

**HB**

**58**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: March 15, 1993

FURTHER REFERRALS:

Date of Committee Action: 2/9/94

The FINANCE Committee considered:

HB 58

HOUSE BILL NO. 58

ADMINISTRATION OF BUDGET RESERVE FUND

"An Act relating to the budget reserve fund established under art. IX, sec. 17, Constitution of the State of Alaska."

**RECOMMENDATIONS:**

be replaced with CS HB 58 (FIN) [ ] the same title  
[x] a new title

[ ] have attached amendments(s)

[ ] do pass

[ ] do not pass

[x] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[x] zero fiscal note Law - Admin

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eileen S. Maclean</i> <sup>Maclean</sup>	x				
<i>Donald Larson</i> <sup>Larson</sup>	x	<i>Mark Hanley</i> <sup>Hanley</sup>		x	
<i>Terry Martin</i> <sup>Martin</sup>	x	<i>Sam Parnell</i> <sup>Parnell</sup>		x	
		<i>Tom Therman</i> <sup>Therman</sup>		x	
		<i>Mike Navarre</i> <sup>Navarre</sup>	x		
		<i>Lay Brown</i> <sup>Brown</sup>	x		
		<i>Paul Grussendorf</i> <sup>Grussendorf</sup>		x	
		<i>Tom Hoff</i> <sup>Hoffman</sup>			x

*Paul Therman* *E. Maclean*  
CO-CHAIRMAN'S SIGNATURE

*Larson*

*Maclean*

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 58 (Fin)

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to the Budget Reserve Fund..." BRL: Finance  
 Component: Finance  
 Sponsor: (H) Finance  
 Requestor: (H) Finance COMPONENT SERIAL NO. 59

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY94) cost: none

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Don Wanie, Director Phone: 465-2240  
 Division: Finance Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usara Date: 2/10/94  
 Agency: Administration

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 58 (FIN)

Revision Date: February 10, 1994  
Title: "An Act relating to the budget reserve fund...  
art. IX, sec. 17 Constitution State of Alaska..."  
Sponsor: House Finance Committee  
Requestor: House Finance Committee

Department Affected: Department of Law  
BRU: Legal Services  
Component: Operations  
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
Please see the attached analysis.

Prepared by: Richard I. Peques, Director Phone: 465-3672  
Division: Administrative Services Division Date: February 10, 1994  
Approved by Commissioner: Bruce M. Botelho, Attorney General  
Agency: Department of Law Date: February 10, 1994

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 58 (FIN)

ANALYSIS CONTINUATION:

This bill amends AS 37.10 to clarify the meaning of the term "amount available for appropriation" as it is used in art. IX, sec. 17 of the Constitution of the State of Alaska. The bill also clarifies the terms "the amount of appropriations for the previous fiscal year" and "the amount of appropriations in the previous calendar year for the previous fiscal year." Last, the bill establishes the repayment schedule to be followed for reimbursements to the budget reserve account from the unreserved, undesignated balance of the general fund to be carried forward as of June 30 of the fiscal year. The changes to the Public Funds Chapter of Title 37 will not have a fiscal impact on the Department of Law. To the extent that disputes arise involving public funds activities the department will use existing resources to handle such disputes, as it has in the past.

CS FOR HOUSE BILL NO. 58(FIN)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the budget reserve fund established under art. IX, sec. 17,  
 2 Constitution of the State of Alaska; and providing for an effective date."

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

4 \* Section 1. AS 37.10 is amended by adding new sections to read:

5 ARTICLE 6. BUDGET RESERVE FUND.

6 Sec. 37.10.410. ADMINISTRATIVE PROCEEDINGS INVOLVING TAXES.

7 (a) The following money received by the state is considered to be received as a result  
 8 of the termination of an administrative proceeding for purposes of applying art. IX,  
 9 sec. 17(a), Constitution of the State of Alaska:

10 (1) past due taxes that are received by the state for each tax year for  
 11 \* which a request for an informal conference under AS 43.05.240(a) is made to the  
 12 Department of Revenue, together with penalties and interest on the taxes;

13 (2) past due taxes that are received by the state after a request for a  
 14 formal hearing under AS 43.05.240(b)(1) is made to the Department of Revenue,

1 together with penalties and interest on the taxes.

2 (b) To the extent that an administrative proceeding involves taxes that are not  
3 due at the time the request for the proceeding was made under AS 43.05.240(a) or  
4 (b)(1), taxes set out in a return not audited by the department at the date of collection,  
5 or taxes collected for a tax year for which the taxpayer did not give notice of appeal  
6 of an assessment made by the department, money received by the state as a result of  
7 the proceeding is not considered to be received as a result of the termination of an  
8 administrative proceeding for purposes of applying art. IX, sec. 17(a), Constitution of  
9 the State of Alaska.

10 Sec. 37.10.420. MONEY AVAILABLE FOR APPROPRIATION. (a) For  
11 purposes of applying art. IX, sec. 17(b), Constitution of the State of Alaska, in  
12 determining the amount available for appropriation in a fiscal year, the legislature shall  
13 include

14 (1) unrestricted revenue accruing to the general fund; and

15 (2) the unreserved and undesignated general fund balance carried  
16 forward from the preceding fiscal year that is not subject to the repayment obligation  
17 imposed by art. IX, sec. 17(d), Constitution of the State of Alaska.

18 (b) If the amount appropriated from the budget reserve fund has not been  
19 repaid under art. IX, sec. 17(d), Constitution of the State of Alaska, the Department  
20 of Administration shall transfer to the budget reserve fund the amount of money  
21 comprising the unreserved or undesignated general fund balance to be carried forward  
22 as of June 30 of the fiscal year, or as much of it as is necessary to complete the  
23 repayment. The transfer shall be made on or before December 16 of the following  
24 fiscal year.

25 (c) In this section, "unrestricted revenue accruing to the general fund" or  
26 "unreserved or undesignated general fund balance carried forward" is money not  
27 restricted by law to a specific use that accrues to the general fund according to  
28 classifications of accounts used in the state accounting system established under  
29 AS 37.05.150 in effect on July 1, 1990.

30 \* Sec. 2. APPLICATION. AS 37.10.410, added by sec. 1 of this Act, applies to taxes that  
31 are received by the state after July 1, 1990, together with penalties and interest on the taxes.

1 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 58

Revision Date: January 28, 1993  
Title: "An Act relating to the budget reserve fund established under art. IX, sec. 17..."  
Sponsor: House Finance  
Requestor: House Finance

Department Affected: Department of Law  
BRU: Oil and Gas Special Projects  
Component: Operations  
COMPONENT SERIAL NO. 0097

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICE:						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division  
Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Phone: 465-3672  
Date: January 28, 1993  
Date: January 28, 1993

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 58

ANALYSIS (Continued):

This bill adds a new section to AS 37.10, which provides that past due taxes and penalties that are the subject of a request for an informal conference under AS 43.05.240(a), and that are received by the state at least six months after the request for the informal conference is made to the Department of Revenue, are to be deposited in the budget reserve fund in accordance with art. IX, sec. 17(a) of the Constitution of the State of Alaska.

The bill has the effect of modifying Attorney General Opinion 92-1, dated April 24, 1992, which held that art. IX, sec. 17(a) did not apply to proceeds of disputes settled at the informal conference stage. Under the bill, proceeds received within six months from the date an informal conference was requested would not be subject to the constitutional budget reserve provision, and proceeds received after six months would be subject to the provision.

There will not be a fiscal impact for the Department of Law, because its duty is to collect the overdue proceeds from oil and gas revenue disputes for deposit into whatever fund is appropriate.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSHB 58 (Jud)

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to the Budget Reserve Fund...." BRU: Finance  
 Component: Finance  
 Sponsor: (H) Finance  
 Requestor: (H) Judiciary COMPONENT SERIAL NO. 59

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

**FUNDING:**

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ none

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Don Wanie, Director Phone: 465-2240  
 Division: Finance Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usara *NBCU* Date: 3/11/93  
 Agency: Department of Administration

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**  
 For further distribution information call the Governor's Legislative Office

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 58(JUD)

Page 2, lines 9 - 18:

Delete all material and insert:

"determining the amount available for appropriation for the current fiscal year, all money that may be withdrawn from the state treasury during that year in accordance with an appropriation under art. IX, sec. 13, of the state constitution shall be included unless the money has already been appropriated during a prior fiscal year and can be withdrawn from the state treasury without further appropriation. For purposes of applying art. IX, sec. 17(d), of the state constitution, in determining the amount available for appropriation in the general fund, only the following money is not included:

- (1) money in funds or accounts designated by law as outside of the general fund;
- (2) money that, by law, may be used only for a specific purpose that precludes placing it in the budget reserve fund; and
- (3) money that has already been appropriated and can be withdrawn from the state treasury without further appropriation."

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 54( ) "N" Version

Page 7, lines 10 - 17:

Delete all material.

Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 54( )<sup>24</sup> Version

Page 7; lines 10 - 17:

Delete all material.

Renumber the following bill sections accordingly.

Page 8; following line 8 :

Insert a bill section to read:

"\* Sec. . AS 47.10.060 is amended by adding a new subsection to read:

(f) For purposes of determining under (a) and (d) of this section whether a minor is amenable to treatment under AS 47.10.010 - 47.10.142,

- (1) the standard of proof is by a preponderance of the evidence; and
- (2) the burden of proof

(A) is on the minor if the minor was 16 or 17 years of age at the time of the alleged commission of the offense and the petition filed under AS 47.10.020 seeking to have the court declare the minor a delinquent is based on the minor's alleged commission of an offense that is an unclassified felony or class A felony and that is a crime against a person as defined in AS 33.30.901; and

(B) is on the state if at least one of the circumstances described in (A) of this paragraph is not present."

Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HCS CSSB 54( ) "N" Version

Page 2, following line 24:

Insert a new bill section to read:

"\* Sec. 2. AS 12.55 is amended by adding a new section to read:

Sec. 12.55.057. EDUCATION OF MINORS CONVICTED AS ADULTS.

The court may order a defendant who is a minor convicted as an adult under AS 47.10.010(e) or after waiver of juvenile jurisdiction under AS 47.10.060(a), who is of school age as that term is defined by AS 14.03.070, and who has neither completed the 12th grade of school nor attained a general equivalency diploma, to be engaged in productive employment under AS 33.30.191(d)(2) by enrolling in a program of remedial education that affords the minor an opportunity to attain an educational level equivalent to the completion of the 12th grade in the public school system, as measured by the general equivalency diploma test."

Renumber the following bill sections accordingly.

*Bill passed in 1988 on  
Const. Budget Reserve Fund*

# MEMORANDUM

State of Alaska  
Office of the Governor  
Division of Policy

TO: Doug Baily  
Attorney General

DATE: May 22, 1990

and Hugh Malone  
Commissioner, Revenue

FROM: *Mary* Mary Halloran  
Director, Policy

PHONE: 465-3568

SUBJECT: SJR 5: Budget Reserve Fund

FILE NO:

The purpose of this memorandum is to establish an administrative record and clarify the provisions of the final version of Senate Joint Resolution Number 5, proposing a constitutional amendment to establish a budget reserve fund. The resolution was approved by the Legislature on May 8, 1990, and will place a proposal to establish a constitutionally-protected Budget Reserve Fund before the voters at the November, 1990 election. (See attached copy of HCS CSSS SJR 5 - Finance, am H.)

You will find little formal legislative history on this proposal, so I thought it prudent to establish some administrative history for the record and to guide further administrative action. The final version of SJR5 was drafted by this Division (Jack Fagnoli and myself) on April 26-29, aided, at various moments, by the Department of Law (Bruce Bothelho, Jim Baldwin, and Jeff Bush), and then put in good drafting form by Tam Cook and Jack Chenowith at the Legal Division of Legislative Affairs on May 1 after the initial draft and accompanying explanation were provided to Representative Kay Brown.

That draft was only slightly modified by subsequent legislative action. The House Finance Committee acted on HJR 66, and converted it from a spending limit/budget reserve fund combination to a budget reserve fund only. That version, read across on May 4, was adopted intact as a House floor amendment to SJR 5 on May 8, and subsequently approved by both bodies. I kept all the internal drafts, and will provide them to the Dept. of Law if you believe it advisable, Doug.

To further examine formal legislative history, if that should be necessary at some point, you need to consider four different joint resolutions under consideration by the legislature this session: SJR 5, HJR 66, HJR 52, and HJR 81. You will find, however, the vast proportion of the testimony on the provisions of the spending limit proposals and little discussion of the budget reserve fund.

A description of SJR5, by subsection, follows.

B 17(a):

"There is established as a separate fund in the State treasury the budget reserve fund." (Page 2, Lines 2-3)

This permanently establishes the Budget Reserve Fund as a separate fund in the State treasury. The Budget Reserve Fund would be constitutionally protected, not subject to statutory changes.

"Except for money deposited into the permanent fund under Section 15 of this article, all money received by the State after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund." (Page 2, Lines 3-11)

All "settlement", "litigation" and "back tax" income received by the State after 7/1/90 pertaining to the mineral sources identified above are to be deposited into the Budget Reserve Fund, except for revenue deposits already constitutionally dedicated to the Permanent Fund. This provision "takes off the table" all windfall income deriving from these non-recurring revenue sources. The language does not cover windfall income from non-mineral revenue sources, such as any litigation proceeds from the Exxon Valdez oil spill, disputed receipts from AHFC, and overdue loan payments to the Student Loan Corporation. The language "administrative proceeding" is meant to cover the Department of Revenue's current attempts to

recover mineral revenues which were not paid in a timely manner and are now in the internal appeal process, the so-called "back taxes." As of April 30, 1990, the total in appeal was slightly over \$3 billion. The underlying purpose is to reduce incentives to immediately spend surplus revenue, and to enhance budget stability by minimizing year-to-year surges in overall spending levels.

**"Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund." (Page 2, Lines 11-13)**

This provision is intended to ensure that a reasonable rate of return is earned on Budget Reserve Fund investments, and that the Fund's balance is not used for subsidized loans.

**"Income of the fund shall be retained in the fund." (Page 2, Line 13)**

This provision makes explicit the retention of Fund earnings within the principal of the Fund.

**"Section 7 of this article does not apply to deposits made to the fund under this subsection." (Page 2, Lines 13-15)**

This language exempts deposits to the Budget Reserve Fund made under subsection (a) of the resolution, including deposits of retained earnings, from the prohibition of dedicated funds contained in Article IX, Section 7, of the Alaska Constitution.

**"Money may be appropriated from the fund only as authorized under (b) or (c) of this section." (Page 2, Lines 15-16)**

Outlays from the Budget Reserve Fund are limited to appropriations made under subsections (b) and (c) of the resolution.

§ 17(b):

"If the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund." (Page 2, Lines 17-19)

If the total amount of money available for appropriation for a fiscal year - - including all revenue sources, such as permanent fund earnings, federal funds and other restricted funds - - is less than the total amount appropriated for the prior fiscal year, an appropriation from the Budget Reserve Fund is allowed.

Since appropriations for annual budgets are generally made prospectively, before actual revenue receipts are known for the fiscal year being budgeted, there is a risk that actual receipts during that year may be greater than anticipated, thus causing some portion of any Budget Reserve Fund appropriation for that year to exceed the "ceiling" of the prior fiscal year's appropriation amount. In such a case, the presumption is that the "excess portion" of the Budget Reserve Fund appropriation is invalid and remains within the Budget Reserve Fund. In practice, what we would expect to happen, is that the Legislature would make contingent appropriations from the Budget Reserve Fund, i.e. appropriations contingent upon the actual revenues received.

"However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year." (Page 2, Lines 19-24)

This provision limits the allowable maximum size of an appropriation from the Budget Reserve Fund. Note, however, that the allowable maximum size is subject to a different limit from the one which triggers the opportunity for such an appropriation. In short, whereas an appropriation can be made whenever revenue for a fiscal year is less than "the amount appropriated for the previous fiscal year" (Page 2, Line 18), the sum of any Budget Reserve Fund

appropriation and other available revenue may not exceed the amount appropriated for the previous fiscal year net of supplemental appropriations for that previous fiscal year. This is the practical effect of the phrase "in the previous calendar year" (Page 2, Line 23).

The phrase "in the previous calendar year" was inserted by the House Finance Committee specifically to preclude strategems whereby a supplemental appropriation to the current fiscal year, e.g., FY 90, could be made in order to increase the allowable size of a Budget Reserve Fund appropriation for the fiscal year being budgeted, e.g., FY 91.

The meaning and intent of the phrase "in the previous calendar year" is clear, if the assumption is made that the Budget Reserve Fund appropriation is being made during a legislative session for the fiscal year whose main budget is being appropriated. If, however, one assumes that the Budget Reserve Fund appropriation is being made as a supplemental appropriation for the current fiscal year (e.g., FY 90), the phrase "in the previous calendar year" can be interpreted to produce a non-sensical result - - e.g., that the sum of FY 90 revenue and an FY 90 supplemental appropriation from the Budget Reserve Fund can not exceed the total amount appropriated during the preceding calendar year for FY 89, which in this case would simply be the amount of the FY 89 supplemental appropriation.

Though this problem of interpretation may exist in the current wording of  $\beta$ (b), it is clear that the intent of the phrase "in the previous calendar year" in Line 23 is solely to preclude the budget strategems discussed earlier, rather than to create a non-sensical result.

$\beta$  17(c):

**"An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature." (Page 2, Lines 25-27)**

The intent of this provision is to allow Budget Reserve Fund appropriations to be made for any reason, regardless of year-to-year fluctuations in revenue or appropriation levels, so long as a strong

legislative consensus or "super-majority" exists in each house of the legislature.

β 17(d):

"If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund." (Page 2, Line 28 - Page 3, Line 2)

The intent of this provision is to ensure that, following any appropriation from the Budget Reserve Fund, the Fund is replenished as quickly as revenue levels allow, out of any fiscal year-end balances (e.g., as identified in the State's Annual Financial Report), whether from one or several fiscal years, and without any appropriations being required. This provision was requested specifically by Governor Cowper.

A potential ambiguity may arise from the use of the word "succeeding" in Line 1 on Page 3, as it may be construed to mean that replenishment of the Budget Reserve Fund does not begin until the end of the first positive-balance fiscal year that "succeeds" the fiscal year for which the Budget Reserve Fund appropriation was made, rather than beginning at the close of the same fiscal year for which the Fund appropriation was made (should a revenue balance materialize by that year's end).

Though this interpretation can be made, the intent of β(d) was not to create such a loophole, but to ensure that replenishment of the Budget Reserve Fund begin as soon as positive balances materialize, and proceed to completion as soon as such balances allow. In this context, the word "succeeding" is intended to refer to the requirement that, if the first positive year-end balance that arises is not sufficient to fully replenish the Budget Reserve Fund for appropriations made out of it, the positive balances of "succeeding" (i.e., successive) fiscal years shall also be used, until replenishment is complete.

Page 7

**"The legislature shall implement this subsection by law."  
(Page 3, Lines 2-3)**

Because a number of provisions in the resolution (including the tracking of appropriations, replenishment of the Budget Reserve Fund, and the determination of positive year-end revenue balances) will require specific implementation procedures, the intent of this provision is to stipulate that clarifying statutory provisions are recognized as necessary and are anticipated.

If you have any questions, or would like additional information, please don't hesitate to contact me or Jack Fagnoli of my staff at 465-3568.

Attachment: HCSCSSS SJR 5 - Finance, am H

HOUSE FINANCE COMMITTEE BRIEFING  
Wednesday, January 13th, 1993

TIME: 1:30 - 3:30 PM (or as necessary)  
1:30 PM is starting time

If you must be absent or must leave:

- let us know when you will return, and if possible, where we can reach you for a vote or quorum; you must be present to vote.

Bill recommendation:

- you must be in attendance during discussion, public hearing or vote in order to sign;
- if you are present, you are expected to sign.

RULES: Quorum, necessary to vote or take any final committee action is six. (A quorum is the majority of the Committee members, not a majority of those present).

If fewer than eleven members are present, motions to amend may be adopted by a majority of those present, but under no condition will the number of votes required for adoption be less than five.

SUBCOMMITTEE:

I. BUDGET SUBCOMMITTEES:

- generally consist of 3 to 7 members;
- membership assigned by Co-chairman.
- Subcommittee Chairman responsible for scheduling Committee hearings. \*see bottom of sheet
- I'll be meeting with subcommittee chairman soon, to go over details.

SPECIAL COMMITTEE:

- Appointed as necessary

LONG TERM FISCAL COMMITTEE:

- Representative Mark Hanley will be chairman
- Final details are being worked out

II. SUBCOMMITTEES ON INDIVIDUAL BILLS:

- generally consist of 3 members but may be as few as 1 or more than 3. Assigned as needed by Co-Chairman.
- Subcommittees may or may not be given specific time frames in which to complete their work and report back to the full House Finance Committee.

\*Time and Location needs to be coordinated through Co-Chairmans office and schedule notification through Chief Clerk's Office.

FINANCE COMMITTEE BILLS:

Introduced by Co-Chairman on behalf of the Finance Committee

FINANCE COMMITTEE SUBSTITUTE BILLS:

- a bill that would combine similar bills or a substitute version of a bill.
- Requesting of Finance Committee Substitute bills

FISCAL NOTES:

See Handout

SCHEDULING OF BILLS BEFORE THE COMMITTEE:

- Time line:
  - First Public Hearing  
5 day notice (scheduled Tuesday - to clerks by office by 5:00PM  
Wednesday)
  - Later Public Hearing
- Procedure for scheduling
  - Written request for bill scheduling

COMMITTEE STAFF:

- Carol Collins and staff
- Mike Greany and staff

APPROPRIATION PROCESS AND GENERAL INFORMATION:

See Handout

MEMBER COMMENTS:

VERSIONS  
of  
the  
Budget Reserve  
Amendment

HM 50

# BALLOT MEASURE NO. 1

## Budget Reserve Constitutional Amendment

[HCS CSSSSJR 5 (Fin) am H]

### BALLOT LANGUAGE

This proposal would create the "Budget Reserve Fund" in the state treasury. Money the state receives from mineral revenue lawsuits or administrative actions would be deposited in the Fund, and invested at competitive rates. The Fund could be used when money available for appropriation in the year is less than the year before, but only to make up the shortfall. The legislature could only appropriate from the Fund for other purposes with a 3/4 vote. At the end of each year, the Fund would have to be paid back from money left in the treasury's general fund.

Should this constitutional amendment be adopted?

Yes  No

### VOTES CAST BY MEMBERS OF THE 16TH ALASKA LEGISLATURE ON FINAL PASSAGE

House: Yeas 38 Nays 2 Senate: Yeas 15 Nays 5

### LEGISLATIVE AFFAIRS AGENCY SUMMARY

This measure will amend the state constitution by creating the budget reserve fund. Money from certain mineral revenue sources received by the state from an administrative proceeding or litigation is placed in the fund. Income of the fund is kept in the fund.

Appropriations may be made from the fund if money available for a fiscal year is less than the amount appropriated for the prior year. When this occurs the amount that may be taken from the fund is limited. Only the money needed to make up the difference may be appropriated.

Money may also be appropriated from the reserve fund by special vote of the legislature. Three-fourths of the members of each house must approve. The amount that may be taken is unlimited when this vote is obtained.

Money that is appropriated from the reserve fund must be repaid. Surplus general fund money must be deposited in the reserve fund at the end of each year until the reserve fund is repaid.

### FULL TEXT OF PROPOSED LAW

\*Section 1. Article IX, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 17: BUDGET RESERVE FUND. (a) There is

established as a separate fund in the State treasury the budget reserve fund. Except for money deposited into the permanent fund under Section 15 of this article, all money received by the State after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund. Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund. Income of the fund shall be retained in the fund. Section 7 of this article does not apply to deposits made to the fund under this subsection. Money may be appropriated from the fund only as authorized under (b) or (c) of this section.

(b) If the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund. However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year.

(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.

\*Section 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.

### STATEMENT IN SUPPORT

- Cut the budget.
Reduce state spending.
Get state spending under control.

Each year these battle cries are raised by Alaskans. While elected officials say they listen and promise to do all they can, the simple fact is the Legislature's record shows it consistently spends most or all of the money available in the treasury. Alaska is confronted with an impending fiscal crisis of staggering proportions as a result of an inevitable "gap" between general fund revenues and current state spending levels. Present levels

# BALLOT MEASURE NO. 1

of state general fund expenditure simply cannot be sustained over the long term.

Ballot Measure Number 1 is the first step Alaskans can take to *effectively* control state spending.

The measure creates the Budget Reserve Fund in the Constitution. Revenues from mineral or oil and gas legal settlements and administrative proceedings will be deposited into the Budget Reserve. The Legislature will be able to spend money from the Budget Reserve only if:

- revenues are less than the amount appropriated the previous year, in which case money could be appropriated from the Budget Reserve in an amount not to exceed the shortfall; or
- three-fourths of the members of both the House and Senate vote to spend money from the Budget Reserve for a public purpose, such as a disaster.

The Legislature will be required to repay any money it appropriates from the Budget Reserve. If the next year revenues are insufficient the Legislature cannot afford to replenish the Budget Reserve, the "debt" will carry forward until it is repaid.

Legal settlements involving mineral or oil and gas revenues received after July 1, 1990, will be deposited into the Budget Reserve. As an example, if voters approve this ballot measure, \$216 million of the amount the state received in September from ARCO's settlement of royalty litigation will be deposited into this Budget Reserve. Should voters not approve this measure, these funds will be available to the legislature to spend next year. Approval of Ballot Measure Number 1 is the first step toward a long-term spending plan. With Alaska's revenues subject to the whims of the world oil market, trying to take steps which will provide some stability in Alaska's spending is especially difficult. If approved, the Budget Reserve Fund will help hold down spending by removing from the table the oil and gas revenue "windfalls" that result from pending litigation and tax disputes. At the very least, this ballot measure will establish a savings account that can help minimize the effects of a "boom" one year, and a "bust" the next.

While other major budget decisions will be necessary to close the future's fiscal gap, this Ballot Measure is a major step toward a long-term spending plan for the state. It is a step we urge Alaskans to support.

If approved by the voters, the Budget Reserve Fund will be a significant help in managing the transition to sustainable spending.

Senator Jan. Faiks  
Representative Kay Brown  
Representative Randy Phillips

## STATEMENT IN OPPOSITION

In sharp contrast to what its proponents have been telling us, the proposed budget reserve fund

- will *not* save any windfalls,
- does *not* require a  $\frac{3}{4}$  vote to gain access to it,

- *endorses* the legislature's bloated \$3 billion budget
- will result in *slower growth* of the Permanent Fund, and
- will *reduce the amount* of future PFD checks.

Your vote *against* Ballot Measure #1 will send a signal to the legislature that you do not approve of their excessive spending, and that you want the windfalls deposited into the Permanent Fund.

The most significant danger of this proposal is that it will establish a budget floor at \$3 billion, and allow it to increase every year. Under paragraph (b) of the proposed constitutional change, a simple majority in the legislature could "borrow" funds from the reserve, to make up any shortfall in revenues, *up to the amount appropriated in the previous year*. This year the legislature spent more than \$3 billion. Some of that was vetoed by the governor, but it is expected the legislature will restore the funding and add supplemental appropriations in January. In other words, *the total amount appropriated for FY 91 has not yet been determined*. A "yes" vote on this ballot measure amounts to rubber-stamping a blank check of at least \$3 billion!

How would the budget continue to increase? Legislative leaders can easily get a  $\frac{1}{4}$  vote out of their members by dangling capital project plums in front of them.

The appeal of this ballot measure is to save the "windfalls" of oil tax settlements, variously estimated at between \$2 billion and \$5 billion. This can easily be spent in three years.

Constitutionally, 25% of our oil income is dedicated to the Permanent Fund. And under state law, an additional 25% of income from certain leases is put into the Permanent Fund. In other words, as much as 50% of the windfalls should be deposited in the Permanent Fund, by law. The language in this constitutional amendment is unclear regarding the second 25%, and could be interpreted by big-spending legislators to rationalize putting only the constitutionally-dedicated 25% into the Permanent Fund, and leaving 75% for them to spend.

It would be better to save all of these anticipated windfalls, by putting 100% into the Permanent Fund. There, these funds will help the Permanent Fund produce greater annual income, for use as Permanent Fund Dividends to all Alaskans, or to fund necessary functions of state government. In the Permanent Fund, the windfalls would definitely be saved, and would not be accessible by big spenders in the legislature.

If you are one of the 65% of Alaskans who in opinion polls consistently ask the legislature to cut the budget, or if you believe the windfalls should *truly* be saved, you owe it to yourself not to be taken in by the proponents of Ballot Measure #1. Vote NO on the budget reserve amendment.

Representative Terry Martin

Introduced: 1/9/89  
Referred: State Affairs and Finance

1 IN THE SENATE

BY FAIKS, JONES, ELIASON,  
FISCHER, DUNCAN

2

SENATE JOINT RESOLUTION NO. 5

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

Proposing amendments to the Constitutio

6

of the State of Alaska amending provi

7

sions relating to the Alaska permanen

8

fund; establishing temporary provision

9

relating to dedicated funds, the Alask

10

permanent fund, the expenditure limit

11

and the budget stabilization fund; an

12

suspending the operation of provision:

13

relating to dedicated funds, the Alask:

14

permanent fund, and the appropriatio

15

limit.

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

17 \* Section 1. Article IX, sec. 15, Constitution of the State of Alaska,  
18 is amended to read:

19 SECTION 15. ALASKA PERMANENT FUND. At least twenty-five per  
20 cent of all mineral lease rentals, royalties, royalty sale proceeds,  
21 federal mineral revenue sharing payments and bonuses received by the  
22 State shall be placed in a permanent fund. The fund is established as  
23 a trust on behalf of all the residents of the State and its principal  
24 shall be invested in accordance with the prudent investor rule in [,  
25 THE PRINCIPAL OF WHICH SHALL BE USED ONLY FOR THOSE] income-producing  
26 investments specifically designated by law as eligible for permanent  
27 fund investments. All income from the permanent fund shall be depos-  
28 ited in the general fund unless otherwise provided by law.

29 \* Sec. 2. Article XV, Constitution of the State of Alaska, is am

1 by adding new sections to read:

2 SECTION 29. DEDICATED FUNDS. (a) The operation of Section 7 of  
3 Article IX is suspended from July 1, 1991, through June 30, 1996, and  
4 this section applies in lieu of Section 7 of Article IX.

5 (b) The proceeds of any state tax or license shall not be dedi-  
6 cated to any special purpose, except as provided in Sections 30 and 32  
7 of this article or when required by the federal government for state  
8 participation in federal programs. This provision shall not prohibit  
9 the continuance of any dedication for special purposes existing upon  
10 the date of ratification Section 7 of Article IX by the people of  
11 Alaska.

12 SECTION 30. ALASKA PERMANENT FUND. (a) The operation of Sec-  
13 tion 15 of Article IX is suspended from July 1, 1991, through June 30,  
14 1996, and this section applies in lieu of Section 15 of Article IX.

15 (b) At least twenty-five percent of all mineral lease rentals,  
16 royalties, royalty sale proceeds, federal mineral revenue sharing  
17 payments and bonuses received by the State shall be placed in a perma-  
18 nent fund. The fund is established as a trust on behalf of all the  
19 residents of the State and its principal shall be invested in accor-  
20 dance with the prudent investor rule in income-producing investments  
21 specifically designated by law as eligible for permanent fund invest-  
22 ments.

23 (c) At the end of each fiscal year an amount equal to the capi-  
24 tal gains that exceed capital losses from the sale of permanent fund  
25 investments shall be added to the principal of the permanent fund to  
26 help offset the effect of inflation and increase the principal. The  
27 rest of the income of the permanent fund shall be distributed as  
28 follows:

29 (1) forty percent to be used for dividends for State

1 residents as provided by law;

2 (2) thirty percent to be added to the principal of the  
3 permanent fund to help offset the effect of inflation and increase the  
4 principal; and

5 (3) thirty percent to the budget stabilization fund estab-  
6 lished under Section 32 of this article.

7 SECTION 31. EXPENDITURE LIMIT. (a) The operation of Section 16  
8 of Article IX is suspended from July 1, 1991, through June 30, 1996,  
9 and this section applies in lieu of Section 16 of Article IX.

10 (b) Except for appropriations to the permanent fund or for  
11 Alaska permanent fund dividends, appropriations to the budget stabili-  
12 zation fund, appropriations by the legislature to meet a State natural  
13 disaster declared by the governor as prescribed by law, appropriations  
14 of revenue bond proceeds, and appropriations of money received from a  
15 non-State source in trust for a specific purpose, including revenues  
16 of a public enterprise or public corporation of the State that issues  
17 revenue bonds, appropriations from the treasury made for fiscal year  
18 1996 may not exceed a basic services budget level of \$1,400,000,000.  
19 The legislature shall by law establish an expenditure limit for each  
20 fiscal year calculated to achieve the basic services budget level  
21 required under this section for fiscal year 1996.

22 (c) During a fiscal year the legislature may exceed the expendi-  
23 ture limit under (b) of this section if each bill that exceeds the  
24 limit is passed by affirmative vote of three-fourths of the membership  
25 of each house of the legislature or, notwithstanding Sections 1 and 14  
26 of Article II and Article XI, is approved by the voters as prescribed  
27 by law. The voters shall, for each bill for appropriations for capi-  
28 tal projects, be informed as provided by law of the cost of operations  
29 and maintenance of each capital project.

1 (d) Fifty percent of the money received by the State that is  
2 subject to the expenditure limit under (b) of this section and that  
3 exceeds that limit but is not appropriated under (c) of this section  
4 shall be deposited in the principal of the permanent fund and the  
5 remaining fifty percent shall be deposited in the budget stabilization  
6 fund.

7 SECTION 32. BUDGET STABILIZATION FUND. (a) This section  
8 applies from July 1, 1991, through June 30, 1996.

9 (b) Income of the permanent fund shall be deposited in the  
10 budget stabilization fund in accordance with Section 30(c) of this  
11 article. Fifty percent of the money received by the State that is  
12 subject to the expenditure limit under Section 31(b) of this article,  
13 exceeds that limit; and is not appropriated under Section 31(c) of  
14 this article shall be deposited in the budget stabilization fund.  
15 Additional appropriations may be made to the budget stabilization  
16 fund.

17 (c) Money in the budget stabilization fund shall be invested so  
18 as to yield competitive market rates to the fund. Income from invest-  
19 ment of the fund shall be retained in the fund.

20 (d) If the legislature determines that the money subject to the  
21 expenditure limit received by the State in a fiscal year is less than  
22 the maximum amount that may be appropriated under Section 31 of this  
23 article, money may be appropriated from the budget stabilization fund  
24 to the general fund. However, the amount appropriated from the budget  
25 stabilization fund during a fiscal year may not exceed the lesser of

26 (1) the amount that, when added to money subject to the  
27 expenditure limit received by the State during that fiscal year,  
28 equals the maximum amount that may be appropriated under Section 31 of  
29 this article; or

1                   (2) twenty percent of the balance of the budget stabiliza-  
2                   tion fund.

3                   (e) Notwithstanding the expenditure limit in Section 31 of this  
4                   article, additional amounts may be appropriated from the budget stabi-  
5                   lization fund to meet a State disaster declared by the governor as  
6                   prescribed by law.

7                   SECTION 33. REPEAL. Sections 29 - 32 of Article XV are repealed  
8                   July 1, 1996.

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

Introduced: 2/2/89  
Referred: State Affairs, Judiciary  
and Finance

1 IN THE SENATE BY FAIKS, JONES, ELIASON,  
FISCHER, AND DUNCAN

2 SPONSOR SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 5

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Proposing amendments to the Constitution  
6 of the State of Alaska amending provi-  
7 sions relating to the Alaska permanent  
8 fund; establishing temporary provisions  
9 relating to dedicated funds, the Alaska  
10 permanent fund, the expenditure limit,  
11 and the budget stabilization fund; and  
12 suspending the operation of provisions  
13 relating to dedicated funds, the Alaska  
14 permanent fund, and the appropriation  
15 limit.

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

17 \* Section 1. Article IX, sec. 15, Constitution of the State of Alaska,  
18 is amended to read:

19 SECTION 15. ALASKA PERMANENT FUND. At least twenty-five per  
20 cent of all mineral lease rentals, royalties, royalty sale proceeds,  
21 federal mineral revenue sharing payments and bonuses received by the  
22 State shall be placed in a permanent fund. The fund is established as  
23 a trust on behalf of all the residents of the State and its principal  
24 shall be invested in accordance with the prudent investor rule in [,  
25 THE PRINCIPAL OF WHICH SHALL BE USED ONLY FOR THOSE] income-producing  
26 investments specifically designated by law as eligible for permanent  
27 fund investments. All income from the permanent fund shall be depos-  
28 ited in the general fund unless otherwise provided by law.

29 \* Sec. 2. Article XV, Constitution of the State of Alaska, is amended

1 by adding new sections to read:

2 SECTION 29. DEDICATED FUNDS. (a) The operation of Section 7 of  
3 Article IX is suspended from July 1, 1991, through June 30, 1996, and  
4 this section applies in lieu of Section 7 of Article IX.

5 (b) The proceeds of any state tax or license shall not be dedi-  
6 cated to any special purpose, except as provided in Sections 30 and 32  
7 of this article or when required by the federal government for state  
8 participation in federal programs. This provision shall not prohibit  
9 the continuance of any dedication for special purposes existing upon  
10 the date of ratification Section 7 of Article IX by the people of  
11 Alaska.

12 SECTION 30. ALASKA PERMANENT FUND. (a) The operation of Sec-  
13 tion 15 of Article IX is suspended from July 1, 1991, through June 30,  
14 1996, and this section applies in lieu of Section 15 of Article IX.

15 (b) At least twenty-five percent of all mineral lease rentals,  
16 royalties, royalty sale proceeds, federal mineral revenue sharing  
17 payments and bonuses received by the State shall be placed in a perma-  
18 nent fund. The fund is established as a trust on behalf of all the  
19 residents of the State and its principal shall be invested in accor-  
20 dance with the prudent investor rule in income-producing investments  
21 specifically designated by law as eligible for permanent fund invest-  
22 ments.

23 (c) The income of the permanent fund shall be distributed as  
24 follows:

25 (1) fifty percent to be used for dividends for State resi-  
26 dents as provided by law;

27 (2) thirty percent to be added to the principal of the  
28 permanent fund to help offset the effect of inflation and increase the  
29 principal; and

1                   (3) twenty percent to the budget stabilization fund estab-  
2                   lished under Section 32 of this article.

3                   SECTION 31. EXPENDITURE LIMIT. (a) The operation of Section 16  
4                   of Article IX is suspended from July 1, 1991, through June 30, 1996,  
5                   and this section applies in lieu of Section 16 of Article IX.

6                   (b) Except for appropriations to the permanent fund or for  
7                   Alaska permanent fund dividends, appropriations to the budget stabili-  
8                   zation fund, appropriations by the legislature to meet a State natural  
9                   disaster declared by the governor as prescribed by law, appropriations  
10                  of revenue bond proceeds, and appropriations of money received from a  
11                  non-State source in trust for a specific purpose, including revenues  
12                  of a public enterprise or public corporation of the State that issues  
13                  revenue bonds, appropriations from the treasury made for fiscal year  
14                  1996 may not exceed a basic services budget level of \$1,400,000,000.  
15                  The legislature shall by law establish an expenditure limit for each  
16                  fiscal year calculated to achieve the basic services budget level  
17                  required under this section for fiscal year 1996.

18                  (c) During a fiscal year the legislature may exceed the expendi-  
19                  ture limit under (b) of this section if each bill that exceeds the  
20                  limit is passed by affirmative vote of three-fourths of the membership  
21                  of each house of the legislature or, notwithstanding Sections 1 and 14  
22                  of Article II and Article XI, is approved by the voters as prescribed  
23                  by law. The voters shall, for each bill for appropriations for capi-  
24                  tal projects, be informed as provided by law of the cost of operations  
25                  and maintenance of each capital project.

26                  (d) Fifty percent of the money received by the State that is  
27                  subject to the expenditure limit under (b) of this section and that  
28                  exceeds that limit but is not appropriated under (c) of this section  
29                  shall be deposited in the principal of the permanent fund and the

1 remaining fifty percent shall be deposited in the budget stabilization  
2 fund.

3 SECTION 32. BUDGET STABILIZATION FUND. (a) This section ap-  
4 plies from July 1, 1991, through June 30, 1996.

5 (b) Income of the permanent fund shall be deposited in the  
6 budget stabilization fund in accordance with Section 30(c) of this  
7 article. Fifty percent of the money received by the State that is  
8 subject to the expenditure limit under Section 31(b) of this article,  
9 exceeds that limit, and is not appropriated under Section 31(c) of  
10 this article shall be deposited in the budget stabilization fund.  
11 Additional appropriations may be made to the budget stabilization  
12 fund.

13 (c) Money in the budget stabilization fund shall be invested so  
14 as to yield competitive market rates to the fund. Income from invest-  
15 ment of the fund shall be retained in the fund.

16 (d) If the legislature determines that the money subject to the  
17 expenditure limit received by the State in a fiscal year is less than  
18 the maximum amount that may be appropriated under Section 31 of this  
19 article, money may be appropriated from the budget stabilization fund  
20 to the general fund. However, the amount appropriated from the budget  
21 stabilization fund during a fiscal year may not exceed the lesser of

22 (1) the amount that, when added to money subject to the  
23 expenditure limit received by the State during that fiscal year,  
24 equals the maximum amount that may be appropriated under Section 31 of  
25 this article; or

26 (2) twenty-five percent of the balance of the budget sta-  
27 bilization fund.

28 (e) Notwithstanding the expenditure limit in Section 31 of this  
29 article, additional amounts may be appropriated from the budget

1 stabilization fund to meet a State disaster declared by the governor  
2 as prescribed by law.

3 SECTION 33. REPEAL. Sections 29 - 32 of Article XV are repealed  
4 July 1, 1996.

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

Offered: 3/20/89  
Referred: Judiciary and Finance

6-0161D

Original sponsors: Faiks, Jones,  
Eliason, et al.

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 5 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Proposing amendments to the Constitution  
6 of the State of Alaska amending provi-  
7 sions relating to the Alaska permanent  
8 fund; establishing temporary provisions  
9 relating to dedicated funds, the Alaska  
10 permanent fund, the expenditure limit,  
11 and the budget stabilization fund; and  
12 suspending the operation of provisions  
13 relating to dedicated funds, the Alaska  
14 permanent fund, and the appropriation  
15 limit.

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

17 \* Section 1. Article IX, sec. 15, Constitution of the State of Alaska,  
18 is amended to read:

19 SECTION 15. ALASKA PERMANENT FUND. At least twenty-five per  
20 cent of all mineral lease rentals, royalties, royalty sale proceeds,  
21 federal mineral revenue sharing payments and bonuses received by the  
22 State shall be placed in a permanent fund. The fund is established as  
23 a trust on behalf of all the residents of the State and its principal  
24 shall be invested in accordance with the prudent investor rule in [,  
25 THE PRINCIPAL OF WHICH SHALL BE USED ONLY FOR THOSE] income-producing  
26 investments specifically designated by law as eligible for permanent  
27 fund investments. All income from the permanent fund shall be depos-  
28 ited in the general fund unless otherwise provided by law.

29 \* Sec. 2. Article XV, Constitution of the State of Alaska, is amended

1 by adding new sections to read:

2 SECTION 29. DEDICATED FUNDS. (a) The operation of Section 7 of  
3 Article IX is suspended from July 1, 1991, through June 30, 1996, and  
4 this section applies in lieu of Section 7 of Article IX.

5 (b) The proceeds of any state tax or license shall not be dedi-  
6 cated to any special purpose, except as provided in Sections 30 and 32  
7 of this article or when required by the federal government for state  
8 participation in federal programs. This provision shall not prohibit  
9 the continuance of any dedication for special purposes existing upon  
10 the date of ratification of Section 7 of Article IX by the people of  
11 Alaska.

12 SECTION 30. ALASKA PERMANENT FUND. (a) The operation of Sec-  
13 tion 15 of Article IX is suspended from July 1, 1991, through June 30,  
14 1996, and this section applies in lieu of Section 15 of Article IX.

15 (b) At least twenty-five percent of all mineral lease rentals,  
16 royalties, royalty sale proceeds, federal mineral revenue sharing  
17 payments and bonuses received by the State shall be placed in a perma-  
18 nent fund. The fund is established as a trust on behalf of all the  
19 residents of the State and its principal shall be invested in accor-  
20 dance with the prudent investor rule in income-producing investments  
21 specifically designated by law as eligible for permanent fund invest-  
22 ments.

23 (c) The income of the permanent fund shall be distributed as  
24 follows:

25 (1) fifty percent to be used for dividends for State resi-  
26 dents as provided by law;

27 (2) thirty percent to be added to the principal of the  
28 permanent fund to help offset the effect of inflation and increase the  
29 principal; and

1                   (3) twenty percent to the budget stabilization fund estab-  
2                   lished under Section 32 of this article.

3                   SECTION 31. EXPENDITURE LIMIT. (a) The operation of Section 16  
4                   of Article IX is suspended from July 1, 1991, through June 30, 1996,  
5                   and this section applies in lieu of Section 16 of Article IX.

6                   (b) Except for appropriations to the permanent fund or for  
7                   Alaska permanent fund dividends, appropriations to the budget stabili-  
8                   zation fund, appropriations by the legislature to meet a State natural  
9                   disaster declared by the governor as prescribed by law, appropriations  
10                  of revenue bond proceeds, and appropriations of money received from a  
11                  non-State source in trust for a specific purpose, including revenues  
12                  of a public enterprise or public corporation of the State that issues  
13                  revenue bonds, appropriations from the treasury made for a fiscal year  
14                  may not exceed appropriations made for the preceding fiscal year  
15                  adjusted, as prescribed by law, for the change in population and  
16                  inflation since the beginning of the preceding fiscal year.

17                  (c) During a fiscal year the legislature may exceed the expendi-  
18                  ture limit under (b) of this section if each bill that exceeds the  
19                  limit is passed by affirmative vote of two-thirds of the membership of  
20                  each house of the legislature or, notwithstanding Sections 1 and 14 of  
21                  Article II and Article XI, is approved by the voters as prescribed by  
22                  law. The voters shall, for each bill for appropriations for capital  
23                  projects, be informed as provided by law of the cost of operations and  
24                  maintenance of each capital project.

25                  (d) Fifty percent of the money received by the State during a  
26                  fiscal year that is subject to the expenditure limit under (b) of this  
27                  section and that exceeds that limit but is not appropriated under (c)  
28                  of this section shall be deposited in the principal of the permanent  
29                  fund and the remaining fifty percent shall be deposited in the budget

1 stabilization fund.

2 SECTION 32. BUDGET STABILIZATION FUND. (a) This section ap-  
3 plies from July 1, 1991, through June 30, 1996.

4 (b) Income of the permanent fund shall be deposited in the  
5 budget stabilization fund in accordance with Section 30(c) of this  
6 article. Fifty percent of the money received by the State that is  
7 subject to the expenditure limit under Section 31(b) of this article,  
8 exceeds that limit, and is not appropriated under Section 31(c) of  
9 this article shall be deposited in the budget stabilization fund.  
10 Additional appropriations may be made to the budget stabilization  
11 fund.

12 (c) Money in the budget stabilization fund shall be invested so  
13 as to yield competitive market rates to the fund. Income from invest-  
14 ment of the fund shall be retained in the fund.

15 (d) If the legislature determines that the money subject to the  
16 expenditure limit received by the State in a fiscal year is less than  
17 the maximum amount that may be appropriated under Section 31 of this  
18 article, money may be appropriated from the budget stabilization fund  
19 to the general fund. However, the amount appropriated from the budget  
20 stabilization fund during a fiscal year may not exceed the lesser of

21 (1) the amount that, when added to money subject to the  
22 expenditure limit received by the State during that fiscal year,  
23 equals the maximum amount that may be appropriated under Section 31 of  
24 this article; or

25 (2) twenty-five percent of the balance of the budget sta-  
26 bilization fund.

27 (e) Notwithstanding the expenditure limit in Section 31 of this  
28 article, additional amounts may be appropriated from the budget stabi-  
29 lization fund to meet a State disaster declared by the governor as

1           prescribed by law.

2           SECTION 33. REPEAL. Sections 29 - 32 of Article XV are repealed  
3           July 1, 1996.

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

Offered: 4/26/89  
Referred: Finance

Original sponsors: Faiks, Jones,  
Eliason, et al.

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 5 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Proposing amendments to the Constitution  
6 of the State of Alaska establishing  
7 temporary provisions relating to dedi-  
8 cated funds, the Alaska permanent fund,  
9 the expenditure limit, and the budget  
10 stabilization fund; and suspending the  
11 operation of provisions relating to  
12 dedicated funds, the Alaska permanent  
13 fund, and the appropriation limit.

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

15 \* Section 1. Article XV, Constitution of the State of Alaska, is amend-  
16 ed by adding new sections to read:

17 SECTION 29. DEDICATED FUNDS. (a) The operation of Section 7 of  
18 Article IX is suspended from July 1, 1991, through June 30, 1996, and  
19 this section applies in lieu of Section 7 of Article IX.

20 (b) The proceeds of any state tax or license shall not be dedi-  
21 cated to any special purpose, except as provided in Sections 30 and 32  
22 of this article or when required by the federal government for state  
23 participation in federal programs. This provision shall not prohibit  
24 the continuance of any dedication for special purposes existing upon  
25 the date of ratification of Section 7 of Article IX by the people of  
26 Alaska.

27 SECTION 30. ALASKA PERMANENT FUND. (a) The operation of Sec-  
28 tion 15 of Article IX is suspended from July 1, 1991, through June 30,  
29 1996, and this section applies in lieu of Section 15 of Article IX.

1 (b) At least twenty-five percent of all mineral lease rentals,  
2 royalties, royalty sale proceeds, federal mineral revenue sharing  
3 payments and bonuses received by the State shall be placed in a perma-  
4 nent fund, the principal of which shall be used only for those income-  
5 producing investments specifically designated by law as eligible for  
6 permanent fund investments.

7 (c) The income of the permanent fund shall be distributed as  
8 follows:

9 (1) fifty percent to be used for dividends for State resi-  
10 dents as provided by law;

11 (2) thirty percent to be added to the principal of the  
12 permanent fund to help offset the effect of inflation and increase the  
13 principal; and

14 (3) twenty percent to the budget stabilization fund estab-  
15 lished under Section 32 of this article.

16 SECTION 31. EXPENDITURE LIMIT. (a) The operation of Section 16  
17 of Article IX is suspended from July 1, 1991, through June 30, 1996,  
18 and this section applies in lieu of Section 16 of Article IX.

19 (b) Except for appropriations to the permanent fund or for  
20 Alaska permanent fund dividends, appropriations to the budget stabili-  
21 zation fund, appropriations by the legislature to meet a State natural  
22 disaster declared by the governor as prescribed by law, appropriations  
23 of revenue bond proceeds, and appropriations of money received from a  
24 non-State source in trust for a specific purpose, including revenues  
25 of a public enterprise or public corporation of the State that issues  
26 revenue bonds, appropriations from the treasury made for a fiscal year  
27 may not exceed appropriations made for the preceding fiscal year  
28 adjusted, as prescribed by law, for the change in population and  
29 inflation since the beginning of the preceding fiscal year.

1 (c) During a fiscal year the legislature may exceed the expendi-  
2 ture limit under (b) of this section if each bill that exceeds the  
3 limit is passed by affirmative vote of two-thirds of the membership of  
4 each house of the legislature or, notwithstanding Sections 1 and 14 of  
5 Article II and Article XI, is approved by the voters as prescribed by  
6 law. The voters shall, for each bill for appropriations for capital  
7 projects submitted to them under this subsection, be informed as  
8 provided by law of the cost of operations and maintenance of each  
9 capital project.

10 (d) The money received by the State during a fiscal year that is  
11 subject to the expenditure limit under (b) of this section, that does  
12 not exceed that limit, and that is not appropriated under (b) of this  
13 section shall be deposited in the principal of the permanent fund.

14 (e) Fifty percent of the money received by the State during a  
15 fiscal year that is subject to the expenditure limit under (b) of this  
16 section, that exceeds that limit, and that is not appropriated under  
17 (c) of this section shall be deposited in the principal of the perma-  
18 nent fund. The remaining fifty percent shall be deposited in the  
19 budget stabilization fund.

20 SECTION 32. BUDGET STABILIZATION FUND. (a) This section ap-  
21 plies from July 1, 1991, through June 30, 1996.

22 (b) Income of the permanent fund shall be deposited in the  
23 budget stabilization fund in accordance with Section 30(c) of this  
24 article. Fifty percent of the money received by the State that is  
25 subject to the expenditure limit under Section 31(b) of this article,  
26 exceeds that limit, and is not appropriated under Section 31(c) of  
27 this article shall be deposited in the budget stabilization fund.  
28 Additional appropriations may be made to the budget stabilization  
29 fund.

1 (c) Money in the budget stabilization fund shall be invested so  
2 as to yield competitive market rates to the fund. Income from invest-  
3 ment of the fund shall be retained in the fund.

4 (d) If the legislature determines that the money subject to the  
5 expenditure limit received by the State in a fiscal year is less than  
6 the maximum amount that may be appropriated under Section 31 of this  
7 article, money may be appropriated from the budget stabilization fund  
8 to the general fund. However, the amount appropriated from the budget  
9 stabilization fund during a fiscal year may not exceed the lesser of

10 (1) the amount that, when added to money subject to the  
11 expenditure limit received by the State during that fiscal year,  
12 equals the maximum amount that may be appropriated under Section 31 of  
13 this article; or

14 (2) twenty-five percent of the balance of the budget sta-  
15 bilization fund.

16 (e) Notwithstanding the expenditure limit in Section 31 of this  
17 article, additional amounts may be appropriated from the budget stabi-  
18 lization fund to meet a State disaster declared by the governor as  
19 prescribed by law.

20 SECTION 33. REPEAL. Sections 29 - 32 of Article XV are repealed  
21 July 1, 1996.

22 \* Sec. 2. The amendments 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 elec-  
25 tion laws of the state.

Original sponsor(s): SEN. FAIKS, Jones, Eliason, Fischer, Kelly, Uehling

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 5 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-  
6 tion of the State of Alaska establishing  
7 temporary provisions relating to dedi-  
8 cated funds, the expenditure limit, and  
9 the budget reserve fund; and suspending  
10 the operation of provisions relating to  
11 dedicated funds and the appropriation  
12 limit.

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

14 \* Section 1. Article XV, Constitution of the State of Alaska, is amend-  
15 ed by adding new sections to read:

16 SECTION 29. DEDICATED FUNDS. (a) The operation of Section 7 of  
17 Article IX is suspended from July 1, 1991, through June 30, 1996, and  
18 this section applies in lieu of Section 7 of Article IX.

19 (b) The proceeds of any State tax or license shall not be dedi-  
20 cated to any special purpose, except as provided in Section 15 of  
21 Article IX and Sections 30 and 31 of this article or when required by  
22 the federal government for State participation in federal programs.  
23 This provision shall not prohibit the continuance of any dedication  
24 for special purposes existing upon the date of ratification of Sec-  
25 tion 7 of Article IX by the people of Alaska.

26 SECTION 30. EXPENDITURE LIMIT. (a) The operation of Section 16  
27 of Article IX is suspended from July 1, 1991, through June 30, 1996,  
28 and this section applies in lieu of Section 16 of Article IX.

29 (b) Except for appropriations to the permanent fund or for

1 Alaska permanent fund dividends, appropriations to the budget reserve  
2 fund, appropriations of revenue derived from a tax that has been  
3 approved by a vote of the taxpayers, appropriations of general obligation  
4 and revenue bond proceeds, appropriations required to pay the  
5 principal and interest on general obligation and revenue bonds issued  
6 by the State, appropriations to pay the principal and interest on  
7 general obligation bonds issued by a municipality for construction of  
8 elementary or secondary schools, appropriations to pay obligations of  
9 the State or a public authority or corporation of the State under  
10 lease-purchase agreements, appropriations of money received from a  
11 non-State source in trust for a specific purpose, appropriations of  
12 revenue of a public authority or corporation of the State that issues  
13 revenue bonds, and appropriations of revenue of a State program under  
14 which revenue bonds are issued, appropriations from the general fund  
15 made for

16 (1) fiscal year 1992 may not exceed \$2,300,000,000;

17 (2) fiscal years 1993 - 1996 may not exceed an amount equal  
18 to one percent less than the amount appropriated during the prior  
19 fiscal year that was subject to the limit under this subsection.

20 (c) During a fiscal year the legislature may exceed the expenditure  
21 limit under (b) of this section if each bill that exceeds the  
22 limit is passed by affirmative vote of

23 (1) three-quarters of the membership of each house of the  
24 legislature; or

25 (2) two-thirds of the membership of each house of the  
26 legislature and the appropriation is to meet a disaster emergency  
27 declared by the governor as prescribed by law.

28 (d) Except as provided in (e) of this section, all money received  
29 by the State during a fiscal year that is subject to the

1 expenditure limit under (b) of this section, that exceeds that limit,  
2 and that is not appropriated under (c) of this section shall be depos-  
3 ited in the budget reserve fund.

4 (e) Except for money deposited into the permanent fund under  
5 Section 15 of Article IX, all money received by the State as a result  
6 of the termination through settlement or otherwise, of litigation in  
7 State or federal court involving mineral lease rentals, royalties,  
8 royalty sale proceeds, and federal mineral revenue sharing payments  
9 and bonuses shall be deposited in the budget reserve fund.

10 SECTION 31. BUDGET RESERVE FUND. (a) This section applies from  
11 July 1, 1991, through June 30, 1996.

12 (b) In addition to deposits made to the budget reserve fund  
13 under Section 30(d) and (e) of this article, appropriations may be  
14 made to the fund at any time.

15 (c) Money in the budget reserve fund shall be invested so as to  
16 yield competitive market rates to the fund. Income from investment of  
17 the fund shall be retained in the fund.

18 (d) Except as provided in (e) of this section, money may be  
19 appropriated from the budget reserve fund only if the legislature  
20 determines that the money received by the State in a fiscal year and  
21 subject to the expenditure limit is less than the maximum amount that  
22 may be appropriated under Section 30(b) of this article. However, the  
23 amount appropriated from the budget reserve fund during a fiscal year  
24 may not exceed the lesser of

25 (1) the amount that, when added to money received by the  
26 State during that fiscal year and subject to the expenditure limit,  
27 equals the maximum amount that may be appropriated under Section 30(b)  
28 of this article; or

29 (2) twenty-five percent of the balance of the budget

1        reserve fund.

2            (e) An appropriation from the budget reserve fund may be made  
3 upon affirmative vote of two-thirds of the membership of each house of  
4 the legislature to meet a disaster emergency declared by the governor  
5 as prescribed by law. An appropriation from the budget reserve fund  
6 to the principal of the permanent fund may be made at any time.

7            SECTION 32. REPEAL. Sections 29 - 31 of Article XV are repealed  
8 July 1, 1996.

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

6TH VERSION

Amended: 2/27/90  
Offered: 2/14/90  
Referred: Rules

6-0161I

Original sponsor(s): SEN. FAIKS, Jones, Eliason, Fischer, Kelly, Uehling

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 CS FOR SS FOR SENATE JOINT RESOLUTION NO. 5 (Finance) am (fld S)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-  
6 tion of the State of Alaska establishing  
7 temporary provisions relating to dedi-  
8 cated funds, the expenditure limit, and  
9 the budget reserve fund; and suspending  
10 the operation of provisions relating to  
11 dedicated funds and the appropriation  
12 limit.

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

14 \* Section 1. Article XV, Constitution of the State of Alaska, is amend-  
15 ed by adding new sections to read:

16 SECTION 29. DEDICATED FUNDS. (a) The operation of Section 7 of  
17 Article IX is suspended from July 1, 1991, through June 30, 1996, and  
18 this section applies in lieu of Section 7 of Article IX.

19 (b) The proceeds of any State tax or license shall not be dedi-  
20 cated to any special purpose, except as provided in Section 15 of  
21 Article IX and Sections 30 and 31 of this article or when required by  
22 the federal government for State participation in federal programs.  
23 This provision shall not prohibit the continuance of any dedication  
24 for special purposes existing upon the date of ratification of Sec-  
25 tion 7 of Article IX by the people of Alaska.

26 SECTION 30. EXPENDITURE LIMIT. (a) The operation of Section 16  
27 of Article IX is suspended from July 1, 1991, through June 30, 1996,  
28 and this section applies in lieu of Section 16 of Article IX.

29 (b) Except for appropriations to the permanent fund or for

1 Alaska permanent fund dividends, appropriations to meet a disaster  
2 emergency declared by the governor as prescribed by law, appropria-  
3 tions to the budget reserve fund, appropriations of revenue derived  
4 from a tax that has been approved by a vote of the taxpayers,  
5 appropriations of general obligation and revenue bond proceeds, appro-  
6 priations required to pay the principal and interest on general  
7 obligation and revenue bonds issued by the State, appropriations of  
8 money received from a non-State source in trust for a specific  
9 purpose, appropriations of revenue of a public authority or corpora-  
10 tion of the State that issues revenue bonds, and appropriations of  
11 revenue of a State program under which revenue bonds are issued,  
12 appropriations from the general fund made for

13 (1) fiscal year 1992 may not exceed \$2,300,000,000;

14 (2) fiscal years 1993 - 1996 may not exceed an amount equal  
15 to one percent less than the amount appropriated during the prior  
16 fiscal year that was subject to the limit under this subsection.

17 (c) During a fiscal year the legislature may exceed the expendi-  
18 ture limit under (b) of this section if each bill that exceeds the  
19 limit is passed by affirmative vote of two-thirds of the membership of  
20 each house of the legislature.

21 (d) Except as provided in (e) of this section, all money re-  
22 ceived by the State during a fiscal year that is subject to the expen-  
23 diture limit under (b) of this section, that exceeds that limit, and  
24 that is not appropriated under (c) of this section shall be deposited  
25 in the budget reserve fund.

26 (e) Except for money deposited into the permanent fund under  
27 Section 15 of Article IX, all money received by the State as a result  
28 of the termination through settlement or otherwise, of litigation in  
29 State or federal court involving mineral lease rentals, royalties,

1 royalty sale proceeds, and federal mineral revenue sharing payments  
2 and bonuses shall be deposited in the budget reserve fund.

3 SECTION 31. BUDGET RESERVE FUND. (a) This section applies from  
4 July 1, 1991, through June 30, 1996.

5 (b) In addition to deposits made to the budget reserve fund  
6 under Section 30(d) and (e) of this article, appropriations may be  
7 made to the fund at any time.

8 (c) Money in the budget reserve fund shall be invested so as to  
9 yield competitive market rates to the fund. Income from investment of  
10 the fund shall be retained in the fund.

11 (d) Except as provided in (e) of this section, money may be  
12 appropriated from the budget reserve fund only if the legislature  
13 determines that the money received by the State in a fiscal year and  
14 subject to the expenditure limit is less than the maximum amount that  
15 may be appropriated under Section 30(b) of this article. However, the  
16 amount appropriated from the budget reserve fund during a fiscal year  
17 may not exceed the lesser of

18 (1) the amount that, when added to money received by the  
19 State during that fiscal year and subject to the expenditure limit,  
20 equals the maximum amount that may be appropriated under Section 30(b)  
21 of this article; or

22 (2) twenty-five percent of the balance of the budget re-  
23 serve fund.

24 (e) An appropriation from the budget reserve fund may be made  
25 upon affirmative vote of two-thirds of the membership of each house of  
26 the legislature to meet a disaster emergency declared by the governor  
27 as prescribed by law. An appropriation from the budget reserve fund  
28 to the principal of the permanent fund may be made at any time.

29 SECTION 32. REPEAL. Sections 29 - 31 of Article XV are repealed

1 July 1, 1996.

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

Amended: 2/27/90  
Offered: 2/14/90  
Referred: Rules

6-01611

7TH VERSE

Original sponsor(s): SEN. FAIKS, Jones, Eliason, Fischer, Kelly, Uehling

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 CS FOR SS FOR SENATE JOINT RESOLUTION NO. 5 (Finance) am  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-  
6 tion of the State of Alaska establishing  
7 temporary provisions relating to dedi-  
8 cated funds, the expenditure limit, and  
9 the budget reserve fund; and suspending  
10 the operation of provisions relating to  
11 dedicated funds and the appropriation  
12 limit.

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

14 \* Section 1. Article XV, Constitution of the State of Alaska, is amend-  
15 ed by adding new sections to read:

16 SECTION 29. DEDICATED FUNDS. (a) The operation of Section 7 of  
17 Article IX is suspended from July 1, 1991, through June 30, 1996, and  
18 this section applies in lieu of Section 7 of Article IX.

19 (b) The proceeds of any State tax or license shall not be dedi-  
20 cated to any special purpose, except as provided in Section 15 of  
21 Article IX and Sections 30 and 31 of this article or when required by  
22 the federal government for State participation in federal programs.  
23 This provision shall not prohibit the continuance of any dedication  
24 for special purposes existing upon the date of ratification of Sec-  
25 tion 7 of Article IX by the people of Alaska.

26 SECTION 30. EXPENDITURE LIMIT. (a) The operation of Section 16  
27 of Article IX is suspended from July 1, 1991, through June 30, 1996,  
28 and this section applies in lieu of Section 16 of Article IX.

29 (b) Except for appropriations to the permanent fund or for

1 Alaska permanent fund dividends, appropriations to meet a disaster  
2 emergency declared by the governor as prescribed by law, appropria-  
3 tions to the budget reserve fund, appropriations of revenue derived  
4 from a tax that has been approved by a vote of the taxpayers, appro-  
5 priations of money received from a State source required for State  
6 participation in a federally mandated aid program for low income  
7 persons to the extent the appropriations exceed amounts appropriated  
8 during fiscal year 1991 for the same purposes, appropriations of  
9 general obligation and revenue bond proceeds, appropriations required  
10 to pay the principal and interest on general obligation and revenue  
11 bonds issued by the State, appropriations of money received from a  
12 non-State source in trust for a specific purpose, appropriations of  
13 revenue of a public authority or corporation of the State that issues  
14 revenue bonds, and appropriations of revenue of a State program under  
15 which revenue bonds are issued, appropriations from the general fund  
16 made for

17 (1) fiscal year 1992 may not exceed \$2,300,000,000;

18 (2) fiscal years 1993 - 1996 may not exceed an amount equal  
19 to five percent less than the amount appropriated during the prior  
20 fiscal year that was subject to the limit under this subsection.

21 (c) During a fiscal year the legislature may exceed the expendi-  
22 ture limit under (b) of this section if each bill that exceeds the  
23 limit is passed by affirmative vote of two-thirds of the membership of  
24 each house of the legislature.

25 (d) Except as provided in (e) of this section, all money re-  
26 ceived by the State during a fiscal year that is subject to the expen-  
27 diture limit under (b) of this section, that exceeds that limit, and  
28 that is not appropriated under (c) of this section shall be deposited  
29 in the budget reserve fund.

1 (e) Except for money deposited into the permanent fund under  
2 Section 15 of Article IX, all money received by the State as a result  
3 of the termination through settlement or otherwise, of litigation in  
4 State or federal court involving mineral lease rentals, royalties,  
5 royalty sale proceeds, and federal mineral revenue sharing payments  
6 and bonuses shall be deposited in the budget reserve fund.

7 SECTION 31. BUDGET RESERVE FUND. (a) This section applies from  
8 July 1, 1991, through June 30, 1996.

9 (b) In addition to deposits made to the budget reserve fund  
10 under Section 30(d) and (e) of this article, appropriations may be  
11 made to the fund at any time.

12 (c) Money in the budget reserve fund shall be invested so as to  
13 yield competitive market rates to the fund. Income from investment of  
14 the fund shall be retained in the fund.

15 (d) Except as provided in (e) of this section, money may be  
16 appropriated from the budget reserve fund only if the legislature  
17 determines that the money received by the State in a fiscal year and  
18 subject to the expenditure limit is less than the maximum amount that  
19 may be appropriated under Section 30(b) of this article. However, the  
20 amount appropriated from the budget reserve fund during a fiscal year  
21 may not exceed the lesser of

22 (1) the amount that, when added to money received by the  
23 State during that fiscal year and subject to the expenditure limit,  
24 equals the maximum amount that may be appropriated under Section 30(b)  
25 of this article; or

26 (2) twenty-five percent of the balance of the budget re-  
27 serve fund.

28 (e) An appropriation from the budget reserve fund may be made  
29 upon affirmative vote of two-thirds of the membership of each house of

1 the legislature to meet a disaster emergency declared by the governor  
2 as prescribed by law. An appropriation from the budget reserve fund  
3 to the principal of the permanent fund may be made at any time.

4 SECTION 32. REPEAL. Sections 29 - 31 of Article XV are repealed  
5 July 1, 1996.

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

04/05/89	1065	(S)	REFERRED TO FINANCE
03/28/90	3088	(S)	MOTION BY HALFORD TO PLACE ON NEXT
03/28/90	3088	(S)	CALENDAR UNDER UNIFORM RULE 18
03/28/90	3089	(S)	MOTION FAILED Y3 N16 X1

SJR 2

Proposing an amendment to the Constitution of the State of Alaska creating dedicated funds from fuel taxes on aircraft, watercraft, motor vehicles, and from related sources.

PRIME SPONSOR: JONES

CURRENT STATUS: WITHDRAWN BY SPONSOR STATUS DATE: 01/09/89

JRN-DATE	JRN-PG		ACTION
12/30/88		(S)	PREFILE RELEASED
01/09/89	9	(S)	READ THE FIRST TIME - REFERRAL(S)
01/09/89	9	(S)	TRANSPORTATION, THEN FINANCE
01/09/89	54	(S)	WITHDRAWN BY SPONSOR

SJR 3

CSSJR 3(JUD)

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

PRIME SPONSOR: COGHILL

CO-SPONSORS: KELLY, KERTTULA, STURGULEWSKI, PEARCE, FRANK, FAIKS, ELIASON, FISCHER, HALFORD, JONES, UEHLING, BINKLEY, ADAMS, RODEY, POURCHOT, ZHAROFF, FAHRENKAMP

CURRENT STATUS: (H) JUD STATUS DATE: 04/21/89

JRN-DATE	JRN-PG		ACTION
12/30/88		(S)	PREFILE RELEASED
01/09/89	9	(S)	READ THE FIRST TIME - REFERRAL(S)
01/09/89	9	(S)	STATE AFFAIRS, THEN JUDICIARY
01/16/89	118	(S)	CO-SPONSOR ADDED: FAIKS
03/03/89	625	(S)	CO-SPONSORS ADDED: ELIASON, FISCHER,
03/03/89	625	(S)	HALFORD, JONES, UEHLING
03/06/89	648	(S)	CO-SPONSOR ADDED: BINKLEY
03/08/89	688	(S)	CO-SPONSORS ADDED: ADAMS, RODEY
03/20/89	859	(S)	STA RPT CS 4DP SAME TITLE
03/20/89	859	(S)	FN TO SJR PUBLISHED (ELECT)
03/29/89	967	(S)	FN TO STA CS PUBLISHED (ELECT)
03/20/89	870	(S)	CO-SPONSOR ADDED: POURCHOT
03/29/89	967	(S)	JUD RPT CS 3DP SAME TITLE
04/08/89	1128	(S)	FN TO JUD CS PUBLISHED (ELECT)
03/29/89	967	(S)	FIN REFERRAL ADDED
04/04/89	1043	(S)	FIN RPT 5DP (JUD)CS W/STA FN
04/04/89	1055	(S)	CO-SPONSOR ADDED: ZHAROFF
04/05/89	1066	(S)	FIN LETTER OF INTENT
04/08/89	1130	(S)	RULES TO CALENDAR
04/08/89	1134	(S)	READ THE SECOND TIME
04/08/89	1135	(S)	JUD CS ADOPTED UNAN CONSENT
04/08/89	1135	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/8/89	1135	(S)	READ THE THIRD TIME CSSJR 3(JUD)
04/08/89	1135	(S)	CO-SPONSOR ADDED: FAHRENKAMP

04/06/89	1135	(S)	(S) ADOPTED FIN LETTER OF INTENT
04/08/89	1135	(S)	PASSED Y15 N1 X4
04/08/89	1141	(S)	TRANSMITTED TO (H)
04/10/89	953	(H)	READ THE FIRST TIME - REFERRAL(S)
04/10/89	953	(H)	STATE AFFAIRS, JUDICIARY
04/21/89	1163	(H)	STA RPT 6DP INR
04/21/89	1163	(H)	-SENATE LETTER OF INTENT WITH STA REPORT
04/21/89	1163	(H)	-ZERO FISCAL NOTE (LAA) 4/21/89
04/21/89	1163	(H)	-PREVIOUS SENATE FN (ELECT) 3/29/89
04/21/89	1163	(H)	REFERRED TO JUDICIARY

SJR 4

Proposing an amendment to the Constitution of the State of Alaska relating to the individual right to keep and bear arms.

PRIME SPONSOR: RODEY

CO-SPONSORS: KELLY, STURGULEWSKI, SZYMANSKI, FISCHER, HALFORD, KERTTULA, PEARCE, FRANK, FAIKS, COGHILL, JONES, ELIASON

CURRENT STATUS: (H) JUD STATUS DATE: 04/28/90

JRN-DATE	JRN-PG		ACTION
01/06/89		(S)	PREFILE RELEASED
01/09/89	9	(S)	READ THE FIRST TIME - REFERRAL(S)
01/09/89	9	(S)	JUDICIARY
01/16/89	118	(S)	CO-SPONSOR ADDED: FAIKS
02/03/89	292	(S)	JUD RPT 5DP
02/03/89	292	(S)	FN PUBLISHED (ELECT)
02/03/89	292	(S)	FIN REFERRAL ADDED
02/03/89	292	(S)	REFERRED TO FINANCE
02/09/89	380	(S)	FIN WAIVED PUBLICATION NOTICE
02/22/89	487	(S)	CO-SPONSOR ADDED: COGHILL
04/21/90	3501	(S)	FIN RPT 1DP 5NR
04/21/90	3501	(S)	UPDATED FN PUBLISHED (ELECTIONS)
04/26/90	3615	(S)	RULES TO CALENDAR 4/26/90
04/26/90	3626	(S)	READ THE SECOND TIME
04/26/90	3627	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/26/90	3627	(S)	READ THE THIRD TIME SJR 4
04/26/90	3627	(S)	CO-SPONSORS ADDED: JONES, ELIASON
04/26/90	3627	(S)	PASSED Y18 N2
04/26/90	3627	(S)	POURCHOT NOTICE OF RECONSIDERATION
04/27/90	3663	(S)	RECONSIDERATION NOT TAKEN UP
04/27/90	3666	(S)	TRANSMITTED TO (H)
04/27/90	3669	(H)	READ THE FIRST TIME - REFERRAL(S)
04/28/90	3669	(H)	JUDICIARY
05/07/90	4166	(H)	DISCHARGE FROM JUDICIARY FLD Y15 N22 X3

SJR 5

HCS CSSSSJR 5(FIN) AM H

Proposing an amendment to the Constitution of the State of Alaska relating to the budget reserve fund; depositing into the budget reserve fund, except for money deposited into the permanent fund, all money received by the state after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or

of litigation in state or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property; allowing an appropriation from the fund only if the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year or upon the affirmative vote of three-fourths of the members of each house of the legislature.

PRIME SPONSOR: FAIKS

CO-SPONSORS: JONES, ELIASON, FISCHER, KELLY, UEHLING

CURRENT STATUS: LEGIS RESOLVE 129 STATUS DATE: 07/23/90

JRN-DATE	JRN-PG	ACTION
01/06/89		(S) PREFILE RELEASED
01/09/89	10	(S) READ THE FIRST TIME - REFERRAL(S)
01/09/89	10	(S) STATE AFFAIRS, THEN FINANCE
01/11/89	77	(S) JUD REFERRAL ADDED
02/02/89	277	(S) SPONSOR SUBSTITUTE INTRODUCED -REFERRALS
02/02/89	277	(S) STATE AFFAIRS, THEN JUDICIARY, FINANCE
03/20/89	859	(S) STA RPT CS 2DP 2NR SAME TITLE
03/20/89	860	(S) FN TO SSSJR PUBLISHED (ELECT)
04/27/89	1469	(S) FN TO CS PUBLISHED (ELECT)
04/26/89	1435	(S) JUD RPT CS 2DP 3NR NEW TITLE
04/26/89	1435	(S) FN TO CS PUBLISHED (ELECT)
01/31/90	2286	(S) PUBLICATION NOTICE WAIVED
02/02/90	2315	(S) CO-SPONSOR WITHDRAWN: DUNCAN
02/02/90	2315	(S) CO-SPONSOR ADDED: KELLY, UEHLING
02/14/90	2448	(S) FIN RPT CS 3DP 2DNP NEW TITLE
02/14/90	2448	(S) FN TO CS PUBLISHED (ELECT)
02/27/90	2606	(S) RULES TO CALENDAR 2/27/90
02/27/90	2615	(S) READ THE SECOND TIME
02/27/90	2615	(S) FIN CS ADOPTED UNAN CONSENT
02/27/90	2615	(S) AM NO 1 MOVED BY FAIKS
02/27/90	2616	(S) AM NO 1 ADOPTED Y13 N7
02/27/90	2616	(S) AM NO 2 MOVED BY FAIKS
02/27/90	2616	(S) AM NO 2 ADOPTED Y11 N9
02/27/90	2616	(S) AM NO 3 MOVED BY FAHRENKAMP
02/27/90	2617	(S) AM NO 3 FAILED Y9 N11
02/27/90	2617	(S) AM NO 4 MOVED BY FAHRENKAMP
02/27/90	2617	(S) AM NO 4 FAILED Y10 N10
02/27/90	2618	(S) AM NO 5 MOVED BY FAHRENKAMP
02/27/90	2618	(S) AM NO 5 FAILED Y8 N12
02/27/90	2619	(S) AM NO 6 MOVED BY FAHRENKAMP
02/27/90	2619	(S) AM NO 6 FAILED Y9 N11
02/27/90	2619	(S) AM NO 7 MOVED BY POURCHOT
02/27/90	2620	(S) AM NO 7 ADOPTED Y13 N6 A1
02/27/90	2620	(S) AM NO 8 MOVED BY HALFORD
02/27/90	2620	(S) AM NO 8 ADOPTED Y14 N5 A1
02/27/90	2621	(S) AM NO 9 MOVED BY ZHAROFF
02/27/90	2621	(S) AM TO AM 9 MOVED BY FRANK
02/27/90	2621	(S) AM TO AM 9 FAILED Y9 N11
02/27/90	2622	(S) AM NO 9 FAILED Y6 N14
02/27/90	2622	(S) AM NO 10 MOVED BY KERTTULA
02/27/90	2622	(S) AM NO 10 FAILED Y10 N10
02/27/90	2622	(S) AM NO 11 MOVED BY DUNCAN

02/27/90	2623	(S)	AM NO 11 FAILED Y7 N13
02/27/90	2623	(S)	ADVANCED TO THIRD READING UNAN CONSENT
02/27/90	2623	(S)	READ THE THIRD TIME CSSSSJR 5(FIN) AM
02/27/90	2623	(S)	PASSED Y15 N5
02/27/90	2623	(S)	KERTTULA NOTICE OF RECONSIDERATION
02/28/90	2644	(S)	RECON TAKEN UP - IN THIRD READING
02/28/90	2644	(S)	HELD ON RECONSIDERATION TO 3/6/90
03/06/90	2734	(S)	RETURN TO SECOND FOR AM 12 UNAN CONSENT
03/06/90	2734	(S)	AM NO 12 MOVED BY POURCHOT
03/06/90	2734	(S)	AM NO 12 FAILED Y6 N14
03/06/90	2735	(S)	AUTOMATICALLY IN THIRD READING
03/06/90	2735	(S)	RETURN TO SECOND FOR AM 13 UNAN CONSENT
03/06/90	2735	(S)	AM NO 13 MOVED BY POURCHOT
03/06/90	2735	(S)	AM NO 13 FAILED Y7 N13
03/06/90	2735	(S)	AUTOMATICALLY IN THIRD READING
03/06/90	2735	(S)	RECONSIDERATION FAILED Y13 N7
03/06/90	2735	(S)	RESCINDED PREVIOUS ACTION UNAN CONSENT
03/06/90	2735	(S)	RETURN TO RUL COMMITTEE
04/18/90	3434	(S)	RULES TO SUPPLEMENTAL CAL 1 4/18
04/18/90	3435	(S)	THIRD READING ON RECONSIDERATION
04/18/90	3435	(S)	RETURN TO SECOND FOR AM 14 UNAN CONSENT
04/18/90	3435	(S)	AM NO 14 MOVED BY BINKLEY
04/18/90	3435	(S)	AM NO 14 FAILED Y10 N10
04/18/90	3435	(S)	AUTOMATICALLY IN THIRD READING
04/18/90	3436	(S)	MOTION: RETURN TO SECOND FOR AM 15
04/18/90	3436	(S)	AM NO 15 MOVED BY FAIKS
04/18/90	3436	(S)	AM NO 15 ADOPTED Y18 N2
04/18/90	3436	(S)	RETURN TO 2ND TO RESCIND AM 14 UNAN CONS
04/18/90	3437	(S)	RESCINDED IN FAILURE TO ADOPT Y11 N9
04/18/90	3437	(S)	AM NO 14 MOVED BY HALFORD
04/18/90	3437	(S)	AM NO 14 ADOPTED Y12 N8
04/18/90	3437	(S)	AUTOMATICALLY IN THIRD READING
04/18/90	3437	(S)	RETURN TO 2ND TO RESCIND ACTION AM 12
04/18/90	3437	(S)	MOVED TO RESCIND IN FAILING TO ADOPT 12
04/18/90	3438	(S)	FAILED TO RESCIND ACTION AM 12 Y9 N11
04/18/90	3438	(S)	AUTOMATICALLY IN THIRD READING
04/18/90	3438	(S)	RETURN TO 2ND TO RESCIND ACTION AM 3
04/18/90	3438	(S)	MOVED TO RESCIND IN FAILING TO ADOPT 3
04/18/90	3438	(S)	FAILED TO RESCIND Y9 N11
04/18/90	3439	(S)	AUTOMATICALLY IN THIRD READING
04/18/90	3439	(S)	RETURN TO 2ND TO RESCIND ACTION AM 4
04/18/90	3439	(S)	MOVED TO RESCIND IN FAILING TO ADOPT 4
04/18/90	3439	(S)	RESCINDED IN FAILURE TO ADOPT Y11 N9
04/18/90	3439	(S)	AM NO 4 MOVED BY FAHRENKAMP
04/18/90	3439	(S)	AM NO 4 FAILED Y8 N12
04/18/90	3440	(S)	AUTOMATICALLY IN THIRD READING
04/18/90	3440	(S)	RETURN TO 2ND TO RESCIND ACTION AM 5
04/18/90	3440	(S)	MOVED TO RESCIND IN FAILING TO ADOPT 5
04/18/90	3440	(S)	FAILED TO RESCIND ACTION Y8 N12
04/18/90	3440	(S)	AUTOMATICALLY IN THIRD READING
04/18/90	3440	(S)	RETURN TO 2ND TO RESCIND ACTION AM 6
04/18/90	3440	(S)	MOVED TO RESCIND IN FAILING TO ADOPT 6
04/18/90	3441	(S)	FAILED TO RESCIND ACTION Y9 N11
04/18/90	3441	(S)	AUTOMATICALLY IN THIRD READING
04/18/90	3441	(S)	PASSED ON RECONSIDERATION Y15 N5
04/18/90	3443	(S)	TRANSMITTED TO (H)
04/19/90	3328	(H)	READ THE FIRST TIME - REFERRAL(S)
04/19/90	3328	(H)	FINANCE
05/04/90	3886	(H)	FIN RPT HCS(FIN)NEW TLE SDP 2DNP INR 1AM
05/04/90	3886	(H)	-PREVIOUS SEN FN (ELECT) 2/14/90
05/08/90		(H)	RULES TO CALENDAR 5/8/90
05/03/90	4227	(H)	READ THE SECOND TIME
05/08/90	4227	(H)	FIN HCS ADOPTED UNAN CONSENT

05/08/90	4228	(H)	AMENDMENT NO 1 BY ULMER
05/08/90	4229	(H)	AM NO 1 FAILED Y11 N29
05/08/90	4229	(H)	AMENDMENT NO 2 BY ULMER
05/08/90	4230	(H)	AM NO 2 FAILED Y16 N24
05/08/90	4230	(H)	AMENDMENT NO 3 BY ULMER
05/08/90	4231	(H)	AM NO 3 ADOPTED Y22 N18
05/08/90	4231	(H)	AMENDMENT NO 4 BY BOYER
05/08/90	4231	(H)	AM NO 4 ADOPTED UNAN CONSENT
05/08/90	4231	(H)	AMENDMENT NO 5 BY BROWN
05/08/90	4231	(H)	AM NO 5 ADOPTED UNAN CONSENT
05/08/90	4232	(H)	AMENDMENT NO 6 BY PHILLIPS
05/08/90	4234	(H)	AM NO 6 FAILED Y20 N20
05/08/90	4236	(H)	AMENDMENT NO 7 BY ULMER
05/08/90	4236	(H)	AM NO 7 FAILED Y7 N30 X3
05/08/90	4236	(H)	AMENDMENT NO 8 BY RIEGER
05/08/90	4237	(H)	AM NO 8 FAILED Y16 N21 X3
05/08/90	4237	(H)	AMENDMENT NO 9 BY BARNES
05/08/90	4238	(H)	AM NO 9 ADOPTED Y24 N13 X3
05/08/90	4238	(H)	ADVANCE TO THIRD READING FLD Y11 N26 X3
05/08/90	4239	(H)	MOTION TO RESCIND ACTION ON AM 6
05/08/90	4239	(H)	POSTPONE RESCIND MOTION TEMP Y17 N20 X3
05/08/90	4241	(H)	RESCIND MOTION WITHDRAWN BY SPONSOR
05/08/90	4241	(H)	AMENDMENT NO 10 BY PHILLIPS
05/08/90	4242	(H)	AM TO AM 10 BY RIEGER (TITLE AM)
05/08/90	4243	(H)	AM TO AM 10 ADOPTED UNAN CONSENT
05/08/90	4243	(H)	AM NO 10AM ADOPTED Y39 N1
05/08/90	4243	(H)	...CHANGES TITLE OF LEGISLATION
05/08/90	4243	(H)	ADVANCED TO THIRD READING UNAN CONSENT
05/08/90	4244	(H)	READ THE THIRD TIME HCS CSSSSJR5(FIN)AMH
05/08/90	4244	(H)	PASSED Y38 N2
05/08/90	4359	(H)	TRANSMITTED TO (S) AS AMENDED
05/08/90	4359	(H)	ENGROSSMENT OF LEGISLATION WAIVED
05/08/90	4241	(S)	CONCUR AM OF (H) Y15 N5
05/08/90	4295	(S)	RESCIND ACTION CONCURRING MOT. WITHDRAWN
05/08/90	4297	(S)	RESCIND MOTION NOT TAKEN UP
06/01/90	4349	(S)	2:35 PM 5/24/90 TRANSMITTED TO GOVERNOR
07/27/90	4517	(S)	SIGNED BY GOVERNOR 7/23 LEG RESOLVE 129

SJR 6  
HCS CSSJR 6(RES)

Relating to the interception of Alaska  
salmon and steelhead on the high seas.

PRIME SPONSOR: BINKLEY  
CO-SPONSORS: STURGULEWSKI, KELLY, RODEY, ADAMS, KERTTULA, DUNCAN, UEHLING, JONES  
COGHILL, ELIASON, FAIKS, HALFORD, FISCHER, SZYMANSKI, PEARCE, POURCHOT

CURRENT STATUS: LEGIS RESOLVE 10 STATUS DATE: 03/30/89

JRN-DATE	JRN-PG		ACTION
01/09/89	10	(S)	READ THE FIRST TIME - REFERRAL(S)
01/09/89	10	(S)	SALMON INTERCEPTION, THEN RESOURCES
01/11/89	78	(S)	CO-SPONSOR ADDED: UEHLING
01/19/89	157	(S)	SAL REFERRAL WAIVED
01/20/89	170	(S)	CO-SPONSOR ADDED: JONES, COGHILL
01/20/89	170	(S)	ELIASON, FAIKS, HALFORD,
01/20/89	170	(S)	FISCHER, SZYMANSKI
01/26/89	208	(S)	RES RPT CS 5DP NEW TITLE
01/26/89	209	(S)	ZERO FN PUBLISHED (F&G)
01/27/89	220	(S)	RULES TO CALENDAR
01/27/89	227	(S)	CO-SPONSOR ADDED: PEARCE, POURCHOT
01/27/89	226	(S)	READ THE SECOND TIME

01/27/89	226	(S)	RES CS ADOPTED UNAN CONSENT
01/27/89	226	(S)	ADVANCED TO THIRD READING UNAN CONSENT
01/27/89	226	(S)	READ THE THIRD TIME CSSJR 6(RES)
01/27/89	226	(S)	PASSED Y19 N- X1
01/27/89	228	(S)	TRANSMITTED TO (H)
01/30/89	204	(H)	READ THE FIRST TIME - REFERRAL(S)
01/30/89	204	(H)	RESOURCES
03/15/89	625	(H)	RES.RPT HCS(RES) 6DP 1NR
03/15/89	626	(H)	PREVIOUS SENATE ZERO FN (F&G) 1/26/89
03/20/89		(H)	RULES TO CALENDAR 3/20/89
03/20/89	692	(H)	READ THE SECOND TIME
03/20/89	693	(H)	RES HCS ADOPTED UNAN CONSENT
03/20/89	693	(H)	ADVANCED TO THIRD READING UNAN CONSENT
03/20/89	693	(H)	READ THE THIRD TIME HCS CSSJR 6(RES)
03/20/89	693	(H)	PASSED Y36 N- X3 A1
03/20/89	696	(H)	TRANSMITTED TO (S) AS AMENDED
03/21/89	879	(S)	CONCURRENCE MOVED AND WITHDRAWN
03/21/89	879	(S)	HELD TO 3/22/89
03/22/89	894	(S)	CONCUR AM OF (H) Y17 N- A3
03/29/89	972	(S)	1:15 PM 3/29/89 TRANSMITTED TO GOVERNOR
03/31/89	996	(S)	SIGNED BY GOVERNOR 3/30 LEGIS RESOLVE 10

SJR 7

Relating to making state facilities and  
national parks in Alaska accessible to  
elderly and handicapped persons.

PRIME SPONSOR: FAIKS.  
CO-SPONSORS: KELLY, RODEY, KERTTULA, STURGULEWSKI

CURRENT STATUS: (S) HES STATUS DATE: 01/09/89

JRN DATE	JRN-PG		ACTION
01/09/89	10	(S)	READ THE FIRST TIME - REFERRAL(S)
01/09/89	10	(S)	HEALTH, EDUCATION, AND SOCIAL SERVICES

SJR 8  
SJR 8 AM

Urging a change under the Internal  
Revenue Code in the tax treatment of the  
transfer of real property subject to a  
mortgage that is a recourse loan when  
the indebtedness on the property is  
discharged through foreclosure, repos-  
session, or surrender of the property.

PRIME SPONSOR: HALFORD  
CO-SPONSORS: PEARCE, FAIKS

CURRENT STATUS: (H) FIN STATUS DATE: 05/03/89

JRN-DATE	JRN-PG		ACTION
01/09/89	10	(S)	READ THE FIRST TIME - REFERRAL(S)
01/09/89	10	(S)	LABOR AND COMMERCE
01/16/89	118	(S)	CO-SPONSOR ADDED: FAIKS
02/23/89	495	(S)	L&C RPT 4DP
02/23/89	495	(S)	ZERO FN PUBLISHED (REV)
02/28/89	554	(S)	RULES TO CALENDAR
02/28/89	558	(S)	READ THE SECOND TIME
02/28/89	558	(S)	ADVANCED TO THIRD READING UNAN CONSENT

Offered: 5/4/90  
Referred: Rules

6-0161N

Original sponsor(s): SEN. FAIKS, Jones, Eliason, Fischer, Kelly, Uehling

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 HOUSE CS FOR CS FOR SS FOR SENATE JOINT RESOLUTION NO. 5 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing amendments to the Constitution  
6 of the State of Alaska relating to an  
7 appropriation limit and to the budget  
8 reserve fund; and providing for an  
9 effective date.

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

11 \* Section 1. Article IX, Constitution of the State of Alaska, is amend-  
12 ed by adding a new section to read:

13 SECTION 17. BUDGET RESERVE FUND. (a) The budget reserve fund  
14 is established as a separate fund in the State treasury. The legisla-  
15 ture may appropriate money to the budget reserve fund. Money in the  
16 fund shall be invested so as to yield competitive market rates to the  
17 fund. Notwithstanding Section 7 of this article, income from invest-  
18 ment of the fund shall be retained in the fund and money may be appro-  
19 priated from the fund only as authorized under (b) of this section.

20 (b) Money received by the State that is subject to the appro-  
21 priation limit under Section 29 of Article XV and that exceeds that  
22 appropriation limit shall be deposited in the budget reserve fund.  
23 Deposits under this subsection are not subject to the prohibition on  
24 dedicated funds under Section 7 of this article. If the legislature  
25 determines that the money subject to the appropriation limit received  
26 by the State in a fiscal year is less than the amount that may be  
27 appropriated under Section 29 of Article XV, up to two-thirds of the  
28 budget reserve fund balance may be appropriated to the general fund.  
29 However, the amount appropriated from the budget reserve fund when

1 added to the money subject to the appropriation limit may not exceed  
2 the amount that may be appropriated under Section 29 of Article XV for  
3 that fiscal year. Notwithstanding the appropriation limit in this  
4 subsection and in Section 29 of Article XV, additional amounts may be  
5 appropriated from the budget reserve fund by affirmative vote of  
6 three-fourths of the membership of each house of the legislature.

7 \* Sec. 2. Article IX, sec. 17(b), Constitution of the State of Alaska,  
8 is repealed and readopted to read:

9 (b) If the amount available for appropriation for a fiscal year  
10 is less than the amount appropriated for the previous fiscal year, an  
11 appropriation may be made from the budget reserve fund for that fiscal  
12 year. However, the amount appropriated may not exceed the amount  
13 necessary, when added to other funds available for appropriation, to  
14 provide for total appropriations equal to the amount of appropriations  
15 made in the previous calendar year for the previous fiscal year.  
16 Additional amounts may be appropriated from the budget reserve fund by  
17 affirmative vote of three-fourths of the membership of each house of  
18 the legislature.

19 \* Sec. 3. Article XV, Constitution of the State of Alaska, is amended  
20 by adding a new section to read:

21 SECTION 29. APPROPRIATION LIMIT. (a) Appropriations from the  
22 treasury made for each of fiscal years 1992, 1993, 1994, and 1995  
23 shall not exceed \$2,200,000,000. This subsection does not apply to  
24 appropriations to the permanent fund or for permanent fund dividends  
25 to State residents, appropriations to the budget reserve fund, appro-  
26 priations required to pay the principal and interest on general obli-  
27 gation bonds issued by the State, appropriations of general obligation  
28 and revenue bond proceeds, appropriations required to pay principal  
29 and interest on revenue bonds of a public enterprise or public

1        incorporation of the State, appropriations of money received from a  
2        State source required for State participation in a federal entitlement  
3        program for low income persons, appropriations of money received from  
4        a non-State source in trust for a specific purpose, appropriations  
5        required to comply with the terms of a settlement agreement or judg-  
6        ment in carrying out the trust responsibilities of the State under the  
7        Alaska Mental Health Enabling Act of 1956, appropriations of money  
8        derived from a fishery enhancement tax that has been approved by vote  
9        of the affected taxpayers, and appropriations to meet a state of  
10       disaster declared by the governor as prescribed by law.

11                (b) If the rate of inflation since the beginning of a fiscal  
12        year is greater than five percent, an appropriation for the next  
13        fiscal year of up to the amount necessary to offset the effect of the  
14        cumulative inflation that exceeds a compound rate of five percent per  
15        annum since July 1, 1991, may be made during the regular session held  
16        during that fiscal year upon affirmative vote of two-thirds of the  
17        membership of each house of the legislature. The appropriation is not  
18        subject to the limit established in (a) of this section. For purposes  
19        of applying this subsection, the rate of inflation shall be based on  
20        the Consumer Price Index for all urban consumers for Anchorage pre-  
21        pared by the United States Bureau of Labor Statistics.

22        \* Sec. 4. Section 16 of art. IX and secs. 26, 27, and 28 of art. XV,  
23        Constitution of the State of Alaska, are repealed.

24        \* Sec. 5. Section 29 of art. XV, Constitution of the State of Alaska,  
25        is repealed.

26        \* Sec. 6. Sections 1, 3, and 4 of this resolution take effect July 1,  
27        1991.

28        \* Sec. 7. Sections 2 and 5 of this resolution take effect July 1, 1995.

29        \* Sec. 8. The amendments proposed by this resolution shall be placed

1 before the voters of the state at the next general election in conformity  
2 with art. XIII, Sec. 1, Constitution of the State of Alaska, and the elec-  
3 tion laws of the state.

Amended: 5/8/90  
Offered: 5/4/90  
Referred: Rules

FINAL  
6-0161N

9TH VERSION

Original sponsor(s): SEN. FAIKS, Jones, Eliason, Fischer, Kelly, Uehling

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 HOUSE CS FOR CS FOR SS FOR SENATE JOINT RESOLUTION NO. 5 (Finance) am H  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-  
6 tion of the State of Alaska relating to  
7 the budget reserve fund; depositing into  
8 the budget reserve fund, except for  
9 money deposited into the permanent fund,  
10 all money received by the state after  
11 July 1, 1990, as a result of the ter-  
12 mination, through settlement or other-  
13 wise, of an administrative proceeding or  
14 of litigation in state or federal court  
15 involving mineral lease bonuses, ren-  
16 tals, royalties, royalty sale proceeds,  
17 federal mineral revenue sharing payments  
18 or bonuses, or involving taxes imposed  
19 on mineral income, production, or prop-  
20 erty; allowing an appropriation from the  
21 fund only if the amount available for  
22 appropriation for a fiscal year is less  
23 than the amount appropriated for the  
24 previous fiscal year or upon the affir-  
25 mative vote of three-fourths of the  
26 members of each house of the legisla-  
27 ture.

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

29 \* Section 1. Article IX, Constitution of the State of Alaska, is

1 amended by adding a new section to read:

2 SECTION 17. BUDGET RESERVE FUND. (a) There is established as a  
3 separate fund in the State treasury the budget reserve fund. Except  
4 for money deposited into the permanent fund under Section 15 of this  
5 article, all money received by the State after July 1, 1990, as a  
6 result of the termination, through settlement or otherwise, of an  
7 administrative proceeding or of litigation in a State or federal court  
8 involving mineral lease bonuses, rentals, royalties, royalty sale  
9 proceeds, federal mineral revenue sharing payments or bonuses, or  
10 involving taxes imposed on mineral income, production, or property,  
11 shall be deposited in the budget reserve fund. Money in the budget  
12 reserve fund shall be invested so as to yield competitive market rates  
13 to the fund. Income of the fund shall be retained in the fund. Sec-  
14 tion 7 of this article does not apply to deposits made to the fund  
15 under this subsection. Money may be appropriated from the fund only  
16 as authorized under (b) or (c) of this section.

17 (b) If the amount available for appropriation for a fiscal year  
18 is less than the amount appropriated for the previous fiscal year, an  
19 appropriation may be made from the budget reserve fund. However, the  
20 amount appropriated from the fund under this subsection may not exceed  
21 the amount necessary, when added to other funds available for appro-  
22 priation, to provide for total appropriations equal to the amount of  
23 appropriations made in the previous calendar year for the previous  
24 fiscal year.

25 (c) An appropriation from the budget reserve fund may be made  
26 for any public purpose upon affirmative vote of three-fourths of the  
27 members of each house of the legislature.

28 (d) If an appropriation is made from the budget reserve fund,  
29 until the amount appropriated is repaid, the amount of money in the

1           general fund available for appropriation at the end of each succeeding  
2           fiscal year shall be deposited in the budget reserve fund. The legis-  
3           lature shall implement this subsection by law.

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

Correspondence

:

Back-up

*Background information on  
Const. Budget Reserve Fund*

# MEMORANDUM

State of Alaska  
Office of the Governor  
Division of Policy

TO: Doug Baily  
Attorney General

DATE: May 22, 1990

and Hugh Malone  
Commissioner, Revenue

*HB 508*

FROM: *Mary* Mary Halloran  
Director, Policy

PHONE: 465-3568

SUBJECT: SJR 5: Budget Reserve Fund

FILE NO:

The purpose of this memorandum is to establish an administrative record and clarify the provisions of the final version of Senate Joint Resolution Number 5, proposing a constitutional amendment to establish a budget reserve fund. The resolution was approved by the Legislature on May 8, 1990, and will place a proposal to establish a constitutionally-protected Budget Reserve Fund before the voters at the November, 1990 election. (See attached copy of HCS CSSS SJR 5 - Finance, am H.)

You will find little formal legislative history on this proposal, so I thought it prudent to establish some administrative history for the record and to guide further administrative action. The final version of SJR5 was drafted by this Division (Jack Fagnoli and myself) on April 26-29, aided, at various moments, by the Department of Law (Bruce Bothelho, Jim Baldwin, and Jeff Bush), and then put in good drafting form by Tam Cook and Jack Chenowith at the Legal Division of Legislative Affairs on May 1 after the initial draft and accompanying explanation were provided to Representative Kay Brown.

That draft was only slightly modified by subsequent legislative action. The House Finance Committee acted on HJR 66, and converted it from a spending limit/budget reserve fund combination to a budget reserve fund only. That version, read across on May 4, was adopted intact as a House floor amendment to SJR 5 on May 8, and subsequently approved by both bodies. I kept all the internal drafts, and will provide them to the Dept. of Law if you believe it advisable, Doug.

To further examine formal legislative history, if that should be necessary at some point, you need to consider four different joint resolutions under consideration by the legislature this session: SJR 5, HJR 66, HJR 52, and HJR 81. You will find, however, the vast proportion of the testimony on the provisions of the spending limit proposals and little discussion of the budget reserve fund.

A description of SJR5, by subsection, follows.

§ 17(a):

"There is established as a separate fund in the State treasury the budget reserve fund." (Page 2, Lines 2-3)

This permanently establishes the Budget Reserve Fund as a separate fund in the State treasury. The Budget Reserve Fund would be constitutionally protected, not subject to statutory changes.

"Except for money deposited into the permanent fund under Section 15 of this article, all money received by the State after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund." (Page 2, Lines 3-11)

All "settlement", "litigation" and "back tax" income received by the State after 7/1/90 pertaining to the mineral sources identified above are to be deposited into the Budget Reserve Fund, except for revenue deposits already constitutionally dedicated to the Permanent Fund. This provision "takes off the table" all windfall income deriving from these non-recurring revenue sources. The language does not cover windfall income from non-mineral revenue sources, such as any litigation proceeds from the Exxon Valdez oil spill, disputed receipts from AHFC, and overdue loan payments to the Student Loan Corporation. The language "administrative proceeding" is meant to cover the Department of Revenue's current attempts to

recover mineral revenues which were not paid in a timely manner and are now in the internal appeal process, the so-called "back taxes." As of April 30, 1990, the total in appeal was slightly over \$3 billion. The underlying purpose is to reduce incentives to immediately spend surplus revenue, and to enhance budget stability by minimizing year-to-year surges in overall spending levels.

"Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund." (Page 2, Lines 11-13)

This provision is intended to ensure that a reasonable rate of return is earned on Budget Reserve Fund investments, and that the Fund's balance is not used for subsidized loans.

"Income of the fund shall be retained in the fund." (Page 2, Line 13)

This provision makes explicit the retention of Fund earnings within the principal of the Fund.

"Section 7 of this article does not apply to deposits made to the fund under this subsection." (Page 2, Lines 13-15)

This language exempts deposits to the Budget Reserve Fund made under subsection (a) of the resolution, including deposits of retained earnings, from the prohibition of dedicated funds contained in Article IX, Section 7, of the Alaska Constitution.

"Money may be appropriated from the fund only as authorized under (b) or (c) of this section." (Page 2, Lines 15-16)

Outlays from the Budget Reserve Fund are limited to appropriations made under subsections (b) and (c) of the resolution.

B 17(b):

"If the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund." (Page 2, Lines 17-19)

If the total amount of money available for appropriation for a fiscal year - - including all revenue sources, such as permanent fund earnings, federal funds and other restricted funds - - is less than the total amount appropriated for the prior fiscal year, an appropriation from the Budget Reserve Fund is allowed.

Since appropriations for annual budgets are generally made prospectively, before actual revenue receipts are known for the fiscal year being budgeted, there is a risk that actual receipts during that year may be greater than anticipated, thus causing some portion of any Budget Reserve Fund appropriation for that year to exceed the "ceiling" of the prior fiscal year's appropriation amount. In such a case, the presumption is that the "excess portion" of the Budget Reserve Fund appropriation is invalid and remains within the Budget Reserve Fund. In practice, what we would expect to happen, is that the Legislature would make contingent appropriations from the Budget Reserve Fund, i.e. appropriations contingent upon the actual revenues received.

"However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year." (Page 2, Lines 19-24)

This provision limits the allowable maximum size of an appropriation from the Budget Reserve Fund. Note, however, that the allowable maximum size is subject to a different limit from the one which triggers the opportunity for such an appropriation. In short, whereas an appropriation can be made whenever revenue for a fiscal year is less than "the amount appropriated for the previous fiscal year" (Page 2, Line 18), the sum of any Budget Reserve Fund

appropriation and other available revenue may not exceed the amount appropriated for the previous fiscal year net of supplemental appropriations for that previous fiscal year. This is the practical effect of the phrase "in the previous calendar year" (Page 2, Line 23).

The phrase "in the previous calendar year" was inserted by the House Finance Committee specifically to preclude strategems whereby a supplemental appropriation to the current fiscal year, e.g., FY 90, could be made in order to increase the allowable size of a Budget Reserve Fund appropriation for the fiscal year being budgeted, e.g., FY 91.

The meaning and intent of the phrase "in the previous calendar year" is clear, if the assumption is made that the Budget Reserve Fund appropriation is being made during a legislative session for the fiscal year whose main budget is being appropriated. If, however, one assumes that the Budget Reserve Fund appropriation is being made as a supplemental appropriation for the current fiscal year (e.g., FY 90), the phrase "in the previous calendar year" can be interpreted to produce a non-sensical result - - e.g., that the sum of FY 90 revenue and an FY 90 supplemental appropriation from the Budget reserve Fund can not exceed the total amount appropriated during the preceding calendar year for FY 89, which in this case would simply be the amount of the FY 89 supplemental appropriation.

Though this problem of interpretation may exist in the current wording of  $\beta$ (b), it is clear that the intent of the phrase "in the previous calendar year" in Line 23 is solely to preclude the budget strategems discussed earlier, rather than to create a non-sensical result.

$\beta$  17(c):

**"An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature." (Page 2, Lines 25-27)**

The intent of this provision is to allow Budget Reserve Fund appropriations to be made for any reason, regardless of year-to-year fluctuations in revenue or appropriation levels, so long as a strong

legislative consensus or "super-majority" exists in each house of the legislature.

B 17(d):

"If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund." (Page 2, Line 28 - Page 3, Line 2)

The intent of this provision is to ensure that, following any appropriation from the Budget Reserve Fund, the Fund is replenished as quickly as revenue levels allow, out of any fiscal year-end balances (e.g., as identified in the State's Annual Financial Report), whether from one or several fiscal years, and without any appropriations being required. This provision was requested specifically by Governor Cowper.

A potential ambiguity may arise from the use of the word "succeeding" in Line 1 on Page 3, as it may be construed to mean that replenishment of the Budget Reserve Fund does not begin until the end of the first positive-balance fiscal year that "succeeds" the fiscal year for which the Budget Reserve Fund appropriation was made, rather than beginning at the close of the same fiscal year for which the Fund appropriation was made (should a revenue balance materialize by that year's end).

Though this interpretation can be made, the intent of B(d) was not to create such a loophole, but to ensure that replenishment of the Budget Reserve Fund begin as soon as positive balances materialize, and proceed to completion as soon as such balances allow. In this context, the word "succeeding" is intended to refer to the requirement that, if the first positive year-end balance that arises is not sufficient to fully replenish the Budget Reserve Fund for appropriations made out of it, the positive balances of "succeeding" (i.e., successive) fiscal years shall also be used, until replenishment is complete.

Page 7

"The legislature shall implement this subsection by law."  
(Page 3, Lines 2-3)

Because a number of provisions in the resolution (including the tracking of appropriations, replenishment of the Budget Reserve Fund, and the determination of positive year-end revenue balances) will require specific implementation procedures, the intent of this provision is to stipulate that clarifying statutory provisions are recognized as necessary and are anticipated.

If you have any questions, or would like additional information, please don't hesitate to contact me or Jack Fargnoli of my staff at 465-3568.

Attachment: HCSCSSS SJR 5 - Finance, am H

# Alaska State Legislature

Legislative Research Agency



P.O. Box Y  
Juneau, AK 99811-3100  
Phone: (907) 485-3991  
Fax: (907) 483-3351

March 5, 1991

## MEMORANDUM

TO: Senator Arliss Sturgulewski

FROM: Tom Chester *TC*  
Legislative Analyst

RE: Fiscal and Budgetary Impact of Senate Bills 29 and 30  
Research Request 91.121

Sent To You By  
Legislative Research Agency

You asked for an analysis of the fiscal and budgetary impact of Senate Bills 29 and 30, including estimates of the FY 91 balances of the constitutional and statutory budget reserve funds. You also requested information regarding the legal consequences of both funds existing concurrently.

To answer your questions we contacted staff from five state agencies. Tam Cook, director of Legislative Legal Services, provided information regarding the legal issues of having both funds in existence simultaneously. Nancy Slagel, an analyst with the Division of Legislative Finance, provided information regarding the FY 90 and FY 91 general fund balances to be carried forward to the next fiscal year. She also provided estimates of funds eligible for appropriation to the constitutional and statutory budget reserve funds. Jack Fagnoli, of the governor's Office of Management and Budget (OMB), identified funds due the constitutional budget reserve fund. Charles Logsdon and Vincent Wright, both of the Department of Revenue, provided updated FY 91 revenue estimates. We also contacted James Baldwin, of the Attorney General's Office, to find out when the AG's opinion, requested by the Department of Revenue, regarding transfers to the constitutional budget reserve fund would be ready.

## Bill Summaries

Senate Bill 29 appropriates to the constitutional budget reserve fund the FY 91 year end budgetary "carryforward", i.e., the fiscal year end general fund balance available for appropriation as reported by the Department of Administration in their FY 91 Annual Financial Report. In addition, any funds in the statutory budget reserve fund at the time SB 30 is adopted are appropriated to the constitutional budget reserve fund. Senate Bill 29 takes effect when the statutory budget reserve fund is repealed, and the repeal is accomplished by SB 30.

Senator Sturgulewski  
March 5, 1991  
Page 2

#### FY 91 Budgetary Implications of SB 29 and SB 30

Senate Bill 29 appropriates to the constitutional budget reserve fund the general fund balance available for appropriation as reported in the Department of Administration's FY 91 Annual Financial Report. The general fund balance available for appropriation is often referred to as the "carryforward" (and used so in this memorandum) and is so identified in the Legislative Finance Division document appended as Attachment A.

Table 1 provides details necessary for estimating the FY 91 carryforward. The carryforward is based upon the governor's budget proposal made public on January 24, 1991 and the Department of Revenue's January estimate of FY 91 general fund unrestricted revenues.

Mr. Joseph Thomas, state accountant with the Department of Administration, believes that the Annual Financial Report for FY 91 will be available in October or November of 1991 but could be as late as December or January. Mr. Thomas also mentioned that the department's calculation of the carryforward will not be available until shortly before the Annual Financial Report is issued.

If the bill is taken literally, in that the amount appropriated is as reported in the Annual Financial Report of the Department of Administration for FY 91, then the appropriation would not occur until the 1992 legislative session.

TABLE 1  
FY 91 Balance Sheet  
General Fund  
Based on ANS Price of \$23.02 per Barrel  
(in millions of dollars)

FY 90 Carryforward	300.1
FY 91 Revenues	3,165.0
Railbelt Energy Fund	127.2
FY 91 Adjustments to Revenue	<u>84.7</u>
FY 91 AVAILABLE	3,677.0
FY 91 Expenditures	(2,964.0)
Due Constitutional Budget Reserve Fund[1]	(275.2)
FY 91 Carryforward/Due Statutory Budget Reserve Fund and Available for Appropriation to the Constitutional Budget Reserve Fund Under SB 29	437.8

- [1] Amount is due to five oil settlements occurring since July 1, 1990. These settlements include 74.5 percent of the \$287 million ARCO royalty settlement and the following amounts in tax case settlements: Mobil - \$32.7 million, Exxon - \$28.1 million, Freeport - \$0.2 million, and Marathon - \$0.4 million. These amounts total (after rounding) 275.2 million.

Source: *The Fiscal Year 1992 Budget: A legislative overview of the Governor's request*, Legislative Finance Division, p. 4. Appended as Attachment A is Page 4 of this report.

The revenue projection used in Table 1 (\$3,165 million) is based on a fiscal year average price for Alaska North Slope (ANS) crude oil of \$23.02 per barrel (see Attachment A). This fiscal year average for the price of oil was presented to the legislature this January by Charles Logsdon, chief petroleum economist with the Department of Revenue. In January the fiscal year-to-date average price (from June 1 to mid-January) for ANS crude oil was approximately \$26.30 per barrel and falling.

For the first seven months of the fiscal year, the actual average price for ANS crude oil was approximately \$26.30 per barrel. If the price of ANS crude oil for the entire fiscal year is to average \$23.02 (as in the Department of Revenue's January forecast) then it is necessary for the price of ANS crude oil

to average approximately \$18.50 per barrel for the remaining five months of the fiscal year. (Appendix B presents the details of this computation.)

Unfortunately the price of oil appears to have dropped lower than \$18.50 per barrel. On February 20, 1991, for example, the spot market price for ANS crude oil was \$15.23 per barrel. On February 19, 1991 the price was \$14.77 per barrel.

Table 2 presents the same information as Table 1 except it assumes that the average price of ANS crude oil between February and June is not \$18.50 per barrel but \$15.50 per barrel. This agency is not predicting that the price of oil between February and June will average \$15.50 per barrel: Table 2 is presented merely to illustrate the budgetary consequences of the ANS crude oil price remaining near its current level between February and June of this year.

TABLE 2  
FY 91 Balance Sheet  
General Fund  
Based on ANS Price of \$21.80 per Barrel  
(in millions of dollars)

FY 90 Carryforward	300.1
FY 91 Revenues [1]	2,998.6
Railbelt Energy Fund	127.2
FY 91 Adjustments to Revenue	<u>84.7</u>
FY 91 AVAILABLE	3,510.6
FY 91 Expenditures	2,964.0
Due Constitutional Budget Reserve Fund	(275.2)
FY 91 Carryforward/Due Statutory Budget Reserve Fund and Available for Appropriation to the Constitutional Budget Reserve Fund Under SB 29	271.4

[1] Based upon average daily price of 26.30 for first seven months of fiscal year 91 and an average daily price of \$15.50 for the last five months of fiscal year 91. See Appendix B.

Source: *The Fiscal Year 1992 Budget: A Legislative Overview of the Governor's Request*, p. 4, Legislative Finance Division. Revenue estimate adapted by Legislative Research Agency (as described in Attachment B).

### Budget Reserve Balances

Currently, the statutory budget reserve fund has a balance of \$3 million. The projected FY 91 balance of the statutory budget reserve fund under the two revenue scenarios is \$440.8 (437.8 + 3.0) and \$274.4 (271.4 + 3.0) respectively. Senate Bill 29 proposes to transfer the FY 91 ending balance of the statutory budget reserve fund to the constitutional budget reserve fund. Senate Bill 29 also requires that any funds in the statutory budget reserve fund at the time SB 29 is adopted be transferred to the constitutional budget reserve fund. Table 3 provides the balances of the constitutional budget reserve fund based upon the forgoing information.

TABLE 3  
FY 91 Constitutional Budget Reserve Fund  
Ending Balances Given Adoption of SB 29 and SB 30  
(millions of dollars)

	Table 1 (\$23.02/barrel oil)	Table 2 (\$21.80/barrel oil)
Constitutional Budget Reserve Fund	275.2	275.2
Statutory Budget Reserve FY 91 Starting Balance	3.0	3.0
Statutory Budget Reserve Appropriation to Constitutional Budget Reserve Fund (FY 91 carryforward)	437.8	271.4
Balance	716.0	549.6

### CAVEATS

Senate Bill 29 states that the "unexpended and unobligated balance" of the statutory budget reserve fund is transferred to the constitutional budget reserve fund. The OMB staff believes that before this session is completed, all statutory budget reserve funds may be appropriated. If all available funds are appropriated during the current session, the balance of the constitutional budget reserve fund is \$275.2 million.

Also, the Department of Revenue has raised some issues as to whether all \$275.2 million "owed" the constitutional budget reserve fund can be legally transferred from the treasury to the reserve fund. Jim Baldwin of the Attorney General's Office is preparing an opinion regarding which funds may be transferred. The opinion is due for release soon (not available as of March 4, 1991). William Floerchinger, deputy commissioner, Department of Revenue, has stated that no funds will be transferred until the AG's opinion is released.

Senator Sturgulewski  
March 5, 1991  
Page 6

**Existence of Both Budget Reserve Funds**

In the opinion of Tam Cook no legal issues arise because both funds exist simultaneously. Ms. Cook believes, however, that the name of the statutory budget reserve fund should be changed to assure that people do not confuse the two funds.

I hope this information is useful to you. If I can be of further help, please call.

Attachments

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

### MEMORANDUM

January 21, 1992

**SUBJECT:** Budget Reserve Fund (Work Order No. 7-LS1832)

**TO:** Representative Mike Navarre  
Co-chair, House Finance Committee

**FROM:** Tamara Brandt Cook *TBC*  
Director

Under Article IX, Section 17(b) of the state constitution amounts may be appropriated from the budget reserve fund when ". . . the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year. . . ." You have asked how the amount available for appropriation is to be determined. I agree with your observation that the language is not clear. Unfortunately, since the matter has not yet been considered by the court, any answer I provide to your question will be speculative at best.

At the very least this language includes the balance in the unrestricted general fund available at the beginning of a fiscal year plus revenue received by the general fund during that year and money lapsed into the general fund during that year.

In addition, there are certain statutory funds within the general fund with restrictions on expenditure. Money in these funds may be appropriated, either for the limited uses set out in the statute or for other uses by amending the restrictions contained in the statute or relying upon the legislature's "power of the purse" and ignoring the restrictions. Since these funds may be appropriated, I believe a court would tend to conclude that amounts in them are "available for appropriation" under Section 17(b). An example of such a fund is the Railbelt Energy Fund (AS 37.05.520).

Likewise, federal funds are made available to the state for restricted uses but can only be expended if appropriated. I would think a court would find these to be "available for appropriation."

However, because subsection (b) is not limited to money that is available for appropriation from the general fund while subsection (d) specifically requires repayment only from general fund money, I would think that a court would find that

Representative Mike Navarre

January 21, 1992

Page 2

money available for appropriation under subsection (b) is not limited to general fund money. If it were, like subsection (d), it could have said so. The earnings reserve account (AS 37.13.145) is, arguably, a fund that is available for appropriation, but it is an account within the permanent fund rather than the general fund. You will recall that under Article IX, Section 16, the earnings of the permanent fund are to be deposited in the general fund unless otherwise provided by law, and the legislature has so provided by denominating the earnings reserve as an account in the permanent fund. Yet the legislature has also regularly made appropriations from the earnings reserve account, so it would seem difficult for a court to find that that money, along with all other permanent fund income, is not "available for appropriation." ?

On the other hand, the principal of the permanent fund is certainly not "available for appropriation." Article IX, Section 15 states specifically that the principal may only be used for income-producing investments.

There are dozens of other accounts and funds established by statute, ranging from loan funds to trust funds to funds required under federal law. Enclosed is a list of funds and accounts mentioned in statutes, but bear in mind other accounts have been established by administrative agencies. To the extent that those funds contain unencumbered and unobligated balances, they may provide a resource for reappropriation purposes, but because they are typically appropriated to the fund for a specific program and can still be expended under the original appropriation, a fair argument could be made for the proposition that they are not balances "available for appropriation" within the terms of the constitution and do not become available until the original purpose is accomplished and the remaining funds are lapsed or the program is repealed.

TBC:gc  
92-040.glc

Enclosure

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 24, 1992

The Honorable Darrel J. Rexwinkel  
Commissioner  
Department of Revenue  
P. O. Box 110400  
Juneau, AK 99811

RE: Interpretation of Budget  
Reserve Fund (Alaska Const.  
art. IX, § 17)  
Our File #'s: 663-91-0298  
663-92-0189; -0256; -0107  
Opinion No. 1

Dear Commissioner Rexwinkel:

This is in reply to your request for our views on several questions which you raise concerning Article XI, Section 17 of the Alaska Constitution. This constitutional provision, which became effective on January 2, 1991, following its ratification by the voters as an amendment to the Alaska Constitution, creates a budget reserve fund and requires that the proceeds of certain tax and mineral revenue disputes be deposited into the fund. This amendment also establishes limitations on the legislature's ability to spend money from the budget reserve fund.

The questions which you have presented to us and our views on them are as follows:

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

☐ 1031 W. 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 269-5100  
FAX: (907) 276-3697

☐ KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 452-1568  
FAX: (907) 456-1317

☑ P. O. BOX 110300 · STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 463-5295

I. SUMMARY

1. Does the dedication required by the amendment apply to the proceeds received from the termination of administrative proceedings and lawsuits before the effective date of the amendment?

Yes. The amendment applies to all such proceeds received after July 1, 1990.

2. Does the amendment repeal the statutory budget reserve fund established by AS 37.05.540?

No. The preexisting statutory budget reserve fund remains a viable depository of public funds after the adoption of the amendment.

3. Does the amendment supersede other valid dedications of proceeds that are within the scope of the amendment?

No. Under the amendment, other dedications of revenue may apply to settlement proceeds prior to the dedication of revenue to the fund created by the amendment.

4. What is the meaning of the term "administrative proceeding" in the amendment as applied to tax disputes pending before the Department of Revenue?

"Administrative proceeding," in the amendment, means formal adjudicatory proceedings.

## II. ANALYSIS

- A. Does the dedication required by the amendment apply to proceeds received by the state before the effective date of the amendment?

The amendment in pertinent part provides:

Except for money deposited into the permanent fund under Section 15 of this article, all money received by the state after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments of bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund.

Alaska Const. art. IX, § 17 (emphasis added). The amendment expressly applies to revenues received before its effective date.

The Alaskan constitution provides that, "unless otherwise provided in the amendment, [the amendment] becomes effective thirty days after the certification of the election returns by the lieutenant governor." Alaska Const. art. XIII, § 1 (emphasis added). The state constitution is construed using the same rules that apply to the construction of statutes. 2 Norman J. Singer, Sutherland Statutory Construction § 41.04 (rev. 4th ed. 1986).

Under most circumstances, a constitutional amendment should be construed to avoid retroactive effects. Cf. AS 01.10.090 ("No statute is retrospective unless expressly declared therein"). However, "the electorate may nonetheless achieve retroactive

effects by clear and unambiguous language." State ex rel. Maloney v. McCartney, 223 S.E.2d 607, 613 (W. Va. 1976) (citing 1 T.M. Cooley, Cooley's Constitutional Limitations (136-37 (8th ed.))); see also Matthews v. Quinton, 362 P.2d 932 (Alaska 1961), cert. denied, 368 U.S. 517 (1962) (constitutional provision may retroactively validate statute previously held unconstitutional, since constitutional provision contained reference to statute intended to be validated). Here, since the amendment clearly and unambiguously states that it applies to revenues received after July 1, 1991, it applies retrospectively to settlement proceeds received after the beginning of fiscal year 1991, even though the amendment did not take effect until January 2, 1991.

B. Does the amendment repeal the statutory budget reserve fund established by AS 37.05.54?

1. Status of the 1991 appropriation to the statutory fund

The same legislative session that adopted the constitutional budget reserve fund also purported to appropriate settlement revenues into a statutory fund established in AS 37.05.540. The statutory fund appropriation provided:

That portion of the money received by the state on or after the effective date of this Act as a result of the termination, through settlement or otherwise, of an administrative proceeding or litigation involving mineral lease rentals, royalties, royalty sale proceeds, or federal mineral revenue sharing payments or bonuses that is not dedicated to the permanent fund under art. IX, sec. 15, Constitution of the State of Alaska, or to

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 5

the public school trust fund under AS 37.14.150 is appropriated to the budget reserve fund (AS 37.05.540).

Ch. 194, SLA 1990.

However, this appropriation was not obligated after it took effect. In fact, the appropriation was not encumbered or expended pending voter ratification of the budget reserve fund amendment. Upon ratification, all amounts covered by the appropriation were deposited in the fund created by the amendment.

Thus, the legislature did not intend to have the chapter 194 appropriation processed if the amendment was ratified by the voters. This appropriation was a backup measure designed to ensure that known settlement proceeds were reserved to cover future budgetary shortfalls.

2. Continued viability of the statutory budget reserve fund

The Department of Administration has asked whether the constitutional budget reserve fund operates to impliedly repeal the statutory fund. In deciding what constitutes a repeal in a conflict between a state statute and a state constitutional provision, we apply the same considerations as in conflicts between two state statutes. Fine & Son v. Hall, 21 P.2d 697 (Cal. App. 1933); see also 16 C.J.S. Constitutional Law § 41, at 117-20. In Alaska, a repeal by implication is not a favored construction. Warren v. Thomas, 568 P.2d 400 (Alaska 1977). Where the provisions

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 6

are irreconcilable, the later act, to the extent of conflict, constitutes an implied repeal of the earlier one. If the later act covers the entire subject of the earlier one and is intended as a substitute, it will operate to repeal the earlier act. Peter v. State, 531 P.2d 1263 (Alaska 1975).

Here no irreconcilable differences exist between the amendment and the statute. Moreover, no evidence has come to light that the framers of the amendment intended to subsume the statutory fund within the constitutional fund. Therefore, the statutory fund continues in effect until amended or repealed by the legislature.

C. Does the amendment supersede other valid dedications of proceeds that are within the scope of the amendment?

Although the amendment expressly allows dedications to the Alaska Permanent Fund, there are other dedications for which no provision is made by the amendment. Specifically, the amendment does not resolve conflicts with certain dedications of revenue established by statute to satisfy trust obligations imposed by federal law.

Under AS 37.14.150, one-half of one percent of state revenue derived from settlements subject to the amendment must be deposited in the public school trust fund (AS 37.14.110). They may also be subject to a conditional dedication in favor of the Mental Health Trust Income Account (AS 37.14.011), if the settlement

proceeds constitute "unrestricted general fund revenue." These two trust funds are statutory dedications of state revenue required by federal law. See, e.g., 1985 Inf. Op. Att'y Gen. (Aug. 13; 366-403-85). The state constitution permits dedications that existed before statehood or that are required for participation in a federal program. Alaska Const. art. IX, § 7.

The amendment must be construed to avoid conflict with other provisions of the Alaska Constitution. Abrams v. State, 534 P.2d 91 (Alaska 1975). Whenever reasonably possible, related provisions of an enactment should be harmonized and given their full meaning and effect. Park v. State, 528 P.2d 785 (Alaska 1974). Absent a clear expression of intent that the amendment must take precedence over other valid dedications required by federal law, these pre-existing dedications should be excluded from the reach of the amendment. Research into the history of the amendment reveals no evidence of such an intent.

Therefore, the amendment applies to proceeds net of dedications otherwise permitted under Article IX, Section 7.

D. What is the meaning of the term "administrative proceeding" in the amendment as applied to tax disputes pending before the Department of Revenue?

Dedicated to a budget reserve fund by the amendment are disputed mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal revenue sharing of bonuses, and the proceeds

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 8

taxes imposed on mineral income, production, or property received "as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a state or federal court."

Dedications to the budget reserve fund from the termination of "litigation in a state or federal court" are readily identifiable. Since litigation is initiated with the filing of a complaint, the proceeds from resolution of mineral revenue disputes received following the filing of a complaint involving the disputed liability must be deposited in the budget reserve fund. As a general rule, litigation is the only formal vehicle for resolving disputes involving mineral revenues other than taxes, so normally money received by the state from these revenues will be dedicated to the budget reserve fund.

No ambiguity exists as to whether revenues received as the result of the termination of formal adjudicatory hearings conducted by the Department of Revenue pursuant to statute are dedicated to the budget reserve fund. They fall squarely within the ambit of the amendment. Whether the informal conference process established by AS 43.05.240 for the resolution of tax disputes is an "administrative proceeding" is a question which requires detailed analysis.

1. The conference process for tax disputes

Alaska Statute 43.05.240, enacted in 1976, provides both formal and informal mechanisms for the resolution of state tax disputes. The informal procedure furnishes the taxpayer an opportunity to present objections to a departmental official at an informal conference. AS 43.05.240(a). Corrections to the assessment or penalty are required to be made by the Department if, as a result of the informal conference, the Department determines that a correction is warranted. Taxpayers dissatisfied with the outcome of the informal conference may request a formal conference.<sup>1</sup>

Under the formal hearing procedure, an adversarial hearing is held at which the taxpayer may present evidence and argument relevant to the amount of the tax and penalty owing the state. AS 43.05.240(b). The hearing officer is empowered to issue subpoenas, administer oaths, and make inquiries necessary to determine the amount of tax or penalty due, and, following the hearing, is required to issue a written, final decision adjudicating the taxpayer's liability. AS 43.05.240(c). Only after exhausting the formal hearing procedure may the taxpayer appeal to the superior court. AS 43.05.240(d).

---

<sup>1</sup> An aggrieved taxpayer may bypass the informal conference by immediately requesting a formal hearing. AS 43.20.240(b)(1).

2. Rules of construction to determine meaning of "administrative proceeding"

a. Common meaning of "administrative proceeding"

The Alaska Supreme Court recently noted that an "important right of the people implicated in all cases of constitutional construction" is the "right to have the constitution upheld as the people ratified it." Citizens Coalition for Tort Reform v. McAlpine, 810 P.2d 162, 168 (Alaska 1991). See also Thomas v. Bailey, 595 P.2d 1 (Alaska 1979). At issue in Citizens Coalition was the meaning of "rule" in the context of the constitutional provision defining the rule-making power of the Alaska Supreme Court. The proper approach to the analysis of constitutional provisions, the court explained, is as follows:

Because of our concern for interpreting the constitution as the people ratified it, we generally are reluctant to construe abstrusely any constitutional term that has a plain ordinary meaning. Rather, absent some signs that the term at issue has acquired a peculiar meaning by statutory definition or judicial construction, we defer to the meaning the people themselves probably placed on the provision. Normally, such deference to the intent of the people requires "adherence to the common understanding of words."

Id. at 169 (citations omitted). Applying this approach, the court looked to a standard dictionary to determine the common understanding of the word at issue.

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 11

This approach is appropriate here to ascertain the meaning the people themselves probably placed on the term "administrative proceeding" when they ratified the proposed amendment.<sup>2</sup> In a legal context, "proceedings" is defined in Webster's Third New International Dictionary at 1807 (Unabridged 1976) as "the course of procedure in a judicial action or in a suit in litigation: legal action . . . (2) a particular action at law or case in litigation . . . ."

Since this definition makes reference to "litigation," and "cases or actions at law," the plain, ordinary meaning of these words is important, too. "Litigate" is defined as "to carry on a legal contest by judicial process . . . to contest in law." Webster Ninth New Collegiate Dictionary at 698 (1987). Thus, in the legal context, the common understanding of the term "proceeding" leads to the conclusion that only those administrative actions which can be analogized to legal contests are within the amendment.

Informal conferences fall outside the ambit of the common understanding of litigation or legal contests. A conference, in the common understanding of the word, is inapposite to a legal

---

<sup>2</sup> Since the term "administrative proceeding" has not acquired a particular meaning by statutory definition or judicial construction, reference to a standard dictionary should be employed. See State v. Woods, 345 N.W.2d 457, 474 (Wis. 1984) ("[t]he common and approved usage of [proceeding] in a statute may be ascertained by reference to a recognized dictionary").

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 12

contest. For example, Tormont Webster's Dictionary defines a conference as "a meeting for consultation or discussion." The Tarrant Webster's Illustrated Encyclopedia Dictionary 367 (1990). This common understanding of the word squares with the statutory process for informal resolution of tax disputes. By statute, the informal conference is a meeting between the taxpayer (or the taxpayer's representative) and a department "appeals officer." 15 AAC 05.020. The "appeals officer" at the informal conference is not a judicial or quasi judicial officer. The written decision of the appeals officer following an informal conference simply sets out the points of disagreement between the parties. It is not a process which results in the protection of a legal right, or redresses or prevents a wrong, as does a judgment or other order enforceable by judicial process. Labeling the statutory conference as "informal" supports the conclusion that the "informal conference" is a process inherently different than a legal contest.

Application of well recognized tenets of statutory construction also yields the conclusion that the informal conference procedure is not an "administrative proceeding." Constitutional provisions are interpreted under the same principle as those applied in the interpretation of the statutes. See Citizens Coalition at 169 ("the basic principles of statutory interpretation apply to constitutions"). A "widely applied tenet

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 13

of statutory interpretation [is] that if the legislative intent or general meaning of a statute is not clear, the meaning of doubtful words may be determined by reference to their association with other associated words and phrases." State, Real Estate Commission v. Johnston, 682 P.2d 383, 386-87 (Alaska 1984) (quoting 2A C. Dallas Sands, Sutherland Statutory Construction § 47.16 at 101 (4th ed. 1973)). Another rule of statutory construction applicable here is that provisions relating to the same subject matter should be read as a whole so that a total scheme evolves which maintains the integrity of each provision and avoids ignoring one provision over another. Conner v. State, 696 P.2d 680, 682 n.3 (Alaska App. 1985). Since in the amendment the term "administrative proceeding" appears in association with the phrase "litigation in a state or federal court," the electorate must have understood that the term "administrative proceeding" was used to express a process akin to litigation. This conclusion is supported by reference to the words "termination" and "settlement" used earlier in the amendment; these are words commonly used in reference to lawsuits, not conferences or meetings.

b. Harmonizing the amendment with the constitutional preference for unrestricted revenues

A preference for unrestricted revenues is implicit in the general prohibition against dedicated funds contained in the Alaska Constitution. Art. IX, § 7. However, under the amendment money required to be deposited into the budget reserve fund is dedicated, and is not available for the unfettered exercise of the legislative power of appropriation. The divergence between these provisions is minimized by construing "administrative proceeding" to avoid an expansive interpretation of the budget reserve amendment. See Abrams, 534 P.2d at 95 (if possible, conflicting provisions of constitution should be harmonized).

3. Legislative and electoral history

In determining the meaning of a term in the constitution, courts also scrutinize the history of the constitutional provision at issue. Citizens Coalition, 810 P.2d at 170. Unfortunately, here the history of the amendment provides little guidance for interpretation of "administrative proceeding."<sup>3</sup>

---

<sup>3</sup> All tax disputes arising out of revenues from the development of the North Slope have been resolved through the administrative process. These informal conferences and formal hearings are confidential by law. AS 43.05.230. However, prior to enactment of the amendment, two settlements were publicly announced by the taxpayer and the state jointly because of the magnitude of the dollars involved. Both cases involved tax disputes with Atlantic Richfield Company. Both cases were administrative proceedings in formal hearing before the Department of Revenue. It appears that  
(continued...)

- a. The legislative history of the amendment provides no assistance in interpreting "administrative proceeding."

Article IX, section 17, was adopted by the 1990 legislature as Legislative Resolve No. 129. Although the vehicle for the Resolve was a Senate Resolution, SJR 5, that Resolution had earlier been drafted largely by the House Finance Committee as CSHJR 66 (Fin). An amendment adopted on the House floor essentially replaced the original Senate Resolution with CSHJR 66 (Fin), and the Senate later concurred with this amendment.

The original version of SJR 5 that came to the House from the Senate provided:

Except for money deposited into the permanent fund under Section 15 of Article IX, all money received by the State as a result of the termination through settlement or otherwise, of litigation in State or federal court involving mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses shall be deposited in the budget reserve fund.

CSSSSJR 5 (Fin). The House Finance Committee modified this Resolution by, inter alia, including the reference to "an administrative proceeding" and adding "or involving taxes imposed on mineral income, production, or property."

The additional language was proposed to the House Finance Committee by Representative Kay Brown, and was drafted by the House

---

<sup>3</sup>(...continued)  
these settlements were part of the inspiration for the amendment.

Fiscal Policy Subcommittee in conjunction with the Office of Management and Budget. Mary Halloran, former Governor Cowper's budget officer, urged the committee to establish a budget reserve fund that included not only amounts received from the pending litigation--including the Amerada Hess and the Dinkum Sands cases--but also amounts received for "back taxes still under consideration in the Department of Revenue." House Finance Committee, Committee Tape 90-95, side 1 (May 1, 1990).<sup>4</sup>

These few historical items shed no light on interpretation of "administrative proceeding," and nothing else in the legislative process shows that a committee, subcommittee, or legislator directly considered the question of what constitutes an "administrative proceeding."<sup>5</sup>

- b. The ballot summary provided to the electorate before ratification provides no guidance in the interpretation of the term

When a proposed constitutional amendment is to be presented to the electorate for ratification, the official

---

<sup>4</sup> Amerada Hess is a longstanding dispute in state court over the value of royalty oil to which the state was entitled; the original amount in dispute approached a billion dollars. Dinkum Sands, litigation in the United States Supreme Court, involves the location of the boundary between state and federal offshore mineral rights in the oil-rich Beaufort Sea; several hundred million dollars are at issue.

<sup>5</sup> Subsequent pronouncements of legislators regarding the legislative intent in enacting a provision "are irrelevant to a determination of legislative intent." Lynden Transport, Inc. v. State, 532 P.2d 700, 716 (Alaska 1975).

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 17

elections pamphlet must include the full text of the proposed amendment, the ballot title and summary of the proposal prepared by the director of the Division of Elections or the lieutenant governor, a neutral summary of the amendment prepared by the Legislative Affairs Agency, and statements in support of and in opposition to the amendment. AS 15.58.020(6).

The ballot summary for the budget reserve fund amendment described the revenue source for the fund as "money the state receives from mineral revenue lawsuits or administrative actions." The neutral summary, prepared by the Legislative Affairs Agency uses the term "administrative proceeding" to explain one of the sources of potential funding. Neither summary described or defined the reach of the amendment with respect to "administrative proceedings." Nor did the statement in support of the amendment, authored by Senator Faiks and Representatives Brown and Phillips, distinguish between the two types of administrative processes involved in resolution of tax disputes.<sup>6</sup> All statements in the

---

<sup>6</sup> This statement in the voter pamphlet makes three oblique references to administrative proceedings:

Revenues from mineral or oil and gas legal settlements and administrative proceedings will be deposited into the Budget Reserve.

. . . .

Legal settlements involving mineral or oil and gas revenues received after July 1, 1990, will be  
(continued...)

voter pamphlet associate the terms "administrative actions" or "administrative proceedings" with "lawsuits," providing additional support for the view that the "administrative action" referred to was a process in the nature of a legal contest or litigation.

c. The terms "windfalls" and "back taxes" are not helpful in resolving the issue

Although the terms "windfalls" and "back taxes" appear several times in the history of the amendment, they are of no real value to this inquiry. First, these terms do not appear in the text of the amendment, and cannot be grafted into it. See Gray v. State, 463 P.2d 897, 904 (Alaska 1970) (it is not for the court to rewrite statutes). Second, the amendment itself clearly places within the budget reserve fund proceeds of tax disputes that are neither longstanding nor "windfalls." For example, tax revenues arising from the early settlement of litigation initiated by the state to recover taxes cannot properly be called either "windfalls" or "back taxes."<sup>7</sup> "Windfalls" are commonly understood to be

---

<sup>6</sup>(...continued)

deposited into the Budget Reserve. . . . If approved, the Budget Reserve Fund will help hold down spending by removing from the table the oil and gas revenue "windfalls" that result from pending litigation and tax disputes.

<sup>7</sup> It would not be permissible to exclude settlement proceeds clearly within the scope of the amendment merely because those proceeds did not spring from "back taxes" or represent a  
(continued...)

sudden and unexpected pieces of good fortune in financial form.<sup>8</sup> Recoveries of assessed taxes are not unexpected nor, generally, sudden. "Back taxes" would encompass all assessed taxes not paid upon receipt of the tax bill, and surely the amendment was not intended to sweep within its purview all disputed taxes. If such were the case, virtually all major tax assessments would be required to be placed in the budget reserve fund. Further, patently clear is that the amendment snares "future taxes" as well as "back taxes."

In sum, there is no firm evidence that either the legislature or the public directly considered the question of what constitutes an administrative proceeding for the purposes of the amendment. Accordingly, no conclusions on the proper interpretation of the amendment can be drawn from its history.

#### 4. Judicial decisions

While the interpretation of the amendment advanced here is based principally on an analysis of the text of the amendment, judicial decisions construing the phrases "administrative

---

<sup>7</sup>(...continued)

"windfall." The amendment clearly requires some tax recoveries for other than long-standing back taxes to be placed in the budget reserve fund.

<sup>8</sup> According to William Safire, "'windfall' is a 400-year-old word that means an unexpected benefit, graphically describing the good fortune that falls to a passer-by when a piece of fruit is blown off a tree." William Safire, On Language 144 (1981).

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 20

proceeding" and "proceeding" provide helpful guidance for its interpretation. Research has revealed cases adopting an expansive definition of these terms as well as cases adopting a narrow definition of them. Generally, the outcomes in these cases turn on the context in which the term "administrative proceedings" is used. No cases were found interpreting "administrative proceeding" in a context similar to that of the amendment.

The more persuasive view expressed in the judicial decisions supports the conclusion that, in this context, "administrative proceeding" means "adjudicatory proceeding." See, e.g., Telco Communications v. Carbaugh, 885 F.2d 1225, 1227-30 (4th Cir. 1989) (an informal administrative fact-finding conference that was not "judicial in nature" was not an administrative proceeding for purposes of the Younger abstention doctrine); Manders v. Oklahoma ex rel. Dep't of Mental Health, 875 F.2d 263 (10th Cir. 1989) (a state agency's internal grievance procedure was not an "action or proceeding" within the meaning of § 706(k) of the 1964 Civil Rights Act, 42 U.S.C. § 2000e-5(k), governing awards of attorney's fees); American Centennial Ins. Co. v. EEOC, 722 F. Supp. 180 (D.N.J. 1989) ("proceeding" under § 709(e) of the 1964 Civil Rights Act, 42 U.S.C. § 2000e-8(e), which prohibits the disclosure of EEOC-obtained information "prior to the institution of any proceeding" under Title VII, did not include the EEOC's informal conference, conciliation, and persuasion process,

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 21

undertaken after a charge is filed); Roosevelt-Wabash Currency Exchange v. Fornelli, 364 N.E.2d 449, 452-53 (Ill. App. 1977) (judiciary will review only an "administrative decision," defined as a decision "which terminates the proceedings before the administrative agency").

5. Conclusion

The amendment applies only to the proceeds of disputes that have progressed to an adjudicatory stage of the dispute resolution process. The amendment does not apply to the proceeds of disputes settled at the informal conference stage.<sup>9</sup>

Very truly yours,

Charles E. Cole  
Attorney General

---

<sup>9</sup> Nothing in this memorandum alters the previous advice given to the Department of Revenue concerning the power of the attorney general to approve the compromise of tax claims. In a 1990 formal opinion, we explained the extent of the attorney general's and the department's power to correct or compromise tax claims at various stages of assessment or administrative appeal. 1990 Op. Att'y Gen. No. 1 (Dec. 3, 1990) (the attorney general's approval of a settlement that has the effect of compromising a tax claim is mandatory, even if the settlement of the dispute occurs before the matter is considered an administrative proceeding for purposes of allocating the recovery to the budget reserve fund).

The Honorable Darrel J. Rexwinkel  
File #'s: 663-91-0298; 663-92-0189  
663-92-0256; -0107

April 24, 1992  
PAGE 22

CEC:JLB:SCS:pml

May 16, 1992

And so, Amendment No. 1 was not adopted.

Amendment No. 2 by R.Phillips:

Page 30, after line 21:

Insert a new section to read:

"The sum of \$92,500,000 is appropriated from the general fund to the budget reserve fund established under art. IX, sec. 17, Constitution of the State of Alaska."

Representative R.Phillips moved and asked unanimous consent that Amendment No. 2 be adopted.

Representative MacLean objected.

The Speaker cautioned a member against making improper remarks.

#

The House recessed for a Majority Caucus to a call of the Chair at 1:06 a.m.

May 16, 1992

HOUSE JOURNAL

4399

AFTER RECESS

The House was called back to order at 1:59 a.m.

CSSB 483(2d-FIN) am

HJRNL920516 DOCUMENT= 2 OF 2 PAGE = 8 OF 20

Representative Gruenberg moved and asked unanimous consent that Amendment No. 2 be tabled.

Representative Taylor objected.

Representative Taylor moved and asked unanimous consent to amend the motion to table Amendment No. 2 to a time certain, five minutes later.

The Speaker ruled the motion out of order.

Representative R.Phillips appealed the ruling of the Chair.

The question being: "Shall the decision of the Chair be the will of the body?" The roll was taken with the following result:

CSSB 483(2d FIN) am

Motion to Amend Tabling Motion

Out of Order

Appeal ruling of the Chair

Yeas: 27 Boyer, Brown, Bruckman, Carney, Choquette, Davidson, B.Davis, C.Davis, Donley, Ellis, Finkelstein, Foster, Gruenberg, Grussendorf, Hudson, Ivan, Jacko, Koponen,

Kubina, Larson, Lincoln, Mackie, MacLean, Moyer, Navarre, Parnell, Ulmer

Nays: 13 Baker, Barnes, Gonzales, Hanley, Leman, Martin, M.A.Miller, M.W.Miller, G.Phillips, R.Phillips, Sharp, Taylor, Zawacki

Excused: 0

Absent: 0

And so, the decision of the Chair was the will of the body.

4400

HOUSE JOURNAL

May 16, 1992

CSSB 483(2d-FIN) am

The question being: "Shall Amendment No. 2 be tabled?" The roll was taken with the following result:

CSSB 483(2d FIN) am

Second Reading

Amendment No. 2

Table

Yeas: 26 Boyer, Brown, Bruckman, Carney, Choquette, Davidson, B.Davis,

C.Davis, Donley, Ellis, Finkelstein,  
Foster, Gruenberg, Hudson, Ivan,  
Jacko, Krponen, Kubina, Larson,  
Lincoln, Mackie, MacLean, Moyer,  
Navarre, Parnell, Ulmer  
Nays: 14 Baker, Barnes, Gonzales,  
Grussendorf, Hanley, Leman, Martin,  
M.A.Miller, M.W.Miller, G.Phillips,  
R.Phillips, Sharp, Taylor, Zawacki  
Excused: 0  
Absent: 0

And so, Amendment No. 2 was tabled.

Representative Gruenberg rose to a point of order regarding the relevance of the debate.

The Speaker cautioned the member to proceed in order.

Representative Gruenberg moved and asked unanimous consent that CSSB 483(2d FIN) am be considered engrossed and advanced to third reading.

Representative Taylor objected and withdrew the objection.

Representative Barnes rose to a point of order regarding the

HJRNL920516 DOCUMENT= 2 OF 2 PAGE = 11 OF 20

relevance of the debate.

The Speaker cautioned the member to proceed in order.

CSSB 483(2d FIN) am was read the third time.

May 16, 1992

HOUSE JOURNAL

4401

CSSB 483(2d-FIN) am

The question being: "Shall CSSB 483(2d FIN) am pass the House?" The roll was taken with the following result:

CSSB 483(2d FIN) am

Third Reading

Final Passage

Yeas: 27 Boyer, Bruckman; Carney,  
Davidson, B.Davis, C.Davis, Donley,  
Ellis, Finkelstein, Foster,  
Gruenberg, Grussendorf, Hudson,  
Ivan, Jacko, Koponen, Kubina,  
Larson, Lincoln, Mackie, MacLean,  
Moyer, Navarre, Parnell, G.Phillips,  
Sharp, Ulmer

Nays: 13 Baker, Barnes, Brown,  
Choquette, Gonzales, Hanley, Leman,

Martin, M.A.Miller, M.W.Miller,  
R.Phillips, Taylor, Zawacki

Excused: 0

Absent: 0

And so, CSSB 483(2d FIN) am passed the House.

Representative Gruenberg moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

~~Representative Gruenberg moved and asked unanimous consent that the following House Letter of Intent by Representatives Gruenberg, Grussendorf, Donley, Ulmer, Brown, Navarre, Kubina, Larson, C.Davis, Ellis, Parnell, Moyer, Barnes, Bruckman, Carney, Davidson, B.Davis, Finkelstein, Hudson, Ivan, Jacko, Leman, Lincoln, Mackie and R.Phillips be adopted:~~

House Letter of Intent  
for

CSSB 483 (2d FINANCE) am

~~"It is the intent of the House that all copy deposited to~~

the constitutional budget reserve remain in the constitutional budget reserve, unless appropriated by the legislature.

Future monies obtained from administrative settlements and the deposit of those monies into the general fund or the constitutional budget reserve fund shall be reviewed by legislative legal counsel.

4402

HOUSE JOURNAL

May 16, 1992

CSSB 483(2d-FIN) am

It is the intent of the House that court action be initiated to contest the attorney general's opinion on this subject."

There being no objection, it was so ordered.

CSSB 483(2d FIN) am was signed by the Speaker and the Chief Clerk and returned to the Senate.

UNFINISHED BUSINESS

CSHB 596(FIN) am

Representative Gruenberg moved and asked unanimous consent that the House consider the Senate message (page 4391) on the following at this time:

CS FOR HOUSE BILL NO. 596 (FINANCE) am

# STATE OF ALASKA

**OFFICE OF THE GOVERNOR**  
**OFFICE OF MANAGEMENT AND BUDGET**

WALTER J. HICKEL, GOVERNOR

P.O. BOX 110020  
JUNEAU, ALASKA 99811-0020  
PHONE: (907) 465-3568

June 19, 1992

The Honorable Ron Larson  
Chair  
Legislative Budget and Audit Committee  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Larson:

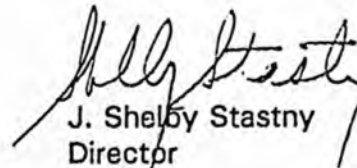
As a follow-up to our meeting this morning, the Administration has agreed that the administrative settlements which the Attorney General previously identified as erroneously deposited in the constitutional budget reserve fund will be placed in a separate account. Future administrative settlements will also be deposited into this account and its interest earnings will be accounted for separately.

This action is taken with the following understanding:

1. The Administration will access these funds should the Commissioner of Revenue determine it is necessary to do so because the cash available in the general fund is insufficient to meet the state's obligations; and
2. The Legislative Budget and Audit Committee and Administration will work on legislation during the interim for introduction next session which will clarify implementation of the constitutional amendment.

On behalf of the Governor, I look forward to working with you and the committee in finding common ground through which we can meet our mutual goals.

Sincerely,

  
J. Shelby Stastny  
Director

cc: Walter J. Hickel, Governor  
Legislative Budget and Audit Committee Members  
Charles Cole, Attorney General  
Commissioner Darrel Rexwinkel

October 20, 1992

DIRECTORY OF  
STATE FUNDS AND ACCOUNTS  
ESTABLISHED BY STATUTE

IN ALPHABETICAL ORDER  
BY PROPER NAME (including capitalization)

abandoned motor vehicle fund AS 28.11.110(a)

agricultural revolving loan fund AS 03.10.040(a)

Alaska advance college tuition payment fund AS 14.40.803(a)

Alaska Aerospace Development Corporation reserve fund  
AS 14.40.951(a)

Alaska Aerospace Development Corporation revolving fund  
AS 14.40.841

Alaska amateur sports fund AS 05.35.150

Alaska children's trust fund AS 37.14.200(a)

Alaska clean water fund AS 46.03.032(a)

Alaska debt retirement fund AS 37.15.011(a)

Alaska energy efficient home grant fund AS 18.56.410(a)

Alaska heritage endowment fund AS 37.14.400

Alaska Historical Commission receipts account AS 41.35.380(a)

Alaska housing finance revolving fund AS 18.56.082

Alaska Industrial Development and Export Authority revolving fund  
AS 44.88.060

Alaska longevity bonus fund AS 47.45.090(a)

Alaska marine highway system fund AS 19.65.060(a)

Alaska marine highway system vessel replacement fund  
AS 37.05.550(a)

Alaska municipal bond bank authority reserve fund AS 44.85.270

Alaska municipal land account AS 29.65.080(a)

community legal assistance grant fund AS 44.47.200  
community schools grant fund AS 14.36.020  
community solid waste management planning grant account  
AS 46.06.041(a)  
cooperative arrangement grant fund AS 14.14.115(b)  
correctional industries fund AS 33.32.020(a)  
crime victim compensation fund AS 18.67.162  
disaster relief fund AS 26.23.300(a)  
dividend fund AS 43.23.045(a)  
earnings reserve account AS 37.13.145  
economic development account AS 44.88.172(a)  
electrical service extension fund AS 44.83.370(a)  
employment security administration fund AS 23.20.155(a)  
enterprise development account AS 44.88.155(a)  
escheated real property trust account AS 38.95.250(a)  
export insurance account AS 44.88.390(a)  
family education loan account AS 14.43.720(a)  
Federal Transitional Grants Account AS 37.20.020  
FICA administration fund AS 39.30.050  
fire suppression fund AS 41.15.210  
Fish and Game Fund AS 16.05.100  
fisheries enhancement revolving loan fund AS 16.10.505(a)  
fishermen's fund AS 23.35.060  
fishery product revolving loan guarantee fund AS 45.92.010  
forest products business loan guarantee fund AS 45.94.010  
fuel emergency fund AS 26.23.400  
fund for the improvement of school performance AS 14.03.125(a)

October 20, 1992

DIRECTORY OF  
STATE FUNDS AND ACCOUNTS  
ESTABLISHED BY STATUTE

IN ALPHABETICAL ORDER  
BY PROPER NAME (including capitalization)

abandoned motor vehicle fund AS 28.11.110(a)

agricultural revolving loan fund AS 03.10.040(a)

Alaska advance college tuition payment fund AS 14.40.803(a)

Alaska Aerospace Development Corporation reserve fund  
AS 14.40.951(a)

Alaska Aerospace Development Corporation revolving fund  
AS 14.40.841

Alaska amateur sports fund AS 05.35.150

Alaska children's trust fund AS 37.14.200(a)

Alaska clean water fund AS 46.03.032(a)

Alaska debt retirement fund AS 37.15.011(a)

Alaska energy efficient home grant fund AS 18.56.410(a)

Alaska heritage endowment fund AS 37.14.400

Alaska Historical Commission receipts account AS 41.35.380(a)

Alaska housing finance revolving fund AS 18.56.082

Alaska Industrial Development and Export Authority revolving fund  
AS 44.88.060

Alaska longevity bonus fund AS 47.45.090(a)

Alaska marine highway system fund AS 19.65.060(a)

Alaska marine highway system vessel replacement fund  
AS 37.05.550(a)

Alaska municipal bond bank authority reserve fund AS 44.85.270

Alaska municipal land account AS 29.65.080(a)

Alaska permanent fund AS 37.13.010(a)  
Alaska Pioneers' Home Trust Fund AS 47.55.060  
Alaska school activities fund AS 14.07.059(a)  
Alaska school counseling program grant fund AS 14.30.750(a)  
Alaska science and technology endowment AS 37.17.020(a)  
Alaska student leadership development fund AS 14.30.510  
Alaska Winter Olympics account AS 05.35.100(a)  
Alaska World War II veterans' revolving fund AS 26.15.090(a)  
alcoholism and drug abuse revolving loan fund AS 44.29.210(a)  
alternative energy revolving loan fund AS 45.88.010(a)  
art in public places fund AS 44.27.060  
aviation fuel tax account AS 43.40.010(e)  
benefit account (((in the unemployment compensation fund)))  
AS 23.20.135(a)  
BIDCO fund AS 37.17.210  
bilingual-bicultural education fund AS 14.30.410(a)  
budget reserve fund AS 37.05.540(a)  
bulk fuel revolving loan fund AS 44.83.600(a)  
bulk fuel storage facilities grant fund AS 44.47.145(a)  
business assistance fund AS 44.88.500(a)  
child care facility revolving loan fund AS 44.33.240(a)  
clearing account (((in the unemployment compensation fund)))  
AS 23.20.135(a)  
commercial fishing revolving loan fund AS 16.10.340(a)  
community action against substance abuse grant fund  
AS 47.37.045(a)  
community college fund of the University of Alaska AS 14.40.610(a)  
community health aide grant account AS 18.28.030(a)

community legal assistance grant fund AS 44.47.200  
community schools grant fund AS 14.36.020  
community solid waste management planning grant account  
AS 46.06.041(a)  
cooperative arrangement grant fund AS 14.14.115(b)  
correctional industries fund AS 33.32.020(a)  
crime victim compensation fund AS 18.67.162  
disaster relief fund AS 26.23.300(a)  
dividend fund AS 43.23.045(a)  
earnings reserve account AS 37.13.145  
economic development account AS 44.88.172(a)  
electrical service extension fund AS 44.83.370(a)  
employment security administration fund AS 23.20.155(a)  
enterprise development account AS 44.88.155(a)  
escheated real property trust account AS 38.95.250(a)  
export insurance account AS 44.88.390(a)  
family education loan account AS 14.43.720(a)  
Federal Transitional Grants Account AS 37.20.020  
FICA administration fund AS 39.30.050  
fire suppression fund AS 41.15.210  
Fish and Game Fund AS 16.05.100  
fisheries enhancement revolving loan fund AS 16.10.505(a)  
fishermen's fund AS 23.35.060  
fishery product revolving loan guarantee fund AS 45.92.010  
forest products business loan guarantee fund AS 45.94.010  
fuel emergency fund AS 26.23.400  
fund for the improvement of school performance AS 14.03.125(a)

furbearer management account AS 16.05.130(c)  
group health and life benefits fund AS 39.30.095(a)  
handicap and mental illness charitable account (((in the self-  
sufficiency trust fund))) AS 47.80.240(a)  
hazardous waste reduction grant account AS 46.03.317(a)  
highway fuel tax account AS 43.40.010(g)  
highways equipment working capital fund AS 44.68.210  
historical district revolving loan fund AS 45.98.010(a)  
home ownership assistance fund AS 18.56.430(a)  
housing assistance loan fund AS 18.56.420(a)  
housing development fund AS 18.56.100(a)  
housing insurance fund AS 18.56.093(a)  
information services fund AS 44.21.045(a)  
International Airports Construction Fund AS 37.15.420(a)  
International Airports Revenue Bond Redemption Fund AS 37.15.440  
International Airports Revenue Fund AS 37.15.430(a)  
investment loss trust fund ((SBS bail out))) AS 37.14.300(a)  
judicial retirement trust fund AS 22.25.048(a)  
library assistance grant fund AS 14.56.300  
low cost and low income multiple family housing development fund  
AS 18.56.650(a)  
medical facilities special bond guarantee account AS 18.26.260(a)  
memorial scholarship revolving loan fund AS 14.43.255(a)  
mental health trust fund AS 37.14.031  
mental health trust income account ((current account))  
AS 37.14.011(a)  
mental health trust income account ((new account))  
AS 37.14.036(a)

military retirement trust fund AS 26.05.228(a)  
mineral resource revolving fund AS 41.98.015  
mining loan fund AS 27.09.010(a)  
miscellaneous services account AS 29.60.170  
municipal assistance fund AS 29.60.350(a)  
National Petroleum Reserve - Alaska special revenue fund  
AS 37.05.530(a)  
neighborhood revitalization and development fund AS 44.33.436  
net income account ((in the Alaska heritage endowment fund))  
AS 37.14.410  
nonpublic use highway account AS 43.40.010(j)  
nursing facility resident security fund AS 18.20.350(a)  
oil and hazardous substance release mitigation account  
AS 46.04.010 (see also, AS 46.08.020(b))  
oil and hazardous substance release response fund AS 46.08.010(a)  
older Alaskans service programs account AS 47.65.010  
operating loss reserve account AS 18.56.450(a)  
organization grant fund AS 29.05.200(a)  
outdoor recreational, open space, and historic properties  
development fund AS 41.98.170  
power cost equalization fund AS 44.83.162(a)  
power development fund AS 44.83.382(a)  
power development revolving loan fund AS 44.83.500(a)  
power project fund AS 44.83.170(a)  
public access fund AS 38.05.874(a)  
public school foundation account AS 14.17.010(a)  
public school trust fund AS 37.14.110(a)  
Railbelt energy fund AS 37.05.520

real estate surety fund AS 08.88.450  
regional development fund AS 44.33.026(d) (((repealed July 1,  
1997)))  
residential energy conservation fund AS 45.89.010(a)  
restricted title loss reserve account AS 18.56.490(a)  
rural development initiative fund AS 44.47.800(a)  
rural electrification revolving loan fund AS 44.83.361(a)  
rural housing hazard insurance fund AS 18.56.093(a)  
rural housing title insurance fund AS 18.56.093(a)  
scholarship revolving loan fund AS 14.43.090(a)  
school construction account AS 14.11.100(c)  
school construction grant fund AS 14.11.005  
School Fund (((cigarette tax))) AS 43.50.140  
search and rescue fund AS 18.60.145  
second injury fund AS 23.30.040(a)  
self-sufficiency trust fund AS 47.80.200(a)  
senior citizens housing development fund AS 18.56.810(a)  
senior housing bond account AS 18.56.790(d)  
senior housing revolving fund AS 18.56.710(a)  
small business economic development revolving fund AS 44.88.400  
small business revolving loan fund AS 45.95.060(a)  
special revolving fund (((surplus property))) AS 44.68.130(c)  
special state land disposal income account AS 38.04.022  
state insurance catastrophe reserve account AS 37.05.289(a)  
state land reforestation fund AS 41.17.300  
state mortgage insurance fund (((aka mortgage insurance fund)))  
AS 18.56.095(a)

state waterfowl tag fee account AS 16.05.130(b)  
storage tank assistance fund AS 46.03.410(a)  
student loan fund AS 14.42.210(a)  
supplemental housing development grant fund AS 18.55.998(a)  
surcharge account (((oil conservation surcharge))) AS 43.55.210  
tax equalization account AS 29.60.060  
teacher scholarship revolving loan fund AS 14.43.620(a)  
toll facilities construction fund AS 37.15.620(a)  
toll facilities revenue bond redemption fund AS 37.15.640  
toll facilities revenue fund AS 37.15.630(a)  
tourism revolving fund AS 45.90.010(a)  
training and building fund AS 23.20.130(a)  
unemployment compensation fund AS 23.20.130(a)  
unemployment trust fund account (((in the unemployment compensation  
fund))) AS 23.20.135(a)  
universal service fund AS 42.05.840  
University of Alaska endowment trust fund AS 14 10.400  
University of Alaska risk management fund AS 14.40.455(a)  
University of Alaska working capital reserve fund AS 14.40.296(a)  
unorganized borough national forest receipts fund AS 41.15.180(b)  
veterans service fund AS 26.10.020  
vocational rehabilitation small business enterprise revolving fund  
AS 23.15.130(a)  
water quality enhancement program and water supply, sewage, and  
solid waste facilities fund AS 46.03.030(c)  
watercraft fuel tax account AS 43.40.010(f)  
working reserve account AS 37.05.510(a)

N:\wrk\llscgem\funds2.geu

# Representative Kay Brown

ALASKA STATE LEGISLATURE

Legislative Information Office  
3111 C Street #435  
Anchorage, Alaska 99503  
(907) 561-7627

During Session  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4998

November 19, 1992

## SECTIONAL ANALYSIS

### 11/18/92 Work Draft

### An Act Relating to the Constitutional Budget Reserve Fund

#### Section 1. amendments to Sec. 37.10.410

This section clarifies what is meant by the term "administrative proceeding" in article IX, section 17 of the Alaska Constitution, which creates the Constitutional Budget Reserve Fund.

It specifies that revenues gained from tax cases that remain in "informal hearing status" for a period exceeding six months would be deposited in the Constitutional Budget Reserve. Revenues gained from tax disputes settled before the six-month deadline would revert to the general fund. This section also specifies that revenues gained from tax disputes that advance to "formal hearing" status would be deposited into the Constitutional Budget Reserve.

Language in this section also specifies that only tax settlement revenues that relate to past-due taxes and penalties would be deposited into the Constitutional Budget Reserve. In the event that a tax settlement resolves a dispute with a taxpayer that relates to payments in future years, those future payments would go into the general fund.

#### Section 1. amendments to Sec. 37.10.420

This section defines "amount available for appropriation" for the purposes of determining if an appropriation from the Constitutional Budget Reserve may be made.

The amount available for appropriation is defined as those revenues that are considered general funds, which would include oil revenues, tax revenues and general fund program receipts. The section also specifies that the earnings reserve account of the Permanent Fund and revenues contained in other special funds or accounts, such as AHFC and AIDEA revenues, would not be considered as money available for appropriation.

#### DISTRICT 12

Downtown • Fairview • City View • Bootleggers Cove • Inlet View • South Addition • Thunderbird Terrace  
Eastridge • Penland Park • Airport Heights • Government Hill

This section provides direction to the administrative branch on repayment of funds to the Constitutional Budget Reserve. It specifies that if money is owed to the reserve fund and if a general fund surplus exists at the end of a fiscal year, a repayment to the Constitutional Budget Reserve must be made by November 15 of the following fiscal year.

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF REVENUE**

OFFICE OF THE COMMISSIONER

P.O. BOX 110400  
JUNEAU, ALASKA 99811-0400  
TELEPHONE: (907) 465-2300  
FACSIMILE: (907) 465-2389

December 2, 1992

The Honorable Kay Brown  
Legislative Information Office  
3111 C Street #435  
Anchorage, Alaska 99503

DEC 7 1992

Dear Representative Brown:

We have completed our review of the interest earnings associated with amounts in the Administrative Settlement ("AS") account. As of October 31, 1992, the principal balance in the AS account was \$94,345,593.88. Interest associated with the principal amount is \$8,903,354.59. This interest will be posted to the AS account, bringing the total balance to \$103,248,948.47 as of October 31, 1992.

Thank you for your patience on this matter. If we can be of further service, please let me know.

Sincerely,



Darrel J. Rexwinkel  
Commissioner

DJR:BCA:ml  
92-154

cc: Shelby Stastny, Director  
Office of Management & Budget

FY93/94 GOVERNOR'S SPENDING PLAN  
 GENERAL FUND (Includes Mental Health Trust Funds)  
 (in millions of dollars)

Fall 1992 - Dept. of Revenue Mid Scenario

Statutory Budget Reserve Balance	340.8													
FY93 Revenues [1]	2,271.5	\$18.23/bbl weighted avg ANS												
FY93 Adjustments to Revenue	79.8													
Tax Settlement Received	59.9													
HAD Loan Purchase	180.0													
AHFC Dividend	40.7													
Science & Technology Surplus	17.0													
TAPS Tariff Rate Change	40.0													
From Budget Reserve Fund	75.3													
FY93 AVAILABLE	2,764.2													
FY93 Expenditures														
Operating	2,173.6													
Debt Service														
-G.O. Debt	59.8													
-School Debt	127.6													
-Other Debt	11.3													
Capital	300.3													
Loans	7.6													
Fund Transfers	34.0													
Supplementals	50.0													
FY93 Expenditures	2,764.2	OMB 12/15/92 Spending Plan												
Budget Reserve Balance	265.5													
FY94 Revenues [1]	2,287.9	\$18.42/bbl weighted avg ANS												
FY94 Adjustments	78.2													
AHFC Dividend	40.0	OMB 12/15/92 Spending Plan												
TAPS Tariff Rate Change	40.0													
From Budget Reserve Fund	238.0													
FY94 AVAILABLE	2,684.1													
FY94 Expenditures														
Operating	2,208.1													
Debt Service														
-G.O. Debt	34.0													
-School Debt	99.8													
-Other Debt	11.1													
Capital	300.0	OMB 12/15/92 Spending Plan												
Loans	2.1													
Fund Transfers	29.0													
FY94 EXPENDITURES	2,684.1													
FY94 Carryforward	0.0													
<table border="0" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td colspan="3">Fund Balances</td> </tr> <tr> <td style="width: 50%;">Statutory Budget Reserve</td> <td style="width: 20%; text-align: right;">27.5</td> <td style="width: 30%;"></td> </tr> <tr> <td>Mental Health Trust Income Balance</td> <td style="text-align: right;">109.4</td> <td></td> </tr> <tr> <td>Total</td> <td style="text-align: right; border-top: 1px solid black;">136.9</td> <td></td> </tr> </tbody> </table>			Fund Balances			Statutory Budget Reserve	27.5		Mental Health Trust Income Balance	109.4		Total	136.9	
Fund Balances														
Statutory Budget Reserve	27.5													
Mental Health Trust Income Balance	109.4													
Total	136.9													

[1] Revenues are based on Department of Revenue's mid scenario fall 1992 forecast

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 310i

130 Second Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

January 12, 1993

**SUBJECT:** Budget Reserve Fund (Work Order 8-LS0188A)

**TO:** Representative Ron Larson  
Co-chair, Finance Committee

**FROM:** Tamara Brandt Cook  
Director *TBC*

Here is a draft bill that was originally prepared for an individual legislator now showing the Finance Committee as sponsor. The bill deals with the constitutionally established budget reserve fund. Be aware that the bill draft does two things that may or may not be accepted and enforced by a court.

AS 37.10.410 added by the bill identifies the point in an administrative proceeding when oil revenue at issue will be deemed to be received by the state as a result of the termination of an administrative proceeding for purposes of placing it in the budget reserve fund. Because the constitution simply requires the money received by the state from certain sources that is the subject of an administrative proceeding go to the fund and because the court has the ultimate authority to interpret constitutional language, it may be that the court will not be persuaded by this statute and elect another point in the administrative process as the event that triggers the flow of the money into the fund.

The same situation exists with AS 37.10.420 which attempts to define money that is available for appropriation for purposes of determining whether the budget reserve fund is accessible to make up a shortfall. The statute, for example, takes the approach that money previously appropriated to a special fund is not available even though it remains unexpended and, as is true of some funds, even though no agency has the power to expend it without an additional appropriation. It is possible that a court will not agree that this money is unavailable for appropriation, despite the statute.

On the other hand, in applying Art. IX, sec. 17, the court may look to the statute for guidance. In addition, the statute, if enacted, would be accorded a presumption of

Representative Ron Larson  
January 12, 1993  
Page 2

validity. Whether these factors would save the statute if it were subject to a constitutional challenge I cannot guess.

TBC:pl:gc  
93-014.plm

Enclosure

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

February 23, 1993

WALTER J. HICKEL, GOVERNOR

P.O. BOX 5  
JUNEAU, ALASKA 99811-0400  
PHONE: (907) 465-2300  
TELEFAX: (907) 465-2389

The Honorable Kay Brown  
Alaska State Legislature  
State Capitol, Room 517  
Juneau, Ak 99801

Dear Representative Brown:

On June 18, 1992 you and Representative Larson had a meeting with Attorney General Cole and Shelby Stastny, Director of OMB. At that meeting an understanding was reached that "administrative settlements which the Attorney General previously identified as erroneously deposited in the Constitutional Budget Reserve" would be placed in a separate account. Furthermore, it was agreed that future administrative settlements would be placed in a separate account.

Since that time you requested information on the balances of the Constitutional Budget Reserve Fund (CBRF) and the Administrative Settlement (AS) accounts. On December 2, 1992, the Department of Revenue provided information to you concerning deposits of revenues into the AS account and accrued interest resulting from these payments.

Subsequent to our response to you, we determined that further review was necessary. This was due to the varying circumstances surrounding payments received after assessments were issued on oil and gas tax and royalty matters. During this additional review we broadened our criteria to accommodate more payment circumstances. We also applied the criteria to all payments received after June 30, 1990. Therefore, the information being provided includes more than just payments received after June 18, 1992.

We have concluded our review of payments received after assessment notices have been issued including those recorded directly into the general fund. Let me offer my apologies for the length of time that you have had to wait for this review process to be concluded. The task of reviewing each tax and royalty payment received by the State as the result of an assessment notice since July 1, 1990 was complex and time consuming. It involved determining the account into which the payment was deposited and then reviewing payment documentation to determine the proper accounting for the deposit. It also involved coordination with the Department of Natural Resources because they receipt and account for royalty payments.

As a result of this review certain adjustments were necessary. The adjustments required moving funds between the unrestricted General Fund (GF), the Administrative Settlement Account in the General Fund (AS) and the Constitutional Budget Reserve Fund (CBRF). Entries have been submitted to the Division of Finance to record the adjustments.

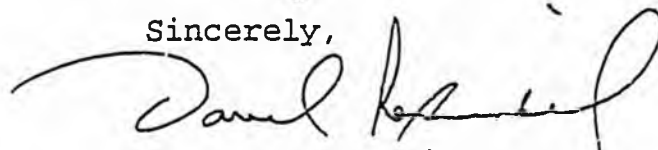
The summary below shows the balance in each of the accounts by fiscal year for amounts collected after an assessment notice was issued. For FY 93 the balance shown is for payments received as of January 31, 1993. The unallocated amount in the general fund represents receipts prior to a request for hearing. The balances for the Permanent Fund and the School Fund did not require adjustment because they were accounted for correctly.

(in thousands)

	<u>CBRF</u>	<u>GENERAL FUND</u> <u>Unallocated</u>	<u>AS Account</u>	<u>Permanent</u> <u>Fund</u>	<u>School</u> <u>Fund</u>
FY 91	230,480.5	30,508.9	61,196.8	75,808.7	1,511.4
FY 92	320,856.5	84,882.9	83,654.9	91,544.9	1,826.8
FY 93	<u>79,541.2</u>	<u>11,915.2</u>	<u>71,059.2</u>	<u>17,417.7</u>	<u>293.5</u>
Total	\$630,878.2	\$127,307.0	\$215,910.9	\$184,771.3	\$3,631.7

Interest earnings associated with the account balances are being calculated and will be appropriately allocated. I will provide you with the updated totals as soon as they are available.

Sincerely,



Darrel J. Rexwinkel  
Commissioner

cc: Patrick P Ryan, Chief of Staff, Office of the Governor  
Kris Lethin, Legislative Liaison, Office of the Governor  
Shelby Stastny, Director, OMB

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 110400  
JUNEAU, ALASKA 99811-0400  
TELEPHONE: (907) 465-2300  
FACSIMILE: (907) 465-2389

February 26, 1993

The Honorable Kay Brown  
Alaska State Legislature  
State Capitol, Room 517  
Juneau, AK 99801

Dear Representative Brown:

On February 23 I delivered to you a letter that indicated the principal balance in the Administrative Settlement (AS) Account of the General Fund as of January 31, 1993. On February 22 you received a letter from Mr. Don Wanie, Director of the Division of Finance, Department of Administration indicating the principal and interest balance in that account as of that date.

A reconciliation of the two letters is as follows:

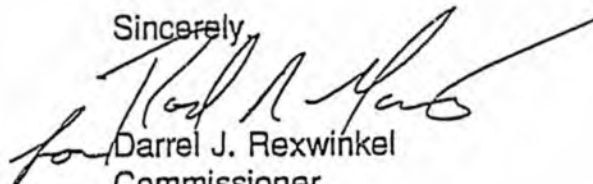
Principal balance only as of January 31	\$215,910,883
February 17 settlement deposited to AS	50,273,236
Interest calculated as of February 22 by Treasury Division	<u>13,560,299</u>
Total in Mr. Wanie's letter	<u>\$279,744,418</u>

As a reminder an amount equal to 6% of unrestricted revenues is required to be transferred to the Mental Health Trust Income Account under AS 37.14.011. All amounts that are deposited into the Constitutional Budget Reserve Fund (CBRF) would be exempt from that provision. Likewise, any amounts that currently reside in the Administrative Settlement Account in the general fund that have had the 6% assessment applied and are subsequently transferred to the CBRF would probably have to be made whole by withdrawing that amount from the Mental Health Trust Income Account and transferring it to the CBRF.

The Honorable Kay Brown  
February 26, 1993  
Page 2

If you should have any further questions please do not hesitate to contact me.

Sincerely,



Darrel J. Rexwinkel  
Commissioner

93-051

cc: Representative Ron Larson, Alaska State Legislature  
Patrick P. Ryan, Chief of Staff, Office of the Governor  
Kris Lethin, Legislative Liaison, Office of the Governor  
Shelby Stastny, Director, OMB, Office of the Governor  
Don Wanie, Finance Division Director, Department of Administration

MEMORANDUM

TO: Representative Ramona L. Barnes  
Speaker of the House

FROM: Douglas A. Wooliver  
Staff Attorney

SUBJECT: Article IX, Section 17 of the Alaska Constitution;  
the Constitutional Budget Reserve Fund.

DATE: March 9, 1993

You had asked me to write a memo regarding the scope of article IX, section 17 (the Budget Reserve Fund) and whether recent oil tax settlements are required to be deposited into that account. The pertinent part of that section reads as follows:

(a) There is established as a separate fund in the State treasury the budget reserve fund. Except for money deposited into the permanent fund under Section 15 of this article, all money received by the state after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments of bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund.

The portion of this section that is important for this discussion is the phrase "administrative proceeding". Because this section only speaks to "administrative proceedings" and "litigation", the question arises as to whether the revenues from the recent settlements are the "result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation. . . ."

The Department of Law has taken the view that because these tax settlements were arrived at through the informal conference

proceedings under AS 43.05.240(a) rather than the formal hearing proceedings under section (b) of that statute, the settlement was not the result of a settlement of an "administrative proceeding" and thus the revenues need not be deposited into the budget reserve fund.

While the department's position is one possible interpretation, it does not appear to be consistent with the meaning of the phrase "administrative proceeding" or the voters understanding of the amendment when they voted on it. The department's interpretation is also inconsistent with the legislative intent behind the amendment.

Because the phrase "administrative proceeding" is not always self explanatory, the courts will have to decide what that phrase means in the context of this amendment. There are several tools available to the Court when it is interpreting the language in the constitution. These tools include: 1) the plain meaning of the words used, 2) the legal meaning of the words used, 3) the voter's understanding of that they were ratifying, and 4) the legislative intent behind the language (i.e. what problem was the legislature trying to solve).

#### PLAIN MEANING

When the Court is interpreting a word or phrase that is not clearly defined, it will often look to the meaning of the word as it is commonly used. Citizens Coalition v. McAlpine, 810 P.2d 162, 169 (Alaska 1991). One common source for such an interpretation is the dictionary. Webster's third New International Dictionary at 1807 (Unabridged 1976) defines "proceeding" as:

1: the action of proceeding, 2a: a particular way of doing or accomplishing something. . . b: a particular action or course of action. . . : a particular way of action. . . c: a particular step or series of steps adopted for doing or accomplishing something. .

When this common understanding of the word "proceeding" is applied to proceedings before an administrative agency, it suggests that the "steps adopted" by laws and regulations for appealing agency decisions, and appearing before that agency, would constitute a proceeding.

## LEGAL MEANING

In addition to the common usage of the term proceeding above, the Court may also wish to consider the manner in which the term "administrative procedure" is commonly applied in law. Black's Law Dictionary defines an "administrative procedure" as;

Methods and processes before administrative agencies as distinguished from judicial procedure which applies to courts.

Black's Law Dictionary 22-23 (Abridged 5th edition).

The methods and procedures in this case are filled out under Alaska Administrative Code 15.05.010-020 which implements AS 43.05.240(a). Under those regulations, a person coming before the Department of Revenue in an informal conference must first timely file a detailed request for an appeal. Once before the board, they can be represented by an attorney and offer oral and written testimony. The opinion of the board is to be in writing, and under 43.05.240, if there is a compromise in the amount of taxes owed, the Attorney General needs to approve the change. If the taxpayer is not satisfied with the outcome they have the option to proceed to a formal hearing.

Because the informal conference is clearly established as part of an aggrieved taxpayer's appeal process before an administrative agency, it would appear to fall not only within the common legal definition of an "administrative procedure," but also within the common lay understanding of "administrative procedure."

## VOTER UNDERSTANDING

Because constitutional amendments are voted on by the citizens of the state, in addition to looking at the plain and/or legal meaning of a word or phrase, the court may also look at the related issue of trying to determine what the voters thought they were ratifying when they voted on this amendment. The Alaska Supreme Court recently stated that;

Additionally, we must never lose sight of another important right of the people implicated in all cases of constitutional construction, namely the right to have the constitution upheld as the people ratified it. . .

Because of our concern for interpreting the constitution as the people ratified it, we generally are reluctant to construe abstrusely any constitutional term that has a plain ordinary meaning. . . . Rather, absent some signs that the term at issue has acquired a peculiar meaning by statutory definition or judicial construction, we defer to the meaning the people themselves probably placed on the provision.

Citizen's Coalition 810 P.2d 162, 168-169.

In determining what the voters might have thought they were voting on, it can be helpful to look at the voter pamphlet that is published as a means of helping voters understand the issues that they will be deciding. In this case, the pamphlet describes the measure in part by stating:

Legal settlements involving mineral or oil and gas revenues received after July 1, 1990, will be deposited into the Budget Reserve. . . . If approved, the Budget Reserve Fund will help hold down spending by removing from the table the oil and gas revenue "windfalls" that result from pending litigation and tax disputes.

In the present case, the tax money received clearly came from the settlement of a "tax dispute." This is the kind of settlement that appears to fall within the voter pamphlet explanation of the amendment. It does not appear likely that the voters read either this explanation or the amendment itself to mean that money received from the settlement of tax disputes which were settled through the formal hearing procedure, provided under AS 43.05.240, would be deposited in the fund, but money received from the settlement of tax disputes which were settled through the informal conference procedures of that same statute would not go into fund. Such an interpretation would appear to be the kind of "abstruse" definition that the Court tries to avoid.

The most likely voter interpretation of both the amendment and the voter pamphlet was that any money received from the settlements of tax and other included disputes would be deposited into the budget reserve fund.

## LEGISLATIVE INTENT

The interpretation most likely understood by the voters is also consistent with the legislative intent behind the amendment. Throughout the history of this amendment the words "windfalls" and "settlements" were used in describing which funds should be placed in the fund. The Department of Law argues that the word "windfall" only refers to unexpected good fortune, and because the amendment does not limit itself to the unexpected, the word is of little help in ascertaining the intent of the legislature.

What this argument fails to consider is that those who spoke of windfalls were not merely referring to the unexpected. Throughout the debate on this amendment references were made to the "windfalls" that the legislature was expecting to be receiving. (e.g. tapes from Senate Finance Committee meeting of 2-2-90, comments of Mary Halloran.) Rather than making the use of the term unhelpful as the Department of Law argues, what this suggests is that the legislature meant by the term "windfall" any large one time payment from one of the listed types of disputes.

The above interpretation is further supported by the impetus behind the establishment of the fund. The problem that the state faced, (then as now) was that sporadic and huge one time payments were coming into the state's general fund and making the budgeting process difficult. The budget reserve fund was established as a means of keeping these large settlements "off the table" so as to keep the budgeting process under control. The money in the fund could then be used to help cushion the expected decline in state revenues. (see for example, comments by Representative Kay Brown, House Judiciary Committee meeting of 2-16-90 and Senate Fiscal Policy Report #3, 1990 , page 15.)

By not depositing the current tax dispute settlements into the budget reserve fund, the state will be contributing to the problem that the fund was designed to prevent, i.e. disrupting the budgeting process by spending a huge one time influx of revenues.

## CONCLUSION

The revenues recently obtained through tax dispute settlements should be deposited into the budget reserve fund. This would be consistent with both the plain and legal meanings of the phrase

"administrative proceeding." It would also be consistent with the most likely understanding that the voters had when they ratified this amendment as well as the legislative intent behind it.

The purpose of the amendment will be circumvented if the current tax dispute settlements are allowed to go into the general fund merely because the parties chose to settle the matter through the informal conference procedure rather than the formal hearing procedure. Such a distinction between settlements was not contemplated by either the voters or the legislature.

## STATE OF ALASKA

## THE LEGISLATURE

1990

Source  
HCS CSSSSJR 5(Fin) am H

Legislative  
Resolve No.

129



Proposing an amendment to the Constitution of the State of Alaska relating to the budget reserve fund; depositing into the budget reserve fund, except for money deposited into the permanent fund, all money received by the state after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in state or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property; allowing an appropriation from the fund only if the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year or upon the affirmative vote of three-fourths of the members of each house of the legislature.

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

\* Section 1. Article IX, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 17. BUDGET RESERVE FUND. (a) There is established as a separate fund in the State treasury the budget reserve fund. Except for money deposited into the permanent fund under Section 15 of this article, all money received by the State after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund. Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund. Income of the fund shall be retained in the fund. Section 7 of this article does not apply to deposits made to the fund under this subsection. Money may be appropriated from the fund only as authorized under (b) or (c) of this section.

(b) If the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund. However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year.

(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.

\* 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.