

COMMITTEE REPORT

HOUSE

FURTHER:

Date: 4-13-82

Mr. Speaker:

The Committee on FINANCE has had HB 872

"An Act making a special appropriation to the federal budget impact fund; and providing for an effective date."

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

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title
- new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]

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CHAIRMAN

Funding Information  
General Fund \$20,000,000  
Other Funds -0-  
\$20,000,000

Introduced: 2/16/82  
Referred: Finance

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 HOUSE BILL NO. 872

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the federal  
7 budget impact fund; and providing for an effective  
8 date."

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

10 \* Section 1. The sum of \$20,000,000 is appropriated from the general fund  
11 to the federal budget impact fund.

12 \* Sec. 2. The unexpended and unobligated portion of the appropriation  
13 made by this Act lapses into the general fund June 30, 1983.

14 \* Sec. 3. This Act takes effect on the effective date of an Act providing  
15 for a federal budget impact fund.

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STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

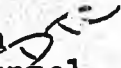
POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

MEMORANDUM

March 29, 1982

SUBJECT:           Constitutionality of committee amendment  
                  (CSHB 876)

TO:                Representative Albert P. Adams  
                  Chairman, House Finance Committee

FROM:             Diane T. Colvin   
                  Legislative Counsel

You have asked us to prepared committee substitutes for HB 872 and HB 876. We have prepared the committee substitutes according to your instructions, with minor changes for technical reasons. We must advise you, however, that the amendment you propose to HB 876 is probably unconstitutional, and, if history is a guide, will almost certainly be vetoed or will not be implemented by the governor. If not implemented, it is our opinion that the legislature would almost certainly lose in court if it chose to challenge the governor's action.

The problem with the proposed amendment is one of separation of powers. The amendment gives the Legislative Budget and Audit Committee veto power over expenditures to be made from the Federal Budget Impact Fund created by the bill. The distribution of the money in the fund, however, is an executive function. By not allowing any money to issue from the fund without the approval of the Budget and Audit Committee, the amendment would attempt to authorize the committee to exercise a non-legislative power; i.e., the disbursal of money appropriated.

The separation of powers problem with legislation of this type has been addressed in detail by this office in at least two previous opinions. (See, memorandum of June 10, 1974 by Frances A. Ulmer and memorandum of August 5, 1975 by Stuart C. Hall).

Representative Albert P. Adams  
Page 2  
March 29, 1982

Even if the proposed amendment could be defended on separation of powers grounds (we do not believe it can be), the proposal would still suffer from a delegation of powers problem. That is, if it could be argued that this was in fact a legislative power and not therefore in violation of the separation of powers doctrine, then that power cannot be delegated by the legislature as a whole to a committee of a few. It would constitute an unconstitutional delegation of powers to 10 members of the legislature.

The legislature has lost at least twice in court on this issue. The adverse superior court decisions are Egan v. Special Legislative Oil-Development Impact Review Committee, C.A. No. 74-236 and Kelley v. Hammond, C.A. No. 77-4. We would be happy to discuss these cases with you in more detail if you wish.

We hope this information will be useful to you in considering the CS for HB 876. Please contact us if you wish further information.

DTC:ljb

# COMMITTEE REPORT

## HOUSE

FURTHER:

(11)

2/16/82

Date: 3/26/82

Mr. Speaker:

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

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MEMBERS SIGNING  
DO PASS

Haugen  
RB. Minworth  
Paul Jones  
Tom Kuras  
Jack Fuller  
Montgomery  
John H. Gode

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Sen. G. H. Moore  
Donnell, Moore

John H. Gode  
CHAIRMAN