

HJR

80

To J

Date 03/17 Time 9:02

WHILE YOU WERE OUT

M Sandra Springer

of House Judiciary

Phone 3882

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>

RETURNED YOUR CALL

Message RE: HJR 80

3PM / 124

(EJ)

Operator

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

SUMMARY OF ARGUMENTS IN FAVOR OF PROPOSITION NO. 2 THE CONSTITUTIONAL AMENDMENT RELATING TO INTERIM COMMITTEES OF THE LEGISLATURE

The Alaska Constitution states two basic budgetary/expenditure requirements (Article IX, FINANCE AND TAXATION):

SECTION 12. BUDGET. The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. . . .

SECTION 13. EXPENDITURES. No money shall be withdrawn from the treasury except in accordance with appropriations made by law. . . .

The problem is: How can provision be made for necessary changes or revisions to the state budget during the course of the budget year? An expensive solution would be to call the legislature into periodic special sessions or have it meet year-round so that the legislature would always be available to pass laws making the various revisions to the state budget. Another more economical way would be to follow the pattern set by some fourteen other states* and used in Alaska since 1971 - establish an interim committee of the legislature to approve, jointly with the governor, state budget revisions.

This amendment - Proposition No. 2 - would assure the continued use of the established method of budget revision. The following are points in its favor.

STATE OF ALASKA

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LINEAU 99801

BALLOT PROPOSITION NUMBER 2

This is a proposed constitutional amendment to article II, section 11 (interim legislative committees) to allow the legislature, by law, to vest one of its interim committees with the authority to share with the governor the authority to approve or disapprove revisions to the budget. The amendment would also permit the legislature to delegate to the committee its power to appropriate federal or other monies received from non-state sources.

OFFICIAL ELECTION PAMPHLET STATEMENT
IN FAVOR OF PROPOSITION NO. 2
INTERIM LEGISLATIVE COMMITTEE CONSTITUTIONAL AMENDMENT

The Alaska Constitution vests the "legislative power of the State" in the legislature, and Sections 13-16 of Article II spell out the major legislative powers: the authority to enact bills into law and to reconsider and enact bills overriding the governor's veto. Of the 150 to 250 bills enacted into law annually, some 40 to 60 are appropriation bills, including perhaps the most important -- the General Appropriation or Budget Bill.

All appropriation bills when passed by the legislature contain the following elements:

- (1) amounts appropriated
- (2) fund sources from which the amounts are appropriated
- (3) departments or agencies to which appropriated
- (4) purposes for which appropriations are made

Since the four elements are stated for each appropriation within an Act, it is not possible to change any of the elements during the course of the budget year without in effect "amending" the appropriation as passed by the legislature.

Now, then, can provision be made for necessary changes or revisions to the State budget during the course of the budget year? One way would be to call the legislature into periodic special sessions or have it meet year-round so that the legislature would always be available to pass laws accomplishing the various revisions to the State budget. Another way would be to follow the pattern set by some twelve other states -- establish an interim committee of the legislature to approve, jointly with the governor, state budget revisions.

Alaska has, in fact, been operating under the governor/legislative committee approach for approval of budget revisions since 1971. The problem is that the Alaska Constitution, though providing for interim committees of the legislature, is silent on the question: Can the legislature delegate responsibility to one of its committees to jointly approve with the governor revisions to the budget? The proposed constitutional amendment if approved would clearly authorize continued use of the existing budget revision system.

Approval of this amendment is recommended by your legislative committee who urge you to VOTE YES.

--Mike Colletta, State Senator
Chairman, Legislative Budget
and Audit Committee

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
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FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNE 1981

U. S. ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS SUPPORTS INTERIM COMMITTEE CONSTITUTIONAL AMENDMENT CONCEPT

The Advisory Commission on Intergovernmental Relations (ACIR) was created by the Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. ACIR is a permanent national bipartisan body representing the executive and legislative branches of federal, state, and local government and the public.

After selecting specific intergovernmental issues for investigation, ACIR follows a multistep procedure that assures review and comment by representatives of all points of view, all affected levels of government, technical experts, and interested groups. The Commission then debates each issue and formulates its policy position. Commission findings and recommendations are published and draft bills and executive orders developed to assist in implementing ACIR policies.

In a soon-to-be-published Advisory Commission on Intergovernmental Relations report, Model State Legislation, to be distributed prior to the 1979 state legislative sessions, the Commission makes the following recommendation:

"Delegation of Certain Appropriations-Related Functions to an Interim Committee

Delegation of appropriations powers to a designated body of the legislature when the legislature is out of session has been declared unconstitutional in several states on the grounds that it is an unauthorized delegation of the legislative power. Thus, in order to provide for any such delegation, states should consider a constitutional amendment clearly giving the legislature this power. The following language [the language recommended is similar to that proposed in Alaska], which is modified from a section in the Oregon Constitution, sets up an interim committee with broad appropriations-related powers. It provides that the committee shall approve the expenditure of federal funds that become available when the legislature is out of session and appropriate necessary state matching funds for those federal monies."

An earlier Advisory Commission report* made the following recommendations:

"The State Legislature and
Federal Grants

The Commission recommends that state legislatures take much more active roles in state decision-making relating to the receipt and expenditure of federal grants to the states. Specifically, the Commission recommends that legislatures take action to provide for:

- inclusion of anticipated federal grants in appropriation or authorization bills;
- prohibition of receipt or expenditure of federal grants above the amount appropriated without approval of the legislature or its delegate;
- establishment of subprogram allocations, where state discretion is afforded in formula-based categorical and block grants, in order to specify priorities; and
- specification of the basis of fund allocation and recipient eligibility and the conditions of performance where states have a discretionary role in passing funds through to local governments." [emphasis added]

*Summary and Concluding Observations - The Intergovernmental Grant System: An Assessment and Proposed Policies, Washington, D.C., June 1978, page 32.

WHAT IS ACIR?

The Commission is composed of 26 members--nine representing the Federal government, 14 representing state and local government, and three representing the public. The President appoints 20--three private citizens and three Federal executive officials directly and four governors, three state legislators, four mayors, and three elected county officials from states nominated by the National Governors' Conference, the Council of State Governments, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The three Senators are chosen by the President of the Senate and the three Congressmen by the Speaker of the House.

STATE OF ALASKA

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JUNEAU 99801

KELLEY VS. HAMMOND

Chapter 74, SLA 1977, an Act Relating to Revisions of Appropriations provided in part for the following amendment to the Executive Budget Act: (AS 37.07.080)

(n) Appropriations may be revised on approval by the governor and the Legislative Budget and Audit Committee to allow for

- (1) increase of an appropriation item based on additional federal or other program receipts;
- (2) establishment of a new, permanent position not authorized in the appropriated operating budget;
- (3) reallocation between appropriation items.

CH. 74 SLA 1977	<u>PASSED</u> THE SENATE	19 to 0
	WITH 1 EXCUSED	
	<u>PASSED</u> THE HOUSE	32 to 2
	WITH 6 EXCUSED	
	<u>WAS VETOED AND THEN</u>	57 to 0
	<u>THE VETO OVERRIDDEN</u>	
	WITH 3 EXCUSED	

The Legislature filed suit, Kelley vs. Hammond, on January 5, 1977, originally to force executive compliance with prior versions of this appropriation revision language. The Governor claimed that it was unconstitutional for the whole legislature or one of its committees to have a say in the above three matters. The case was partially decided May 30, 1978, by Superior Court Judge Thomas Stewart. Briefly, the Judge ruled that under the Constitution as written the Legislative Committee cannot approve or veto the increase of an appropriation item, cannot approve or veto transfers between appropriations and cannot veto the establishment of permanent positions. But the Judge held that the Constitution does require a legislative appropriation for the expenditure of all funds, including "so-called trust or custodial monies" received from the Federal government (Partial Summary Judgment

attached). The Governor then petitioned the State Supreme Court for immediate review of the "trust or custodial monies" appropriation requirement, but lost the petition (Supreme Court Order attached).

The 1978 Legislature passed Legislative Resolve No. 39, placing before the voters in November the question, shall the Legislature have the authority to establish a "committee to approve jointly with the Governor, as provided by law, state budget revisions, including revisions authorizing the receipt and expenditure of federal and other program receipts as defined by law" (Legislative Resolve No. 39 attached).

LR 39, SLA 1978	<u>PASSED THE SENATE</u>	19 to 0
	WITH 1 EXCUSED	
	<u>PASSED THE HOUSE</u>	31 to 9
	AND <u>PASSED THE HOUSE</u>	
	ON <u>RECONSIDERATION</u>	38 to 2

Since the voters will decide the question of Legislative involvement in the appropriation revision process, both parties have filed to dismiss Kelley vs. Hammond. Procedure for the treatment of unbudgeted federal and other program receipts for fiscal year 1979 has been provided by letter agreement making all such expenditures contingent "only on approval by the Governor and the Legislative Budget and Audit Committee." (letter agreement and Stipulation of Dismissal attached)

1 (4) The prohibition contained in the Alaska Con-
2 stitution, art. IX, §13, against the expenditure of money
3 from the treasury without an appropriation made by law ap-
4 plies to so-called trust or custodial monies received from
5 federal or other sources for specific functions and purposes.
6 and those monies may not be expended without an appropria-
7 tion made by law. To the extent that AS 37.07.080(e) and
8 (h) are to the contrary, they are unconstitutional.

9 DATED: ~~May~~ 30, 1978.

10 Thomas B. Stewart
11 Thomas B. Stewart
12 Presiding Judge

13
14 CERTIFICATION

15 This is to certify that on the above date I mailed
16 a copy of this order to:

17 Joseph R. Henri

18 Rodger W. Pegues

19 Ilona J. ...
Secretary to the Judge

20 Received, April 17th, 1978

21 Joseph R. Henri
22 Attorney for Plaintiffs

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31
32
ALASKA JUDICIAL BRANCH
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE (907) 455-3800

THE SUPREME COURT OF THE STATE OF ALASKA



JAY S. HAMMOND, et al.,
Petitioners,
v.
RAMONA M. KELLEY, et al.,
Respondents.

File No. 3995

ORDER

Upon consideration of the Petition for Review, filed April 24, 1978, and the answer in opposition to the petition, filed May 15, 1978,

By direction of the Court, IT IS ORDERED:

The Petition for Review from part (4) of the Partial Summary Judgment, entered by the Superior Court on May 30, 1978, is denied. There has been an insufficient showing that immediate review will materially advance the ultimate termination of the litigation or that postponement of review until normal appeal will result in injustice because the partial summary judgment, until it becomes final, does not require any change in the present practices of the parties.

DATED this 21st day of June, 1978.

CLERK OF SUPREME COURT

By Connie Staska
Chief Deputy Clerk

cc: Counsel, Justices
Hon. Thomas B. Stewart

Filed and entered... 6-21-78
SUPREME COURT of the State of Alaska
DONNA SPACCO REGUES Clerk
By... Connie Staska Deputy
cuc

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

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JUNEAU 99801

STATE OF ALASKA

THE LEGISLATURE

Source	1978	Legislative Resolve No.
<u>HCSSJR 16</u>		<u>39</u>



Proposing an amendment to the Constitution of the State of Alaska relating to the work of interim committees of the legislature.

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

* Section 1. Article II, sec. 11, Constitution of the State of Alaska is amended to read:

SECTION 11. INTERIM COMMITTEES. There shall be a legislative council, and the legislature may establish other interim committees, including a committee to approve jointly with the governor, as provided by law, state budget revisions, including revisions authorizing the receipt and expenditure of federal and other program receipts as defined by law. The council and other interim committees may meet between legislative sessions. They may perform duties and employ personnel as provided by the legislature. Their members may receive an allowance for expenses while performing their duties.

* Sec. 2. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU 99801

August 7, 1978

Governor Jay S. Hammond
State of Alaska
Pouch A
Juneau, AK 99811

Dear Governor Hammond:

I am happy that the parties were able to mutually dismiss Kelley vs. Hammond, Civil Action No. 77-4, in the Superior Court at Juneau. I think we both agree that the best forum for settlement of the role of the Budget and Audit Committee in budget revision is the November ballot box wherein the people of Alaska will decide whether to amend the State Constitution in accord with Legislative Resolve No. 39.

As to the treatment of unbudgeted federal and other program receipts for fiscal year 1979, this letter serves to record that the Executive and Legislative Branches will continue to honor Stipulation No. 9, entered by the parties on 15 June 1978, which provides:

"A general appropriation of all unforeseen and otherwise unbudgeted federal and other program receipts for fiscal years 1978 and 1979 will be made by the Legislature, but their expenditure shall continue to be made only on approval by the Governor and the legislative Budget and Audit Committee. The Committee will act on proposed revised programs within sixty (60) days of their receipt. If the Committee does not act on the proposal within that time, no Committee approval of it is required."

Your noting your concurrence in the above will ensure an adequate modus vivendi, at least until the Eleventh State Legislature convenes in 1979.

Thanking you for your cooperation, I am

Sincerely yours,

Mike Colletta

MIKE COLLETTA
Chairman, Legislative
Budget and Audit
Committee

CONCUR

Jay S. Hammond
JAY S. HAMMOND

Governor

Date: *Aug 11, 1978*

IN THE SUPERIOR COURT OF THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

SARONA M. KELLEY, et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 JAY S. HAMMOND, et al.,)
)
 Defendants.)

C. A. No. 77-4

STIPULATION OF DISMISSAL

Pursuant to Civil Rule 41(a)(1)(b), Plaintiffs file this Stipulation of Dismissal on the ground that the public interest is best served by dismissing the above-captioned action inasmuch as (1) the parties have entered certain stipulations dated 15 June 1978, and they intend by mutual agreement to observe Paragraph 9 thereof providing for the treatment of unbudgeted federal and other program receipts, and (2) Legislative Resolve No. 39, passed by the 1978 Alaska Legislature, asks the people of Alaska to decide whether to amend the Constitution of the State so as to provide for an interim committee to approve, jointly with the Governor, State budget revisions. Therefore, the parties stipulate to dismissing this case, with prejudice.

DATED at Juneau, Alaska, the 5th day of September, 1978.

Joseph R. Henri

 JOSEPH R. HENRI
 Attorney for Plaintiffs

Avrum M. Gross

 AVRUM M. GROSS
 Attorney General

By: Rodger W. Pegues
Attorney for Defendants

IT IS SO ORDERED; CASE DISMISSED.

SEP 9 1978

Barbara A. ...

Thomas B. Stewart

 Judge of the Superior
 Court

DATED: *September 6, 1978*

JOSEPH R. HENRI
 802 W. THIRD AT DIXON
 JUNEAU, ALASKA 99801
 (907) 586-3888

J-9-78#5

SUMMARY OF ALASKA CONSTITUTIONAL AMENDMENTS

Year of Legislative Action	Title	Legislative Reference	Election Date	Certification Date	Effective Date	Provisions Affected
1966	"Proposing that the Constitution of the State of Alaska be amended to permit the residency requirements for voting for the President and Vice President of the United States to be prescribed by law."	SJR 1	Aug. 23, 1966	Sept. 9, 1966	Oct. 9, 1966	Article V, sec. 1
1968	"Proposing amendments to the Constitution of the State of Alaska providing for the disqualification, suspension, removal from office, retirement and censure of justices and judges, and providing for a Commission on Judicial Qualification."	2d FCCS SCS CSJR 74	Aug. 27, 1968	Sept. 11, 1968	Oct. 11, 1968	Article IV, sec. 10, 13
1969	"Proposing an amendment to the Constitution of the State of Alaska establishing the voting age at 18 years."	HJR 7	Aug. 25, 1970	Sept. 10, 1970	Oct. 10, 1970	Article V, sec. 1
1970	"Proposing that the Constitution of the State of Alaska be amended by changing the name of the secretary of state to lieutenant governor."	SJR 2	Aug. 25, 1970	Sept. 10, 1970	Oct. 10, 1970	Article III, sec. 7-11, 13-15, 25. Article XI, sec. 2-6. Article XIII, sec. 1, 3
1970	"Proposing amendments to the judiciary article of the Alaska Constitution relating to the office of the chief justice of the supreme court."	FCCS SCS CSJR 11	Aug. 25, 1970	Sept. 10, 1970	Oct. 10, 1970	Article IV, sec. 2, 16
1970	"Proposing an amendment to the Constitution of the State of Alaska eliminating the requirement of ability to read or speak English as a prerequisite to voting."	HJR 51 am S	Aug. 25, 1970	Sept. 10, 1970	Oct. 10, 1970	Article V, sec. 1
1971	"Amending the exclusive right of fisheries provision of the Constitution of the State of Alaska."	HCS CSJR 10	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article VIII, sec. 3
1972	"Proposing an amendment to the civil rights section of the Constitution of the State of Alaska."	HJR 102	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article I, sec. 3
1972	"Proposing an amendment to the Constitution of the State of Alaska insuring the individual's right of privacy."	HCS SJR 68	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article I, sec. 22
1972	"Proposing an amendment to the Constitution of the State of Alaska regarding residency requirements for voting in state and local elections."	HJR 120 am S	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article V, sec. 1
1972	"Amending the local government article of the Constitution of the State of Alaska relating to representation of cities or borough assemblies."	SJR 52	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article X, sec. 4
1973	"Proposing an amendment to the amendment and revision section of the Constitution of the State of Alaska."	HJR 20	Aug. 27, 1974	Sept. 12, 1974	Oct. 12, 1974	Article XIII, sec. 1

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Year of Legislative Action	Title	Legislative Reference	Election Date	Certification Date	Effective Date	Provisions Affected
1975	"Amending the Constitution of the State of Alaska to provide for consideration of vetoed bills."	SCS CSHJR 11	Nov. 2, 1976	Nov. 23, 1976	Dec. 23, 1976	Article II, sec. 6, 9
1976	"Proposing an amendment to the Alaska Constitution, establishing an Alaska Permanent Fund for certain proceeds derived from non-renewable resources."	SCS CSSS HJR 39 (Resources) am S	Nov. 2, 1976	Nov. 23, 1976	Feb. 21, 1977	Article IX, sec. 7, 15

An amendment to the Constitution becomes effective 30 days after the date of certification of the election unless otherwise provided in the amendment. (Article XIII, sec. 1)

This summary of Alaska constitutional amendments has been reproduced as it appears in the back of The Constitution of the State of Alaska, as reproduced by the Lieutenant Governor in 1978.

ing to, or returning from legislative sessions are not subject to civil process and are privileged from arrest except for felony or breach of the peace.

Salary and Expenses

SECTION 7. Legislators shall receive annual salaries. They may receive a per diem allowance for expenses while in session and are entitled to travel expenses going to and from sessions. Presiding officers may receive additional compensation.

Regular Sessions

SECTION 8. The legislature shall convene each year on the fourth Monday in January, but the month and day may be changed by law.

(Exercising its authority under this section, the legislature has provided that it shall convene on the second Monday in January, except in years immediately following a gubernatorial election when it shall convene on the third Monday in January; see AS 24.05.090.)

Special Sessions

SECTION 9. Special sessions may be called by the governor or by vote of two-thirds of the legislators. The vote may be conducted by the legislative council or as prescribed by law. At special sessions called by the governor, legislation shall be limited to subjects designated in his proclamation calling the session, to subjects presented by him, and the reconsideration of bills vetoed by him after adjournment of the last regular session. Special sessions are limited to thirty days.

(The amendment of this section was approved by the voters of the state November 2, 1976 and became effective December 23, 1976. This amendment deleted "or" preceding "to subjects" in the third sentence and added "and the reconsideration of bills vetoed by him after adjournment of the last regular session.")

Adjournment

SECTION 10. Neither house may adjourn or recess for longer than three days unless the other concurs. If the two houses cannot agree on the time of adjournment and either house certifies the disagreement to the governor, he may adjourn the legislature.

Interim Committees

SECTION 11. There shall be a legislative council, and the legislature may establish other interim committees. The council and other interim committees may meet between legislative sessions.

They may perform duties and employ personnel as provided by the legislature. Their members may receive an allowance for expenses while performing their duties.

Rules

SECTION 12. The houses of each legislature shall adopt uniform rules of procedure. Each house may choose its officers and employees. Each is the judge of the election and qualifications of its members and may expel a member with the concurrence of two-thirds of its members. Each shall keep a journal of its proceedings. A majority of the membership of each house constitutes a quorum to do business, but a smaller number may adjourn from day to day and may compel attendance of absent members. The legislature shall regulate lobbying.

Form of Bills

SECTION 13. Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

Passage of Bills

SECTION 14. The legislature shall establish the procedure for enactment of bills into law. No bill may become law unless it has passed three readings in each house on three separate days, except that any bill may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it. No bill may become law without an affirmative vote of a majority of the membership of each house. The yeas and nays on final passage shall be entered in the journal.

Veto

SECTION 15. The governor may veto bills passed by the legislature. He may, by veto, strike or reduce items in appropriation bills. He shall return

Introduced: 3/4/80
Referred: Judiciary

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 HOUSE JOINT RESOLUTION NO. 80

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Con-
6 stitution of the State of Alaska
7 relating to joint budget revision
8 power of interim committees of the
9 legislature.

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

11 * Section 1. Article II, sec. 11, Constitution of the State of Alaska is
12 amended to read:

13 SECTION 11. INTERIM COMMITTEES. There shall be a legislative
14 council, and the legislature may establish other interim committees,
15 including a committee to approve jointly with the governor, as provided
16 by law, state budget revisions, including revisions authorizing the
17 receipt and expenditure of federal and other program receipts as defined
18 by law. The council and other interim committees may meet between
19 legislative sessions. They may perform duties and employ personnel as
20 provided by the legislature. Their members may receive an allowance for
21 expenses while performing their duties.

22 * Sec. 2. The amendment proposed by this resolution shall be placed
23 before the voters of the state at the next general election in conformity
24 with art. XIII, sec. 1, Constitution of the State of Alaska, and the election
25 laws of the state.

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