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Official Business

Alaska State Legislature

House

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State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: The Honorable Fran Ulmer, Chair
House State Affairs Committee

FROM: Representative Johnny Ellis *JE*

DATE: January 20, 1987

RE: Hearings and Title Change for HJR 1

I would like to request that you please schedule a hearing date for HJR 1 at your earliest convenience.

As you know, this joint resolution is designed to require public input before any change is made in the distribution of income from the permanent fund. To that end, I also request that a committee substitute with the following title change be introduced for consideration on the first day of hearings:

"Proposing an amendment to the Constitution of the State of Alaska relating to income from the permanent fund; and providing that the distribution may be changed only by law approved by vote of the people."

I believe the title change will make the intent of the legislation more clear.

Thank you for your consideration of this matter.

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BALLOT PROPOSITION NO. 2
PERMANENT FUND FROM NON-RENEWABLE RESOURCES REVENUE
Constitutional Amendment

(SCS CSSS House Joint Resolution No. 39 [Resources] am S)

BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR ()
AGAINST ()

VOTE CAST BY MEMBERS OF 9TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas <u>18</u>	Nays <u>1</u>	Absent or Not Voting <u>1</u>
House	(40 members):	Yeas <u>36</u>	Nays <u>1</u>	Absent or Not Voting <u>3</u>

SUMMARY OF PROPOSITION

This proposal, if approved, would amend the Constitution of the State of Alaska by amending Article IX, Section 7 (Dedicated Funds) and adding a new Section to Article IX (Section 15, Alaska Permanent Fund). It would establish a constitutional permanent fund into which at least 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State would be paid. The principal of the fund would be used only for income-producing investments permitted by law and the income from the fund would be deposited in the general fund of the State and be available to be appropriated for expenditure by the State unless otherwise provided by law.

- - Summary prepared by Legislative Affairs Agency
as required by law

STATEMENT IN FAVOR OF PROPOSITION NO. 2

Alaskans Should Strongly Support the Establishment of a "Permanent Fund"

Just as a wise and prudent family sets aside money in a savings account for the future, so should Alaska's state government set aside a rainy day fund to benefit this and future generations of Alaskans. In a "Permanent Fund", you - the voter - can prevent a major source of income from being doled out for day-to-day needs or desires of state government by placing up to 25% of all revenue generated from non-renewable resources such as mineral leases, rentals, royalties and federal mineral revenue sharing payments and bonuses into such a fund.

In recent years the state legislature has been spending \$2.00 for every \$1.00 taken in. Authorities estimate that if the present rate of spending continues, Alaska will require a budget in excess of one billion dollars by or before 1980. Establishment of this "Permanent Fund" will provide for the use of the principal for *income-producing investments only* and provide a businesslike approach of permitting the State to meet countless community needs.

Today, as the result of anticipated oil and gas revenues, Alaska stands on the brink of unprecedented prosperity. No one, but no one, argues that these non-renewable resources will last but for a few decades. Similarly, no one should fail to recognize that in those years ahead the cost of state government will continue to spiral upwards. Now is the time to ask ourselves the question: "When the oil and gas is depleted, where will the funds to feed our giant government come from?" The answer is: the "Permanent Fund".

While it is to be hoped that such a fund may contribute to cutting cost or, at least, holding the line on state spending, its major

value would be that it would require our elected officials to pause, reflect and research any proposal before blindly authorizing expenditure of taxpayers' monies. This would provide needed time for the press and the public to also be aware of the pending project and its merit, instead of being out of public view and hidden in the spending pattern of normal day-to-day operations. Projects invested in with sources from the "Permanent Fund" could help broaden Alaska's narrow based economy and bring more stability to our State.

We would caution the public that while a "Permanent Fund" could provide a tool for accomplishing real needs for community improvements, it will, in the final analysis, not replace our collective responsibility to elect state administrators and legislators who will use the same reason and restraint in spending the public money as they would their own funds.

Establishment of a "Permanent Fund" is an exciting concept and when approved and properly used can serve long and well the best public interest of Alaskans.

VOTE "FOR"
THE ESTABLISHMENT OF A "PERMANENT FUND"

-- Alaska State Chamber of Commerce

STATEMENT AGAINST PROPOSITION NO. 2

The drafters of the Alaska Constitution wisely prohibited the dedication of state moneys based on the experience of other states of our nation.

This is being sold on the basis that it will cut back expenditures of state government. Such is a worthy goal but a permanent fund will not obtain that result. Those who would spend large sums of money are well aware of methods of increasing taxes. In 1975 when the state apparently ran out of money, it imposed a new oil and gas reserve tax amounting to over \$200 million a year. If this amendment passes and large sums go into the fund, the legislature and administration will impose additional taxes. The only restraint that we'll ever have on the growth of the state budget will be to elect fiscally responsible people.

Various federal government revenue sharing programs must be considered. Since the federal government takes such a large share of the taxes, each state must, by necessity, look to revenue sharing to get part of that money back. If Alaska establishes a multi-billion dollar permanent fund, you can be assured that Congress will change revenue sharing formulas so that Alaska will be cut back. Congress will say other states and municipalities are having a very difficult time raising funds to meet the necessities of government while Alaska has a large permanent fund.

It is axiomatic that government should never have more money than it needs to meet its immediate requirements. Alaska ought not to have funds excess to its needs for current operating budgets and an adequate reserve for income fluctuations.

The State of Alaska will not have a surplus until about 1979. At that time we should invest our large sums in the following manner:

1. Build all new capital improvements, i.e. roads, bridges, schools and harbors with cash rather than incurring additional bonded indebtedness.
2. Pay off our existing bonded indebtedness.
3. Increase revenue sharing to local government.
4. Reduce state taxes.

The argument that we should set some money aside from non-renewable income for future generations sounds well and even has merit. I suggest that it would be more meritorious, however, to give future generations adequate school buildings, adequate roads, adequate docks and not give them a huge pile of cash and an onerous bonded indebtedness.

The supporters of this amendment have also dangled in front of the public the idea that the money will be used to make credit available for such things as home mortgages. This is a worthy goal but does not follow from the creation of a permanent fund. The drafters of this amendment had the opportunity to include language that the fund be used for credit. They chose not to include such language. Further, the State can make money available for home mortgages without the need of any permanent fund. A good example is the current Veterans Loan Program.

The public rightly is concerned about very large government expenditures. A permanent fund will not reduce them. Only a fiscally responsible governor and legislature can do that.

-- Tom Fink, C.L.U.
Former Member of Alaska
House of Representatives

BOND PROPOSITIONS

Bond Proposition No. 10 Water Supply and Sewerage Systems Construction Bonds \$31,000,000	66,693	51,528	45-55
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MEASURES AND
BALLOT PROPOSITIONS

Capital Site Selection Ballot Measure Pages

Larson Lake	33,170		1-11
Mount Yenlo	16,169		
Willow	56,219		

	<u>YES</u>	<u>NO</u>	<u>PAGES</u>
Ballot Proposition No. 1 Action on Veto of Bills Constitutional Amendment	71,829	39,980	12-22
Ballot Proposition No. 2 Permanent Fund From Non- Renewable Resource Revenue Constitutional Amendment	75,588	38,518	12-22
Ballot Proposition No. 3 Administration and Review of State Land Disposals Constitutional Amendment	46,652	64,744	12-22
Ballot Proposition No. 4 Direct Financial Aid to Students Constitutional Amendment	54,636	64,211	12-22
Ballot Proposition No. 5 Initiative to Repeal Limited Entry Initiative	44,304	75,125	23-33
Ballot Proposition No. 6 Advisory Vote on Unicameral Legislature Initiative	58,782	55,204	23-33

SHOULD WE CHANGE MANAGEMENT PRACTICES RELATING TO THE PERMANENT FUND?

JAY S. HAMMOND

PROPOSALS TO ALTER THE STATUS QUO OF THE FUND AND ITS DIVIDEND PROGRAM INCLUDE CAPPING DIVIDENDS AND SPENDING THAT PORTION OF EARNINGS NOT REQUIRED FOR DIVIDENDS OR INFLATION PROOFING.

RATHER THAN DISCUSS IN DETAIL THE MERITS OR DEMERITS OF THESE PROPOSALS, I'D LIKE TO SIMPLY URGE EACH OF YOU TO FIRST ANSWER TO YOUR SATISFACTION ONE SIMPLE QUESTION. PLEASE DO SO BEFORE YOU CHANGE PRACTICES WHICH MOST ALASKANS NOW AGREE HAVE YIELDED AN EXCELLENT RETURN ON INVESTMENT; PROVIDED EACH AND EVERY ALASKAN WITH THE ONLY EQUITABLE, MOST DISCERNIBLE BENEFIT DERIVED FROM THEIR OIL WEALTH AND HAS DONE MORE TO STIMULATE OUR ECONOMY THAN ANY OTHER COMPARABLE STATE EXPENDITURE. THAT SIMPLE QUESTION IS: WHO OWNS THE PERMANENT FUND? THE PEOPLE, OR JUST THE POLITICIANS?

TO ME, THE ANSWER IS CLEAR: THE PERMANENT FUND BELONGS TO BOTH. HOWEVER, EVERY ALASKAN OWNS BUT ONE EQUAL SHARE OF WHAT MIGHT BE TERMED "COMMON STOCK" IN IT. NOT EITHER THE GOVERNOR NOR LEGISLATORS HOLD PREFERRED SHARES.

ORIGINALLY, I TRIED TO CLARIFY THE QUESTION OF OWNERSHIP BY INSISTING, THROUGH PAINFUL VETO OF THE FIRST STATUTORILY STRUCTURED SO-CALLED PERMANENT FUND, THAT IT INSTEAD BE PRESENTED TO THE PUBLIC AS A PROPOSED CONSTITUTIONAL AMENDMENT

TO BE VOTED UPON BY ALL ALASKANS. WHEN THE PUBLIC, BY THEIR VOTE, CREATED IT, I HOPED IT WOULD BE EVIDENT TO ALL THAT THIS WAS THE PEOPLE'S INVESTMENT ACCOUNT IN WHICH ALL WOULD HOLD SHARES AND HAVE SAY. WHILE SOME POLITICIANS DO NOT YET SEE THIS CLEARLY, CAN THERE BE ANY QUESTION AS TO HOW THE PUBLIC WOULD ANSWER THE QUESTION OF OWNERSHIP?

OF COURSE, SOME WILL CONTEND THAT THE COLLECTIVE WILL OF THE PEOPLE IS REFLECTED QUITE ADEQUATELY THROUGH THEIR ELECTED REPRESENTATIVES. YET, WHEN IT COMES TO MATTERS SO DIRECTLY IMPACTING THE CITIZEN'S POCKETBOOK, I SUBMIT THAT ABOUT THE ONLY ONES HOLDING THAT VIEW ARE SOME ELECTED OFFICIALS.

AS A CASE IN POINT, RECALL EFFORTS BY THE LEGISLATURE TO DEAL WITH THE THORNY ISSUE OF THEIR OWN PAY ABSENT ADEQUATE CONSULTATION WITH THEIR EMPLOYERS, THE PUBLIC. WHILE, JUST AS WITH THEIR OWN PAY, IT MAY BE PERFECTLY LEGAL FOR THE LEGISLATURE TO CHANGE THE STATUS QUO OF THE PERMANENT FUND, BOTH PROPRIETY AND POLITICAL PRUDENCE SUGGEST THAT BEFORE DOING SO, THE PUBLIC SHOULD BE DIRECTLY CONSULTED.

FAILURE TO DO SO MAY NOT ONLY BE HAZARDOUS TO THE HEALTH, BUT CAN ONLY SERVE TO ERODE FURTHER CONFIDENCE IN, AND DEEPEN SUSPICION OF, THE LEGISLATIVE PROCESS. THIS IS ESPECIALLY TRUE IN THOSE INSTANCES WHERE BOTH THE POLITICAL AND FINANCIAL INTERESTS OF LEGISLATORS ARE PERCEIVED AS CLEARLY AT ODDS WITH THE COLLECTIVE SELF INTERESTS OF THE GENERAL PUBLIC.

THE QUESTION OF DIVIDENDS VS. THE INCOME TAX IS A PRIME EXAMPLE. ABSENT ENLIGHTENING DEBATE WHICH WOULD REVEAL TO THE PUBLIC THAT WHICH IS NOW CLEAR TO VIRTUALLY ALL ECONOMISTS -- THE SUBSTANTIALLY GREATER COLLECTIVE ECONOMIC BENEFITS OF DIVIDENDS AS COMPARED TO THOSE FROM TAX RELIEF -- I SUSPECT THAT SHOULD IT COME DOWN TO THE CRUNCH OF EITHER/OR, MANY LEGISLATORS MIGHT FEEL THEY WOULD INCUR LESS OUTRAGE BY TINKERING WITH DIVIDENDS. CERTAINLY SUCH WOULD HAVE BEEN THE CASE FOUR YEARS AGO BEFORE MANY RECOGNIZED THE BENEFITS OF THE DIVIDEND PROGRAM. YET BY TAPPING DIVIDENDS RATHER THAN FIRST IMPOSING THE TAX, MOST LEGISLATORS WOULD CLEARLY NOT BE ACTING IN THE COLLECTIVE BEST PUBLIC INTEREST, BUT RATHER THEIR OWN.

SINCE SUCH ACTION WOULD ALSO BE IN MY OWN SHORT TERM FINANCIAL INTEREST, IT MAY SEEM IMPRUDENT FOR ME TO POINT THIS OUT. WHILE I'D LIKE YOU TO BELIEVE IT IS MAGNANIMOUS CONCERN FOR THE LITTLE GUY WHICH COMPELS ME TO DO SO, I HAVE TO ADMIT THERE ARE OTHER MOTIVES. CHIEF AMONG THEM IS MY FIRM BELIEF THAT SHOULD WE START DIPPING INTO THE PERMANENT FUND, EITHER DIRECTLY OR INDIRECTLY, BEFORE EXHAUSTING MORE APPROPRIATE MEANS OF BUDGET BALANCING, WE WILL FAIL TO MAKE THE HARD CHOICES NOW WHICH CAN BOOST US ONTO FIRMER FINANCIAL GROUND. AND UNLESS THOSE CHOICES ARE MADE, I'M CONVINCED YOU CAN NOT ONLY KISS GOODBYE TO YOUR DIVIDENDS, BUT HELLO TO A MUCH LARGER RELIANCE ON FUTURE INCOME TAXES THAN OTHERWISE WOULD BE THE CASE.

SIMPLE MATHEMATICS DEMONSTRATE THAT THE FINANCIAL INTERESTS OF MOST LEGISLATORS WOULD BE BETTER SERVED IN THE SHORT TERM THROUGH TAPPING DIVIDENDS, WHILE THOSE OF THE VAST MAJORITY OF ALASKANS WOULD BE LESS INJURED THROUGH REIMPOSITION OF THE INCOME TAX. CONSIDER REIMPOSITION OF A TAX WHICH YIELDED THE SAME AMOUNT AS WOULD A CAP ON THE DIVIDENDS FOR, SAY, A TOTAL OF \$300,000,000. SINCE BUT 19% OF THOSE WHO EARN INCOME IN ALASKA (RESIDENTS AND NON RESIDENTS ALIKE), NOW RECEIVE 52% OF THE BENEFITS FROM TAX RELIEF, THEY WOULD PAY \$156,000,000 OF THE NEW TAX. HOWEVER, SINCE THAT 19% EARNS \$40,000 A YEAR OR MORE (AND I'M SURE INCLUDES MOST LEGISLATORS), THEY CAN BETTER AFFORD IT THAN CAN THE OTHER 81% OF INCOME EARNERS WHO WOULD PAY THE REMAINDER. OF COURSE, BY FAR THE MAJORITY OF ALASKANS: CHILDREN, RETIREES, UNEMPLOYED AND UNDEREMPLOYED WOULD PAY VERY LITTLE OR NOTHING AT ALL. COUPLE THIS WITH THE FACT THAT COSTS OF INCOME TAX REIMPOSITION WOULD BE ALSO BORNE BY THOSE NON-RESIDENTS COMPETING HERE WITH ALASKANS FOR JOBS, AND IT IS CLEARLY EVIDENT THAT INCOME TAX REIMPOSITION WOULD BE FAR LESS PAINFUL TO MOST ALASKANS THAN WOULD DIGGING INTO THEIR DIVIDENDS. BY CONTRAST TO TAX REIMPOSITION, ELIMINATION OF DIVIDENDS WOULD COST EACH AND EVERY ALASKAN THE SAME REGARDLESS OF NEED OR ABILITY TO PAY. MOREOVER, THESE COSTS, UNLIKE THOSE OF INCOME TAXES, WOULD BE PAID FOR BY ALASKANS ONLY. TRANSIENT WORKERS FROM OUTSIDE WOULD "PAY" NOTHING AT ALL. IN LIGHT OF THESE FACTS, I SUSPECT MOST ALASKANS MIGHT COME TO MORE RESENT DIVIDEND REDUCTION THAN TAX IMPOSITION; UNLESS, OF COURSE, LEGISLATORS ACT QUICKLY WHILE THE PUBLIC IS

STILL IN THE DARK. TO INCREASE ENLIGHTENMENT IT SHOULD BE POINTED OUT THAT REDUCTION OR ELIMINATION OF DIVIDENDS WOULD BE PRECISELY THE SAME AS IMPOSING A COMPARABLE HEAD TAX ON ALL (AND ONLY) ALASKANS, REGARDLESS OF INCOME. IT WOULD HAVE EXACTLY THE SAME REGRESSIVE, INEQUITABLE IMPACT AND COULD DAMAGE THE ALASKAN ECONOMY TO A FAR GREATER EXTENT THAN WOULD VIRTUALLY ANY OTHER ATTEMPT TO ACQUIRE COMPARABLE FUNDS THROUGH EITHER CURBS ON EXISTING PROGRAMS OR REVENUE ENHANCEMENTS SUCH AS TAXES OR USER FEES.

AT A TIME WHEN MOST OF YOU AGREE THAT WE MUST NOT ONLY REDUCE COSTS OF GOVERNMENT BUT AS WELL SHIFT SOME OF THE BURDEN FROM JUNEAU TO BACKS OF MUNICIPAL TAXPAYERS, DOES IT REALLY MAKE SENSE TO CLIP THE LEGS OUT FROM UNDER THOSE LOCAL TAXPAYERS BY REDUCING THEIR DIVIDENDS? IN ESSENCE, THE DIVIDEND PROGRAM INCREASED THE TAX BASE ACROSS THE BOARD IN EVERY ALASKAN COMMUNITY BY ITS ANNUAL PER CAPITA VALUE. IN SOME VILLAGES, IT MAY BE THE ONLY TAX BASE FROM WHICH TO DRAW IN ORDER TO OFFSET SOMEWHAT THE REDUCTION OF STATE-FUNDED SERVICES.

MAKE NO MISTAKE, ANY REDUCTION IN DIVIDENDS, WHETHER THROUGH CAPPING OR EROSION THROUGH USE OF FUND EARNINGS WHICH OTHERWISE MIGHT BE REDEPOSITED, HAS THE SAME RELATIVE IMPACT UPON MOST ALASKANS. ACCORDINGLY, FROM THEIR STANDPOINT, A COMPARABLE REVENUE ENGENDERING TAX IS PREFERABLE.

SO, WHAT TO DO?

AGAIN, THE ANSWER SEEMS CLEAR: BEFORE YOU TAMPER AT ALL WITH AN INVESTMENT ACCOUNT WHICH THE PUBLIC CORRECTLY PERCEIVES AS ITS OWN, YOU SHOULD ASK THE PUBLIC'S PERMISSION. SINCE EVERY ALASKAN HOLDS PRECISELY THE SAME SINGLE OWNERSHIP "SHARE," IDEALLY, ALL SHOULD BE PERMITTED TO VOTE THAT SHARE AS THEY SEE FIT, WHEN IT COMES TO EITHER APPROVING OR REJECTING PROPOSALS WHICH AFFECT THAT SHARE'S VALUE. UNFORTUNATELY, SUCH AN ALL-INCLUSIVE "SHAREHOLDER" VOTE IS UNLIKELY SINCE MORE THAN HALF ARE CHILDREN NOT NORMALLY PERMITTED TO VOTE. HOWEVER, TO ASSUME THAT ALL OTHER ALASKANS WOULD BLITHELY CONSENT TO TURN THEIR PROXIES OVER TO BUT 61 SHAREHOLDERS IN JUNEAU WITHOUT EXTENSIVE CONSULTATION SEEMS THE HEIGHT OF POLITICAL FOLLY.

IN LIGHT OF THAT, LET ME URGE YOU IN THE STRONGEST POSSIBLE TERMS TO SUBMIT WHATEVER PROPOSAL YOU MIGHT THINK APPROPRIATE TO THE ELECTORATE FOR APPROVAL BEFORE IMPLEMENTATION. FROM THE UNANIMITY OF SUPPORT FOR THAT SUGGESTION WHICH I HAVE RECEIVED FROM "SHAREHOLDERS" THROUGHOUT ALASKA, I AM CERTAIN YOU CANNOT GO WRONG BY DOING SO. OF COURSE, THE ONLY WAY TO ASSURE SUCH STOCKHOLDER PARTICIPATION IS TO STRUCTURE THAT PUBLIC VOTE INTO THE CONSTITUTION.

MIND YOU, I AM NOT PROPOSING CONSTITUTIONALLY STRUCTURING THE MANNER IN WHICH PERMANENT FUND EARNINGS MUST BE USED; RATHER, SIMPLY THE MECHANICS BY WHICH ANY SIGNIFICANT CHANGE IN THAT MANNER MAY BE UNDERTAKEN.

I CAN UNDERSTAND THOSE WHO DEEM IT QUESTIONABLE TO CONSTITUTIONALLY COMPEL EITHER THE PAYMENT OF DIVIDENDS OR INFLATION PROOFING. THEREFORE, I WOULD SUGGEST THAT THE LANGUAGE OF A PROPOSED CONSTITUTIONAL AMENDMENT SIMPLY READ: "EARNINGS OF THE PERMANENT FUND MAY BE USED FOR THE PAYMENT OF DIVIDENDS, REINVESTMENT INTO THE FUND (INFLATION PROOFING) OR AS OTHERWISE PROVIDED BY LAW RATIFIED BY A MAJORITY OF THOSE REGISTERED TO VOTE.

UNDER THAT LANGUAGE BOTH DIVIDENDS AND INFLATION PROOFING COULD BE MODIFIED OR ELIMINATED WITHOUT A VOTE OF THE PEOPLE. HOWEVER, BEFORE EARNINGS COULD BE USED FOR SOME OTHER PUBLIC PURPOSE, THE PUBLIC THEMSELVES WOULD HAVE THE FINAL SAY AS TO WHETHER THEY DEEMED IT A WORTHY ALTERNATIVE.

SOME WILL COMPLAIN THAT BY REQUIRING A MAJORITY VOTE OF ALL REGISTERED VOTERS, RATHER THAN SIMPLY A MAJORITY OF THOSE VOTING, IT WOULD BE DIFFICULT TO ACCESS PERMANENT FUND EARNINGS FOR OTHER PURPOSES THAN DIVIDENDS OR INFLATION PROOFING. LET ME ASSURE YOU, THEY'RE ABSOLUTELY RIGHT. HOWEVER, RATHER THAN A COMPLAINT THAT SHOULD SERVE AS A COMMENDATION. THAT'S JUST AS IT SHOULD BE. AFTER ALL, ALREADY DENIED A VOTE ARE THE MAJORITY OF STOCKHOLDERS -- CHILDREN. CERTAINLY THE BURDEN OF PROOF SHOULD BE ON THOSE WHO WOULD TAKE THEIR DIVIDENDS FROM THEM FOR SOME OTHER PURPOSE TO CONVINCING MOST ADULTS OF THE WORTH OF THE ACTION. ACTUALLY, EVEN REQUIRING A MAJORITY OF ALL REGISTERED VOTERS

DOES NOT REALLY ASSURE THAT MOST STOCKHOLDERS APPROVE. A MINORITY COULD STILL RENDER APPROVAL; HOWEVER, IT WOULD NECESSARILY BE A MUCH LARGER MINORITY THAN OTHERWISE WOULD BE THE CASE.

OF COURSE, I FIRMLY BELIEVE YOU SHOULD NOT EVEN PROPOSE TO THE PUBLIC ANY CHANGES IN THE PERMANENT FUND PROGRAM UNTIL YOU HAVE ELIMINATED, OR READJUSTED MORE EQUITABLY, THOSE PROGRAMS WHICH HAVE CONVEYED ENORMOUS SELECTIVE BENEFITS -- OR WHAT I CALL "HIDDEN DIVIDENDS" TO SOME ALASKANS AT THE EXPENSE OF ALL ALASKANS.

RECENTLY, ONE SUCH "HIDDEN DIVIDEND" RECEIVED A GREAT DEAL OF PUBLICITY. SINCE IT DRAMATIZES PRECISELY WHAT I AM TALKING ABOUT, I'D LIKE TO UNDERSCORE IT.

NOT LONG AGO ON T.V., IT WAS ANNOUNCED THAT TWO PROMINENT ANCHORAGE MILLIONAIRES WOULD NO LONGER RECEIVE THE FULL MUNICIPAL PROPERTY TAX BREAK ON THEIR HOMES GRANTED THOSE 65 OR OLDER. BOTH THESE GENTLEMEN IN YEARS PAST HAVE BEEN HIGHLY CRITICAL OF THE PERMANENT FUND DIVIDEND; ASSERTING PIOUSLY THAT THOSE MONIES INSTEAD SHOULD GO INTO ROADS OR SCHOOLS OR SOME OTHER MOTHERHOOD PROGRAM. YET, WHILE THEY WERE PERFECTLY WILLING TO TAKE THE LITTLE GUY'S DIVIDEND FOR SUCH NOBLE PURPOSES, CURIOUSLY, NOT ONCE DID I HEAR THEM SUGGEST THE SAME USE FOR THOSE \$20,000 OR SO PER YEAR "HIDDEN DIVIDENDS" THEY WERE RECEIVING BY HAVING THE STATE -- MEANING YOU AND ME --

PAY THEIR MUNICIPAL PROPERTY TAXES FROM OUR OIL WEALTH. APPROPRIATELY, THE LEGISLATURE LAST YEAR REDUCED THOSE HIDDEN DIVIDENDS, AND, IN TURN, STATE GOVERNMENT COSTS, BY PUTTING A CAP OF \$150,000 ON HOUSE VALUES SO TREATED.

THERE REMAINS A NUMBER OF SIMILAR "HIDDEN DIVIDENDS" WHICH SHOULD CERTAINLY BE DEALT WITH BEFORE YOU REDUCE PERMANENT FUND DIVIDENDS BY EITHER A CAP OR THROUGH ERODING THEIR FUTURE VALUE BY SPENDING FUND EARNINGS. AS WELL, A NUMBER OF OTHER ACTIONS COULD BE TAKEN TO SECURE MORE APPROPRIATE MEANS OF FUNDING NECESSARY STATE AND LOCAL GOVERNMENT THAN FROM DOLLARS DERIVED DIRECTLY OR INDIRECTLY FROM OUR CITIZENS' DIVIDEND CHECKS.

HERE ARE BUT A FEW SUCH PROGRAMS. I BELIEVE ALL SHOULD BE ADDRESSED BEFORE INVADING THE PERMANENT FUND OR ITS EARNINGS (WHICH, OF COURSE, ARE IN REALITY BUT ONE AND THE SAME).

1. NUMBER ONE, OF COURSE, IS REIMPOSITION OF THE INCOME TAX.
2. READJUSTMENT OR ELIMINATION OF THE POWER EQUALIZATION PROGRAM WHICH NOW PAYS A SUBSTANTIAL PORTION OF SOME ALASKAN'S POWER BILLS, INCLUDING MY OWN, REGARDLESS OF NEED. AS A CONSEQUENCE, WE HAVE A NUMBER OF WELL-TO-DO PEOPLE RECEIVING ASSISTANCE AND SOME ALMOST DESTITUTE RECEIVING NO AID AT ALL.

3. REDUCTIONS IN MUNICIPAL REVENUE SHARING COULD BE AT LEAST PARTIALLY SUPPLANTED BY BROADENING THE TAX POWERS OF MUNICIPALITIES TO TAKE MORE APPROPRIATE ADVANTAGE OF THEIR DIVIDEND-INDUCED INCREASED TAX BASES. FOR EXAMPLE, THEY MIGHT BE PERMITTED TO IMPOSE SOMETHING LIKE THE OLD SO-CALLED SCHOOL TAX (REALLY AN EMPLOYMENT TAX) ON ALL THOSE EARNING INCOME WITHIN THEIR BOUNDARIES, RESIDENT AND NON-RESIDENT ALIKE. UNDER SUCH A TAX PLAN, BOTH NEED AND EQUITY WOULD BE BETTER ACCOMMODATED. CHILDREN, THE UNEMPLOYED AND RETIRED WOULD RETAIN THEIR FULL DIVIDENDS WHILE TRANSIENTS WOULD AT LEAST LEAVE A LITTLE SOMETHING BEHIND IN THEIR WAKE. I HAVE LITTLE DOUBT BUT THAT SUCH APPROACH WOULD PROVIDE COMMUNITIES WITH FAR MORE REVENUE AT FAR LESS PAIN TO THEIR CITIZENS THAN WOULD REDUCTION OR ELIMINATION OF DIVIDENDS. AFTER ALL, IT'S HIGHLY UNLIKELY THAT MANY DOLLARS DERIVED FROM REDUCED DIVIDENDS WILL BE SENT TO LOCAL POLITICIANS FOR THEIR DISCRETIONARY USE BY STATE LEGISLATORS WHO WILL ASSUREDLY FIND THEIR OWN CRUCIAL NEEDS FOR THOSE FUNDS.

WHAT I AM SAYING, OF COURSE, IS THAT DIVIDEND DOLLARS ARE BY NO MEANS LOST FOR FUNDING THESE GOVERNMENT PROGRAMS TRULY DESIRED BY THE GOVERNED. HOWEVER, NO DOUBT POLITICIANS WILL HAVE TO MAKE A MUCH BETTER CASE THAN THEY HAVE AT TIMES IN THE PAST BEFORE THEY CAN SELL LOCAL TAXPAYERS ON PROGRAMS FOR WHICH THEY WILL PERCEIVE THEMSELVES TO BE PAYING.

SOMEHOW I DON'T FIND A GREAT DEAL WRONG WITH THAT.

4. A FOURTH ITEM WHICH SHOULD BE ADDRESSED ARE ALL THOSE LOAN SUBSIDIES WHICH YIELD TO THE STATE LESS THAN WHAT THOSE LOANED DOLLARS COULD EARN IN THE PERMANENT FUND, THEY SHOULD EITHER BE ELIMINATED OR AT THE VERY LEAST CREDITED AGAINST THE RECIPIENT'S DIVIDEND CHECK. THERE SHOULD BE NO MORE DOUBLE DIPPING. ONLY ONE DIVIDEND TO A CUSTOMER.

5. CERTAINLY YOU SHOULD ASSURE THAT FUTURE RESOURCE DEVELOPMENT CAN AND WILL PAY ITS OWN WAY. THIS MAY REQUIRE IMPOSITION OF APPROPRIATE SEVERANCE OR OTHER TAXES. IN FAIRNESS TO INDUSTRY, THESE TAX SCHEDULES SHOULD BE SET IN PLACE NOW SO THE RULES OF THE GAME ARE KNOWN IN ADVANCE; RATHER THAN TINKERED WITH ENDLESSLY, AS WE DID WITH OIL.

IN THAT REGARD, LET ME URGE YOU TO CAREFULLY ANALYZE EVERY PROSPECTIVE DEVELOPMENT PROPOSAL TO DETERMINE WHETHER OR NOT IT IS ABLE TO CARRY ITS WEIGHT; OR WILL IT SIMPLY BE YET ANOTHER BURDEN ON THE ALREADY STOOPED BACK OF OIL.

CONSIDER, FOR EXAMPLE, EFFORTS TO MAKE ALASKA A MAJOR EXPORTER OF COAL. TO DATE, ALASKAN COAL HAS FOUND IT HARD TO COMPETE WITH OTHER SUPPLIERS. THEREFORE, IMPOSITION OF AN APPROPRIATE SEVERANCE TAX MAY BE VERY DIFFICULT. YET, IF IT CANNOT BE

IMPOSED, DOES IT REALLY MAKE A WHOLE LOT OF SENSE TO TRY TO BOOST OUR PRODUCTION? DOES IT NOT SEEM JUST A LITTLE RIDICULOUS FOR SOME ON ONE HAND TO SUGGEST TURNING THE TAP DOWN ON ONE FORM OF OUR FINITE SUPPLY OF HYDROCARBONS, OIL, FROM WHICH WE STILL GLEAN SEVERAL DOLLARS PER TON, WHILE AT THE SAME TIME URGING INCREASED PRODUCTION OF THOSE SAME HYDROCARBONS IN ANOTHER FORM, COAL, ON WHICH WE IMPOSE A TAX OF ONLY A NICKEL A TON. HOW IN THE WORLD CAN SUCH RESOURCE DEVELOPMENT PAY ITS OWN WAY; ESPECIALLY WHEN THE STATE OF MONTANA CONCLUDED IT TOOK THEM A 30% SEVERANCE TAX TO MAKE COAL PRODUCTION WORTHWHILE?

OTHER MINERALS, SUCH AS GOLD, TIN AND MOLYBDENUM, I BELIEVE, WON'T EVEN PAY THAT NICKEL A TON SEVERANCE TAX. WHILE SOME WILL ARGUE THAT THERE ARE OTHER BENEFITS DERIVED FROM THEIR PRODUCTION, I SUSPECT THOSE MAY BE SHUNTED SELECTIVELY, RATHER THAN COLLECTIVELY, INTO ALASKA'S ECONOMY. I WONDER HOW MUCH FURTHER OIL PRODUCTION ALASKANS WOULD AGITATE FOR IF OIL RENDERED NEITHER LEASE, BONUS, ROYALTY NOR SEVERANCE TAX DOLLARS? CERTAINLY, ABSENT AN EFFECTIVE LOCAL HIRE PROVISION AND NO INCOME TAX TO ASSURE THAT NON-LOCAL HIRES AT LEAST PAY FOR THE PRICE OF ADMISSION, I SUSPECT MOST ALASKANS MIGHT CONCLUDE THAT THE COST OF SUCH DEVELOPMENT EXCEEDED ITS BENEFITS.

LET IT BE CLEAR THAT I AM NOT NECESSARILY ADVOCATING ANY ONE OF THE ABOVE ACTIONS. I'M SIMPLY SAYING THAT FROM THE

STANDPOINT OF FAIRNESS AND COMMON SENSE, IMPLEMENTATION OF ALL SHOULD OCCUR BEFORE TAPPING DIVIDENDS. HOWEVER, IN TURN, BEFORE EVEN ANY OF THESE ADJUSTMENTS ARE MADE, GOVERNMENT COSTS SHOULD BE REDUCED TO THE LOWEST LEVEL DEEMED ACCEPTABLE TO MOST ALASKANS. HOW CAN ONE TELL WHEN THAT LEVEL IS REACHED? IT WILL BE THAT POINT AT WHICH RATHER THAN MAKE YOU PRUNE FURTHER, THE PUBLIC BY VOTE WILL GRANT YOU PERMISSION TO EASE THE PAIN WITH DOLLARS SPUN OFF FROM THEIR PERMANENT FUND.

MEANWHILE, THERE ARE MANY WHO SHARE MY CONCERN THAT ONCE DIPPING INTO THE PERMANENT FUND IS COMMENCED, IT'S BUT A MATTER OF TIME BEFORE THE FUND'S LADLED DRY. CERTAINLY, ONCE THAT FIRST VIOLATION OCCURS BREACHING THE BOUNDS OF ANY FIDELITY, EACH SUBSEQUENT INVASION IS EASIER.

I RECOGNIZE THAT MY PRESCRIPTION FOR ACHIEVING EQUITY AND ADDRESSING OUR FINANCIAL ILLS REQUIRES AT LEAST FORTITUDE AND PERHAPS MAJOR SURGERY. SOME FIND THAT DISMAYING AND HARD TO SWALLOW. AFTER ALL, SO LONG AS ONE CAN GET BY WITH A FISTFUL OF ASPIRIN WHY SUBMIT TO AMPUTATION? BUT MAKE NO MISTAKE, OUR BODIES POLITIC PAST FISCAL EXTREMITIES HAVE GROWN GANGRENOUS. UNLESS TREATED HEROICALLY, THEY WILL CONSUME US. OF COURSE, WE STILL HAVE A FEW ASPIRIN HIDDEN AWAY IN SUCH REPOSITORIES AS THE BUDGET RESERVE AND THE UNDISTRIBUTED EARNINGS OF THE PERMANENT FUND. UNTIL THESE ARE EXHAUSTED, I SUSPECT MANY PUBLIC OFFICIALS WILL RESIST CLIMBING ABOARD THE GURNEY ENROUTE TO MAJOR SURGERY. IF IT BE THE MAJORITY, LET

ME MAKE ONE LAST PLEA: AT THE VERY LEAST, PLEASE INSIST THAT
IN EXCHANGE FOR YOUR VOTE TO EXHAUST CURRENTLY AVAILABLE
ANALGESICS IN THE FORM OF PERMANENT FUND EARNINGS, YOU WILL
INSIST THAT THEREAFTER THE PEOPLE OF ALASKA ARE FULLY
CONSULTED AND PERMITTED TO VOTE BEFORE YOU'D PLAY DOCTOR AND
PRESCRIBE FOR US ALL. AFTER ALL, YOU'RE FAR LESS APT TO GO
WRONG IF YOU TAKE THE TIME TO ASK FOR A SECOND OPINION.

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. JUD.	3-26-87	1:30p.m.
H. JUD.	3-18-87	1:30p.m.

5-0164L
Cook
3/25/87

Original sponsors: Ellis, Brown and Navarre

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 1 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 income from the permanent fund and
8 providing that income distribution may
9 be changed only by law approved by a
10 vote of the people.

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

12 * Section 1. Article IX, sec. 15, Constitution of the State of Alaska
13 is amended to read:

14 SECTION 15. ALASKA PERMANENT FUND. At least twenty-five percent
15 of all mineral lease rentals, royalties, royalty sale proceeds, feder-
16 al mineral revenue sharing payments and bonuses received by the State
17 shall be placed in a permanent fund, the principal of which shall be
18 used only for those income-producing investments specifically desig-
19 nated by law as eligible for permanent fund investments. [ALL INCOME
20 FROM THE PERMANENT FUND SHALL BE DEPOSITED IN THE GENERAL FUND UNLESS
21 OTHERWISE PROVIDED BY LAW.]

22 * Sec. 2. Article IX, sec. 15, Constitution of the State of Alaska is
23 amended by adding new subsections to read:

24 (b) Net income of the permanent fund shall be computed annually
25 as of the last day of the fiscal year in accordance with generally
26 accepted accounting principles, excluding any unrealized gains or
27 losses. Income available for distribution equals twenty-one percent
28 of the net income for the last five fiscal years, including the fiscal
29 year just ended, but may not exceed the net income for the fiscal year

1 just ended plus the balance in the earnings reserve account.

2 (c) At the end of each fiscal year, fifty percent of the income
3 available for distribution determined under (b) of this section shall
4 be distributed as dividends to state residents as provided by law. An
5 amount sufficient to offset the effect of inflation on the principal
6 of the permanent fund during the year, as provided by law, shall be
7 transferred from the net income determined under (b) of this section
8 to the principal of the permanent fund.

9 (d) If, after distributions and transfers under (c) of this
10 section, there is a balance of income available for distribution
11 remaining, it shall be deposited into the earnings reserve account in
12 the Alaska permanent fund. Money in the account may be used to satis-
13 fy the requirements of (c) of this section in subsequent fiscal years.
14 Income from the investment of the earnings reserve account shall be
15 treated as an addition to that account.

16 (e) Notwithstanding Section 14 of Article II and Section 1 of
17 Article XI, the distribution of income from the permanent fund under
18 (b) and (c) of this section for a fiscal year may not be changed
19 except by law referred to a vote at a statewide election. The law may
20 not take effect unless approved by the majority of those voting in
21 that election. Unless otherwise provided in the law, it becomes
22 effective thirty days after the certification of the election returns
23 by the lieutenant governor.

24 * Sec. 3. The amendments proposed by this resolution shall be placed
25 before the voters of the state at the next general election in conformity
26 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
27 tion laws of the state.
28
29

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 25, 1987

SUBJECT: Constitutional amendment regarding
distribution of income from the permanent
fund (CSHJR 1(SA))

TO: Representative John Sund, Chair
Judiciary Committee

FROM: Tamara Brandt Cook *BC*
Director
Division of Legal Services

You have asked several questions regarding CSHJR 1 (SA) .

(1) Since the requirement for voter approval of a law ~~changing the distribution of income from the permanent fund does not conform~~ to usual procedures for enacting law, should the provision in sec. 2 of the resolution contain language establishing a specific exemption from those provisions?

I believe the section as drafted does, in fact, amount to an exemption from the usual methods of enacting law: through adoption by the legislature and submission to the governor or through initiative adopted by the people. However, I agree that the provision would be improved by adding a specific exemption from Article II, section 14 and Article XI, section 1. This could be accomplished by inserting at the beginning of the subsection "Notwithstanding Section 14 of Article II and Section 1 of Article XI, after . . ."

In addition, the committee might wish to consider whether a ~~proposed change in distribution of income~~ should be subject to veto by the governor, as a law would be. If the committee determines that the people ought to be afforded a chance to vote on proposed changes without regard to the wishes of the governor, this could be accomplished by providing in the constitution for the submission of the proposed law to a vote of the people through a resolution, as is done for

proposed constitutional amendments under Article XIII, Section 1.

(2) What problems are created through the use of the January 1, 1987, date in sec. 2 of the resolution?

This provision appears to have the effect of retroactively invalidating legislation that may be enacted between now and the effective date of the constitutional amendment. It is unclear to me whether this would apply only to substantive laws or whether it would also apply to invalidate appropriations of permanent fund income, such as appropriations from the earnings reserve account. This should be clarified. In addition, there is a question as to whether this provision will accomplish its apparent purpose in effectively invalidating legislation enacted after January 1, 1987.

Under Article 1, Section 10 of the United States Constitution states are forbidden to pass any ex post facto law or law impairing the obligation of contracts. While the phrase has been construed to have a much narrower meaning than its literal reading would suggest, there is at least a question created under this federal constitutional requirement when the situation involves a retroactive action impairing the obligation of contracts or affecting a vested right. So, to the extent that the legislation creates vested rights to income from the permanent fund or creates contract obligations on the part of the state, invalidation of that legislation would be subject to challenge under Article 1, Section 10 of the United States Constitution. In any event, the cloud that would hang over potentially invalidated appropriations between adoption of this resolution and the vote of the people would arguably amount to an impermissible impairment of the legislature's power to make appropriations during that period.

(3) What is the meaning of "distribution of income" as it appears in the context of sec. 2 of this resolution?

That section provides in pertinent part:

After January 1, 1987, the legislature may not change the distribution of income from the permanent fund except by law referred to a vote at a statewide election.

Representative Sund
March 25, 1987
Page 3

.It is not clear to me how this would be applied by a court. The phrase seems to be intended to include only the income distribution requirements of AS 37.13.140, AS 37.13.145, and AS 43.23.045(b) (copies attached). However, nothing in the constitutional amendment itself would appear to limit the application of this language to those statutes. It is possible that the language would be construed to apply to all of AS 43.23 (Permanent Fund Dividends), including the detailed statutes relating to application procedures, eligibility for dividends, enforcement, etc. This would severely curtail the ability of the legislature to adjust those statutes to achieve administrative objectives. The language could also be read to include specific appropriations from prior years and to require identical appropriations thereafter, but this is such a ridiculous result that I doubt a court would construe it that way.

The provision needs clarification and it is my recommendation that the specific aspects of statutes currently dealing with income distribution that the legislature desires to have incorporated into the constitution be set out in the amendment, as was done in the original version of this bill.

TBC:mkr
m10/045

Enclosure

Sec. 37.13.140. INCOME.

Net income of the corporation shall be computed annually as of the last day of the fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. Income available for distribution equals 21 percent of the net income of the corporation for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the corporation for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145.

Sec. 37.13.145. DISPOSITION OF INCOME.

At the end of each fiscal year, an amount sufficient to offset the effect of inflation on principal of the Alaska permanent fund during that year, as measured by the change in the calendar year average United States consumer price index for all urban consumers shall be transferred from net income as defined in AS 37.13.140, excluding income on the earnings reserve account in the Alaska permanent fund, to the principal of the Alaska permanent fund for reinvestment. The balance of the income available for distribution under AS 37.13.140 shall be transferred to the earnings reserve account in the Alaska permanent fund. Money in the earnings reserve account shall be invested in investments authorized under AS 37.13.120. Income from the investment of the earnings reserve account shall be treated as an addition to that account.

Sec. 43.23.045. DIVIDEND FUND.

(a) The dividend fund is established as a separate fund in the state treasury. The dividend fund shall be administered by the commissioner and shall be invested by the commissioner in the same manner as provided in AS 37.10.070.

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund 50 percent of the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

(c) ~~Repealed, sec. 24 ch 99 SLA 1985.H~~

FREQUENTLY ASKED QUESTIONS ABOUT HJR 1

Prepared for
The House Judiciary Committee

By
Representative Johnny Ellis
March 18, 1987

Question: WHY SHOULD THE VOTERS OF ALASKA BE ABLE TO GIVE A SECOND OPINION ON A LEGISLATIVE ACTION RELATING TO THE DIVIDEND OR INFLATION PROOFING PROGRAM?

Answer: The Permanent Fund is a special case. It is the savings account for future generations of Alaskans. It was created by the people and any changes affecting the growth and perpetuity of the fund should receive maximum public debate and scrutiny.

-- The Fund was created by public referendum in 1976 when the voters, by a margin of 75,588 to 38,518, changed Article IX of the state Constitution by amending Section 7 (Dedicated Funds) and adding a new Section 15 (Alaska Permanent Fund).

Question: WHAT HAPPENS TO LEGISLATION AFFECTING THE DIVIDEND PROGRAM AND/OR INFLATION PROOFING WHICH PASSES AFTER JANUARY 1, 1987 IF THIS RESOLUTION IS PASSED?

Answer: Legislation changing the distribution of income from the Permanent Fund which passes after January 1, 1987 and which does not contain a provision for referring the law to a vote of the people would be invalid.

Question: HOW DOES PASSAGE OF HJR 1 AFFECT USE OF THE EARNINGS RESERVE ACCOUNT?

Answer: HJR 1 has no effect on the Legislature's power to appropriate E.R.A. funds.

Question: WHAT IS THE TIME-FRAME INVOLVED IN APPROVAL BY A VOTE OF THE PEOPLE?

Answer: Legislation would have to be voted on at a regular election and could become effective as soon as the election is certified. In an off election year, the Legislature could pass a bill requiring a special election. The timing of the special election would be determined by the legislation.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

P.O. BOX K-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

MAR 17 1987

March 16, 1987

The Honorable Johnny Ellis
Alaska State House
P.O. Box V
Juneau, AK 99811

Re: CS HJR 1(St. Aff.)

Dear Representative Ellis:

Your letter to Attorney General Grace Berg Schaible dated March 6, 1987, has been referred to me for response. You have asked our opinion whether CS HJR 1(St. Aff.) is constitutional under the laws of the State of Alaska.

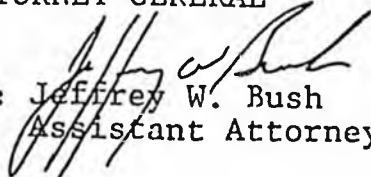
Because the resolution proposes to amend the Constitution of the State of Alaska by adding a new subsection to Art. IX, sec. 15, this proposal must be constitutional; if enacted, it will become a part of the Constitution.

We have also reviewed this proposal in light of existing constitutional provisions, and in our opinion this amendment would not create any ambiguities or conflicts with existing provisions.

We hope this answers your questions. Of course, before this amendment is enacted, the procedures set forth in Art. XIII, sec. 1 of the Constitution must be followed.

Sincerely,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Assistant Attorney General

JWB:lb

cc: Arthur H. Peterson

1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-4031

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 485-3704

ALASKA STATE HOUSE

OFFICE OF MAJORITY WHIP



CO-CHAIR
HEALTH, EDUCATION & SOCIAL SERVICES

LABOR & COMMERCE
SUBCOMMITTEE ON FOREIGN TRADE

REPRESENTATIVE JOHNNY ELLIS

March 6, 1987

Grace Berg Schaible
Attorney General
P.O. Box K
Juneau, Alaska 99811

Dear Ms. Schaible,

During a State Affairs Committee hearing on CS HJR 1 (State Affairs), members of the committee expressed some concern about the legality of Section 2. Please prepare an Attorney General's opinion on whether the provisions of Section 2 conflict with the Constitution of the State of Alaska in any way.

The bill is to be heard in the Judiciary Committee soon. I would appreciate your prompt attention to this matter.

Sincerely,

Johnny Ellis
Johnny Ellis

CONSTITUTIONAL AMENDMENT

Section 15. ALASKA PERMANENT FUND. At least twenty-five per cent of all mineral lease rentals, royalties, royalty share proceeds, federal mineral revenue sharing payments and bonuses received by the state shall be placed in a permanent fund [,]. [THE PRINCIPAL OF WHICH SHALL BE USED ONLY FOR THOSE] The fund is established as a trust on behalf of all the residents of the state and its principal shall be invested in accordance with the prudent investor rule in 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.]

MAR 29 1987

John Sund, Chair
P.O. Box V
Juneau, ALASKA 99811

Dear John:

On Wednesday, March 18 at 1:30 p.m. the House Judiciary Committee held a teleconference hearing on HJR 1, relating to the distribution of income from the Permanent Fund. I believe there is going to be a Constitutional amendment requiring ratification by the people before any change can be made in the current distribution system.

I'm of the opinion that the Alaska Permanent Fund was created in 1976, the voters agreed to amend the State Constitution to require that at the least 25% of all state's minerals, royalties, and bonuses be saved than spent. This wealth should be a sustainable, long-term source of income and economic diversification for both present and future generations of our Alaskans.

In 1980 the appropriation was a symbolic \$900 million. In 1981, the legislature approved another appropriation of twice that amount or 1.8 Billion. July 1, 1986 rather than adding new money to the fund, the legislature authorized the transfer of all the fund's 1.26 billion of undistributed income to principle.

I feel that we were doing well in 1981 with the inflation-proofing and the undistributed income account.

If the state stops adding to the principal, the permanent fund will not grow in ~~extra~~ extraordinary growth to date. We should continue to add to the principal in the future, not pull this growth out.

The Oil revenues are on the rise again, there for it's not so important for inflation-proofing.

The people wanted for these earnings and if we don't have any income growth in the permanent fund dividend, the the legislature will keep pulling out our growth income to pay of their debts.

The Alaska Permanent Fund Corporation's functions and goals are to; save a portion of the state's one-time oil growth to benefit

all generations of Alaskans: (2) protect those savings from loss of value; and (3) invest those savings to produce income for uses provided by law. Not to pay of our state legislature debts they've made in the past.

How can we the people trust our trustees with the management of the Alaskans money?

The people use to get 5% of the fisical year income of the dividens, now the state makes this an 5 year average, with 21% of the five year taken out of the peoples yearly dividen, the next thing you know the state will want to take 6% of the 5 year average dividends and 25% for 1988. Why not go back to ~~the~~ 1982? and why not let the fund grow until 2000, at the turn of the 22 century? My vote is no, Leave the permanent funds alone as they are.

Sincerely,

Charles L. Bilbo II

Referred: Judiciary and Finance

Original sponsors: Ellis, Brown and Navarre

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
 2 CS FOR HOUSE JOINT RESOLUTION NO. 1 (State Affairs)
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA
 4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 Proposing an amendment to the Constitu-
 6 tion of the State of Alaska providing
 7 that the distribution of income from the
 8 permanent fund may be changed only by
 9 law approved by a vote of the people.

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

11 * Section 1. Article IX, sec. 15, Constitution of the State of Alaska
12 is amended to read:

13 SECTION 15. ALASKA PERMANENT FUND. At least twenty-five percent
 14 of all mineral lease rentals, royalties, royalty sale proceeds, feder-
 15 al mineral revenue sharing payments and bonuses received by the State
 16 shall be placed in a permanent fund, the principal of which shall be
 17 used only for those income-producing investments specifically desig-
 18 nated by law as eligible for permanent fund investments. Subject to
 19 (b) of this section, all [ALL] income from the permanent fund shall be
 20 deposited in the general fund unless otherwise provided by law.

21 * Sec. 2. Article IX, sec. 15, Constitution of the State of Alaska is
22 amended by adding a new subsection to read:

23 (b) After January 1, 1987, the legislature may not change the
 24 distribution of income from the permanent fund except by law referred
 25 to a vote at a statewide election. The law may not take effect unless
 26 approved by the majority of those voting in that election.

27 * Sec. 3. The amendments proposed by this resolution shall be placed
 28 before the voters of the state at the next general election in conformity
 29 with art. XIII, sec. 1, Constitution of the State of Alaska, and the

*Paying of dividends
inflation
reserves =*

1 election laws of the state.

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/19/87

FURTHER REFERRALS: Judiciary
Finance

DATE: 3-4-87

The State Affairs Committee has considered HJR 1

Proposing an amendment to the Constitution of the State of Alaska relating to income from the permanent fund.

RECOMMENDS:

- replace with CS HJR 1 (SA) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Scott McManus
Jim Jones
David Duley

SIGNING OTHER RECOMMENDATIONS:

Lynn Hiffman Do not Pass
Cliff Davidson (no rec)
Terry Martin Do not Pass

Frank Palmer
 Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____

Bill Version: CS HJR 1

Publish Date: 1/30/87

Revision Date: _____

Agency Affected: Revenue

Title: An Amendment Relating to Income
from PF/Distribution by Vote of People

BRU: _____

Sponsor: Ellis, Brown and Navarre

Components: _____

Requestor: Ellis

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

Prepared By: Royce Weller

Division: Commissioner's Office

Phone: 465-2300

Date: 1/30/87

Approved by Commissioner: *Royce Weller*

Agency: *Hugh Malone FOR*

Date: 1/30/87

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

Senate Secretary

Introduced: 1/19/87
 Referred: State Affairs, Judiciary
 and Finance

BY ELLIS, BROWN
 AND NAVARRE

1 IN THE HOUSE

2

HOUSE JOINT RESOLUTION NO. 1

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

Proposing an amendment to the Constitu-

6

tion of the State of Alaska relating to

7

income from the permanent fund.

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

9 * Section 1. Article IX, sec. 15, Constitution of the State of Alaska
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11 SECTION 15. ALASKA PERMANENT FUND. At least twenty-five percent
 12 of all mineral lease rentals, royalties, royalty sale proceeds, feder-
 13 al mineral revenue sharing payments and bonuses received by the State
 14 shall be placed in a permanent fund, the principal of which shall be
 15 used only for those income-producing investments specifically desig-
 16 nated by law as eligible for permanent fund investments. [ALL INCOME
 17 FROM THE PERMANENT FUND SHALL BE DEPOSITED IN THE GENERAL FUND UNLESS
 18 OTHERWISE PROVIDED BY LAW.]

19 * Sec. 2. Article IX, sec. 15, Constitution of the State of Alaska is
 20 amended by adding new subsections to read:

21 (b) At the end of each fiscal year, fifty percent of the income
 22 earned on the principal of the permanent fund shall be distributed as
 23 dividends to state residents as provided by law. An amount sufficient
 24 to offset the effect of inflation on the principal of the permanent
 25 fund during the year shall be transferred from the balance of the
 26 income to the principal of the permanent fund as provided by law. The
 27 rest of the income shall be deposited into a separate account in the
 28 Alaska permanent fund and shall be available for appropriation.

29 (c) The distribution of income under (b) of this section during

1 a fiscal year may be changed only by law approved by a vote of the
2 people.

3 * Sec. 3. The amendments proposed by this resolution shall be placed
4 before the voters of the state at the next general election in conformity
5 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
6 tion laws of the state.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : _____
Publish Date : _____

Revision Date: HJR #1
Title: Amend. To Constitution: relating to
income from permanent fund.
Sponsor: Ellis, Brown and Navarre
Requestor: Ellis

Agency Affected: Office of the Governor
BRU: Division of Elections
Components: II

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL			2.2			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING			2.2			
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND			2.2			
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

*Costs included cover 2 to 3 additional pages in each Official Election Pamphlet, for printing and typesetting, and costs estimated to cover computer programming requirements for vote (cont.)

Prepared by: Linda Edgeworth

Phone: 465-4611

Division: Elections

Date: 1/28/87

Approved by Commissioner: *Carol P. Kestler*

Date: Jan. 29, 1987

Agency: Office of the Governor / Division of Elections

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR #1

counting purposes. However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be \$51.2.

Under these circumstances the fiscal note would be:

53.4

We can't ignore our obligations to the future

By SEN. JOE JOSEPHSON

The Alaska Permanent Investment Fund is an asset of the people, by the people and for the people. Like a trust or estate, the fund is a device through which wealth can be transferred from generation to generation.

When the fund was established, an underlying moral premise was that since nature took millions of years to deposit oil and gas resources below the surface of the earth, no single generation ought to spend all of that bounty upon itself. Oil and gas resources are finite, and depleting.

Due consideration for our posterity — and simple fairness — demanded a way to transmit wealth, otherwise accessible to a single generation, into a legacy benefitting all the generations to come.

Subsequently, the passage of the dividend program gave a motive, other than fairness and altruism, for Alaskans to maintain support for the fund. The permanent fund enjoys universal support today from a combined constituency



composed of citizens thinking about Alaska's future and citizens who enjoy the dividend.

Fairness, and the fact that we are no wiser than our progeny, lead to another moral premise: Our generation has no right to make long-term decisions about the fund's income that would constrain the ability of successor generations to make different policy choices from time to time.

There is also a practical consideration. We know less about the conditions our descendants will face here than they will know. We should not lay our "dead hand" upon their ability to decide for themselves.

For these reasons proposals to enshrine into the Constitution specific economic policies, including the dividend program and formulas for spending permanent fund earnings, ought to be rejected.

It will be replied that any

constitutional amendment could itself be changed by the people. In reality, any proposal to modify or repeal a constitutional amendment would meet almost insurmountable obstacles. First, it would require the active or tacit cooperation of each legislative committee chair who could claim jurisdiction over the proposal. Second, it would require a favorable two-thirds vote of each house of the legislature. Only then would Alaskans be able to vote directly on the proposal for constitutional change.

The genius of the Alaska Constitution is in its simplicity and brevity. We should learn from the mistakes of older states that encrusted their constitutions — to their regret — with policy details over time. It would be a paradox if the permanent fund, our marvelous expression of one generation's respect for future generations, were to become a vehicle by which one generation could constrain decision and action by future generations.

Besides, our own recent

Our generation has no right to make long-term decisions about the (permanent) fund's income that would constrain the ability of successor generations to make different policy choices from time to time.

"track record" as managers of the Alaska economy does not suggest that we possess any unique wisdom or understanding!

We must also remember that our legacy to future generations is not in the permanent fund alone. Our descendants will want, need and expect to receive an efficient transportation and communications infrastructure and jobs. They will deserve a clean and safe environment, and the blessings afforded by a great system of public education. It would be wrong, and an expression of very

narrow values, to think that we shall have discharged our duty to our progeny by only creating a sound permanent fund.

In this light, proposals to spur development today by new tax concessions or "incentives" would constitute an intergenerational "Permanent Fund" in reverse — a program that takes from tomorrow in favor of the present.

Besides, recent experience suggests that what really drives the rate of oil and gas development in Alaska are world oil and gas price trends, not changes in state

policy. So proposals for "incentives," if passed, would probably reduce the public share without really causing gains in the level of economic activity.

Of course, state government should be concerned about the size of the economic "pie." State government can't solve Alaska's economic doldrums, but it can help, and it should.

But concern about the size of the pie should not obscure the need for concern about how the pie is distributed.

Another lesson of recent experience — including the frustrations over local hire efforts, and the erosion of local business and property ownerships in favor of "outside" control — is that the greatest challenge for us Alaskans is to bake an economic pie that we can sit down and eat ourselves! Creative lawmakers must meet that challenge.

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