOC has none. BCRIC is a holding company with a portfolio of existing, profitable firms and (formerly) public assets (oil and gas exploration rights). AGSOC is simply a corporate structure with some hefty front-end expenses (current estimated start-up costs - $5M). This corporate structure, upon creation by the state, is supposed to perform an acquisition or investment analysis, identify its "best deal" and then proceed to borrow in the capital markets to finance the venture and acquire its assets. Contrary to Mr. Kelso's theoretical reliance on the collective credit strength of AGSOC's shareholders (i.e. state government), Senator Gravel insists that AGSOC will be able to 100 percent debt finance on the strength of the venture itself. BCRIC has few of the financial and economic risks inherent in AGSOC.

In the political arena, BCRIC does share the potential political conflicts perceived with AGSOC. In the areas of oil and gas and forest products taxation and regulation, BCRIC can be expected to become a political force (like AGSOC), as it too represents "all of the people" just like government. It is not clear whether, by being a holding company with several different and somewhat smaller assets, BCRIC will be less politically formidable than a monolithic AGSOC with one major resource development project as its asset. While the House State Affairs Committee has amended the AGSOC bill to limit such political activities as lobbying or candidate endorsements, the effectiveness and constitutionality of such limitations are uncertain.

If you are attracted to the underlying philosophy of AGSOC but balk at its risks, BCRIC offers a proven alternative based on private ownership by residents of in-state wealth-producing assets. A brief discussion of options follows.

BCRIC and the Permanent Fund

The relationship between BCRIC and the Permanent Fund is the relationship between a tool for "privatization" of a public asset and a public asset. For British Columbia, the assets were several firms and oil and gas exploration rights. For Alaska, it could be:

- The Permanent fund (financial assets),
- Land,
- Our loan program portfolio,
- Part of our general fund surplus (in the form of financial securities or as cash for the acquisition of profitable foriegn-held Alaskan corporations),
- Our oil and gas holdings or exploration rights, etc., or
- Any other publicly-held asset (such as an equity share in the gasline, a gas conditioning plant, part of a petrochemical complex, fish hatcheries, a utility like Susitna, etc.).

BCRIC could serve as a model for Alaska to pass any of these wealth-producing assets into private hands via a corporation whose stockholders would be all Alaskan residents. The major drawbacks to such a program would be the transfer of direct control over these assets to the corporation's managers (the state would retain "police power" and taxation controls) and the political conflicts of interest inherent in these ideas. The major benefits would be direct financial benefit in the form of dividends and the more general benefit of broadened capital ownership among Alaskans. This scheme may also avoid some of the legal pitfalls facing the Energy Tax Credit concept, because a private firm faces different legal constraints than state government. Finally, this idea offers an opportunity for Alaskans generally to benefit from the downstream development of our resources which is the province of the private sector. It could provide, for example, stock ownership in a land development corporation or oil and gas exploration or development firms or acquisition of foriegn-held fisheries companies. Representative Gardiner is presently interested in using the AGSOC/BCRIC framework to acquire foreign-owned, profit-exporting business for Alaskans. The alternative in which the state could hand out part of the Permanent Fund to Alaskans and admonish them to buy stock in Alaskan businesses with the money does not afford the same opportunity to reduce foreign ownership in Alaska.

Your Permanent Fund bill currently before the Legislature divides the fund into two components, a 25% trust and a 50% development bank. Basically, the entire fund would be managed by an independent state corporation with a Board of Directors appointed by the Governor. The first twenty-five percent contribution would be invested as a trust in safe, secure financial securities. The next fifty-percent contribution would also be invested as a trust unless the Board found there were prudent development banking-type investments to made (amendment to the statute would be required for additional investment categories). Income would be divided, half to the general fund and half for distribution.

The goals inherent in this legislation are, first, safe, secure investments; second, a certain income stream for distribution and the operating budget; and third, prudent in-state economic development.

Applying the BCRIC model to the Permanent Fund would require a reordering of goals. The first goal of the BCRIC model is to put public assets into private hands (direct, non-governmental benefit). A secondary goal is to broaden capital ownership. Under this model, all or part of the Permanent Fund could be transferred to a private corporation set up to manage this asset. The corporation could be modeled after any number of private sector financial management institutions, such as investment banks, pension funds, or mutual funds. Use of the AGSOC framework or a public corporation should also be considered for the added benefits of tax exemption and, in the public corporation case, continued state involvement. The corporation would issue shares to all Alaskans (perhaps based on durational residency) who would then become the owners of the firm and would receive its profits in the form of dividends. A version of this approach, the "AGSOC-ing of the Permanent Fund," has been introduced in the Legislature by Senator Sumner as SB122. While this scheme would provide direct, equitable benefits to Alaskans, it would preclude use of Permanent Fund income for operating budgets, unless only part of the fund was allocated to this program.

This memo serves as an introduction to the concept of "privatization" of public assets. BCRIC, AGSOC, and public corporations offer fertile ground for innovation in distributing the benefits of publicly-held assets. If this memo appears "fuzzy," it is because the breadth of opportunity is so great. If you are interested in pursuing these ideas, we can provide a more complete analysis based on the most appropriate asset for experimentation (Permanent Fund, general fund surplus, land, oil and gas holdings, etc.) and the most appropriate organizational form (BCRIC, AGSOC, public corporation).

FAU:TS/cu

BCRIC

ARLON R. TUSSING & ASSOCIATES / 880 H St., Suite No. 210, Anchorage, Alaska 99501

MEMORANDUM

TO: Governor Jay Hammond

VIA: Frances Ulmer, Director
Division of Policy Development and Planning

FROM: Arlon R. Tussing

DATE: December 9, 1980

RE: AFTERTHOUGHTS ON PACE

1. The most important lesson from BCRIC is, "ignore the political wise men, the financial experts and the bureaucrats --- DO IT!" There was no significant popular constituency for BCRIC; at the same time, the legal and financial experts gave a million reasons why it couldn't be done or wouldn't work. Once Bill Bennett pushed it through the legislature, however, BCRIC was immensely popular, and everyone around the BC government or legislature wanted to take part of the credit.

2. Another source of BCRIC's spectacular success was its combination of a free distribution with a purchase option. Every resident got something, which guaranteed universal interest, and any resident had the right to buy enough BCRIC stock to make a difference. There are other advantages to combining a free distribution with a purchase option; see point 8 below.

3. The first PACE distribution must be a sure winner. BCRIC distributed stock in profitable, established provincial enterprises, plus some mineral rights. Alaska doesn't have any profitable state-owned business other than oil & gas leasing, however. A royalty trust therefore seems to be the only really suitable asset for the first PACE distribution.

4. The surest asset value for distribution would be an interest in Prudhoe Bay royalties. The experts and state officials generally don't like the idea of a Prudhoe Bay royalty trust, however. I suspect that many of them will always find reasons to oppose any plan that gives up government control over assets of proved value with a significant current revenue stream. Nevertheless, some real problems seem to exist:

1220 19th Ave. N.W., Suite No. 201, Washington D.C. 20036 / 2720 Rainier Bank Tower Seattle, Washington 98101 / (206) 447-0321

a. Statehood Act. Will Condon, Susan Burke, and Tom Williams seem to worry most about a conflict with the Statehood Act, which prohibits the state from alienating the mineral rights on lands selected under the Act. I'm not a lawyer and I don't propose to go into the question in detail here, but I from a practical standpoint, I don't think conflict with the Statehood Act is an insuperable problem.

b. Public purpose. At least one of the state's lawyers was concerned about reconciling PACE generally and the royalty trust in particular with the state constitution's provision that appropriations be for a "public purpose."

To my imperfect recollection, neither the adverse Supreme Court majority on the resident income tax exemption nor the adverse minority on the permanent fund divdend made the public purpose question central to their objections. In any event, we have both a specific response to this problem [See point 8 below, and a general remedy for any STATE constitutionality problem. [See point 9 below.]

c. Windfall Profits Tax. A more serious problem with a Prudhoe Bay royalty trust may be the treatment of its income under the Windfall Profits Tax (WPT): Crude oil "owned by" a State or local government or a Native corporation is exempt from the WPT, but other Prudhoe Bay oil is subject to a 30 percent marginal rate.

It is not obvious from the law's language that the exemption is waived when income from the sale of State royalty oil is passed directly through a royalty trust to private citizens. I have thought about ways the trust and the distribution might be structured to reduce the likelihood that distributed royalties would be subject to WPT. Whatever the arrangement, and whatever the ultimate outcome in the courts, however, IRS is sure to challenge the exemption, and a final decision might be many years off. Prudhoe Bay natural gas revenues are not subject to WPT.

d. Federal Income Tax. An interest in proved, producing reserves at Prudhoe Bay has an obvious, assessable value. A free distribution of Prudhoe Bay royalty trust shares would surely create a troublesome tax liability for citizens who receive them. IRS is also likely to insist on taxing any really attractive royalty trust purchase plan on the basis of the difference between the market value of the shares and the amount the purchaser actually pays.

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R.T. → appears in margin to mark sections applicable to Royalty Trusts.

DRAFT LEGISLATION FOR AN

ALASKA CITIZENS WEALTH OWNERSHIP PLAN

Prepared for the

OFFICE OF THE GOVERNOR
STATE OF ALASKA

By

ARLON R. TUSSING & ASSOCIATES, INC.

and

PRESTON, THORGRMISON, HOLMAN & ELLIS

27 March, 1980