

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 2
206 SCOMM 9: HOUSE SPEC. COMM. ON PERMANENT FUND 1977-78

between researchers and funders, (2) enforce greater cooperation and efficiency within and among research agencies, and (3) decide specific research priorities based upon sound analysis and interaction between policy makers and research personnel.

A system of determining State research priorities would appear to be a viable suggestion through which to ameliorate many of the aforementioned problems. At present, there is no thorough multidisciplinary analysis of the present state of affairs which could be applied to determine long-range applied research priorities. Present research is not necessarily geared to the need of consumers or resource exploiters. The several interfaces between one resource use and the effects upon other resources seem to contain many voids of information. At present, some research agencies are not utilizing the information developed outside of their own agency. Too often, one agency or even one government depends upon the research endeavors of another agency or government while not actively supporting the research activity or articulating the specific needs which they are depending upon the second agency to address.

Just as obvious is the capricious manner often used to determine research funding in the political process. Researchers dependent upon several years of uninterrupted funding to achieve some goal are too often stifled by unexpected losses of funding from previously supportive sources.

Another issue pertinent to this discussion of research and development is the question of the desirability of a central resource data repository. Several presentations of late have proposed the creation of such an agency, while several existing data repositories attempt to

fulfill the need of the many resource information users. A discussion of the experience of AEIDC and similar existing data repositories and the proposed Alaska Resource Information System and similar suggestions would seem to be an integral part of an effort to address the current state of affairs of Alaska resource research and development and to suggest viable alternatives.

Objective of Ad Hoc Committee

The objective of the ad hoc committee on Alaska resource research and development is to describe the present state of affairs which determine the scope of Alaska resource research and to suggest new and improved means to guarantee that priority research areas are adequately addressed by the research community and supported by the political process. One suggestion that will be before the committee from the beginning is the idea of creating an Alaska resource research and development council which would be charged with determining the State's long-range priorities of natural resource research. The initial conception of the council is that it will serve to identify research and development areas which need to be addressed and, then, to assist in the interaction of the several research agencies active in each priority area to assure adequate coordination, to encourage and support expanded research programs in those selected areas, and to use the influence of the State to assist in the development of new applied research efforts.

There are several concerns about the evolution of such a council. The legislature would not like to see such a group evolve into an omnibus research approval body, or to have an overriding influence in the total

scope of research efforts, funding areas or funding levels. We are concerned about creating a body of representatives from the major research agencies in this state which may become self-serving.

Committee Product

The ad hoc committee will meet three or four times during the remainder of the 1977 calendar year for one-day meetings. The first meeting will be an organizational meeting. After that time, it is our intention that each committee member would be responsible for preparing some information for the following meeting.

At the completion of the committee's deliberations, the staff and committee will prepare a final report of the activities. Should there be a committee desire to introduce legislation, the Legislative Affairs Agency will be responsible for bill preparation.

The Alaska Ad Hoc Committee on Alaska Resource Research and Development

Committee Function:

Exploratory and fact finding--to study and survey the present practices utilized to determine research funding and research scope and then to recommend feasible means (if any) to better insure a rational determination of priority research endeavors and (guarantee the necessary political support.)

Chairperson:

Representative Terry Gardiner, Vice-Chairman of the House Special Committee on the Alaska Permanent Fund (incorporating review of the Renewable Resources Fund).

Committee Members:

Kay Allred, Director
Program Coordination
Department of Environmental Conservation
State of Alaska

Stewart Eidelson, Economist
Alaska Teamsters

Lee Gorsuch, Director
Institute of Social and Economic Research
University of Alaska

David Hickok, Director
Arctic Environmental Information and Data Center
University of Alaska

Dona Lehr, Economic Policy Analyst
Division of Policy Development and Planning
Office of the Governor

Dean Olson, Executive Director
Ahtna, Inc.

Walt Parker, State Co-Chairman
Federal/State Land Use Planning Commission

Methodology:

The committee members will be asked to draw upon the previous experience and, to the extent possible, to utilize their staff to assist them in their assigned tasks. The committee will additionally be staffed with a research analyst from the Legislative Research Division. Committee staff will have completed a questionnaire, distributed it to Alaska research agencies, solicited input from presently

Reporting:

Date Due:

Decision Flow:

Meeting Dates and Times:

Three or four committee meetings will be called--each to last for no longer than one day. The first meeting is scheduled for July 22 in Juneau (House Judiciary Committee room in the State Capitol). Committee members will be paid for travel and per diem.

DISCUSSION PAPER FOR ALASKA RESOURCES
RESEARCH AND DEVELOPMENT AD HOC COMMITTEE

There's nothing new in the statement that the politicians of this state or any other state are sometimes bewildered with the kind or degree of research that is being conducted by agencies to which the politicians must appropriate monies. The statement does not apply to all research or even the majority of research, but most likely is nurtured by the usual circumstance which periodically arises where a seemingly superfluous research endeavor is highlighted; or in a situation where it would seem that some research should be ongoing, but is being inadequately addressed by the scientific community. The major problem, then, is one of communication between the scientists and the politicians. However, other problems fuel this conflict: (1) an unclear identification of what is expected by the politicians; (2) inarticulated rationale for why the research community is conducting the particular research which it is asking the political machinery to fund; (3) and a lack of coordination between the many research entities which possess overlapping talents and research areas.

As a result, the politicians perceive voids of research activity, overlapping research activities, and inefficiencies of operation. The researcher is frustrated by unexplained funding decisions, fickle support of research, and varying degrees of cooperation (or antagonism) from other research agencies.

The basic question then becomes, can something be designed to replace the status quo which can better (1) support communication

between researchers and funders, (2) enforce greater cooperation and efficiency within and among research agencies, and (3) decide specific research priorities based upon sound analysis and interaction between policy makers and research personnel.

A system of determining State research priorities would appear to be a viable suggestion through which to ameliorate many of the aforementioned problems. At present, there is no thorough multidisciplinary analysis of the present state of affairs which could be applied to determine long-range applied research priorities. Present research is not necessarily geared to the need of consumers or resource exploiters. The several interfaces between one resource use and the effects upon other resources seem to contain many voids of information. At present, some research agencies are not utilizing the information developed outside of their own agency. Too often, one agency or even one government depends upon the research endeavors of another agency or government while not actively supporting the research activity or articulating the specific needs which they are depending upon the second agency to address.

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STATE
of ALASKA

MEMORANDUM

TO: All participants in the
effort to develop a
better integration of
research and decision making

DATE: September 30, 1977

FROM: *Frank Ulmer*
Frank Ulmer
Director
Policy Development and Planning
Office of the Governor

SUBJECT:

This memorandum is to confirm the existence of a working group consisting of members of the University community, the Legislature, the Executive branch and assorted other interested individuals all dedicated to a common goal: the development of mechanisms to coordinate and integrate research with governmental decision making.

For those readers who did not attend the Alaska Science Conference, perhaps some background information would be helpful. At the Alaska Science Conference held in Anchorage September 22-24, a popular theme repeated itself throughout the Conference: the research community and governmental decision makers need each other in many ways. How can we devise a system to improve our ability to learn from and assist each other? A number of surprisingly similar answers were given by participants. Representative Terry Gardiner talked about the role that a research and development council could have, particularly as it would relate to the Renewable Resources Fund. David Hickok, Eugene Buck and Erwin Van Niewivheyse circulated a discussion paper on "An examination of the Alaska Academy of Science and Technology, Alaska Research Council Concept." Numerous Conference participants articulated the frustration of researchers who see missed opportunities for valuable research input and apparent disregard of scientific advice offered.

On behalf of Governor Hammond, a statement was presented to the Conference supporting the concept of a research foundation and committing this Division to pursuing that objective. We will be seeking a grant from the National Science Foundation to evaluate the alternative structures, procedures, funding mechanisms, organizational patterns, etc.. A copy of that grant proposal (in draft form) is attached for your review and comments. *file*

On Saturday the 24th, at a meeting of the Ad Hoc Committee on Alaska Resource Research and Development, a consensus arose from the attendees that 1) work on an Alaska research foundation and academy of science should continue through the joint efforts of the University, the Legislature and the Executive branch; 2) the Resource Research and Development Committee would continue to be the "core" group; 3) I would co-chair the project and, in Representative Gardiner's

absence (for the month of October), I would assume responsibility for the working group's coordination; and 4) critiques of the three existing proposals (attached) should be mailed to the Division for review and distribution by October 10.

I want to close the memorandum as it began, by emphasizing that this project is a joint effort to develop a more productive working relationship between the research community and decision makers in both the legislative and executive branches. We all have a great deal to gain.

FU/TT/bb

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUGHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

September 27, 1977

SUBJECT: Ad Hoc Committee on Research and Development

TO: The Honorable Terry Gardiner

FROM: John Williams
Research Analyst

In lieu of committee minutes, you have asked that we prepare a listing of task assignments which were accepted by individuals on behalf of the ad hoc committee effort.

- (1) Ms. Fran Ulmer has accepted the chairmanship of the newly expanded committee.
- (2) Ms. Ulmer is to request written responses from the committee and advisory group regarding the three proposals which have been disseminated and the National Science Foundation grant proposal, the funds from which she intends to utilize in addressing the subject matter being explored at this time. Responses are to be returned by October 10. A subcommittee (to be appointed by the chairman) will then prepare a working document which would incorporate the comments received and the concepts and critical aspects contained in the three proposals.
- (3) Ms. Ulmer is to circulate copies of the statutes which address similar entities in other states.
- (4) Mr. David Hickok is to prepare a briefing paper describing activities in other states and federal agencies which could serve as examples for structuring the proposed entities.
- (5) Dr. Neil Davis is to prepare a discussion paper on the probable impact of these proposals upon established academic research activities.
- (6) Mr. Dick Holden is to prepare a discussion paper on the probable impact of these proposals upon state agency research activities.
- (7) Mr. Lee Gorsuch and Mr. Walt Parker are to prepare a discussion paper identifying the processes by which research dollars are allocated under present conditions.

Hon. Terry Gardner

It was suggested that the committee should plan to hold its next session sometime in late October. The work efforts listed above should be completed in time for them to be discussed at the October meeting.

JW:jm

cc: Fran Ulmer

DISCUSSION PAPER

on

AN EXAMINATION OF THE
A ACADEMY OF SCIENCE AND TECHNOLOGY
ALASKA RESEARCH COUNCIL CONCEPT

Prepared by

David M. Hickok
Eugene H. Buck
Erwin Van Nieuwenhuysen

August 1977

INTRODUCTION

The need to establish a forum of the finest scientific and technological expertise in Alaska has long been recognized as an important step toward furthering science and its use for the general welfare of all Alaskans. For example, one of the many resolutions to come out of the 1969 "Conference on the Future of Alaska" sponsored by the Legislative Council in association with the Brookings Institution recommended that:

A body of qualified Alaskans shall be recognized by statute and supported by annual state appropriation under the title, "Alaska Academy of Science and Technology." Its constitution and operation will be analogous to that of the National Academy of Science-National Research Council, so providing representation from all disciplines.*

The purpose of this paper is to provide an intellectual framework for establishing such an institution--the Alaska Academy of Science and Technology-Alaska Research Council. We will examine the structure as well as the various functions and responsibilities of both the academy and the council. In addition, we will evaluate the various options available for creating the academy-council, noting the benefits resulting from such an action and any problems which might be encountered along the way.

A. The Alaska Academy of Science and Technology (AAST) Alaska Research Council (ARC)

1. Description. Initially, the academy would be comprised of 50 Alaska resident members, each distinguished in his or her field of inquiry and together representing all facets of

*A Comprehensive Review of Policy Decisions/Seminars I, II and III, "The Evolution of an Alaska Policy," Dec. 10, 1969. p. 14.

scientific research, application, and education. Subsequent membership could include both residents and nonresidents with appropriate backgrounds and a demonstrated in-depth knowledge of Alaska affairs.

The academy would be given the power to create its own organization, including a constitution, bylaws, and rules and regulations, and to add new members. Officers would include a president, vice president, secretary, treasurer, and five councilors elected by the membership at its first meeting. Plenary meetings would be held at least once a year at which time new members could be added. Officers and members of the academy would be treated as members of advisory boards with regard to compensation.

The academy would operate primarily through the Alaska Research Council (ARC) established under a separate title within the AAST enabling legislation. Seven of its 12 members would be chosen from the AAST membership, and all would require Alaska Senate confirmation. Under our suggested approach, the elected president of the academy would serve as chairman of the council. All members of the research council would be Alaska residents and would be responsible for formulating council rules and regulations.

The Alaska Research Council would carry out its major functions primarily through assemblies or special committees

which it would organize and dissolve as needs arose and were successfully met. Persons serving on these assemblies or committees would be selected by the council and would report directly to the council. Neither Alaska residency nor AAST membership would be required to serve as a member of an assembly or committee. A full-time salaried executive secretary and an assistant would be engaged by the chairman of the council to coordinate the activities of the various committees. Council and committee members would be compensated for expenses incurred in the course of their activities on the same basis as members of advisory boards.

All aspects of the academy-council's dealings, including all findings, reports, and recommendations, would be matters of public record. Sufficient funds for the academy to carry out the purposes set forth in its enabling legislation would be appropriated annually by the legislature. A separate appropriation would be made for the research council.

2. Purposes. The simultaneous creation of an Alaska academy and research council would assemble in one body the finest expertise in Alaska on science and technology and in turn provide it with an efficient means of carrying out its responsibilities. Such an assembly of distinguished persons would play an important role in shaping Alaska's future.

The academy, through the operation of the research council, would exercise this role in many ways. It would act

as an advisor to state government on scientific and technological issues; it would stimulate the translation of science into various technologies, especially those developed in response to Alaska's unique environment; it would act as a standard-setting body, supplying the criteria necessary to evaluate the quality of research endeavors and assist in the design of research programs; and it would stimulate communication and cooperation between scientists, engineers, and the public both in Alaska and the "lower 48."

Let us now examine in more detail these and other possible functions of the academy and the various ways in which they might be implemented.

- a. The academy would advise in those matters involving science and technology referred to it by either the executive or legislative branch of state government.

Referring to the academy for nonpartisan advisory services would provide for continuity in scientific and technological planning and programming both at the state and local levels. The academy would effectively serve as a source of policy alternatives on matters of science and technology. When presented with a major problem by the legislature or the executive branch, the academy would recommend particular approaches and, if requested by either or both branches, would arrange for appropriate

studies. For example, a request for a review or a problem study might be submitted by a legislative committee or the commissioner of an executive department directly to the president of the academy who would then, as chairman, put it before the research council for consideration. If a majority of the council members voted to conduct the requested review or recommend particular approaches to the requested problem study, the council would then organize a special committee for those purposes. However, it should be carefully noted that the council would only arrange for requested problem studies; it would not conduct them.

The above example is only a suggested procedure. Other possibilities exist and could be adopted. For example, such requests might require the endorsement of appropriate representatives of both the executive and the legislative branches. This arrangement, however, has the inherent weakness that it is not consistent with the concept of balance of powers. For example, if the legislature questioned the policy of an executive department on a particular scientific or technological matter and wished the advice of the academy, the likelihood that the commissioner of that department would sign a request for such advice would be at best minimal.

Therefore, we feel that of the two approaches, the former, in which either branch could request the advice of the academy independently, is the more practical.

In the above example, the president of the academy also serves as chairman of the research council as is the case at the national level. It might be decided, however, that the Alaska Research Council should be given the right to elect a chairman from among its 12 members. In this case, the state government could:

1. Submit its request directly to the council chairman for consideration.
2. Submit it to the president who would decide whether or not to forward it to the council.
3. Be given the option to direct its inquiries to either the president or the chairman according to circumstances or preference.

The first option is logically sound and most consistent with the academy-council organization. As the operating arm of the academy the research council should receive all official requests for advice. This arrangement would also allow the council to act as an interface between the academy and state government. In addition, it would be the most efficient approach of the three. However, under this scheme the council might become too independent of

the academy and exceed the limits of its strictly "catalytic" role as the "steering committee" of the AAST. Under the suggested approach, the president of the academy would also serve as chairman of the council, thus minimizing the probability of such an occurrence.

The second approach is not a viable option for it is not consistent with academy-council organization. In addition, it would provide for no separation between the government and the academy and would be much less efficient.

The third possibility would be as unwise as the second is impractical, for it combines all the weaknesses of the first two approaches.

In view of the above discussion, it appears that the suggested arrangement is probably the most desirable. However, still other possibilities may exist and should be given proper consideration.

- b. The academy would encourage further development of new techniques of applied science to fulfill the special requirements imposed by Alaska's unique environment.

In many areas of technology, traditional methods used to perform certain tasks or resolve particular problems in other parts of the world are simply ineffective or uneconomical when attempted in Alaska. Examples range from ice and permafrost problems encountered in planning for the offshore development of oil and gas in

the Arctic, to the extraction and transportation of coal by sludge pipelines in northwest Alaska, to the development of effective agricultural techniques in the Matanuska Valley.

Cooperation between Alaska scientists and engineers and their counterparts in industry and agriculture is essential to the development of new techniques which are both feasible and environmentally sound. The academy would play a key role in promoting this kind of interaction to the benefit of all.

- c. The academy would clearly formulate and promote standards of scientific research in Alaska.

Science may be defined as an objective, logical, and systematic method for analyzing phenomena. It represents the best way humankind has thus far devised to permit the accumulation of reliable knowledge. The operational aspect of science constitutes what is known as the "scientific method." And, like all other methods, it can be carelessly or inappropriately applied.

The academy would serve the useful purpose of establishing standards for scientific research both operationally, in terms of the processes or operations performed when practicing it, and functionally, in terms of the services it can perform. It would also formulate guidelines which could be used to determine whether or not the scientific

approach should be used at all to solve a particular problem. These standards would provide a means of enhancing the quality of state-funded research activities and greatly increase their yield in useful knowledge.

- d. The academy would allow experts to more freely express their educated opinions on events related to science and technology occurring in Alaska.

The AAST would constitute an invaluable source of knowledge and information, innovative ideas, viable options, thoughtful evaluations, and accurate predictions. If, however, an individual scientist's evaluation of a particular problem or situation lying in his or her field of expertise does not concur with those of government agencies, industry, or the public, he or she must make what is, under present circumstances, the rather difficult decision of whether or not to express his or her opinion publicly. Scientists, after all, are people, and as is consistent with human nature, would most often choose not to expose themselves to unnecessary inconvenience or possible ridicule. The academy would provide such experts with a forum in which to express their ideas under such circumstances and could then decide whether to take appropriate measures as a body. This would encourage scientists to give voice to their thoughts, to engage in

meaningful dialogue with other experts, and perhaps reach a consensus, thus minimizing situations in which an individual scientist finds himself "riding point" so to speak.

- e. The academy would promote communication and cooperation with scientists outside of Alaska.

This would be accomplished in many ways--the committee system of the research council, AAST publications and articles in national magazines and scientific journals, and AAST-sponsored conferences or workshops. As the national reputation of the academy increased, so would the amount of direct contact with the outside scientific community. The academy would thus attract additional scientific and technological talent to Alaska.

- f. The establishment of an Academy of Science and Technology would create an atmosphere in which scientists would be encouraged to point out gaps in essential knowledge and initiate appropriate studies to fill them, to identify and expound on current trends and potential future problems, and most importantly, to devote some of their time and energies to the consideration of long-range goals and research programs.

The history of research in many government agencies has been the history of competition between short-term

immediate research in response to urgent problems on the one hand and long-term anticipatory research on the other. Needless to say, under such circumstances, usually compounded by chronically insufficient funds in both departments, it is invariably the long-term research which is sacrificed.

An excellent example of this phenomenon is the current situation of the Environmental Protection Agency's research and development programs. As day-to-day regulatory problems occur, there is a strong tendency within any agency to transfer funds and personnel normally assigned to long-term research (characterized by more generalized, open-minded objectives) to short-term immediate research on current problems, which, of course, has entirely different, more clearly defined goals. In addition, the suddenness with which environmental problems arise also has a disruptive effect on fundamental environmental research because immediate problems have to be handled first. For instance, to deal with the recent Kepone disaster in the James River, EPA expended at least \$1.65 million, of which \$1.25 million was taken from the Office of Research and Development.

The Academy would actively voice the need for long-term research and promote it whenever possible. It would

provide the proper milieu for discussions of the long-range aspects of Alaska's development in the field of science and technology and permit the dissemination of the ideas resulting from such discussions to both the government and the people of Alaska.

3. Possible Establishment Procedures. The authorization of an academy-council would require an act of the legislature. It could be subdivided into two titles, Title I for establishment of an Alaska Academy of Science and Technology and Title II for the creation of an Alaska Research Council.

If it were prescribed in the legislation that the elected president of the academy would also serve as chairman of the research council, the selection of the academy membership would necessarily have to precede the organization of the council. Several methods for choosing the initial membership of the AAST are conceivable. We suggest the following.

In the enabling legislation the governor would be directed to create a special committee for this purpose. This committee would be comprised of 10 resident Alaskans with statewide experience in affairs of science and technology. Its function would be to establish appropriate criteria for the selection of initial academy members and subsequently submit its recommendations to the senate for confirmation. Members of the

committee would not be prohibited from nominating themselves for membership in the academy.

Upon receiving senate confirmation the members would meet as a body to elect the officers of the academy. A requirement might be that the president receive senate confirmation before assuming office. This is probably not an important point, however, as the legislature would find it difficult to refuse confirmation to a man or woman regarded by the scientific elite of this state as the person best qualified for the office.

The president would then aid in writing the AAST constitution, bylaws, and rules and regulations as well as choose the members of the Alaska Research Council, subject to academy membership approval and legislative confirmation. The council would draft its bylaws and begin assuming its responsibilities as operating arm of the academy.

Under this kind of overall organization, the AAST and the ARC would be funded separately by annual legislative appropriation. Both would be required to submit annual reports to the legislature.

This general scheme, however, represents only one possible establishment approach. For every important point outlined above, there exist other options. For example, the selection of the initial membership of the AAST might be conducted by a

special committee of the legislature. This method, however, would exclude the involvement of the executive branch and thus represents a less balanced approach.

Another alternative might be to engage a private organization such as the Alaska Division of the American Association for the Advancement of Science, to submit a "list" of nominees for senate approval. However, this arrangement would combine the falacies inherent in the above approach with the fact that the majority of scientists in Alaska are not members of the AAAS, which is nevertheless the largest organization of its kind in Alaska.

By specifying that the offices of president of the academy and chairman of the council could not be held by the same person would avoid the more sequential procedure imposed by our suggested approach, but we feel the possible disadvantages which might result and which have already been discussed would far outweigh any inconvenience which might accompany the delay in organizing the research council.

SUMMARY AND CONCLUSION Throughout this analysis of the structure, role, and possible modes of establishing a proposed AAST-ARC institution, a suggested scenario was used as a touchstone for discussing alternative approaches. Under the suggested arrangement the order of events subsequent to passage of the enabling legislation would take place as follows.

The Governor would appoint a special committee of 10 resident Alaskans to submit a list of 50 candidates for initial AAST membership

to the Alaska State Senate for confirmation. Upon its first meeting; the academy membership would elect its officers, including the president, who would then, as chairman of the authorized Alaska Research Council, select 11 persons to serve on the council subject to AAST membership approval and state senate confirmation (see figure 1).

The AAST would operate primarily through the ARC, which, in turn, would carry out its functions by organizing special committees. As the official advisor to state government on matters related to science and technology, all inquiries or requests for studies would be submitted by either the executive or legislative branch to the president who would then decide, with academy membership input, whether or not to initiate appropriate council action. The ARC would only arrange for requested studies which would actually be conducted by the special committees (see figure 2).

Once again it must be stressed that the role of the AAST-ARC would be strictly advisory. It would act as a catalyst for research or problem solving efforts but would not perform them. Its role would not be one of managing or coordinating state-funded research but rather in assisting those who determine its policy directives and priorities.

In view of the many benefits which would result from the establishment of an Alaska Academy of Science and Technology-Alaska Research Council system, we feel that it is in the interests of all Alaskans that enabling legislation be written and submitted as soon as possible for consideration by the Alaska State Legislature.

FIGURE 1.

ESTABLISHMENT

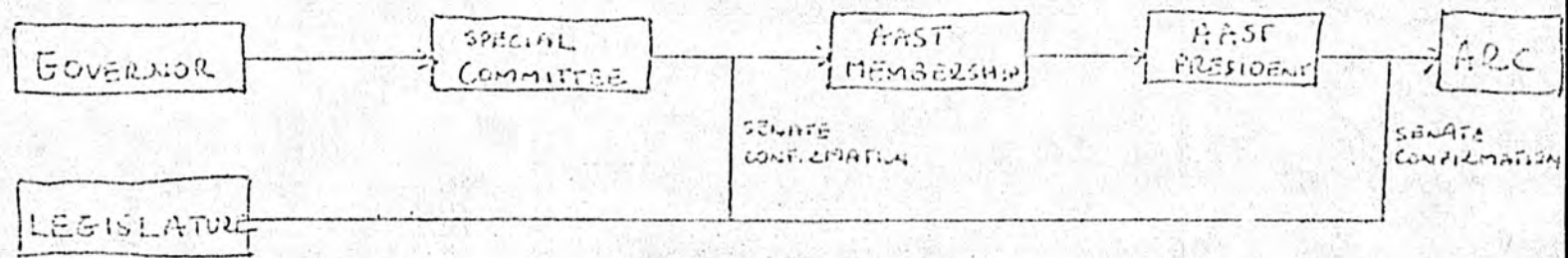
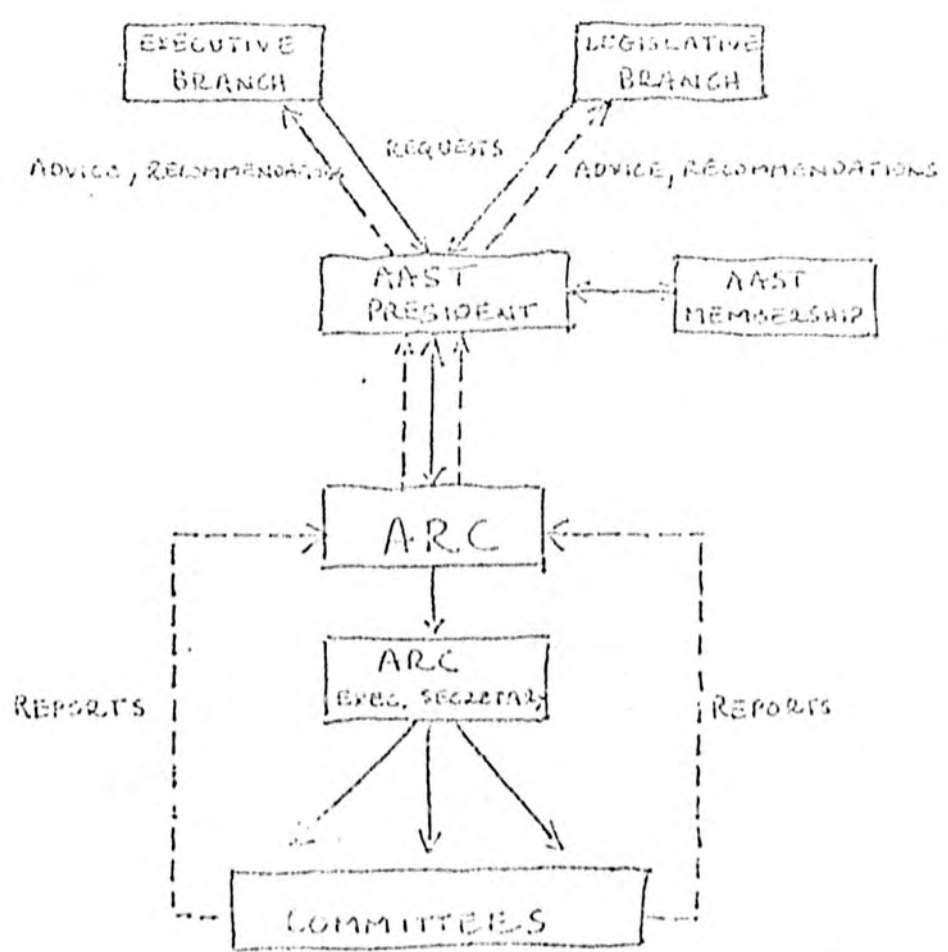


FIGURE 2.

ADVISORY ROLE



MEMORANDUM

September 16, 1977

TO: Alaska Resource Research and Development Ad Hoc Committee
and
Committee Advisory Group
FROM: Terry Gardiner, Chairman *T.G.*
SUBJECT: Alaska Research and Development Council

During the first meeting of the ad hoc committee, I stated that I would expand on my thoughts about the potential role of the Alaska Research and Development Council in the future of Alaska. I will begin by describing my perspective of the research decision-making utilized to date in selecting resource related research projects and the changes which are occurring at this time which I feel add further to the need for greater consideration of research activity. Following that, I will propose a purpose and structure of the R & D Council and suggest some of the critical aspects of its formation and function. My perspective is intended to be one of a decision-maker in government; thus, I will stress the point of view of the need for state government to have its needs identified to the research community by a body which can most competently accomplish that end.

Probably the greatest problem that exists today with respect to meeting the state government resource research needs is that no single omnibus body exists which considers all the competing uses of Alaska resources or the competing demands placed upon research dollars. Those administrative agencies which do conduct resource related research are most likely addressing a statutory or policy mission. Typically, that kind of research is too myopic to accomplish the initiation of research activity which will typically return data in support of decision-making which must address future resource disposition.

Two recent activities of the Legislature would seem to serve as examples to articulate this problem. The most economically advanced of any of Alaska's renewable resource industries is undoubtedly fisheries. Within that sector, two recent decisions of the Alaska Legislature are the cause of great amounts of activity within the industry (their importance must be considered somewhat overshadowed by the enactment of the 200-mile limit legislation). I am referring to the creation of the Division

September 16, 1977

of Fisheries Rehabilitation, Enhancement, and Development and the private, non-profit hatchery legislation which was significantly amended this last year. Both of these bills were opposed by the department which would be responsible for administering the new programs; yet these two new laws, whether implemented for better or for worse, have caused more change in their short life than had occurred for some time in the salmon industry. The legislature's only available resident expertise opposed these two laws--which apparently had little effect in dissuading them from their actions. Apparently, the legislature felt that the information which the department used to support its viewpoint was inadequate and, thus, decided to oppose their recommendations. The question can be posed, how much better would these two resource related laws have been if the drafters had had access to better information about the subjects addressed? Surely, in light of limited entry and the advent of salmon enhancement techniques, a systematic look at resource research priorities would have prompted some research activity into enhancement practices and social structures to take advantage of the limited entry concept.

University-conducted resource research often addresses issues of great importance to state resource policy. However, the considerations most often utilized in deciding research activity do not include the state interest per se. This is to be expected; however, the failure here is that university investigators have not typically had access to information which describes what areas and activities would be considered highly important to the State. If such a listing did exist, we could expect that academic researchers would likely consider state research priorities in their research activity decision-making.

As things now stand, university research is usually geared to one of the following considerations: (1) pursuit of intellectual curiosity, (2) continuance of activity in a subject area familiar to the researcher (application of talent to experience area), (3) pursuit of available funding (research proposal designed to assure funding success based upon the perceived priorities of the funding agency), and (4) continuance of departmental or institutional missions. Other reasons for academic research activity surely exist--this is to demonstrate what the more accepted reasons for research activity are considered to be.

It is a fact that the State does not pay the major portion of university research. This does not, however, modify the fact that one of the unwritten goals of any state university is to assist in issue analysis and fact finding to support governance of that state. I feel that successful accomplishment of that goal would be more easily accomplished if the State communicated their desires to the university in a systematic manner.

The federal government is a major source of research dollars in Alaska. That research conducted by federal agencies suffers the same sorts of problems with respect to state resource research priorities as do state agencies--with the added problem of their missions being oriented to the

national perspective. For the sake of argument, though, let us assume that federal agencies would be more inclined to (at least on occasion) modify their research plans to address some state research priorities if they knew what those priorities were and had an opportunity to discuss their activity with individuals who could represent the state position.

The Legislature during its next session will be considering the implementation of two funds which will be vitally important to Alaska's renewable resource industries. They are the Alaska Permanent Fund and the Renewable Resources Fund(s).

The Permanent Fund dedicates a minimum of 25% of the rentals, royalties, and bonuses collected by the State from petroleum operations conducted on state land. The principal is to be invested in an "income producing" manner. Undoubtedly, a major portion of this savings account will be invested outside Alaska in secure investments. Just as likely, though, is the fact that some of this fund will be invested in Alaska. Much of this investment will likely occur in renewable resource industries. Since the fund is mandated to make money, it cannot be expected to conduct loan activities in high risk areas. Since risk is often lack of knowledge, research will, on occasion, diminish risk by supplying the information which will assist in proving the economics of particular activities.

The need for resource research is probably even greater for the Renewable Resources Fund. This fund is also created by a dedication of petroleum revenues (five percent of the rentals, royalties, and bonuses). The fund is charged with "investing" the money in the "rehabilitation, enhancement, and development" of Alaska's renewable resources. It is not restricted to income producing investments as is the Permanent Fund. It could be appropriated to grants, loans, equity investments, line-agency funding, acquisitions, and research.

An implied objective of the Renewable Resources Fund is to assist in the building of renewable resource industries. Knowledge about the resources and industries it is "investing" in will be paramount to the success of this fund.

CREATION AND PURPOSE

The findings and new developments discussed in the preceding section lead me to believe that there is a definite need for the creation of a body which is charged with addressing state priorities in the resource research area. David Hickok, an ad hoc committee member, has prepared a working paper on this same subject. My proposal will differ from his with respect to the implementation of this activity. It would seem appropriate that the committee have varying proposals before it for its consideration.

I propose the creation of an Alaska Research and Development Council which would serve as the major communication forum between the Alaska research community and state policy personnel. Its duties would be: (1) the prioritization of state needs for resource related research, (2) establishing standards of excellence for research conducted in this area (including the utilization of research results generated from all sources), (3) to respond to Administrative and Legislative needs for statements of scientific finding with respect to specific requests from either of these branches of government, and (4) to coordinate with an information maintenance and dissemination agency.

Research prioritization (1 above) would seem to be the major issue. As I have attempted to demonstrate in the first part of this memorandum, a major failing of the State thus far is the lack of declaration of priority research areas--not only with regard to in-house resource research, but also to identify to the research community what the State is most anxious to see answered by academic scrutiny. The R & D Council would allow for a forum to be developed to discuss the varying issues at hand, and to clarify the scope and description of these priority areas. During the process of prioritization, both state interests and research community comments can be considered to guarantee a proper ordering and adequate description of the priorities.

Standards of excellence (2 above) would seem to be an integral part of the description of the research priorities. The reports of the R & D Council should not only list the priorities, but should describe the scope of the investigations which need to be initiated to develop the information base. To a great degree, the standards of excellence can describe the application of the scientific approach to each specific priority area.

The first two functions of the proposed council describe a communication from the council to the State and research community. If the council is to serve as a major communication intersection between these two divergent interests, it is important to allow the State to develop systematic access to the research community through the council. Therefore, directing the council to respond to Legislative and Administrative needs for scientific comment on specific issues (3 above) would seem imperative. The role of the council in this area would be to design an investigation of the problem posed by the requesting governmental branch and to create an ad hoc working group to consist of those people which the council feels could best address the problem. There would be no restriction on the personnel which the council could consider for the ad hoc group.

Since the agency is necessarily going to handle a great amount of information with respect to Alaska resources, it would seem appropriate that the council work closely with a data gathering and dissemination agency. Not only would that facilitate better data handling by the council, but by coordinating with the resource information dissemination source, the

September 16, 1977

council will have direct information from the users of resource information about what the major calls for information are and in what areas. Hence, the council will have direct access to a source of information which can, to a great degree, identify the major information needs of the public, but can also directly identify where the interests lie with respect to the future utilization of Alaska's resources.

For the purpose of discussion, I would propose that the R & D Council be statutorily placed in the Office of the Governor, and the council consist of seven members. The legislature could be charged with selecting one member, and the governor selecting the rest with the legislature confirming those six selections. Two of the members could represent the Administration, two the research community, and two the public.

It is obvious to me that there is much more work that needs to be accomplished on this subject. We have not as yet made the contacts with the people and agencies that could supply us with further guidance as we proceed. State and federal agencies need to be contacted, as well as private foundations and industry. I hope the committee will assist in expanding our information base.

September 15, 1977

GOALS

PRELIMINARY

1. Establish state research needs.
2. Establish funding mechanisms.
3. Ensure that expenditures produce acceptable products.
4. Ensure that the State University can assist in the solving of State research oriented problems.

OBJECTIVES

1. Creation of an organization to assess research needs and plan, coordinate and propose priorities for the expenditure of State funds for research purposes.
2. The organization will determine the most cost effective expenditure of its research funds, including the maximizing of benefits to the State through the expenditure of federal research funds.
3. The organization will develop methodologies for assessing the value to the State of University of Alaska research proposals with a view to State monetary participation.
4. Develop techniques to minimize redundancy of State funded research activities.
5. Act as a standard-setting body, supplying the criteria necessary to evaluate the quality of research endeavors and assist in the design of research programs, and stimulate communication and cooperation between scientists, engineers, and the public both in Alaska and the "Lower '48."
6. Advise in those matters involving science and technology referred to by either the executive or legislative branches of state government.

7. Serve as a source of policy alternatives on matters of science and technology. When presented with a major research problem by the legislature or the executive branch, recommend particular approaches and, if requested by either or both branches, would arrange for appropriate studies.
8. The development of an adequate information dissemination system.

Proposal

The Creation of a State Research Foundation and an Alaska Academy of Science and Technology

The Research Council would have authority to address goals and objectives as heretofore outlined. The Alaska Academy of Sciences and Technology would bring together multi-disciplinary expertise as an advisory body to the Research Foundation for the furtherance of State research goals and objectives.

The Research Foundation would have authority to plan and budget for the funds necessary to adequately address State research needs. It would be empowered to cooperate with the University of Alaska and other institutions in the furtherance of its objectives.

It would determine the most cost effective means of producing research projects, both in short and long range. It would be empowered to create its own organization, including a constitution, bylaws, rules and regulations, and the ability to add members. Its function would be to manage research expenditures by disseminating and monitoring funds to other agencies. It would be prohibited from spending research funds internally.

Problems

The proposal to create an organization as outlined above will generate fear within the academic community that control of other agency accounts, e.g.

the State University, will lead to dissipation of effort and loss of funding for other agency-initiated proposals. The Foundation must not act in any manner which would inhibit other agency research proposals from being submitted to other funding sources.

Other problems include the development of methodologies to establish State related needs and stimulate cooperative effort among the Research Foundation, the State executive and legislative branches, the State University, other institutions and interest groups. For example, expenditures of State funds made by the Research Foundation must be auditable; therefore, research funds dispersed by the Research Council to the State University must be preceded by adequate specialized business office management within the University. The University could accomplish such a goal by the establishment of a specialized business office for research.

MEMORANDUM

TO: [Resource Research and Development Committee

DATE : September 30, 1977

FROM: *Fran Ulmer*
Fran Ulmer, Director
Policy Development and
Planning
Office of the Governor

SUBJECT: NSF Grant

As you know, this Division is now preparing a proposal to the National Science Foundation for funding to investigate ways to improve coordination between research efforts and State decisionmaking. The \$25,000 grant (\$12,500 State match) from NSF will be used to:

- (1) assess existing procedures for use and availability of scientific expertise to decision makers;
- (2) analyze alternative approaches for setting up a formal mechanism(s) to integrate academic research into the policy formulation process, and;
- (3) develop specific recommendations and implementation strategies.

Attached is a draft copy of the narrative portion of the proposal. Included in the final document will be explanatory cover sheets, an abstract, a budget breakdown, and appendices. Your review and comments on the narrative would be appreciated. In particular, your thoughts on the following are needed:

- (1) project objective and work program task descriptions; and
- (2) scope of the overall effort envisioned.

We need to submit the application to NSF by October 30th. In order for us to incorporate your thoughts, please forward your comments to me no later than October 12th.

FU/BL/bb

A. Project Objective and Introduction

The project objective is to improve the quality of policy decisions by assuring decision makers timely access to relevant scientific information. At present, no formal mechanism exists for the integration of research products into the policy formulation process. Nor does information on State research needs and priorities flow systematically to the scientific community. Even within the public sector, communications problems exist which reduce the usefulness of extensive research expenditures by Federal and State agencies.

For Alaska, the SSET program occurs at an opportune time. The inefficiencies of the current ad hoc system have become obvious to both governmental decision makers and the scientific community. Actions to improve the situation have been initiated by members of the Executive and Legislative branches of government, and individuals from the academic community. The Alaska Division of the American Association for the Advancement of Science recently held its 28th Alaska Science Conference on the theme "Science Information Exchange in Alaska." Several papers and much discussion centered on the very topic addressed by the SSET program - the integration of science, engineering, and technology resources into the policy-formation process. There is general agreement among concerned parties that a formal mechanism and process is required to achieve this desired integration. It is the intention of the applicant to utilize the NSF funds to assess alternative structures and recommend to the Governor and the Legislature promising options available for obtaining the project objective.

B. Background Material

As mentioned above, although no formal integration mechanism now exists, several efforts are underway as concerned agencies and individuals attempt to improve shortfalls in existing procedures. This section briefly describes some of the efforts now underway. This discussion is meant to be illustrative rather than exhaustive. An early work program task must be a comprehensive assessment of the existing structure, procedures and related activities.

i. The Executive Branch

Several actions to improve the utilization of scientific data have been initiated by the Governor's Office, Division of Policy Development and Planning (DPDP). Of major importance is an inventory of physical, social and economic data collected by State agencies. It has often been the case that data gathered by a particular agency is duplicative of efforts already completed or underway in other agencies of State government. The publication of this data inventory should substantially increase

agency awareness and thus reduce duplicative efforts and search costs. Efforts toward improving the coordination of data generation, display and use are ongoing in the Division of Policy Development and Planning.

In conjunction with the State Library, DPDP is working toward publication of an inventory of State agency special studies and reports. This index of completed research should likewise improve State research efficiency.

Centralized data management has been a topic discussed with increased frequency during the past six months. Alternative proposals have been advanced and a committee of data users chaired by a DPDP staff member, has been formed to pursue analysis of these alternatives.

Also within the Division of Policy Development and Planning is the State Clearinghouse. The Clearinghouse functions as a reviewing mechanism for proposals requesting funding from Federal agencies. To some extent the Clearinghouse has an opportunity to review proposals from various departments and institutes within the University of Alaska statewide system. However, because so few federally funded research programs require a Clearinghouse review, this mechanism is not comprehensive in nature. Nor is it designed to mesh State policy requirements to the University's research program.

Within the last several months some discussion has been held between the Clearinghouse Coordinator and the University's Vice-Chancellor for research. The point of discussion was the possibility of funneling University proposals for federal grant assistance through the Clearinghouse for review. It was envisioned that such a procedure would only be informational. It would allow State and local agencies an early warning of University research plans, while providing the University with additional information as to the perceived benefits of its research efforts.

One structural problem still to be addressed by the University is a unification of the research efforts under one central administrative director. Absent such a centralized system through which all university research proposals would flow, the difficulties in coordinating university research seem enormous.

Aside from the principal instructional departments, the University of Alaska supports or is affiliated with the following research institutes: Geophysical Institute, Institute of Marine Science, Institute of Water Resources, Agriculture Experiment Station, Institute of Arctic Biology, Institute of Social and Economic Research, Center for Northern Educational Research, Alaska Sea Grant Program, Arctic Environmental Information and Data Center, Biome Center, Alaska Cooperative Wildlife Research Unit, Mineral Industry Research Laboratory, Forest Soils Laboratory and the Naval Arctic Research Laboratory. Not listed are a variety of research efforts carried out in conjunction with graduate student programs, which are not assigned to one of the units of organized research.

As can be seen, the scope of research within the University of Alaska system is extensive, covering a variety of disciplines. If there is a common thread running through most of the programs, it is an emphasis within each of the disciplines on its relationship to Alaska's unique cultural and physical characteristics. Indeed, because of Alaska's location straddling the arctic and sub-arctic, research programs emphasize the investigation of the meaning of the North.

Concomitantly, the problems facing State decision makers are most often associated with Alaska's location. Research results which may be valid in more temperate zones do not necessarily hold true in the northern latitudes. The problem of extreme cold, darkness, isolation, cultural diversity, changing economic and social institutes require research efforts which must take arctic realities into consideration if results are to be applicable to Alaskan conditions.

ii. The Legislative Branch

The Legislative Division of Research has been actively interested in increasing the flow of science information to legislators. One project undertaken by the Division involved a compilation and publication of research in progress by State agencies. Another effort involved a survey of resource related research agencies and their activities. Further, a research analyst from this Division serves as staff to the recently formed Ad Hoc Committee on Alaska Resource Research and Development. The goal of this committee, co-chaired

by State Representative Terry Gardiner and Fran Ulmer, Director of DPDP, and including public, private and academic membership, is "to study and survey the present practices utilized to determine research funding and research scope and then to recommend feasible means (if any) to better insure a rational determination of priority research endeavors and guarantee the necessary political support."

There has been further evidence of legislative interest in the form of proposed legislation. During the last legislative session an Act was introduced which would establish an Office of Appropriate Technology, to be located in the Governor's Office, Division of Policy Development and Planning.

The purpose of an office of appropriate technology, as stated in HB 516, would be to provide State government with the means to take the leadership in "...developing small scale technologies appropriate to an era of limited resources."

This would be accomplished (citing HB 516) by:

- (1) assisting and advising the Governor, the Legislature, and all State departments and agencies in developing and implementing less costly and less energy-intensive technologies of recycling, waste disposal, transportation, agriculture, energy, and building design;
- (2) disseminating information pertaining to appropriate technology;
- (3) as funds are appropriated, making grants of financial assistance to persons engaged in the development and implementation of appropriate technology; and
- (4) assisting persons engaged in the development and implementation of appropriate technology to obtain financial assistance from all available sources.

While not yet acted upon, HB 516 is scheduled for legislative debate during the next session.

IV. Alaska Science Conference

As mentioned above, the recent AAAS Conference dealt with the closely related topic of information exchange. The major problems in this area as perceived by policy makers and scientists (and

some individuals who are filling both these roles) were clearly enunciated by the participants at the Conference. Possible partial solutions were introduced as resolutions for consideration by the membership. (These draft resolutions are attached as Appendix A). The AAAS Executive Committee is now preparing the final wording of the resolutions for submission for membership vote. These resolutions and much conference discussion centered on the possible formation of three organizations - an Alaska Academy of Science, an Alaska Research Council, and/or an Alaska Research Foundation. Further analysis and comparison of these proposals is needed in developing an effective mechanism.

This brief sketch of selected elements of the current situation and activities gives an indication of the relevance and timeliness of the SSET program for Alaska. The work program outlined below is intended to bring together the various efforts and interests now being expressed in this topic, in order to design an effective mechanism for integrating and improving scientific input to policymakers.

Many of the necessary pieces for such a mechanism exist now, albeit in a disjointed array. A clear and simple procedure is needed to bring scientific resources and policy decisions together in an orderly, systematic and coherent fashion.

C. Work Program Tasks

1. Complete the assessment of the existing procedures for use and availability of scientific expertise to decision makers.
2. Delineate those portions of the current system which are most in need of improvement, with particular emphasis on gaps in the existing procedures.
3. Review mechanisms which exist elsewhere, with particular attention to their successes and failures, and their relevance to the Alaska situation.
4. Coordinate with and utilize input from numerous interested individuals from public and private sectors.
5. Analyze alternative approaches to accomplishment of the project objective. Among these alternatives will be current recommendations for establishment of a research council, foundation, and/or Academy of Science.

6. Develop recommendations and implementation strategies for presentation to the Governor and the Legislature regarding actions necessary for accomplishing the project objective.

SCOMM

#9:98

The State of Alaska may hold an estimated \$8.6-billion in surplus revenues by 1985. Required shares of oil and other resource revenue accumulating in the state's new Permanent Fund is expected to reach as high as \$7-million by 1985, while an additional \$2.6-billion balance is projected to accumulate in the state's general fund.

The \$8.6-billion assumes no new dramatic oil discoveries, or the leasing of potentially rich state owned offshore areas, such as the Beaufort Sea (adjacent to Prudhoe Bay).

Alaska faces difficult tasks in handling the growing excess revenues of the general fund in relationship to the state budget, and the growth of government, and also in setting up and managing the Alaska Permanent Fund.

However, it has now become obvious that the Permanent Fund is in itself one of Alaska's richest resources, and one which could have a strong relationship to future development in the state. It is further likely the Alaska Permanent Fund will accumulate so much capital that a significant portion of its investments must go outside the state for investment at "high but safe" returns, while the remainder will be made available through a variety of investment and consumer-loan programs within Alaska. However, serious philosophical issues will be generated around how the fund is developed, who controls the fund, how remote management should be from direct control of elected officials, and fund infringement into domains of banking.

THE ALASKA PERMANENT FUND IN PERSPECTIVE

Unlike many of his counterparts in other states, the Alaska policy maker has a distinct distaste for special funds in government. In 1955 the people of Alaska drafted a modern and highly streamlined state constitution, and one of its hallmarks was a prohibition against dedicated revenues. The new constitution created a highly centralized general fund concept, into which all revenues would flow, and out of which all expenditures would be budgeted. However, the prohibition excluded not only troublesome dedicated funds --funds where the revenue was tied to some particular spending function-- but also broadbased funds for the purpose of investing excess revenues.

The writers of the constitution did not anticipate the rose-colored world of excess revenues, and even after the entry into that charming world in 1969 Alaska policymakers were hesitant to tamper with the old prohibition for fear of creating a hazy and undisciplined line, one which would keep on moving, leading them back into the world of dedicated funds.

In 1976 a constitutional amendment modified the constitutional prohibition to allow a broadbased fund to accumulate (a minimum) of 25% of all incoming oil and other resource revenue from royalties, fees, land rents, and other bonus payments.

The only restriction on the permanent fund was that monies not be spent on the general operations of government. The funds only dedication was to maintain its principal and produce some income. The broadness of the amendment was also linked to another Alaskan "quality" --one of being double cautious not to "practice general law in the constitution."

In enacting the amendment it appears lawmakers did not see the fund as simply a savings account, nor did they see it as a super-development bank. At the point of initiation many lawmakers viewed the constitutional amendment, and the fund, as first simply a means of excluding a certain percentage of excess revenue from the province of normal operational state spending. The alternative structure created was left to the future as to apportionment of concept of the fund between trust fund, development bank, and source of small consumer loans for individual Alaskans.

BEGINNING WORK ON THE PERMANENT FUND

The legislature and executive are now just beginning the task of filling-in where the constitutional amendment left off. The amendment is intentionally broad, including almost anything that preserves the principal and earns some return.

The refined concepts of the permanent fund were left to "general law," and also intentionally subject to the revisions of future legislatures.

The 1977 legislative session will see a number of permanent fund bills introduced, and these bills will frame some of the permanent fund issues. However, action on the permanent fund will be delayed until the 1978 session, with the permanent fund becoming the subject of a complex hearing and public seminar program during the legislative interim. Portions of the interim effort may be on a cooperative effort between the legislative and executive branches (the seminars ??), despite partisan differences. It is also likely that hearings will use complex TV-coverage via-satellite, with two-way communication for citizen participation from even remote locations.

Additionally, the legislature may approve a number of television public affairs productions, along the lines of "60-minutes" in order to project some of the conceptual issues to the public prior to hearings.

LEGISLATION GOES INTO THE HOPPER

Some of the emerging issues surrounding the permanent fund might best be discussed by discussing one of the legislative proposals. On March 3rd, Governor Jay Hammond intorduced HB-298 " . . . relating to management of the Alaska Permanent Fund" On the same day the House Special Committee introduced HB-300 providing for the same, and being very close to the concepts of HB-298 except for asserting legislative prerogatives in fund management.

The governor's bill was the work of the State Investment Advisory Committee, and consulting work of Price Waterhouse & Company (Washington D.C.), and White, Weld & Company, of New York. A great deal of the consulting work appeared to revolve around the "development bank" concept, and the method of operation of other principal funds in the world --ranging from the World Bank to the Alberta Cultural Hertiage Fund.

A "SUPER BANK" IN OVERALL FORM

The governor's HB-298 casts the permanent fund in the form of a "super bank" with a great deal of autonomy from the operations of the governor and the legislature.

The legislation creates an ALASKA PERMANENT FUND CORPORATION, a public corporation of the state, and while the corporation would be

be lodged within the State Department of Revenue, it would have an independent legal existence of its own. The serpateness tends to follow the World Bank pattern, providing an insulation from the political structure insuring loans will be based on sound economic criteria, even though social and many geographic-political factors will be weighed. In contrast the Alberta Fund is operated in a conventional government manner by their equivilant of our Department of Revenue.

The new legislation provides for 50% of all mineral lease rental income, royalty income, and bonus payments go into the permanent fund, an increase of 25% over the base 25% required by the constitutional amendment. It should be noted HB-300, the legislative version of the permanent fund, would provide that 100% of all bonus payments go into the fund. Additionally, it should be noted that oil and gas (and mineral) severance taxes "do-not" go to the permanent fund, but rather to the general fund. Further, due to the wording of the constitutional amendment, and the legislative history of the resolution, it is doubtful if severance taxes can constitutionally ever be put into the fund.

The constitutional resolution was specifically amended in the senate to exclude severance taxes, creating a definitive negative history that the legislature meant to exclude severance taxes, and other taxes, leaving the legislation only the future option of putting non-tax income in the fund. The action was an example of Alaska's caution in dedicating funds, with the lawmakers wishing to be sure a future legislature could not get "carried away" and catch the state in the mire of dedication of revenue.

SUPERBANK PURPOSE --FUDGING TOWARD FLEXIBILITY

While the current legislative forms of proposed management for the permanent fund are cast in the overall mold of "superbank," the goals and purposes fudge considerably towards and mix of "trust for the future" and current consumer benefits.

The purposes clauses of the legislation tends to shy away from any one concept, such as trust, development bank, or consumer bank. The bill's preamble reads: "The purpose . . . is to provide a means of conserving revenues from mineral resources . . . to the benefit of present and future generations of Alaskans. The revenues . . . shall be invested in income earning investments which will provide further benefits to the present and future generations of Alaskans.

The preamble further speaks to the diversification of the Alaskan economy by investments in renewable and non-renewable resources, smoothing cyclical patterns of growth in the Alaskan economy, encouraging participation of private capital, promoting . . . capital for community purposes, and supplementing private investment.

It appears that the State Investment Advisory Committee considered the more definitive possibilities of trust or development bank, and specifically opted to soften the declared purpose of the fund. Alaska is unique in relationship to its proposed permanent fund, because while Alaskans perhaps want a measure of control over their economic destiny --want a measure of development-- they are aware that the great asset of Alaska may be its small population divided into a high margin of excess wealth.

COMPROMISE TRUST/DEVELOPMENT BANK/CONSUMER BANK

The administration and legislative bills both option for a split concept in the permanent fund, probably representative of the multi-faceted view which most originating lawmakers and the public have of the permanent fund.

The legislation provides the fund "must" invest 40-per cent of the permanent fund in investment grade securities, a bone for the trust fund or savings account principle, and insuring a maintenance of income for future generations of Alaskans. Since the interest from the fund goes into the general fund, or at least can or cannot go into the permanent fund at legislative option, the earnings of a steadily growing 40 per cent could stand to back-stop general Alaska government operations at some future point should the government find itself in revenue jeopardy from exhaustion of tax-paying natural resources.

Second, the proposed legislation provides that not more than 30 per cent of the fund should go to provide a reasonable proportion of longer-term investment capital for financing expansion of productive enterprises, for which capital on reasonable terms is not available --hence, 30% development bank.

Third, the fund may go not more than 30 per cent for investment capital needs of community investment projects of municipalities (utilities) and private dwellings --hence, 30% consumer bank. It should be noted that Alaska is already deep into other consumer loan programs, such as the nation's number one student loan program, an extremely broad vets loan program, a number of fisheries loan programs, and others.

TOWARDS A BANK --THE POWER TO "BARROW"

The apportionment of money perhaps allocated a disappointing 30 per cent to development bank operations of the fund, but the pending legislation also confers the power to raise capital and barrow against the assets of the permanent fund --the power to expand the capital base of the development bank portion of the fund. Hence, the fund twists back from pro-trust in the larger 40% allocation of money to pro-superbank, with the legislation likewise conferring the power to grant debt guarantees, in addition to debt, in the case of the 30 per cent development bank portion of the fund.

THE STRUCTURE OF FUND MANAGEMENT

The overall policy board of the fund, called the PERMANENT FUND POLICY BOARD, would consist of the Commissioner's of Revenue and Commerce, and seven other members appointed by the governor. The seven gubernatorial appointments must be Alaska residents and not state employees. Terms would be four years and the issue of legislative confirmation remains a "difference" between the legislature and the executive. Further, members would only be removable for "cause," a familiar feature in boards and commissions of other states, but one foreign to the Alaska system where virtually all appointees serve at the pleasure of the governor. It is possible the policy board may end up serving "at the pleasure," based on the logic that lawmakers want responsibility firmly fixed on the governor, and that any "removal" from the policy board of a multi-billion dollar fund would be bound to attract thorough press scrutiny. The chairman of the policy board would be the President (actual manager) of the corporation (although he would not be a voting member).

The policy board would be charged with the broad policies of investment, with selecting the INVESTMENT COMMITTEE (the next layer of management), relations with the legislature and public, reviewing investments and performance, and providing for reports and audits of the fund. The policy board would adopt a five year plan, revised annually, and do the sectorial analysis of the Alaskan economy in order to guide investments into areas of economic need.

Beneath the policy board would be the PERMANENT FUND INVESTMENT COMMITTEE, consisting of the President (also Chairman of the Policy Board), who is appointed by the policy board and would serve at its pleasure, and four other members serving at the pleasure of the policy board.

The investment committee has sole responsibility for all investments, with the concept being one of "seperation and balance" of powers, with the investment committee not interfering in the overall policy decisions, and leaving that body to handle external political and special interest pressures. In the same vein the policy committee may not interfere in the individual decisions of the investment committee on individual loans, with the principle being insulating that investment committee from the pressures fielded by the policy committee.

Under the two board system the President --the executive manager of the fund-- is the link between the policy board and the investment committee, with the President being non-voting chairman of the policy board and a voting chairman of the investment committee. The concept is also one of fixing responsibility on the executive president.

The two board system points towards a procedure where the investment Committee would receive detailed proposals, and the staff produce a detailed analysis and recommendation free from external pressure.

The superbank management operation would have a great deal of discretion beneath the broad guidelines of the policy board. The staff could probably exercise a great deal of judgement in terms of providing all of the debt on a project, participating together with private capital, obtaining an equity share, or perhaps working with equity in such a way as to support offerings of local securities, in providing guarantees of private capital, and with other authorizing legislation, perhaps participate in an arrangement where interest rates are subsidized (the interest subsidy coming from a legislative appropriation in order to maintain the integrity of the permanent fund).

It should be remembered that the fund probably will be able to: 1) barrow to expand its development bank capital, 2) sell its securities and debt to other mortgage markets to recoup base capital, and 3) make investments in financial intermediaries who may be better able to manage small investments deemed to be too small to be under direct supervision of the permanent fund investment corporation.

The legislation as presently written follows normal development bank philosophy in declaring that the state corporation would never seek to control or manage a venture, regardless of financial condition. However, it is likely through its position the state would probably be aware of trouble on an early basis, and be able to 1) insist on various kinds of audits, 2) offer technical assistance, and 3) insist on timely consulting assistance and consulting management.

CONFLICTS OF INTEREST AND BOARD MAKEUP

The sophisticated superbank structure makes interesting drawing on organizational charts, but poses some serious issues in a state as small as Alaska.

Obviously the control of a multi-billion dollar corporation offers a source of great power, and likewise attracts greed from a multitude of special interests. One has only to look and see who sought to influence the State Investment Committee in their deliberations of the fund --the bankers.

The question will be posed in legislative scrutiny: "Where do we find people with knowledge and expertise to put on the policy board and investment committee who do not already have 'built-in' conflicts?" In larger states we might well find an abundance of people who have garnered excellent financial management experience, but long since departed those "special interest" institutions for academic life, or work in some large and more distant industry, where one might have reason to think the individual did not one day expect to return to their old occupation.

For example, one can expect the Alaska banker to have immediate conflicts over what are "reasonable terms" in the market, or a banker might not have an immediate interest in a project, but his rival is a participant in the package, or perhaps it might be the bankers "friendly rival." The potential for subtle bias on both the policy board and the investment committee is very high. Compounding the problem is the fact in the small Alaska structure it will be difficult to find knowledgeable board members without conflicts, and that same smallness may dictate that bank-employees may have to be prohibited from serving.

Playing with the structure of the superbank is a fascinating mental exercise until the more human issue of "who serves and where do they come from" is considered. Its sort of like a government finding a good director of banking or an insurance commissioner, if they have expertise it is likely they came from banking or insurance, who they are supposed to turn around and regulate. On the flip side of that coin, with political appointments being a precarious occupation, those so chosen likely expect to one day go back to their respective profession. The conflict is one of general institutional bias of both past association and expected future association, all of which stands completely separate from the problems of actual "hard" conflicts within the investment community.

It is possible that legislative interest could at first run strongly towards the superbank double-board structure, but at the end of the game the legislature throw-in the towel and simply opt for a permanent fund as a sub-unit of the Department of Revenue, or as a separate agency.

We must remember that Alaska in general has a love affair with a tight and highly centralized executive, and a phobia generally running against independent boards, commissions, and executive officials. The concept is one of fixing all responsibility with the governor and providing no place for that executive to pass-the-buck. In Alaska the governor is not only the sole elected executive official, but with only a few rare exceptions he has "no" officials, boards, and commissions which do not serve at his "sole pleasure." The centralized system with maximum accountability on the governor has worked well in Alaska and breeches in the system are not easily made.

A PROBLEM OF PUBLIC ACCOUNTABILITY

Another problem in structuring the fund is the accountability of permanent fund managers and policy makers to public officials, and therefore the public. The inter-relation of insulation from political and special interest meddling versus the need for accountability to the Alaska public stockholder is a difficult one.

The governor's proposed HB-298 puts the board on a staggered term appointment by the governor, but with removal only for cause, while the legislative bill requires "legislative confirmation," with removal also only for cause. There is a special set of constitutional problems in Alaska surrounding confirmation, which will be discussed later. However, it appears the governor's bill probably does not satisfy the issue of public accountability, since the policy makers and managers once appointed would not be accountable to the legislature, and only to a limited extent to the executive.

Consultants to the State Investment Advisory Committee recommended an elected Permanent Fund Policy Board as their way of solving accountability, but providing insulation from the legislature and executive (directly accountable to the public). However, a brief look back at Alaska's highly centralized structure (with no other elected administration officials except Lt. Governor), gives indication why this recommendation was not considered and simply would not "fly" in Alaska.

The next step is therefore confirmation of the policy board, providing involvement in the appointive process of both legislature and executive, but again Alaska's tightly-wound constitution presents some unique problems.

The Alaska Constitution grants confirmation power to the legislature for Department heads and certain other enumerated instances, but for years it was felt the legislature could provide by statute further offices to be required for confirmation. A 1975 Alaska Supreme Court decision has given the narrower view, again in line with Alaska's highly centralized executive concept, and there is some doubt as to whether confirmation of policy board members could be required if the corporation is a sub-unit of the Department of Revenue.

It is possible the legislature could set the Alaska Permanent Fund up as an entity in itself, virtually a department with corporate status, and therefore require confirmation of the President, and possibly the policy board. If the unit was set up under Section 26 of the constitution, which provides potential for exception from the straight-line executive accountability of the Alaska system (an appointive board with power of hire-and-fire over the departmental manager), then clearly the board would be available for legislative confirmation.

A third option which may be considered is to leave all policy board members serving at the pleasure of the governor, with or without the element of legislative confirmation. Such an option would make the governor publically accountable for their action in the Alaska tradition, with the protection of public questioning guarding against arbitrary removal of board members. In fact, in this day and age of public investigations, special prosecutors, public interest advocacy groups providing a special kind of public watchfulness, plus the scrutiny of the press, it is highly likely no other special protection and insulation for the fund policy board is needed.

THE WORLD OF THE PERMANENT FUND

All manners of potential can be dreamed up for the permanent fund, especially those portions assigned to a development bank concept or the so-called consumer bank.

First, a word about the consumer bank which will be discussed further in a forthcoming Alaska Series report on the history and evolution of the permanent fund (as a guide to understanding the fund in Alaska). The consumer bank is that portion of the fund which the individual Alaskan, the lone citizen, has some reason to think he might call on one day.

Second, it is that portion of the fund which might participate in funding a community enterprise, perhaps some recreation function, or a unique utility, or some such entity with which the public might identify as a substantial permanent fund benefit reaching them "as a group."

The Alaska consumer bank has a history in the \$900-million bonus money and a variety of legislation which followed setting up loan programs ranging from an extremely liberalized veterans home loan program, a student loan program among the most liberal in the United States, a number of fisheries vessel and enhancement loan programs, to a state Municipal Bond Bank, and others. Many of these programs utilized what was called "mandatory purchase," a feature whereby the loaning program qualified and approved the loan, and the Department of Revenue was required to buy the loan with state excess revenues (revenues from the \$900-million).

It is likely for practical and political reasons that the permanent fund will have to allow for a portion assigned to public community loans, and other consumer loans.

It is possible that the so-called consumer loans might be loaned to an intermediary better able to administer the smaller loans, or that an automatic purchase system be set-up with a certain percentage of the fund assigned for legislated loan programs.

In the category of development bank there appear to exist many potentials, and also many potentials for conflict. The fund can provide a valuable source of total capital, cooperating capital, equity capital, guarantees, and etc. However, how the fund operates will draw both the bouquets and brickbats of both business and banker.

How will the banker feel about equity and participating capital in projects by-passing their banks? How about potential competitors in a field in relationship to a project in which the fund is a participant. For example, Alaska was brewing no beer of its own, all was exported, but when Alaska tried to grant a tax exemption to a potential brewery, the state and the brewery were mired in litigation with competitors selling beer in Alaska for several years.

Obviously the banker and the managers of the permanent fund may differ greatly as to when private capital is, or is not, available, and whether terms are "reasonable."

The fund may provide a valuable source of participating capital for the Native Land Claims Corporations, especially the more viable Village Corporations who might find that the fund is a key source for expanding their capital to the point where the smaller village corporation is viable.

It would appear that the permanent fund will prove an invaluable tool in providing frontier capital in Alaska's sprawling rural areas, where there is an underdeveloped economy in the extreme. However, such zones also represent a risky area of investment, and poses a difficult conceptual point for fund policy concerning acceptable risk (and the rules of investment).

The native corporation became a source of capital for these same underdeveloped areas, but those corporations also have found: 1) they must balance their portfolio with viable urban investments, and 2) that regardless of available capital frontier enterprise in an almost economyless zone is extremely difficult. Simply adding an associated investor in the form of the fund will not change the fact that any business emerging in the high-cost rural zones of Alaska is going to be a high risk operation.

The fund policymakers will have to wrestle with difficult rules of investment, balancing such aspects as broad social, economic, and political profits, against higher risk and loss of profits and capital (on occasion), and perhaps to what degree the higher profit and more secure portion of the fund portfolio --in the trust sector or more profitable urban bank structure-- should be gaged to offset expected loss from the frontier areas.

Both bills as introduced into the legislature currently declare for applicability of prudent-person rule, which could pose difficulties as the fund is applied to frontier loans.

Nevertheless, despite problems of investment in Alaska sprawling rural areas, it is obvious that Alaska now possesses, in native corporation capital and the fund, two extremely valuable economic tools.

Ten years ago in Alaska there essentially were no economic tools, or real hope of development capital, for the underdeveloped rural areas of Alaska and the peoples who live there.

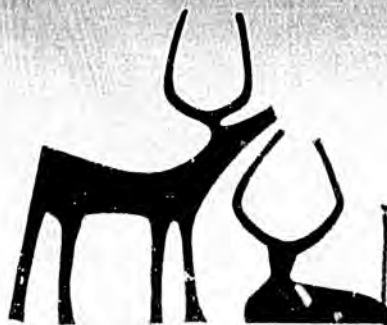
The permanent fund and native corporation also have interesting parallels. The native corporation is a private firm with a unique social base of stockholders. It is not only motivated for profits but also social profits (jobs, business, etc. in rural areas). The fund is government with a probable twist in management and structure towards the private. Government's usual goal is social, but in the case of the fund it takes on the usual private purpose of "profits." The two unique structures may make good partners and understand each other better than many observers think.

FUTURE PERMANENT FUND REPORTS

The permanent fund will become the subject of a regular and ongoing series of Alaska Series Reports. The Series will follow the fund during the legislative interim as special committee actions begin to mold the policy and philosophy of the permanent fund, and in the near future will issue two brief reports. One of those reports will simply provide historical background of the fund, such things as why Alaska avoided a fund in 1969 when it received the \$900-million, and the gradual evolution to the present broadbased fund. The purpose of a report is simply to provide a source for observers to perhaps understand why Alaskans will shape the permanent fund in certain ways. The second report will simply make some comparisons of the Alaska Permanent Fund with other world monetary funds, and also deal with some financial projections dealing with the monetary potentials of the fund.

SCOMM

9:99



Alaska State Council on the Arts

619 Warehouse Avenue, Suite 220

Anchorage, Alaska 99501

(907)279-1558

November 1, 1977

Representative Clark Gruening
940 Tyonek
Anchorage, AK 99501

Dear Representative Gruening:

As you may have read in the newspapers, the statue of our late senator Ernest Gruening was dedicated in the U.S. Capitol on October 5. The ceremony was a moving and memorable one, attended by more than 500 people. I'm enclosing a copy of the program for your interest. There was only one deviation from the scheduled proceedings: Dorothy Gruening was too ill to attend. Her youngest granddaughter, Tiffany, unveiled the statue.

The sculpture was received with enthusiasm by the Gruening family and the friends of the senator. Hunt Gruening, in his remarks, said: "We owe a great debt of gratitude, I believe, to the sculptor, George Anthonisen. George Anthonisen's talented hands fashioned an image of my father so lifelike and has so skillfully recaptured the spirit of Ernest Gruening that those of you who were close to him, as many of you here today were, can almost feel his presence with us today."

This response was gratifying to me and to the other Council members and staff of the Alaska State Council on the Arts. We are pleased that we had the opportunity to work on the project, as directed by the Legislature.

Sincerely,

Jean Mackin
Chairman

JM/ksl

Enclosure

SCOMM

9:100

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

July 12, 1977

SUBJECT: Permanent fund

TO: Representative Clark Gruening, Chairman
House Permanent Fund Committee

FROM: Billy G. Berrier, Director *BGB*
Division of Legal Services

You have requested my comments on the legal implications of the words "permanent" and "income producing" as used in the constitutional amendment authorizing the permanent fund on the legal standards and guides the legislature may wish to establish in legislation.

The relevant provision is Section 15, of Article IX which reads:

"Section 15 ALASKA PERMANENT FUND. At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State of Alaska shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law".

It is clear from the wording of the amendment itself and from the surrounding context that the concept is that a fund be created in which a portion of the mineral revenues of the state would be set aside in order to insure preservation for the future of that portion of the revenue. There can be no legitimate question that the objective is preservation of that portion as capital for the long term use of the state and its people and prevention of uses which are expedient in the short term but which would dissipate the capital of the fund. The paramount consideration must be the probable safety of the capital of the fund to be invested.

The term "permanent" as used three times in the body of the amendment and in the title of the fund would be read in the normal sense of that word since that reading is consistent with the context of the amendment, with the legislative and public discussion of the amendment, and with the understanding that the voters would be presumed to have in approving the amendment.

While the permanent fund is not a trust in the technical legal meaning of the term, the protection of capital required has substantial similarities to the requirements binding upon a trustee. This requirement is commonly referred to as the prudent-man rule. There have been numerous cases on this rule and many commentators have set out reasonable similar statements of the rule. A good statement is found in Scott on Trusts 3rd Ed in Sec. 227 (pages 1805 - 1806) which reads:

"The only general rule which can be laid down as to investments is that the trustee is under a duty to make such investments as a prudent man would make of his own property having primarily in view the preservation of the estate and the amount and regularity of the income to be derived. In various forms this rule has been stated in innumerable cases. It involves three elements, namely care and skill and caution. The trustee must exercise a reasonable degree of care in selecting investments. He must exercise a reasonable degree of skill in making the selection. He must, in addition, exercise the caution which a prudent man would exercise where a primary consideration is the preservation of the funds invested."

This rule would seem to adequately set out the general parameters constitutionally required for permanent fund investments of principal. It would apply at two stages of the process. The legislature would be bound to apply it in exercising the duty to circumscribe and delineate investments required under the limitation in the constitution reading:

"...the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investment. (emphasis added)

The managers of the fund are given no constitutional discretion under this clause. The discretion is lodged exclusively in the legislature; and, if the objectives of the permanent fund are to be attained, investments specifically designated by law as eligible for permanent fund investment must also meet the criteria of having as a primary consideration the preservation of the funds invested.

The legislation, however, would not be expected to detail the permissible investments. It would presumably designate specific investment categories and create a management structure for the fund which would make the specific decisions as to which investments are to be made. Here again, the prudent-man rule would be applicable. In addition to designating specific categories of investment, any legislation should also establish guidelines for the fund management which are consistent with the objective of the fund. The need for this arises because within a class which as a class meets the objectives of preservation of the funds invested, some specific investments would still not be made by a prudent man. Possibly this could be largely avoided by using an ultra restrictive approach to allowable categories of investment but this approach would create or exacerbate other problems.

The primary difficulty with an ultra restrictive approach to allowable investments is that, as a matter of law, the problem of inflation would not be a factor in investment decisions. It can be reasonably assumed that inflation to some degree may be anticipated.

The argument has been made that inflation can realistically be anticipated to occur, that if principal is not increased in an amount to compensate for inflation the real value of the principal will decline even though the nominal value is maintained and that the duty of a prudent investor is to maintain the real value of the principal. Therefore, failure to account for inflation in investment policy violates the prudent-man rule of investment. I have found no authority to support this argument as a legal requirement. Factually, the argument would fall here. The constitutional amendment makes a clear distinction between principal which is permanent and income which is subject to expenditure by the normal appropriation process unless the legislature directs otherwise. At the time the amendment was adopted, inflation had occurred at an extremely high rate in the immediate past so it must be assumed that both the legislature and the public were conscious of inflationary effect. It would therefore, to support this argument, require assuming that investments which would have a capital appreciation, entirely apart from income earned, which is at least equal to inflation are the only permissible investments. This does not seem reasonable.

The argument that inflation must be taken into account does not seem valid here but that does not mean that inflation may not, or even that it should not, be taken into account. There is no reason that legislation establishing the management of the permanent fund and the disposition of fund income should not address this problem directly. I have suggested earlier that the legislation needs to establish standards for investments to avoid having to specify only ultra restrictive investments. The legislation could also require that the possible effects of inflation be a consideration in investment decisions made by the fund managers.

The term "income-producing" as used in the amendment presents serious conceptual difficulties. In context, this could simply be a restatement of the normal duty to make productive investments. In relation to trusts this has been stated:

"It is the duty of a trustee to preserve the trust property and make it productive. It is ordinarily his duty to invest trust funds in such a way as to receive an income without improperly risking the loss of principal." (Scott on Trusts 227 p. 1805)

However, as stated earlier, the permanent fund is not a trust in the technical legal sense. Simply carrying over the trustee's duty could be misleading.

The term "income-producing" is not a term of art and has no fixed legal meaning differing from the conventional meaning of the term. It is possible that a court would hold that the term implies that maximum income consistent with safety of principal must be the exclusive criteria for investment. This would be consistent with trust law but it appears that the amendment contemplates broader considerations as well. It would appear more likely that other considerations, such as the effect particular investments would have on furthering public purposes other than maximization of income, could also be given weight. Some examples of other public purposes are providing jobs, improvement of the Alaskan economy and economic diversification.

It is clear that production of income is a necessary goal of each investment; it is probably that maximization of income consistent with safety of principal must be a major goal, ; but it appears unlikely that a court would hold that this must be the exclusive goal of permanent fund investment policy.

While the investment of the permanent fund differs from investment of state treasury surplus funds in several respects including the specific requirement of income producing investment of permanent fund principal, both have as major goals protection of principal and production of income. It is interesting to note that state treasury surplus fund investment specifies policy goals additional to the primary goals. On this point AS 37.10.075(f) provides:

(f) Investment policy shall be formulated by the commissioner of revenue who shall be advised by a committee appointed by the governor which shall contain representation from the legislature. In formulating investment policy they shall consider maximum income and safety as governed by the prudent-man rule and the benefit to the private and public sectors of the economy in terms of increased housing and commercial credit, stimulated business activity, increased employment, support of the market for state and local bonds, increased public revenue together with the possible inflationary effect of the investment, and (h) and (i) of this section.

The question of what the term means as a matter of law will almost certainly be decided by the courts on a case by case basis. The questions involved are complex and change over time. In reasonably similar instances, the courts have refused to provide a general definition. For example the Alaska court in dealing with the term "capital improvements" as used in the Alaska Constitution said:

"We believe it would be unwise for this court to attempt to provide an abstract definition of "capital improvements." We have concluded that it is beyond human ability to permanently circumscribe with mere words at a given point in time a concept which though limiting in aspect, is otherwise intended to provide a broad, permanent and continuing authority for municipalities to finance present as well as unforeseeable future needs." (Juneau v. Hixon 373 P2d 743 (Alaska 1962))

July 12, 1977

While it is my opinion the courts will be liberal in sustaining the reasonable expectations of the legislature and the fund managers, they are unlikely to allow investments which cannot reasonably be anticipated to produce maximum current income consistent with safety of principal modified by application of other permissible public policy considerations. It appears certain that investments which cannot reasonably be anticipated to produce direct income would not be allowed.

BGB:jpd

BY THE RULES COMMITTEE
BY REQUEST OF THE LEGISLATIVE
COUNCIL INTERIM COMMITTEE
ON THE ALASKA PERMANENT FUND

IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to appropriations of income from the
Alaska permanent fund."

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

* Section 1. AS 37.10.065 is amended by adding a new subsection to read:

(d) Plans for expenditures of income from the permanent fund shall
be submitted to the legislature annually by the governor. The plans
shall provide for apportionment of the income, as the governor considers
appropriate, to the following:

(1) additional contributions to the Alaska permanent fund
established in AS 37.10.065;

(2) additional contributions to the Alaska renewable resource
development fund established in AS 37.11.010;

(3) dividend payments on shares established in AS 37.18.010 -
37.18.110; and

(4) contributions to the following loan funds:

(A) the agricultural loan fund (AS 03.10);

(B) the commercial fishing revolving loan fund (AS 16.-
10.300 - 16.10.370);

(C) the fisheries enhancement loan program (AS 16.10.500
16.10.560);

(D) the senior citizens' housing development fund
(AS 18.100.070);

(E) the veterans' loan program (AS 26.15);

(F) the child care facility revolving loan fund (AS 44.-

1 33.240 - 44.33.275);

2 (G) the water resources revolving loan fund (AS 45.86);

3 (H) the tourism revolving loan fund (AS 45.90);

4 (I) the small business revolving loan fund (AS 45.95).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

July 14, 1977

SUBJECT: Whether contributions to the permanent fund over and above the constitutionally required minimum of 25 percent of the revenues from nonrenewable resources may be withdrawn at a later date, if (1) the additional contribution is comprised of an appropriation from the general fund, or (2) a statute requires deposit of more than the constitutionally required percentage of the revenues from nonrenewable resources.

TO: Billy G. Berrier
Director
Division of Legal Services

FROM: Joseph A. Guthrie
Legislative Counsel

The issue of whether funds deposited in the permanent fund over and above the 25 percent of those revenues required to be deposited by Article IX, Sec. 15, Alaska Constitution may be withdrawn from the fund would seem to depend on whether the following language of Article IX, sec. 15 refers to only the 25 percent minimum required or whether this language refers to all monies deposited in the permanent fund.

"the principal of which shall be used only for those income producing investments specifically designated by law as eligible for permanent fund investments"

It seems clear to me that the inclusion of the words "at least" with reference to the 25 percent minimum make it clear that deposit of funds in addition to the 25 percent of revenues from nonrenewable resources was contemplated by the framers of this section. However, whether only an additional percentage of revenues from nonrenewable resources, or the deposit of funds from other sources as well, were contemplated for inclusion in the permanent fund is unclear. The words "at least" could refer to either possibility.

The existence of this ambiguity seems significant to me because of the fact that the section creating the permanent fund (Article IX, sec. 15) is framed as an exception to a

July 14, 1977

general prohibition against dedicated funds (Article IX, sec. 7). Review of the comments of the Committee on Finance and Taxation at the Constitutional Convention (Committee Proposal/9, December 16, 1955) reveals that dedication was regarded in terms of the earmarking of specified taxes and revenues to a specific purpose. For this reason, one may argue that the words "at least" refer only to the possibility of a deposit of a percentage of those revenues specified by the constitution of greater than 25 percent and that an appropriation to the fund from the general fund would not be encompassed by the language already quoted precluding withdrawals. Under this analysis, of course, deposits from those revenues specified in Article IX, sec. 15 of the Constitution in excess of the constitutionally required minimum could not be withdrawn.

On the other hand, one might argue that all deposits of money into the permanent fund, whatever their source, may not be withdrawn. This interpretation rests on the fact that the language limiting withdrawal already quoted refers to the words "permanent fund" in a manner which suggests that the fund is not solely comprised of dedicated revenues from the sources specified. Specifically, the words "shall be placed in a permanent fund" are used, rather than words expressing the thought that the funds from the specified revenues be preserved as a nest egg.

Conclusion

As stated earlier, it seems clear that deposits of the sources of revenue specified by Article IX, sec. 15, cannot be withdrawn. The fact that Article IX, sec. 15 is framed as an exception to a prohibition on dedication of the proceeds of particular state taxes and license (Article IX, sec. 7), rather than with reference to monies already in the general fund, would seem to argue in favor of an interpretation that funds deposited in the general fund via appropriation bill could be withdrawn. On the other hand, the general tenor of Article IX, sec. 15 would seem to argue that all deposits to the permanent fund, from whatever source, may not be withdrawn.

No cases on point came to light on review of provisions establishing permanent funds in New Mexico, Utah, and Montana.

I will look for a rule of statutory interpretation which might aid in the resolution of the aforementioned ambiguity.

JAG:jpd

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STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

July 14, 1977

SUBJECT: Alaska Inc.
TO: Representative Clark Gruening
FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have requested a revision of SB 348 to separate the "Alaska Inc." concept as embodied in that bill from the permanent fund and making other adjustments as necessary to avoid clear constitutional problems. A draft is attached separating this concept from the permanent fund; but, without taking an entirely new approach which is not compatible with the basic concepts of the bill, clear constitutional problems cannot be avoided.

The essential concept of the bill is novel. It may reasonably be summarized as a mechanism by which a portion of the revenue the state receives from disposition of nonrenewable resources of the state are distributed directly to certain of the people of the state. Eligibility for the distribution is based on durational residency within the state and increased in blocks as successive periods of residency occur for individual recipients.

It is clear from the context of the bill that the durational residency requirement is central to the concept. This is directly stated in the non-severability clause (Sec. 37.18.110) which provides that if the residency requirements are invalid, the entire chapter is invalid. The bill is so structured around this element that the essential concept of the bill cannot be retained if this element is removed.

Durational residence requirements are subject to strict scrutiny under the equal protection clause of the federal and state constitutions (Hicklin v. Orbeck Opn. 1435 Alaska

Representative Clark Gruening
Page 2
July 14, 1977

June 3, 1977). Under strict scrutiny, the law must be struck down unless the state can demonstrate that it is necessary to further a compelling state interest and is the least drastic means available to further that intent. (Dunn v. Blumstein 405 US 330, 31 L. Ed 274 (1972))

The use of strict scrutiny has not always resulted in holding the challenged law unconstitutional. (e.g. Gilbert v. State 526 P2d 1131 (Alaska 1974)) upholding three year requirement for legislative candidacy) but has often had that result (e.g. Shapiro v. Thompson 349 US 618, 22 L.Ed2d 600 (1969) (one year requirement for welfare benefit); State v. Wiley 516 P2d 142 (Alaska 1973) (one year requirement for public employment)).

As pointed out earlier, the "Alaska Inc." concept is novel so that of the legion of cases on right to travel and durational residence requirements none are directly on point. An analysis must be made of the compelling state interest (which apparently is to promote a stable resident population, Sec. 37.18.010), the means used to further that interest and whether the means used are the least drastic means available to further that interest.

What result the court would reach is speculative; but there is certainly a clear and substantial constitutional question which, as noted, cannot be resolved while retaining the essential concept.

BGB:jpd

w.o. 4255

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL
INTERIM COMMITTEE ON THE ALASKA
PERMANENT FUND

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska resident dividend
7 program; amending rules of procedure; and providing for
8 an effective date."

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

10 * Section 1. AS 37 is amended by adding a new chapter to read:

11 CHAPTER 18. ALASKA RESIDENT DIVIDEND PROGRAM.

12 Sec. 37.18.010. FINDINGS AND PURPOSE. (a) The legislature finds
13 that there exists in Alaska a serious problem of population turnover. A
14 substantial portion of the state's population is comprised of individuals
15 who reside in Alaska for only a relatively short period of time. This
16 is especially true in the state's larger cities. This constant turnover
17 in population leads to political, economic, and social instability and
18 is harmful to the state. It is in the public interest for the state to
19 promote a stable resident population.

20 (b) The legislature also finds that the demands on and costs of
21 state government have increased over the past few years at an excessive
22 rate and that this increase has been permitted to occur, at least in
23 part, by a feeling on the part of much of the electorate that those
24 demands and costs do not have a significant economic impact upon them
25 personally. It is in the public interest for the state to promote the
26 involvement of its citizens in the budget-making process by providing
27 them with a more personal and direct stake in the outcome of budget
28 decisions.

29 (c) The legislature finds that establishment of a mechanism for

1 direct distribution to the people of resident dividends, and by which an
2 individual's portion of that distribution will increase the longer he
3 continues to be an Alaska resident, will promote the purposes of en-
4 couraging a stable resident population, and of providing the people with
5 a more personal and direct stake in the outcome of the state's budget
6 decisions.

7 Sec. 37.18.020. ALASKA RESIDENT DIVIDEND PROGRAM. There is estab-
8 lished in the Department of Revenue the Alaska resident dividend pro-
9 gram. The program may be funded by the legislature by appropriations
10 from the general fund.

11 Sec. 37.18.030. AMOUNT OF PAYMENTS. Each of the payments to be
12 distributed under sec. 80 of this chapter shall be equal to the quotient
13 of the amount appropriated under sec. 20 of this chapter divided by the
14 total number of duly credited shares as of December 31 of the year last
15 preceding the year in which the appropriation was made.

16 Sec. 37.18.040. ELIGIBILITY FOR SHARES. (a) As of December 31,
17 1979, each eligible resident of Alaska who makes timely application
18 under sec. 70 of this chapter shall be credited by the commissioner
19 with one share under this chapter for each five-year period since
20 January 1, 1974, in which he has been an eligible resident, as defined
21 in sec. 100 of this chapter, or would have been but for being too young
22 by five years or less to register to vote.

23 (b) Shares are not transferable in any way whatsoever, and no
24 payments may be made, other than as expressly provided in sec. 80 of
25 this chapter, to anyone other than the eligible resident. Shares do not
26 survive the death of their holder, and any alienation is void as against
27 public policy. If a share should be declared or ordered by a court to
28 be alienated in any way, it ceases to exist for purposes of this chapter
29 until and unless it is restored to the person from whom it was alienated

1 Sec. 37.18.050. ELIGIBILITY FOR PAYMENTS. Each eligible resident
2 of Alaska, who has one or more shares under this chapter, and who makes
3 timely application under sec. 70 of this chapter, shall receive one
4 payment for each share to which he is entitled under sec. 40 of this
5 chapter.

6 Sec. 37.18.060. DETERMINATION OF ELIGIBILITY. (a) Any person who
7 applies for a share or for a payment or payments must make proof of
8 eligibility satisfactory to the commissioner. The commissioner may not
9 credit any person with a share or make a payment to any person until and
10 unless proof of that person's eligibility sufficient to satisfy a
11 reasonable person has been made to the commissioner.

12 (b) Proof of eligibility may be made by applicants from school
13 attendance records, state and local tax and licensing records, voter
14 registration records, birth and marriage certificates, selective service
15 records, sworn affidavits from others having knowledge of a person's
16 residence, and other forms of documentary evidence which a reasonable
17 person would rely on in the conduct of his own affairs. An affidavit
18 from an applicant without supporting evidence of eligibility is not
19 satisfactory proof of eligibility.

20 (c) A person may attempt to make proof by waiving his right to
21 privacy and authorizing the commissioner to make a search of any and all
22 local, state, and federal records and any private employment records
23 which may tend to prove his eligibility. The commissioner's making any
24 search of records is entirely discretionary, and he is under no duty to
25 make the search or to exercise reasonable care in making the search, if
26 he does so; the entire risk is upon the applicant.

27 (d) Upon his determination of a person's eligibility for a share
28 or for a payment, the commissioner shall, by first class mail, notify
29 the person of that determination. If the person is determined to be

ineligible, he shall be informed by certified mail, of the following:

(1) the reason for his ineligibility;

(2) that he may file additional proof or file a request for a hearing before the commissioner at which to present proof of his eligibility; and

(3) that his failure to do one or the other within 30 days makes the decision final and unappealable.

(e) If a person does not file additional proof or file a request for a hearing with the commissioner within 30 days after his receipt of the commissioner's notice of the determination, the commissioner's decision becomes final as to the period involved and there can be no further appeal. This time limit is jurisdictional.

(f) If a person files additional proof or files a request for a hearing with the commissioner within 30 days after he receives the commissioner's notice of the determination and, after the additional evidence has been considered or the hearing held, he is still determined to be ineligible, he may appeal to the superior court within 30 days after he receives notice of the final decision. This time limit is jurisdictional, and no suit may be brought after it has elapsed. In considering the appeal, the superior court is to review solely on the record which was before the commissioner and to use the reasonable-basis test on factual matters and its own judgment on the law. The same standard of review shall apply if a further appeal is taken to the supreme court. This requirement is substantive, not procedural.

(g) A person not eligible as of December 31 in any year may establish or reestablish eligibility as of December 31 in subsequent years.

Sec. 37.18.070. APPLICATION PERIOD. (a) In order to receive a payment or to be credited with a share, an eligible person must first

1 apply for one or both on the Alaska net income tax form or on another
2 form provided by the commissioner.

3 (b) The application covers the last preceding period ending on
4 December 31 in which the applicant was eligible for a payment or to be
5 credited with a share or both.

6 (c) The application, together with the proof of eligibility
7 required by sec. 60 of this chapter, for the year or five-year period
8 claimed as of December 31 must be filed with the commissioner or, if
9 mailed, postmarked no later than the following April 15. This filing
10 date is mandatory. Any application not timely filed or postmarked will
11 be returned, and the applicant is not eligible for the year for which
12 the late application was made. This provision does not bar subsequent
13 presentation of additional proof of eligibility so long as the appli-
14 cation was timely filed. A year for which a person would have been
15 eligible but for his failure to file a timely application may sub-
16 sequently be counted toward a five-year period to be eligible for a
17 share under this chapter.

18 Sec. 37.18.080. PAYMENTS. (a) Following the application, pay-
19 ments shall be made as soon as practical after January 1 of the year
20 in which the legislature appropriates money to the program.

21 (b) If the payment is to a person presently incarcerated as
22 punishment for committing a crime, it shall be made to the Department of
23 Health and Social Services to offset the expense to the state of the
24 incarceration.

25 (c) At the request of the person to whom payments are to be
26 distributed and to the extent allowed under federal law, distribution of
27 payments may be deferred or otherwise set aside so as to defer the
28 payment of income taxes. Payments may also be made as tax credits or
29 rebates at the request of the person to whom payments are to be

1 distributed.

2 Sec. 37.18.090. PENALTIES. (a) Any person who wilfully submits
3 false or misleading information to the commissioner in making proof of
4 his eligibility or of the eligibility of another is guilty of a mis-
5 demeanor.

6 (b) In addition to any criminal penalties imposed, any person
7 convicted of violating (a) of this section whose conviction is not
8 reversed is not, and can never become, an eligible resident under this
9 chapter, forfeits any shares with which he may have been credited, and
10 is not, and can never become, eligible to be credited with any shares or
11 to receive any payments.

12 Sec. 37.18.100. DEFINITIONS. In this chapter, unless the context
13 requires otherwise,

14 (1) "commissioner" means the commissioner of revenue or his
15 designee;

16 (2) "department" means the Department of Revenue;

17 (3) "eligible resident" means any person who is registered
18 to vote under the Election Code, is a resident of Alaska under AS
19 15.05.020, filed (or whose parent or parents filed) a resident Alaska
20 income tax return for the year preceding his application, and was
21 physically present in Alaska for more than one-half the period between
22 January 1 and December 31 last preceding his application for one or more
23 payments or for a share, or both, or who, if not so physically present
24 was temporarily absent for reasons of professional, vocational or other
25 special education for which a comparable program was not reasonably
26 available in Alaska, post-secondary education, military service, medical
27 treatment, or service in Congress;

28 (4) "five-year period" includes any cumulation of periods
29 within a span of no more than 10 years which totals five full years;

1 (5) "share" means a right to receive payment from distributions
2 made under this chapter and credited by the department to an eligible
3 resident.

4 Sec. 37.18.110. NONSEVERABILITY. If the residency requirements of
5 this chapter are invalid, the provision is nonseverable, and the entire
6 chapter is invalid and of no force or effect.

7 * Sec. 2. In sec. 1 of this Act, the enactment of AS 37.18.060(e) and (f)
8 has the effect of imposing a jurisdictional limitation on the operation of
9 Appellate Rule 45, Alaska Rules of Court Procedure, in that an appeal under
10 the rule (having to do with appeals from administrative decisions to the
11 superior court) must be brought from the commissioner's decisions as to
12 eligibility within 30 days or the courts will have no jurisdiction to hear
13 it. This is an exercise of the legislature's authority over the jurisdiction
14 of the courts, but because it also effects an implied, narrow amendment to
15 Appellate Rule 45 by imposing this jurisdictional time limit instead of the
16 procedural time limit of the same duration which will continue to apply to
17 other appeals, this section has also been included.

18 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
19 10.070(c).
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