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# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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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 IX, 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:

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 or 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, 1990, 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

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not dedicated to the permanent fund under art. IX, sec. 15, Constitution of the State of Alaska, or to 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 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

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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

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proceeds, federal revenue sharing payments or bonuses, and the proceeds of 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 a resolution of a mineral revenue dispute 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.

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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).

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<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.

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

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<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".

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contest. For example, Tormont Webster's Dictionary defines a conference as "a meeting for consultation or discussion." The Tormont 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 regulation, 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. Id. 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 principles 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 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" referred to 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>

- 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

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<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 these settlements were part of the inspiration for the amendment.

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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 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 pending litigation--including the Amerada Hess and the Dinkum Sands cases--but also amounts received for "back taxes still under consideration

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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 the 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 assistance in interpreting "administrative proceeding."

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

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<sup>4</sup> Amerada Hess was 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).

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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 voter pamphlet associate the terms "administrative actions" or

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<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 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.

"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 sudden and unexpected pieces of good fortune in financial form.<sup>8</sup> Recoveries of assessed taxes are not unexpected nor, generally,

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<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 "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).

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 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.

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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, 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").

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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

CEC:JLB:SCS:pml

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<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).



# Alaska State Legislature

Please enter into the record my testimony to the HSS - House  
committee name

committee on HB 156 4157, dated 3/2/93  
bill/subject

I strongly urge you to support HB 156  
& HB 157. The facts are simple - BP tax  
settlement has generated \$630,000,000.  
The backlog of school construction &  
maintenance is enormous. Schools  
need help now! Waiting jeopardizes children.  
Appropriate use of these funds is critical!  
Help support our schools & support future  
Alaskan jobs now.

Signed:

Kathy Jarvis  
Testifier

Representing (Optional)

HC 32 Box 6631 Wasilla, AK 99654  
Address

376-5308  
Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the House Health, Education & Social Services  
 committee name  
 committee on HB 156 and HB 157 , dated March 9, 1993  
 bill/subject

I'm not in favor of those bills as is, because they don't tell who will get the money or specifics of what it will be used for. Also, what plans does DOE have for it. Also, I'd like to see something in writing concerning the rural areas needing the funding.

Signed: Angela R. Roehring  
 Testifier

Representing (Optional)  
HC 100 Box 4660 Delta Jet, AK.  
 Address  
8954947  
 Phone No.

99737



# Alaska State Legislature

Please enter into the record my testimony to the House Health, Education & Social  
committee name

committee on House Bills 156 & 157, dated March 2, 1992.  
bill/subject

I support House Bills 156 & 157. In particular, I would like to see the renovation of Swanson Elementary in Palmer. It was built in 1955 and has capacity for 275 students. There are currently 400 students enrolled.

Signed: Patricia J. Walker  
Testifier

Representing (Optional)

HCO1 Box 6028W Palmer 99645  
Address

746-4912  
Phone No.



LEGISLATIVE AFFAIRS AGENCY

DIVISION OF PUBLIC SERVICES

DATE: 3-9-93

Please accept the enclosed original(s) of written testimony for the HUEL 76 HB 156, 157 teleconference hearing that was scheduled on 3-9-93.

A copy of this testimony was transmitted to your committee via fax on 3-9-93.

March 9, 1993

I support HB 156 and 157. Our children are attending schools that are old and overcrowded. Investing this money in schools would send a clear message to all of Alaska's students and teachers that they are important today.

We shouldn't put the money into some nebulous rainy day fund. For many of Alaska's students, the rainy day is here.

I urge you to support these bills.  
Thank you.

I'm sorry I couldn't stay for the duration of the conference today. I was here waiting from 3-5 last Tuesday.

Kappy Olson  
Box 982  
Bethel Alaska



# Alaska State Legislature

Please enter into the record my testimony to the House Health, Education & Social  
 committee name  
 committee on House Bills 156 & 157, dated March 2, 1992.  
 bill/subject

I support House Bills 156 & 157. In particular, I would like to see the renovation of Swanson Elementary in Palmer. It was built in 1955 and has capacity for 275 students. There are currently 400 students enrolled.

Signed: Patricia Orner  
 Testifier

Representing (Optional)  
HCO1 Box 6028W Palmer 99645  
 Address  
746-4916  
 Phone No.

HB156  
HB157



# Alaska State Legislature

Please enter into the record my testimony to the Hess - House  
committee name  
committee on HB 156 & 157, dated 3/2/93  
bill/subject

I strongly urge you to support HB 156  
& HB 157. The facts are simple - BP tax  
settlements has generated \$600,000,000.  
The backlog of school construction &  
maintenance is enormous. Schools  
need help now! Waiting jeopardizes children.  
Appropriate use of these funds is critical!  
Help support our schools & support future  
Alaskan jobs now. Kathy Jarvis  
Signed: \_\_\_\_\_

Testifier

Representing (Optional)

HC 32 Box 6631 Wasilla, AK 99654  
Address

376-5308  
Phone No.

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

SS HB 156

February 22, 1993

*The Honorable Ramona L. Barnes  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182*

*Dear Speaker Barnes:*

*Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a sponsor substitute for HB 156 introduced at my request earlier this session.*

*This sponsor substitute more clearly reflects my intent to establish a statutory fund to be used for capital projects for Alaska public schools and for maintenance of University of Alaska capital projects. This bill establishes the educational facilities maintenance and construction fund to ensure a long-term source of money for appropriations for the design, construction, and maintenance of public school capital projects and for maintenance of University facilities.*

*A companion bill, introduced at my request, would appropriate the bulk of the February 1993 British Petroleum settlement to the educational facilities maintenance and construction fund. This bill, establishing that fund, provides for a July 1, 1993 effective date to correspond to the effective date of that appropriation bill.*

*I urge your favorable action on this important bill.*

*Sincerely,*

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel  
Governor

Governor's Transmittal Letter



ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS  
ALASKA ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS  
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •

326 Fourth St., Suite 404 Juneau, AK 99801-1101 (907) 586-9702 FAX (907) 586-5879

POSITION STATEMENT

SPONSOR SUBSTITUTE FOR HB 156 & 157

""Establishing the educational facilities maintenance and construct fund;""

The Alaska Council of School Administrators supports the establishment of a maintenance and construction fund for educational facilities.

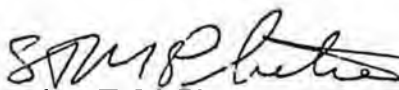
As the educational leaders in our respective buildings and districts, we are keenly aware of the growing need to address the upgrading and repairs needed to our educational facilities for some time. We also must deal with over crowded schools and the location of portable facilities to house the many students needing classroom space. Since the 1986 reduction for general fund appropriations for the operation of educational programs, districts across the state have had to defer needed maintenance or the construction of needed facilities in order to fund continued general operations of the school's educational program. In the meantime, student populations continue to grow and facilities continue to become out dated.

There was a earnest attempt at addressing the issues of school construction through the passage of HB 37 in past years. However, because of the lack of capitol appropriations, many of the constructions projects will never be address

It does not appear fiscally sound to attempt to bond the school construction projects. The State of Alaska has access to several revenue sources which will permit such a construction fund to be established without obligating future legislatures to appropriate for bond payments of principal and interest.

School Facilities create the atmosphere for good education. A building that is well maintained, provides adequate space and has good lighting, contributes to every child's education.

We urge the Legislature to support the establishing of the educational facilities maintenance and construction fund outlined in HB 156 and 157

  
Stephen T. McPhetres  
Executive Director

# FISCAL NOTE

No. 2  
 Bill Version: SSHB 156  
 (H) Publish Date: 2/22/93

STATE OF ALASKA  
 1993 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Educational Facilities Maintenance and Construction Fund BRU: Revenue Operations  
 Component: Treasury  
 Sponsor: House Rules by Request of the Governor  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<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						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Rod R. Mourant Phone: 465-2300  
 Division: Commissioner's Office Date: 2/19/93  
 Approved by Commissioner: Darrel J. Rexwinkel Date: 2/19/93  
 Agency: Revenue

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*Fiscal Note - Revenue*