

HB

||

Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance



Official Business

February 23, 1983

WHILE IN SESSION

Pouch V

State Capitol

Juneau, Alaska 99811

(907) 465-3706

OUT OF SESSION

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Kotzebue, Alaska 99752

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1024 W. 6th

Anchorage, Alaska 99501

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MEMORANDUM

TO: House Finance Committee Members

FROM: Al Adams, Chair *APA*
House Finance Committee

SUBJ: Comparison of HB 11 and SS HB 85

Similarities

Both bills would repeal the permanent fund dividend program for 1983 and subsequent years.

Both bills contain a section regarding compilation of jury lists (section 4 of HB 11 and section 1 of SS HB 85). Each section would delete use of the Department of Revenue's list of individuals who filed for a permanent fund dividend in compiling names of individuals for jury duty.

Differences

The most significant difference in the two bills concerns the fate of the income from investment of the principal. Under current law, 50% of net income is transferred to the permanent fund dividend account to pay dividend checks. Additionally, an amount sufficient to offset inflation reverts back to the principal, and the remaining income goes to the undistributed income account for reinvestment.

HB 11 leaves the statute regarding computation of net income (AS 37.13.140) and disposition of income (AS 37.13.145) intact. Therefore, after "inflation proofing" the principal, all the rest of the net income would go to the undistributed income account.

SS HB 85, on the other hand, provides that, after a brief stopover in the undistributed income account, all the income would revert back to the principal "to be treated as principal of the permanent fund in all respects".

Excerpt from Attorney General's Opinion Re: Appropriation Limit
Questions, Pertinent to the Permanent Fund Dividend Program

dends;

- (2) an appropriation of revenue bond proceeds;
- (3) an appropriation to pay principal and interest on general obligation bonds;
- (4) an appropriation of money received from nonstate sources in trust for a specific purpose, including revenues of a public corporation that issues revenue bonds; and
- (5) an appropriation to meet a state of disaster declared by the governor.

You have requested our interpretation of exceptions (1) and (3) set out above.

A. Alaska Permanent Fund Dividend Exception

The appropriation limit provides: "Except for appropriations for Alaska permanent fund dividends ... appropriations from the state treasury made for a fiscal year shall not exceed \$2,500,000,000...." A question obviously arises as to whether "Alaska permanent fund dividends" means only those cash payments provided to individuals under AS 43.23 or if the word "dividend" encompasses other concepts for the distribution of income earned by the Alaska permanent fund.

We believe the answer to your question concerning appropriations for permanent fund dividends depends on whether the exceptions will be construed strictly or liberally. Usually;

provisions in a state constitution are construed liberally using the same rules of construction prescribed for other laws with regard given to the broader object and scope of the constitution as a charter of popular government. Eghert v. Dunseith, 24 N.W.2d 907 (N.D. 1946); 168 A.L.R. 621. Professor Sutherland explains the modern view for construing express exceptions as follows:

The older rule strictly interpreted both exceptions and provisos but today the prevailing view favors determining the effects of such provisions according to the usual criteria of decision applicable to other kinds of provisions as well without the use of any artificial presumptions to the effect that qualifying language should be strictly construed.

SUTHERLAND STATUTORY CONSTRUCTION § 47.11 (4th ed. 1974)(footnotes omitted). The FCC did not express an intent to limit this exception to only appropriations to finance cash payments to individuals under AS 43.23.

The appropriation limit must be interpreted consistently with the permanent fund amendment contained in article IX, section 15. Section 15 provides that the legislature may dispose of the income of the Alaska permanent fund "as provided by law." Each legislature may reexamine existing law and enact different laws providing for the use of income earned by the Alaska permanent fund. If section 16 were interpreted so that the exception to permanent fund dividends applied only to appropriations to finance cash dividends under AS 43.23, the legislature would essentially be denied the flexibility to adjust to changing philoso-

phies concerning the propriety of making cash payments directly
to residents which section 15 expressly reserves to it. 2/ In
interpreting and applying the constitution, it must be remembered
that the constitution is not a lifeless or static instrument
whose interpretation is confined to conditions and outlooks which
prevailed at the time of its adoption. Yakus v. United States,
321 U.S. 414 (1944); Warwick v. State, 548 P.2d 384 (Alaska
1976).

The word "dividend" has no precise legal meaning.
Trustees of University v. North Carolina R. Co., 13 WORDS AND
PHRASES 107 (Permanent ed.); 22 Am. Rep. 671. Webster defines
"dividend" as follows: "an individual share of something distri-
buted among a number of recipients." We are not aware of any
legal principle which would preclude the characterization of oth-
er distribution programs as "dividends." Rather, the words used

2/ The Thirteenth Legislature may reject direct cash distribu-
tion in favor of a plan which it determines will promote public
purposes more effectively. During the period of consideration
and adoption of the appropriation limit, the permanent fund divi-
dend law was undergoing considerable scrutiny and change by both
the legislature and the courts. The legislature adopted the pro-
posed appropriation limit amendment on July 15, 1981. At that
time the question of the constitutionality of the permanent fund
dividend program as it was then structured was on appeal to the
United States Supreme Court. On June 14, 1982, the United States
Supreme Court issued an opinion which found the method estab-
lished for determining the amount of dividends under that program
void because the method promoted discrimination based on length
of residence in the state. On August 13, 1982, amendments to the
dividend law took effect. The people were undoubtedly aware that
the dividend law in effect on election day in 1982 was not chis-
eled in marble.

by the drafters of the amendment afford broad latitude to the legislature to enact new distribution programs which will not be impaired by the appropriation limit.

It is well-settled law that a provision of a state's constitution must receive a liberal, practical construction to meet changed conditions and growing needs of the people. County of Alameda v. Sweeney, 312 P.2d 419, 424 (Cal. 1957). Under the permanent fund amendment, the discretion granted to the legislature to enact, amend, or repeal the present dividend program under AS 43.23 to meet the growing needs of the people is unfettered. However, the operation of exceptions from the appropriation limit must be interpreted consistent with the intent of the framers of the organic law and of the people adopting it. State v. Lewis, 559 P.2d 630, 637 (Alaska 1977).

One important consideration should be carefully observed. The Alaska Supreme Court has found that the purpose of the existing dividend program is to force the legislature to consider the reimposition of taxes when the decline of oil revenue encourages resort to permanent fund income to finance state government. Williams v. Zobel, 619 P.2d 448, 454 (Alaska 1981), rev'd 451 U.S. 905 (1982). The people can be expected to vigilantly protect their dividends by forcing the legislature to seek sources other than the permanent fund to finance state government. If a substitute distribution program accomplishes the same

'purpose, it will more likely qualify under the exception in section 16 than if it fails to achieve that purpose. If the constituency benefitted by a dividend is narrow, the dividend may not be a dividend in the sense intended by the drafters of section 16 and the people who adopted it. Proposals soon to be considered by the legislature include replacing the existing distribution to all residents with a distribution of part of the permanent fund income to municipalities and as a substitute for the existing longevity bonus, and use of a part of the income to finance large capital projects.

A vast majority of the population of the state resides in or is served by municipal governments. It is also a fact that we all seek security for our "golden years." The constituents of these proposals seem broad enough to satisfy the purpose of the current dividend law. The use of permanent fund income to finance large capital projects presents a closer question. The character of each project must be considered to determine if it serves a state public purpose, rather than a local special purpose. Additionally, if the project is viewed as merely an alternate way of financing state government operations, the basic intent of the dividend law might not be served.

We cannot advise with certainty whether the financing of large capital projects with permanent fund income would constitute a dividend of the Alaska permanent fund for purposes of

the appropriation limit. Some may argue that the benefits provided by "public works" projects are too localized to approximate the benefits provided by the existing dividend law. However, in State v. Lewis, 559 P.2d 630 (Alaska 1977), the Alaska Supreme Court decided that "[l]egislation need not operate evenly in all parts of the state to avoid being classified as local or special." Lewis at 643. A definite answer will come only when the courts interpret article IX, section 16 of the Alaska Constitution. However, we believe that if the legislature enacts a distribution program which is consistent with the intent of the permanent fund dividend law, any appropriation to implement that program will be exempt from the appropriation limit.

B. Appropriations Required to Pay the Principal and Interest on General Obligation Bonds

Under AS 43.18.100 -- 43.18.135 the state, subject to available appropriations, reimburses municipalities for the payment of a percentage of principal and interest to retire general obligation bonds issued by the municipality to finance school construction costs. Although they have been amended from time to time, these statutes have been in effect since 1971. You have asked whether appropriations to retire municipal general obligation debt are within the exception stated to the appropriation limit.

The exception reads as follows: "Except for ... appro-

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

February 3, 1983

The Honorable Mitch Abood, Jr., Chairman
House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Abood:

I appreciate this opportunity you have given me to submit additional information on the effect the Permanent Fund Dividend Program has had on the national image of Alaska. While the impact was never expected to be favorable, it has turned out to be much worse than feared.

From Seattle to Miami, Boston to Los Angeles, Dallas to Chicago, newspapers articles and editorials have been headlined with such banners as "Alaska's New Giveaway Of Our Money" (Chicago Sun-Times, 7/10/82), "Alaskans Pipe Up To Get Share Of Oil-Profit Funds" (The Dallas Morning News, 7/19/82), "Fraud and Greed Hinder Program To Distribute Alaska Oil Money" (New York Times, 8/29/82), "Alaskans May Divvy Up \$415M[illion]" (Boston Herald American, 6/5/82), and "\$1,000 Checks for Everyone Fail To Make Alaskans Happy" (Washington Post, 8/22/82). People Magazine, in its August 30, 1982 issue, featured an article entitled "The Great Alaskan Giveaway Puts Gold In Them Thar Mailboxes." Accompanying the article were pictures of a woman kissing the mailman as he delivers her check, another happy Alaskan smilingly sporting her new mink coat and a 12 year old girl trying out a new waterbed. In these recessionary times with high unemployment and high energy prices nationwide, articles like these do not endear our State to our fellow Americans.

The underlying theme throughout all of the articles is that Alaskans are sharing in the oil wealth created by taxes imposed on our oil. In a June 10, 1982 Chicago Sun-Times editorial, the newspaper stated:

The money is out of the pockets of, and should be shared with all Americans--the people who buy and consume energy.

The editorial proceeded with strong suggestions that Congress should limit State severance taxes and impose a national severance tax to be shared with all of the States. Similar sentiment was expressed in a Cincinnati Inquirer editorial:

The Honorable Mitch Abood, Jr., Chairman
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Talk about a recession anomaly--the County Commissioners' Association of Ohio has found a whopper: Alaska is so rich that it is doling out \$1,000 checks to each of its 415,000 residents. What's worse, part of the dole comes from Ohioans.

The net energy using States, with many being members of a group called the Northeast-Midwest Coalition, are looking at their net energy producing sisters with a combination of jealousy and resentment. They look at Alaska with its balanced budget, contributions from the general fund into the Permanent Fund and Permanent Fund Dividend distribution and compare that situation with that in their own States where many of their residents are wondering how much longer they will be receiving a pay-check, or worse, an unemployment check. Convinced that the energy producing States are exporting energy taxes, legislation has been introduced in Congress to limit the levels of State severance taxes.

The power of a State to impose a severance tax was upheld in the 1981 U.S. Supreme Court decision in Commonwealth Edison Company v. Montana. That court upheld Montana's 30% severance tax on coal but qualified the holding by saying that though the power to impose the tax is clear, the level of the tax is essentially a matter for legislative and not judicial resolution. Thus, the bills which have been introduced seek only to limit rather than eliminate State severance taxes.

During the last session of Congress, two bills were introduced to limit State severance taxes. H.R. 6330 was introduced by Representative Wolpe on May 6, 1982, and Senator Dixon introduced S. 2890 on September 8, 1982. Both bills would limit State severance taxes while H.R. 6330 additionally would impose a national severance tax on crude oil, natural gas, or coal. H.R. 6330 would limit the level of tax to the 1978 level adjusted for inflation while the rate under S. 2890 would be limited to a rate to generate revenue sufficient to meet the costs incurred by the State and any political subdivision thereof which are directly attributable to the production within the State of crude oil, natural gas, or coal. "Severance taxes" are defined in the bills as any tax or fee levied on, measured by, or otherwise imposed with respect to crude oil, natural gas, or coal. Not included in the limitation are income, sales, property or other taxes which apply with respect to a broad range of business activity or property types and which do not result in a significantly higher rate of tax than that imposed on other activities or property.

The impact on Alaska revenue would be disastrous if either of these bills became law. Our estimates indicate that between \$5 billion and \$8 billion in revenues would be lost during the period from 1985 through 1990. Though the best economic analyses end with the conclusion that

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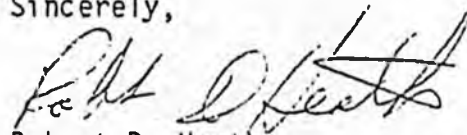
Alaska's oil severance taxes are not passed forward to consumers because of the price of the oil is determined in the marketplace and not by the producers, severance tax limiting legislation will remain alive and threatening so long as the public believes the energy producing states and their residents are becoming personally and individually rich at their expense.

Another area of concern in which Congress may affect the State's revenue is the exemption of State royalty oil and gas from the Windfall Profit Tax Act of 1980. Oil produced at Prudhoe Bay is subject to the Windfall Profit Tax but the State enjoys an exemption from the tax on its 12 1/2 percent royalty interest. Should the Windfall Profit Tax extend through 1993 and the State lose its royalty exemption, we estimate the revenue loss to be approximately \$1.2 billion. It is not impossible that those seeking severance tax limitations would also attempt to destroy the State royalty exemption or any other special treatment afforded Alaska and other net-energy producing States.

The cost of energy and the problems in the economy are emotional issues, and emotion sometimes overpowers the most brilliant economic analyses. We do not believe that residents of other States bear the burden of Alaska taxes on oil production because of the basic nature of the crude oil market itself. Governor Sheffield's recommendation to end the Permanent Fund Dividend program is timely and appropriate. The Governor's alternatives for the beneficial use of earnings from the Permanent Fund, creation of the Alaska Investment Fund, reinvestment in the Permanent Fund to protect the Fund from inflation, State revenue sharing, municipal assistance, and the longevity bonus program, would result in the equitable distribution of benefits throughout the state while at the same time providing for a more evenly balanced economic growth. The short-term benefits of the Dividend program are substantially outweighed by the resulting threat to our basic sources of revenue through acts of Congress in response to the expressions of burden and outrage by their constituents.

For your reference I have enclosed brief analyses of H.R. 6330 and S. 2890 along with a summary of our calculations of State revenue losses which would result from the passage of either bill. You will also find our calculations of the expected loss from the State royalty oil exemption under the Windfall Profit Tax Act and various press articles and editorials referring to or commenting on the Permanent Fund Dividend program. If I can be of further assistance, please call on me.

Sincerely,



Robert D. Heath
Commissioner of Revenue

RDH:DMB:mc

Enclosures

STATE OF ALASKA
DEPARTMENT OF REVENUE

FEDERAL LEGISLATION

This summary reflects certain tax areas for which bills have been introduced in Congress. Though the bills may not still be active, they are indicative of the type of legislation we expect to be discussed in the future.

S. 2890

A bill to amend the Internal Revenue Code of 1954 to limit the amount of severance taxes imposed by States on oil, natural gas, and coal.

Summary: This bill would limit severance tax collections to an amount equalling the costs incurred by the State or any political subdivision which are directly attributable to the production of crude oil, natural gas, or coal. The burden of proof to substantiate the rate of tax is on the taxpayer if the severance tax rate does not exceed the 1978 rates and on the States if the rate is higher than the 1978 rate, with the 1978 rate adjusted for inflation. The U.S. Attorney General or taxpayer may bring suit challenging the rate of tax. Severance taxes are defined as taxes on the production of coal, oil or natural gas and include any taxes which impose a significantly higher rate on producers and production property than on other activities or property. This bill is based on the theory that a State severance tax is exported to consumers.

Revenue Impact: We estimate that the bill would effectively limit Alaska severance taxes to the 1978 levels. Estimated revenue loss to the State would be between \$5 billion and \$8 billion over the period 1985 through 1990.

Position: Our interest of course is primarily in the oil severance tax limitation. Severance taxes are not carried forward to consumers because the price of oil is determined in the marketplace which prevents producers from adding on severance taxes to raise prices above the market price. The bill would harm the States which need additional revenues under the new Federalism of the Reagan administration while not benefitting consumers. Alaska opposes this bill.

H.R. 6330

A bill to limit State severance taxes and impose a national severance tax on crude oil and limit State severance taxes on crude oil, natural gas and coal.

Summary: The proposed National Crude Oil Profit-Sharing Act would establish a 30 percent permanent profit sharing tax on crude oil to be paid by producers. 75% of the proceeds of such a tax would be applied to the Federal deficit with the remaining 25% to be distributed by block grants to the States. The bill would also limit State severance taxes to their 1978 levels, adjusted for inflation.

Revenue Impact: The revenue impact would be similar to S. 2890, between \$5 billion and \$8 billion over the period 1985 through 1990. Because the proposed methods for determining block grants disfavor Alaska, little, if any, of the loss would be made up by block grants. Additional losses would result if the national severance tax increased oil prices with a corresponding decrease in demand.

Position: This proposed act would be detrimental to the national economy. No tax is proposed for imported oil which may result in a price benefit to foreign producers. Northeastern States which rely substantially on foreign oil would directly benefit from any price differential. The national severance tax would cause inflation by increasing the price of domestic oil equal to the market price (domestic oil is currently selling below the OPEC price). The increased production cost due to the new tax would discourage domestic production and new exploration and development increasing unemployment and greater dependency on foreign producers. Because of the market pricing structure consumers would not benefit from reduction in State severance taxes. With the proposed block grant structure, producing States subject to the boom and bust socioeconomic effects of resource development would be losing severance tax income. In addition, the sharing of the proceeds of the national severance tax favors the populous net energy using States. Alaska opposes this legislation.

DECEMBER 1982 FORECAST ASSUMPTIONS

Severance Tax Revenues Using "Wolpe" Cap

	N O R T H S L O P E				C O O K I N L E T						
	Oil Production (MMbbls/day)	\$/bbl	Gas Production (bcf/day)	\$/Mcf	North Slope Revenue (MM\$)	Oil Production (MMbbls/day)	\$/bbl	Gas Production (bcf/day)	\$/Mcf*	Cook Inlet Revenue	Total Revenue
FY 1985	1.726	.5928	.024	.0603	373.99	.0524	.5928	.451	.0603	21.26	395.25
1986	1.817	.6343	.024	.0645	421.24	.0466	.6343	.499	.0645	21.36	442.60
1987	1.830	.6786	.024	.0739	453.92	.0415	.6736	.651	.0739	27.84	481.76
1988	1.830	.7262	.024	.0791	485.76	.0364	.7252	.651	.0791	28.44	514.20
1989	1.890	.7770	.024	.0846	536.75	.0318	.7770	.651	.0846	29.12	565.87
1990	1.716	.8314	.024	.0905	521.53	.0276	.8314	.645	.0905	29.68	551.21

* Assumes language of HR 6330 introduced by Mr. Wolpe May 6, 1982.

Decrease in Projected Severance Tax Due to Imposed Cap
(Millions \$)

	Current Estimated Severance	Estimated Severance With Cap	Net Revenue Loss	Current Estimated Severance	Estimated Severance Cap	Net Revenue Loss
FY 1985	1220.34	395.25	825.09	1450.49	395.25	1095.24
1986	1333.81	442.60	891.21	1639.44	442.60	1196.84
1987	1354.78	481.76	873.02	1729.05	481.76	1247.29
1988	1532.76	514.20	1013.56	2003.62	514.20	1489.42
1989	1449.79	565.87	883.92	1973.71	565.87	1407.84
1990	1288.94	551.21	737.73	1948.92	551.21	1397.71
			5224.53 (30% Case)			7834.34 (Mean Case)

IMPACT OF WINDFALL PROFITS TAX ON ANS ROYALTY CRUDE OIL

	<u>Base Price¹</u>	<u>Removal Price²</u>	<u>North Slope Production Tier One (MMbbls/day)</u>	<u>Royalty Share (MMbbls/day)</u>	<u>State WPT Liability (Millions \$)</u>
³ FY 1983	16.50	19.601	1.524	.191	151.26
1984	17.51	17.36	1.505	.188	0
1985	18.73	18.22	1.495	.187	0
1986	20.04	19.87	1.535	.192	0
1987	21.45	21.01	1.523	.190	0
1988	22.95	24.45	1.523	.190	72.82
1989	24.55	27.14	1.523	.190	125.73
1990	26.27	30.15	1.346	.168	166.55
1991	28.11	33.69	1.136	.142	202.45
1992	30.08	37.65	.949	.119	230.16
1993	32.19	41.80	.835	.104	255.36
					<u>1204.33</u>

¹ Assumes Inflation 4% FY 1983
6% FY 1984
7% FY 1985-1987

² Average expected wellhead (Pump Station One) price from December Forecast assumptions. Notice that windfall tax base falls to zero as real oil prices decline, then becomes positive as real oil price begins in the late 1980's.

³ Windfall tax life assumed through FY 1983 (see WPT Act).

MEMORANDUM

State of Alaska

TO: Louann Cutler
Professional Assistant
House Finance Committee

DATE: February 23, 1983

FILE NO:

TELEPHONE NO: 465-2302

FROM: Joseph K. Donohue *JK Donohue*
Deputy Commissioner, Taxation
Department of Revenue

SUBJECT: PFD Appropriations

At your request, I have prepared the attached chart tracing the appropriations made to the PFD program from inception to date.

JKD:EJ:ms

Appropriation History of PFD Program

FY 81 Ch 120 SLA 80 Sec. 52

TOTAL Appropriations for 1979 Dividend Payments	\$129,330,300
Administrative Cost Allocation from Fiscal Note SB 122 Ch. 21 SLA 80	
Enforcement Division	\$378,100
Audit Division	12,100
Admin. Services	<u>440,100</u>
TOTAL Administrative Cost	(830,300)
Supplemental Ch. 92 SLA 81 for 1979 Dividend Payments	<u>12,500,000</u>
Available for 1979 Dividend Payments	<u>\$141,000,000</u>

FY 82 Ch 82 SLA 81

Total Appropriation for 1980 Dividend Payments	\$149,961,800
The balances of administrative costs from FY81 were carried forward in FY82.	
Refundable Credits (Included in total)	<u>(1,632,000)</u>
Available for 1980 Dividend Payment	<u>148,329,800</u>

A supplemental for \$419,000 was received, Ch 101 SLA 82 Sec. 52, for administrative costs associated with PFD processing.

FY 83 Ch 101 SLA 82 Sec. 18

Total Appropriations for 1981 Dividend Payments	\$150,400,000
Administrative Cost Allocation from Fiscal Note SB 842 Ch 102 SLA 82	
Enforcement Division	\$777,200
Public Services	824,900
Treasury Division	159,800
Administrative Services	<u>834,400</u>
TOTAL Administrative Costs	<u>(2,596,300)</u>
Available for 1981 Dividend Payments	<u>\$147,803,700</u>

Chapter 101 SLA 82 Sec. 17 reappropriated Ch 120 SLA 80, Ch 82 SLA 81, and Ch 92 SLA 81 for the purpose of making 1979 and 1980 Permanent Fund Dividend Payments.

Chapter 101 SLA 82 Sec. 19 further appropriated the above for the purpose of making Permanent Fund Dividend payments under any bill passed by the Twelfth Legislature in event the original Permanent Fund Dividend Program was invalidated by the US Supreme Court.

The Supreme Court ruled the original program invalid. Senate Bill 842 was signed and became Chapter 102 SLA 82. This established the new Permanent Fund Dividend program.

The total available for \$1,000 dividend payments as a result of reappropriation was: \$437,133,500

FY 84

At the recommendation of the Office of Management and Budget, the Department of Revenue reflected the FY84 administrative cost of the PFD distribution program in the operating costs of the Department. This was done in recognition of the PFD program as an on-going function of this Department. The net result was to reflect the \$2.6 million in the FY84 budget as continuation.

In preparing the FY84 Executive Budget, OMB chose to reflect the repeal of the PFD program. In so doing, the administrative costs of each affected BRU was reduced as follows:

Enforcement	(\$ 689,700)	
Admin. Services	(654,800)	
Public Services	789,400)	
Treasury	(160,600)	
	TOTAL Reduction	(2,294,500)

The total to be distributed in FY84 is approximately \$170 million, the sum of one half the FY82 earning of the Permanent Fund and one-half the estimated FY83 earnings of the Permanent Fund.

FY 85

The estimated amount to be distributed in FY85 under current law is \$122 million.

PROPOSED FY 84 BUDGET FOR REPEAL OF PFD PROGR

Attachment D

Reduction due to Dividend Repeal

<u>Division</u>	<u>\$</u>	<u>PFT Positions Deleted</u>	<u>PPT/Temp. Positions Deleted</u>
<u>Administrative Services</u>	654.8		
Personal Services	205.0		15
Contractual	117.7		
Commodities	2.1		
<u>Enforcement</u>	609.7		
Personal Services	568.5	7	
Travel	43.5		
Contractual	72.6		
Commodities	5.1		
<u>Public Services</u>	789.4		
Personal Services	356.8		14
Travel	68.9		
Contractual	360.5		
Commodities	3.2		
<u>Treasury</u>	160.6		
Personal Services	57.8	1	1
Travel	4.2		
Contractual	95.4		
Commodities	3.2		
Total Impact	2294.5	8	30

LEGISLATIVE FINANCE

REQUEST Bill/Resolution No. HB 11
Title repealing the permanent fund dividend program
Requested by House State Affairs Committee Date 1/21/83

II. FISCAL DETAIL

Agency Affected Revenue
Program Category Affected Revenue Operations
BRU, Program, Or Subprogram(s) Affected Public Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

Table with 7 columns (FY 83 to FY 88) and 7 rows (100 PERSONAL SERVICES to 700 GRANTS, CLAIMS, ETC.). All values are -0-.

FUNDING (Thousands of Dollars)

Table with 7 columns (FY 83 to FY 88) and 3 rows (GENERAL FUND, FEDERAL FUNDS, OTHER (Specify Source)).

POSITIONS

Table with 7 columns (FY 83 to FY 88) and 3 rows (FULL TIME, PART TIME, TEMPORARY).

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Repeal of the permanent fund dividend program is already reflected in the Executive Budget.

IV. DATE 1/27/83 PREPARED BY P A Wall
AGENCY Revenue
PHONE 465-2393

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: Glen Price

Handwritten signature of P A Wall

Handwritten initials GP

Handwritten initials SP

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: HB 11

Title: An Act repealing the permanent fund dividend program.

Requested by: House State Affairs Committee Date: January 21, 1983

II. FISCAL DETAIL

Agency Affected: Revenue

Program Category Affected: Permanent Fund, Dividend Fund

BRU, Program, or Subprogram(s) Affected: _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Millions of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
	-	-	-	-	-	-
	0	0				

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The aforementioned amounts reflect no impact since what is proposed is, I am informed by Management and Budget, already implied in the governor's budget.

IV. DATE: January 24, 1983

PREPARED BY: Vincent Wright

AGENCY: Revenue - Research

PHONE: 465-2174

Original: Legislative Finance

cc: Office of Management and Budget

Prime Sponsor (First Legislator Named)

33-001 (Rev. 01/83)

OMB Reviewed by: Glen Price

RECEIVED

FEB 2 1983

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

LEGISLATIVE FINANCE

I. REQUEST

Bill/Resolution No. HB 11

Title An act repealing the permanent-fund-dividend program

Requested by House State Affairs & Finance Date 01-28-83

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected General Government

BRU, Program, Or Subprogram(s) Affected Enforcement Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Marilla L. Gemmer

IV. DATE 01-28-83

PREPARED BY Marilla L. Gemmer, Director

AGENCY Department of Revenue

Original: Legislative Finance

PHONE (907) 465-2366

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: Glen Price *GP*

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: HB 11
 Title: "An act repealing the permanent fund dividend program; and providing for an effective date."
 Requested by: House State Affairs Committee Date: 1/21/83

II. FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected: Administrative Services Div.
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The repeal of the Permanent Fund Dividend program has already been reflected in the Governor's FY84 Executive Budget.

IV. DATE:

1/24/83

PREPARED BY:

Brynn B. Jones

AGENCY:

Revenue

PHONE:

465-2313

Original: Legislative Finance

cc: Office of Management and Budget

Prime Sponsor (First Legislator Named)

33-001 (Rev. 01/83)

OMB Reviewed by: Glen Price 

FISCAL NOTE

Expenditure Type
 Revenue Type

I. REQUEST

Bill/Resolution No. HB 11
Title An Act repealing the permanent fund dividend program
Requested by House State Affairs Date 1-19-83

II. FISCAL DETAIL

Agency Affected Department of Public Safety
Program Category Affected Life and Property Protection
BRU, Program, Or Subprogram(s) Affected Driver/Vehicle Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This would have no fiscal impact on Division of Motor Vehicles.

Office of Management and Budget
Reviewed by: Mike Maher, Program Budget Analyst
Division of Budget Review

IV. DATE January 19 1983 PREPARED BY Bill Brown Phone 465-4335

DIVISION Motor Vehicles Initials R.P. Lobb

Original: Legislative Finance DEPARTMENT OF PUBLIC SAFETY Initials mlm

cc: Budget and Management
Prime Sponsor (First Legislator Named)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 11

Title "An Act repealing the permanent fund dividend program; and

Requested by House State Affairs Date 1-18-83 providing for an effective date

II. FISCAL DETAIL

Agency Affected Office of the Governor

Program Category Affected Division of Elections

BRU, Program, Or Subprogram(s) Affected Division of Elections

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No additional fiscal impact is anticipated. The Division of Elections already prepares a microfiche listing of all persons who have registered to vote in this state. This list is generated from a magnetic tape compatible with Department of Administration data processing equipment.

Danith D. Arnoldt

IV. DATE 1-18-83

PREPARED BY Danith D. Arnoldt, Deputy Director
AGENCY Office of the Governor, Div. of Electic

Original: Legislative Finance

PHONE 586-6181

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 11

Title Act Repealing the Permanent Fund Dividend Program

Requested by _____ Date 1/21/83

II. FISCAL DETAIL

Agency Affected Department of Administration

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	(11.0)	(11.5)	(12.1)			

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	(11.0)	(11.5)	(12.1)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 1/24/83

PREPARED BY Tom Haas

AGENCY Administration - Finance

PHONE 465-2240

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) ✓

MSG 83-00010487 PRTY 1 02/23/83 14:12:45 ORIG: LI00 IN= 0006 OUT= 0027
FROM: DOROTHY IN DILLINGHAM TO: GAIL/JUNEAU
TARGET: LJH4 SUBJ: TESTI. NY FOR PERM. FUND HEARING

BELOW IS TESTIMONY TO THE HOUSE FINANCE COMMITTEE MEMBERS CONCERNING
THE REPEAL OF THE PERMANENT FUND PROGRAM

FROM: WAYNE SCHROEDER, BOX 116, DILLINGHAM, ALASKA 99576 TELEPHONE 842-5984

I OPPOSE THE HB 85 AND HB 11 DUE TO THE FACT THAT IT IS A GREAT PROGRAM.
WHO KNOWS HOW TO SPEND MY MONEY MORE THAN ME. MY DAUGHTERS INTEND TO USE
THEIR MONEY FOR COLLEGE. I CONSIDER THAT ONE HECK OF AN INVESTMENT. HOW
CAN THE REPEAL OF THE PROGRAM MATCH INVESTMENT PLANS BETTER THAN THAT?
THANK YOU.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

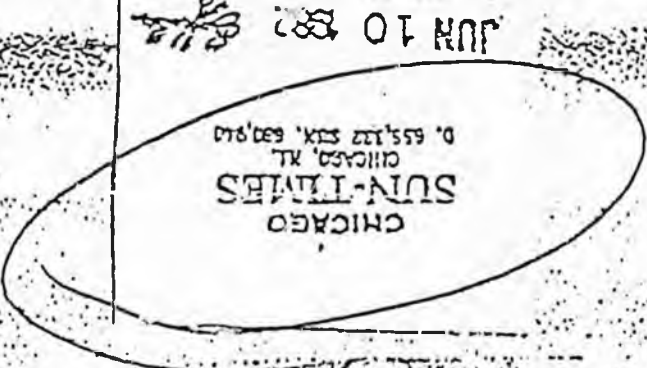
Alaska's share—will only come within their borders. The \$1 billion in the decade is so exciting the rate that it should be maintained at \$1,000 per acre and paid each year. The \$1,000 per acre would be a bonus for the state's population, to do away with its unimproved property tax. The \$1,000 payout is a bonus in case the state is not a full paid off in the world period. The state would be left in a position to get the cash needed to keep its roads. The state said it before Congress for the consideration of the bill. The bill would create a national energy tax to feed the state's energy needs. The bill would be considered by the House of Representatives.

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Worst

Alaska's new giveaway of our money

DURHAM, N.C.
 JUN 9 1932



Alaskan Bonanza

Alaska, whose name means "the great land," has come up with an enviable plan for paying \$1,000 to state oil money to every man, woman and child who has lived there for at least six months. It could start flowing this summer.

Alaskan Gov. Jay Hammond is concerned, however, about starting animosity in less fortunate states. Sending state money from the capital to the taxpayers is too wild a dream for most Americans to imagine, and they might let their envy take ugly turns.

Not here. More power to the Alaskans. Not only has the state no income tax, it has the right-headed notion that earnings from public oilfields should go to the taxpayers as if they were stockholders in the firm, as, indeed, they are.

ing land one-fifth the size of the continental United States, has sparse population; 419,600 residents. By and large, they are rugged individualists who understand the enormous potential of their beautiful and beautiful domain. Gov. Hammond and the legislature think they will pay closer attention to how the proceeds of once-controversial top-of-the-world oil fields are invested if they have a greater stake—and that is what the summer bonanza represents.

Some green-eyed critics may argue that what Alaska has belongs to the rest of us, but they should still their greedy souls and count their own state's blessings which they would not want covetous eyes to careen.

It looks like good stewardship in

Clark

Best

To: Bob Clarke
From: Lou Sacer

The New York Times, Sunday, August 29, 1982.

Fraud and Greed Hinder Program To Distribute Alaskan Oil Money

JUNEAU Alaska, Aug. 28 (AP) — Alaska's program to distribute \$1,000 checks to people who have lived in the state for six months is drawing fraudulent applications at a rate that could delay payouts, state officials say.

Mirilla Gemmer, director of the Alaska Department of Revenue's tax enforcement division, said Tuesday that she believed state officials were "seeing the tip of the iceberg" in applications for the checks from people who were not qualified.

So far, the number is small, but the department believes there will be many more as officials continue to process thousands of applications, she said.

Meanwhile, the department is being flooded with telephone calls from Alaskans asking why their checks have not arrived yet, said Phillip Wall, who is directing the distribution program. Along with the apparent fraud, the department is seeing "more greed" among those who do qualify, he added.

Governor Urges Patience

Gov. Jay Hammond issued a statement last week urging the 355,000 people who have applied so far to be patient, and said the department must carefully process applications to insure against fraud.

Two months ago the state began its program to distribute an estimated \$160 million to people who, by Oct. 11, will have lived in Alaska six months.

The program, which grew out of the state's oil wealth, was started after the United States Supreme Court rejected a plan to distribute money in amounts of \$50 for each year recipients have lived in Alaska since it was admitted to the Union in 1959. The Court said the plan discriminated against newcomers.

The substitute distribution plan will continue in future years, although state revenue officials have estimated that next year's check will amount to about \$300 per person.

Fraudulent Claims Cited

Miss Gemmer said the Department of Revenue, still in the middle of processing applications, had turned up apparently fraudulent claims from people who said they had been Alaskan residents since April 18, as required.

"We do have some people who have applied even though they apparently live in the Lower 48 and who in fact have lived in the Lower 48 for years," she said.

"We have visitors who apply and arrange for friends to pick up their checks," Miss Gemmer continued, "and retirees who haven't lived here in years and know full well they don't qualify."

She said the state would do all it could to prosecute cases of fraud. The maximum penalty for conviction is one year in jail and a \$5,000 fine.

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Court Bars a California Board From Revoking Killer's Parole

B. Keller

540 TAX
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R/D

SEP 1 1982

An embarrassment of riches in Alaska

EDITORIAL

Alaska seems to be on the way to becoming America's first welfare state, at least as long as the oil holds out.

The state government has been mailing out a \$1,000 check to every man, woman and child, and it may give away more.

The money comes from oil taxes and royalties, and Alaska is handing it out because it's coming in faster than it can be spent.

So everybody in Alaska is grateful for this unexpected bonus, right?

Not quite. An official in Alaska's Revenue Department says people are calling, not to say thank you but to complain that the checks are late. "We have received enraged and irate calls from just about everybody," she said. "You've never seen so many greedy people in your life."

But not everyone on the last frontier has lost his pioneering spirit.

"I've lived here 30 years and I don't see why I should rely on the state for subsistence," grumbled one man.

An Anchorage newspaper reporter, after talking to many people, said the consensus was that the giveaway is dumb—but the only thing dumber is not to apply for it as long as they're handing the money out.

Alaska's situation, of course, is academic as far as people in Wisconsin are concerned, since our state's problem is the opposite of a surplus.

But just for fun, what would we do if they struck oil here and the money flowed into the state's treasury faster than we could use it?

Would we reduce the oil royalties? There'd be opposition to that. We'd be dealing with a disappearing resource, and once gone it would be gone forever. A sensible argument could be made that if you don't grab the revenue now you'll never see it.

Still, a fat surplus in the public till that isn't earmarked for specific purposes is a problem. Kept too long, it gets spent foolishly. Given away, it's unearned income that can breed a welfare mentality.

But that's Alaska's worry. It certainly isn't Wisconsin's.

B. Keller

SEP 3 1982

Alaskan Politicians Not Typical Spender

EDITORIAL

Politicians are notorious for taking money from taxpayers' pockets to squander on ridiculous projects. But something's amiss in Alaska.

Last month the Alaskan government started sending out \$1,000 checks to every man, woman and child who has lived in the state at least six months.

How can that be possible? Alaska doesn't even have a state income tax.

Several years ago Alaskan politicians wanted to demonstrate their faith in people's ability to decide how their money should be spent. Revolutionary idea — trusting taxpayers with their own money.

In order to share the state's oil taxes and royalties, legislators set up a "permanent fund" created from about 25 percent of the state revenues from the Prudhoe Bay oil fields and mineral resources. The year's checks will come from half of the interest on the fund.

To make Alaskan life even more interesting, Gov. Jay Hammond wants to give away more money.

Putting all of the oil money — about \$4 billion — into the permanent fund. Checks would be reduced whenever state representatives voted for pork barrel projects that drain money from the fund. In that way, people would really feel like government spending was money coming from their pockets.

Hammond says it keeps voters interested. "What are you idiots doing with my money?"

The state expects to mail out \$415 million in checks this year.

Is this extra money making Alaskans happy?

"We have received enraged and irate calls from just about everybody," says a Revenue Department worker. "You've never seen so many greedy people in your life."

Maybe those of us in the lower 48 states just don't know how blessed we are to have politicians spending our money for us — sparing us headaches, high blood pressure and displays of greed. How thoughtful?

JUN 18 1982

B.U.A.
7/8

Alaskans given \$1,000 shares of oil wealth

By KARIN DAVES

Associated Press

JUNEAU, Alaska — The first batch of \$1,000 checks was mailed to about a thousand Alaskans today under an unprecedented plan to share more than \$400 million in state oil wealth with residents.

The checks were dropped in the mail less than 12 hours after Gov. Jay Hammond signed landmark legislation establishing a program to give every man, woman and child who has lived in Alaska at least since April a one-time cash payment of \$1,000.

Smaller payments will be awarded in future years under the bill, which replaces a distribution plan that was invalidated by the U.S. Supreme Court this week.

The high court ruled that the state could not divvy up its oil wealth based on a 1980 formula which would award larger payments to people who have lived in Alaska longer.

Revenue Commissioner Tom Williams said the earlier people applied for their distribution from the earnings of the \$3 billion Alaska Permanent Fund, the state's nest-egg savings account, the sooner they will receive their dividend checks. Applications are being processed in the order they are received.

To qualify for a share of the state's bankroll, residents must have lived in Alaska for at least six months by Oct. 16 — the deadline for submitting 1982 dividend applications.

"The new plan will finally allow all Alaskans to receive an equitable portion of the earnings of their oil wealth," Hammond said. "Although that share will not be allocated as appropriately as it might have been, the size of that share will be directly tied to the prudence in which we add to the permanent fund and invest it."

Hammond has been a major advocate of creating the fund as a hedge against excessive spending by the state.

The governor also said the distribution plan may result in reduced government spending because residents will use part of their dividends to buy services from the private sector.

"The dividend won't make Alaska the Promised Land no matter how hard the economic times may appear to be to residents elsewhere," Hammond said.

LOS ANGELES CAL
D. 1,030,915 S. 1,254,115

JUN 17 1982

B.U.A.
7/8

Energy and Environment

Alaska Gov. Jay S. Hammond signed a bill to create a 49,000-acre eagle sanctuary in the Chilkat River Valley to commemorate the 200th anniversary of selection of the bald eagle as the national symbol. Hammond noted that the bald eagle is an endangered or threatened species in every state except Alaska. Most of the eagles are concentrated in southeastern Alaska, which has dense forests and abundant salmon runs.

Marine scientists say they have found in the Bay of Fundy, between Canada and the northeast United States, a summer nursery and feeding ground of a now rare and little studied species of whale. As many as 60 right whales, apparently named "right" because early hunters considered the 60-ton mammals the easiest of its kind to kill, have been sighted in two areas of the bay, according to Scott Kraus of

the New England Aquarium. Scientists believe the Atlantic branch of the right whale family includes only about 200 animals. Other right whale species are found in the Pacific and South Atlantic.

The International Atomic Energy Agency has approved a safeguards agreement with Argentina covering the nation's supplies of partially enriched uranium from the Soviet Union, an agency spokesman said in Vienna. The agreement, approved June 9, was sought by Argentina and spells out details of how and when inspections in Argentina may be carried out. The agency said the arrangement will cover an initial shipment of 220 pounds of 20% enriched uranium. Such low-grade uranium may be used in power plants or in research but would be of little use for nuclear weapons, experts said.

Justice William Rehnquist was hospitalized at George Washington University Hospital for "minor surgery," a Supreme Court spokesman said. No details were given on the condition of Rehnquist, who in January was hospitalized for a back ailment and the side effects of a pain killer.

Justice William Rehnquist was hospitalized at George Washington University Hospital for "minor surgery," a Supreme Court spokesman said. No details were given on the condition of Rehnquist, who in January was hospitalized for a back ailment and the side effects of a pain killer.

JUN 15 1982

WALL STREET JOURNAL
SAN FRANCISCO, CALIF.
D. 355,910



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THE NEW YORK
PUBLISHED BY
W. H. COLBURN, No. 12, N. 3rd St., N. York.



Janice and Mike Rand admire her mink. They plan to buy get breakfast in bed, a trip to Aspen and a cruise over his \$1,000."

Lisa Pollett and Greg Aucutt bought their rings from jeweler Joshua Jennett. "Sharing the wealth is nice," she says.



obsessed with a dream of instant wealth to be found in the permafrosted bowels of the earth. Few of them earned enough to pay back the cost of their passage; many died in the frigid wastes of the cruel North.

Alas, they came too soon. This year Alaska has finally yielded up its fabled wealth. In a windfall of storybook proportions, \$440 million is being distributed in the 49th state; \$1,000 to every man, woman and child. "I've always wanted a mink coat," bubbles Janice Rand, 49, an Anchorage phone company employee who pooled her check with that of her husband (and co-worker) Mike to acquire a toffee-colored mink with white trim. "I love Mike without the coat," she says, "but I sure do love him more with it."

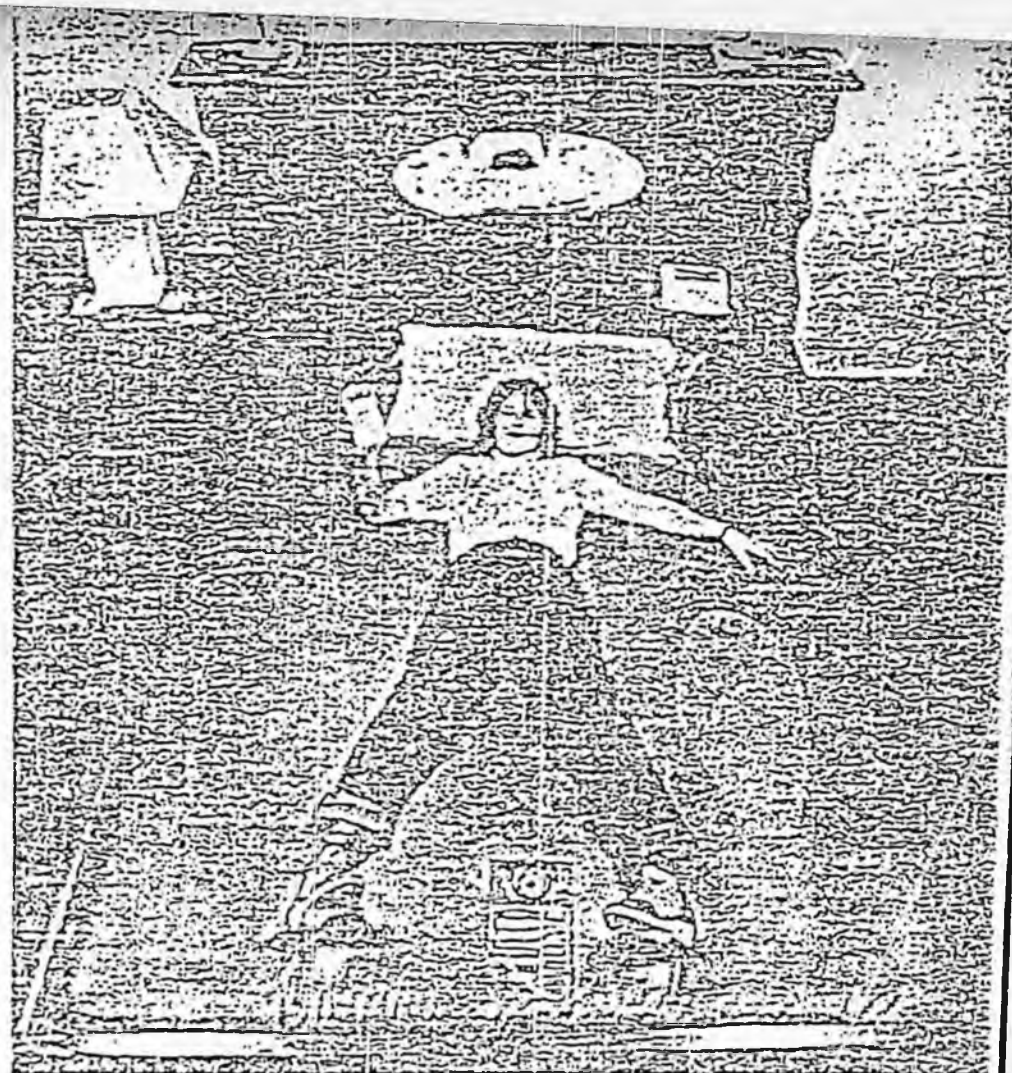
The state government's unusual largess is a reaction to a true embarrassment of riches. Since the huge oil strike at Alaska's Prudhoe Bay in 1968, the state has reaped over \$11 billion in taxes and royalties. Republican Gov. Jay Hammond, who under Alaska law cannot run for a third consecutive term, used the money to abolish the state income tax in 1980. He also set up a state "savings account" for future needs. That fund has now reached \$3.4 billion. Under Hammond's original plan, the state would have paid out part of the interest at a rate of \$50 per person for every year of residence in the state. This year the U.S. Supreme Court disallowed that, so the present system, passed by the legislature as a backup, went into effect. In 1983 all residents are expected to receive \$358 per person and in 1984, \$247.

For Lisa Pollett, 22, and her fiancé, 23-year-old Greg Aucutt, the bonanza led to marriage. College sweethearts at Washington State, they came to Alaska six months ago, just in time to meet the minimum residency requirement for the \$1,000 checks. "We've been thinking about getting married for quite some time," says Lisa. "But we were waiting until we were more financially secure." The couple used half of their money to purchase wedding rings—an \$800 diamond for Lisa and a \$100 gold band for Greg—at an Anchorage jewelry store whose newspaper ad read: "Splurge! It's not every day you get \$1,000 from the State!"

CONTINUE

...for the Alaskans, the money will
 ...survive. ...for their money. Was
 ...state, ...of Athabascan Indian
 ...of the tiny fishing village
 ...170), 200 miles
 ...west of Anchorage. Says Balluta:
 ...money will go for fuel next winter
 ...going to put it in a fund for my
 ...son's college education, but since
 ...is not so good this year, it must
 ...for my family. Everybody
 ...and were broke."

...obably the program has its de-
 ... "Rep. ... gubernatorial
 ... late Tim Fink complains that
 ... needs will bring out the best
 ... in people and attract the un-
 ... to Alaska." Even more ad-
 ... 2-year-old Joe Vojtek of Fair-
 ... a lawyer who's lived in Alaska
 ... 1942, working as a trucker, log-
 ... and miner. A longtime advocate of
 ... Alaska from the rest of the
 ... he's even lobbied dele-
 ... of the United Nations to promote
 ... for the Alaskans." He argues
 ... the giveaway has "made Alaska a
 ... 100 million, ... of 200 million
 We should be building
 ... docks, airports, hydroelectric
 ... hospitals and schools with the
 What the hell is \$1,000 going to
 ... for most people? It's insanity."
 ... Virginia. "I won't even cash my
" MARIA WILHELM



Tracy Flead, 12, tries out a new water boat. "It's kinda weird to get this," she says, "but neat to have money."

Wassie Balluta will save the money for winter. Says his wife, Fedocia, wistfully, "but neat to have money."



The Alaska Payout Ruling

ALASKA WAS INNOVATIVE when it proposed distributing state royalties from the sale of North Slope oil to its residents. But the U.S. Supreme Court was correct in deciding that it was unconstitutional to base residents' shares on the length of their stay in the state.

In the ruling, Chief Justice Warren Burger stated that the precedent created by the state's proposed payout suggested that it would also be possible to levy taxes based on length of residence as well as set conditions for eligibility for government contracts, civil service jobs and student loans on the same basis.

Striking down length of residency as a basis for benefits from a state was consistent with the federal constitution as well as with legal precedent. The fact that Alaska already had backup legislation enacted designed to distribute its oil revenues on a more equitable basis is testimony that even the state recognized the fatal flaw in its 1980 payout formula. Still, the court's ruling is a firm reminder that "equal protection under the law" should never conform to a timetable.

LOS ANGELES, CALIF.
DAILY JOURNAL

JUN 24 1982

Rulings

Government Law

Alaska Dividend Program Violated Equal Protection

The U.S. Supreme Court has held that Alaska's plan to distribute dividends from its Permanent Fund violated the equal protection guarantee.

The State of Alaska amended its constitution to require establishment of a Permanent Fund into which the state was required to deposit at least 25 percent of its mineral income each year. The state legislature subsequently enacted a dividend program to distribute annually a portion of the fund's earnings to the state's adult residents. Each adult resident would receive one dividend unit for each year of residency after 1959, the first year of Alaska statehood. The distribution plan was challenged by residents who had lived in the state only since 1978.

The U.S. Supreme Court ruled that the plan violated the constitutional guarantee of equal protection. The court said the state had shown no valid state interest rationally served by creating "fixed, permanent distinctions among an ever increasing number of perpetual classes of concededly bona fide residents." Neither creating an incentive to maintain Alaska residence nor assuring prudent management of the fund and the state's natural resources were rationally related to the plan's distinctions among residents, said the court, and rewarding citizens for past contributions was "not a legitimate state purpose." Alaska's reasoning would "permit the states to divide citizens into expanding numbers of permanent classes," a result that was "clearly im-

JUN 6 1982

WASHINGTON, D. D.
D. 584,500 SUIT. 820,000

Backlash Seen on Alaska Oil Plan

JUNEAU, Alaska, June 5 (AP)—A new plan to pay \$1,000 in state oil money to every man, woman and child who has lived in Alaska at least six months could spur "very adverse publicity" in less fortunate states, according to Gov. Jay Hammond.

"That's the negative downside" of trying to share Alaska's oil wealth with residents, Hammond said Friday after the legislature passed a plan that could put the payments into pockets of Alaskans this summer.

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That means only people who have lived in Alaska since May 15 would be eligible for the pay-

ALLENTOWN, PA.
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JUN 11 1982

A will — and a way

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Two years ago the legislature approved a program that would pay the state's 416,000 residents \$50 annually for each year they've lived in Alaska since statehood in 1959. That was challenged as discriminatory by two Anchorage attorneys, and the U.S. Supreme Court is expected to decide the case this summer.

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JUN 6 1982 *EPL*

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The Alaska Payout Ruling

ALASKA WAS INNOVATIVE when it proposed distributing state royalties from the sale of North Slope oil to its residents. But the U.S. Supreme Court was correct in deciding that it was unconstitutional to base residents' shares on the length of their stay in the state.

In the ruling, Chief Justice Warren Burger stated that the precedent created by the state's proposed payout suggested that would also be possible to levy taxes based on length of residence as well as set conditions for eligibility for government contract civil service jobs and student loans on the same basis.

Striking down length of residency as a basis for benefits from state was consistent with the federal constitution as well as with legal precedent. The fact that Alaska already had backup legislation enacted designed to distribute its oil revenues on a more equitable basis is testimony that even the state recognized the fatal flaw in its 1980 payout formula. Still, the court's ruling is a firm reminder that "equal protection under the law" should never conform to a timetable.

LOS ANGELES, CALIF.
DAILY JOURNAL

JUN 24 1982 *EPL*

Rulings

Government Law Alaska Dividend Program Violated Equal Protection

The U.S. Supreme Court has held that Alaska's plan to distribute dividends from its Permanent Fund violated the equal protection guarantee.

The State of Alaska amended its constitution to require establishment of a Permanent Fund into which the state was required to deposit at least 25 percent of its mineral income each year. The state legislature subsequently enacted a dividend program to distribute annually a portion of the fund's earnings to the state's adult residents. Each adult resident would receive one dividend unit for each year of residency after 1959, the first year of Alaska statehood. The distribution plan was challenged by residents who had lived in the state only since 1978.

The U.S. Supreme Court ruled that the plan violated the constitutional guarantee of equal protection. The court said the state had shown no valid state interest rationally served by creating "fixed, permanent distinctions between an ever increasing number of perpetual classes of concededly bona fide residents." Neither creating an incentive to maintain Alaska residence nor assuring prudent management of the fund and the state's natural resources were rationally related to the plan's distinctions among residents, said the court, and rewarding citizens for past contributions was "not a legitimate state purpose." Alaska's reasoning would "permit the states to divide citizens into expanding numbers of permanent classes," a result that was "clearly im-

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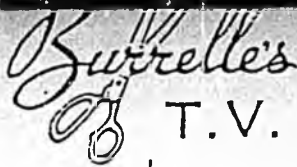
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DATE
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June 16, 1982
7:00-7:30 PM
CBS
CBS Evening News

ACCOUNT NUMBER 4411

Dan Rather reporting:

It has been eighty-five years since gold was discovered in Alaska, setting off a stampede in which men clawed and scrambled for riches. As Terry Drinkwater explains, it's considerably easier for residents to share the state's latest bonanza, the first in what will be an annual bonus.

Terry Drinkwater:

All Alaskans had to do was sign up. Every man, woman, and child who has lived here for at least six months is entitled to a thousand dollars. It's oil money. The state had collected four hundred and fifteen million dollars in taxes from the oil companies and the wealth is now being shared.

Governor Jay Hammond: I think it will perhaps revolutionize the concept of government spending and reverse the trend that has occurred in the United States, and certainly here in the state of Alaska, which is—people look to the government to do everything.

Drinkwater: Two years ago as the oil riches were piling up in the state treasury, Alaska tried to start giving away the money, fifty dollars for every year anyone had lived up here. But the courts held up that plan and finally, just this week, the Supreme Court ruled it was unconstitutional and that the money had to be distributed equally. Penny Zobel and her husband Ron filed the case. They were newcomers and are still none too popular with sourdoughs.

Ron Zobel: I am happy that finally all citizens will benefit equally. I think that the notion that a person's rights are dependent upon how long he or she has lived in this state is constitutional nonsense.

Drinkwater: Today in Juneau, the capital, officials were verifying names and about to start up the computer to write the checks. Most residents are understandably delighted the money is on its way, but some Alaskans have reservations.

Resident 1: Mine is going to go to my school tuition for next year, but I also think it's bad for the states image.

Resident 2: I think most of the people outside think of us as the blue-eyed Arabs and that's not the case.

Resident 3: I suppose I'll spend it. I'm not really in favor of the program. I'd rather have a new road to my house.

Drinkwater: By coincidence, gold was discovered up here on this very date back in 1897 and, of course, the gold rush followed. Alaskans today are hoping there won't be another rush of outsiders now coming North seeking a share of the oil riches.

Windfall Drop in Deficit Bucket

Alaska is having trouble giving money away.

Two years ago, the Legislature passed a law offering every resident for each year of Alaskan residence. Anchorage lawyers challenged the formula, contending that it discriminates against newcomers. The case is pending.

Just in case the law is thrown out, Alaska has adopted a backstop program. This legislation calls for a \$1,000 payment to every person, regardless of length of residence, with smaller annual payments thereafter.

Alaska has established the Alaska Permanent Fund, financed by money from oil wells on state lands. Half of its annual earnings are to go to state residents. The fund currently contains \$3 billion. Each of the state's 416,000 residents would be eligible for the \$1,000

payment. That would cost \$416 million. Sounds like a lot of money and quite a bonanza for Alaskans.

We were going to make some little joke about Alaskans being able to get oiled or something, but another news item caught our eye.

The item said that the House Ways and Means Committee had approved legislation raising the federal government's debt ceiling to \$1.127 trillion.

The fiscal 1982 budget puts the interest on the national debt this year at more than \$106 billion.

This means that the Alaskan windfall wouldn't even make the national debt interest payments for two full days.

After that, we didn't feel like joking anymore.

Alaska Forms Back Up Wealth Distribution Plan

JUNEAU — Alaska Governor Jay Hammond vowed to approve a back up plan to distribute Alaska's oil wealth to residents after the U.S. Supreme Court struck down the original law which based dividends on length of residence.

The Supreme Court, in an 8-1 vote, yesterday reversed a decision by the Alaska State Supreme Court, saying the plan unfairly discriminated against newcomers by proposing to award the largest dividends to long time residents.

Anchorage attorneys Ron and Patricia Zobel had challenged the plan in 1980, claiming it violated the equal protection clause of the U.S. Constitution.

Alaskans apparently will continue to receive dividends from the permanent fund, a trust account created by voters in 1976 to put away some of the state's oil income.

Hammond, calling the high court ruling "far and away the greatest disappointment to me in my almost 20 years in political office," said he would approve a "back-up" plan passed by the legislature earlier this month.

That program would give Alaskans \$1,000 each this year, regardless of length of residence. Eligible for the payment would be anyone with at least six months Alaska residence by the time the application period expires in mid-October.

Distribution of nearly \$300 million in dividend checks to Alaska's 400,000 residents has been held up pending a decision on the original proposal, approved by the state legislature in 1980. (Reuters)

The Dallas Morning News
DALLAS, TEXAS
P. 286,955 S. 253,677

Alaskans pipe up to get share of oil-profit funds

PAGE ONE

Special to The News

FAIRBANKS, Alaska — Thousands of Alaskans will be keeping a sharp eye on their mailboxes next week. The check — \$1,000 for every man, woman and child — is in the mail.

The first dividends went out Friday in a unique distribution of state funds. More than 400,000 adults and children who have lived in the state for at least six months are eligible to apply for a \$1,000 payment from the earnings of the Alaska Permanent Fund, \$3.1 billion from state oil royalties.

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year under the law Gov. Jay Hammond signed Thursday night.

Hammond said he wanted Alaskans to realize that "this is their money that the politicians are paying out for programs the state has no business being involved with."

Not everyone supports the dividend plan.

Steve Cowper, a Fairbanks lawyer seeking the Democratic nomination for governor, said, "There are a lot of other things to do with the money."

But Cowper won't be turning down his \$1,000 check. "I'm not going to be a martyr to my view

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000. An estimated 422,000 people will receive cheques.

Smaller payments will be awarded in future years under the bill, which replaces a distribution plan that was invalidated by the U.S. Supreme Court this week.

The court ruled that the state could not divvy up its oil wealth based on a 1980 formula which would award larger payments to people who have lived in Alaska longer.

14 1982

B. K. Allen

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4411 EDITORIAL
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JUN 5 1982

Alaskans to share oil wealth

Each resident may get \$1,000

Associated Press

JUNEAU, Alaska — Every man, woman and child who has lived in Alaska for six months could pocket \$1,000 in cash this summer under a new plan aimed at sharing the state's oil wealth with its citizens.

Under the plan, approved Thursday by the state legislature, \$415 million in payments could be mailed out beginning in mid August.

The state's has a population of 419,600, but officials say some residents will be ineligible and some probably won't fill out applications.

A program enacted two years ago called for annual payments to residents of \$50 for each year they had lived in Alaska since statehood in 1959. But an Anchorage couple sued, arguing that the program discriminated against newcomers. The state Supreme Court rejected their arguments, and an appeal is pending before the U.S. Supreme Court.

Faced with the delay caused by the suit, the legislature approved Gov. Jay Hammond's new program, which will take effect if the Supreme Court strikes down the first plan or if it fails to rule by July 15.

Hammond's plan calls for the \$1,000 payments this year and future annual payments to all Alaskans regardless of length of residency. The size of the payments would depend on income earned by the Alaska Permanent Fund, a savings account established by voters in 1976 that collects about 10 percent of the revenue from oil production on state lands. It has about \$3 billion in it.

State officials estimated payments at \$356 in 1983 and \$247 in 1984.

One opponent, Sen. Tim Kelly, said, "Ever American in the Lower 48 [states] who is in a depressed zone or a high unemployment zone is going to resent Alaska's wealth and put tremendous pressure on their congressmen to take that wealth from the state of Alaska."

The Miami Herald
MIAMI, FLA.
D. 398,415 SUN. 509,100

JUN 15 1982

Struck down Alaska's controversial plan for distributing its multimillion dollar oil and mineral revenues to citizens based on their length of residency in the state. The 8-1 vote forces the state to change its program for allocating \$130 million in back revenue that has been held up pending resolution of the dispute.

• Refused to disturb a major ruling that prohibits electric utility companies from earning a profit from their customers for spending money on power plants that were never built.

• Volunteered to help settle a complicated, 6-year-old fight over which state — if any — can collect death taxes on billionaire recluse Howard Hughes' estate. Concluding no other court has authority to settle the dispute, the justices voted 5-4 to help seek an answer to the multimillion-question of whether Hughes was an official resident of Texas, California or Nevada when he died in April 1976.

• Refused to remove itself from a case challenging the use of controversial choke holds by Los Angeles police.

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court suggested are

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

2933 HSA HB 11 - HB 20

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JUN 5 1982 *REE*

Alaskans may receive a bonanza

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But an Anchorage couple, Ron and Patricia Zobel, filed suit on grounds that the program discriminated against newcomers. The state Supreme Court rejected their arguments, and they have appealed to the U.S. Supreme Court.

Faced with the delay caused by the suit, the state Legislature approved Gov. Jay Hammond's "backstop" program to take effect if the U.S. Supreme Court strikes down the first plan or if it fails to rule by July 15, an arbitrary deadline.

The backstop plan calls for the \$1,000 payments this year and future annual payments to all Alaskans regardless of length of residency. The size of the payments would depend on income earned by the Alaska Permanent Fund, a savings account that collects about 10 per cent of the revenue from oil production on state lands.

State officials estimated payments at \$356 in 1983 and \$247 in 1984.

The fund, which now stands at \$3 billion, was established by voters in 1976. Half of its annual earnings are earmarked for payments.

Sen. Bill Kay voted against the backstop plan, saying it is premature because the court has yet to rule.

Another opponent, Sen. Tim Kelly, said, "Every American in the Lower 48 states who is in a depressed zone or a high unemployment zone is going to resent Alaska's wealth and put tremendous pressure on their congressmen to take that wealth from the state of Alaska."

JUN 5 1982 *Spiller*

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JUN 15 1982

B. H. H.

Dividend

(Continued from Page One)

violated equal protection provisions of the U. S. Constitution.

"This is the way we were certain it would turn out," said the Zobel's who have put up with such local disapproval as "Zobel's Drop Dead" bumper stickers.

"The Constitution has been vindicated," said Zobel. "Alaska is part of the United States and must start acting that way . . . Hopefully, the governor and the Legislature will realize there are no loopholes in the equal protection clause of the U. S. Constitution."

The case was appealed to the U. S. Supreme Court after the Alaska Supreme Court ruled against the Zobel's 3-2.

Gov. Jay Hammond, who conceived the plan, said the ruling was "by far and away the greatest disappointment to me in my almost 20 years in political office."

Reluctantly, Hammond said he would have to go along with the "backstop bill" passed by the 1982 legislature. Under that plan, awaiting the governor's signature, each resident of at least 60 days will receive \$1,000, provided proper application has been made.

Writing for the majority, Supreme Court Chief Justice Warren Burger noted: "If the states can make the amount of a cash dividend depend on length of residence, what would preclude varying university tuition on a sliding scale based on years of residence?"

He added, "Alaska's reasoning could open the door to state apportionment of other rights, benefits and services according to length of residency. It would permit the states to divide citizens into expanding numbers of permanent classes. Such a result would be clearly impermissible."

Alone in dissent, Justice William Rehnquist argued, "Alaska's distribution of (its) wealth is in substance no different from any other state's allocation of economic benefits."

Under another act of the 1980 Alaska Legislature one-fourth of the revenues gained from oil and mineral leasing is kept in a permanent fund.

The principal of the fund cannot be spent — only invested — and one-half of the earnings from the investments were to be paid to citizens in the form of "dividends."

Much of the wealth comes from the millions of barrels of oil pumped out of the frigid Prudhoe Bay oil field, north of the Arctic Circle.

Alaska dividend plan is invalid

WASHINGTON — The United States Supreme Court has voided the State of Alaska's plan to distribute millions of dollars in state oil revenue dividends to residents based upon their length of time as residents.

The justices ruled 8-1 against the distribution plan approved by the Alaska Legislature in 1980 and aimed at giving residents \$130 million in oil and mineral wealth revenues.

The amount any one Alaska resident could receive from the program was directly related to his time of residence in the state dating from statehood in 1959. A resident over 18 would receive a dividend of \$50 for each year in the state up to a maximum amount of \$1,050.

In Anchorage, Ron and Patricia Zobel, two attorneys who came to Alaska in 1978, brought suit against the plan on grounds it

(Continued on Page 9, Column 3)

Cyber

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The share-the-wealth plan was approved Thursday at the urging of Hammond, who argued that if Alaska's 419,600 residents have a personal stake in the state's wealth, they will pay closer attention to how it is invested.

Hammond said there will be an "enormous reaction" for state officials to explain the program to other Americans, because people in de-

pressed areas of the country may feel Alaskans are flaunting their state's wealth.

State Sen. Bill Ray, who voted against the plan, also said he is worried about a backlash. "Alaska's image is that we're a bunch of spendthrift, blue-eyed Arabs," he said.

The \$1,000 payments will be made if the U.S. Supreme Court strikes down an existing distribution program, or if the court has not ruled by July 15. If the high court has not ruled, the program will begin July 15 with a four-month period which Alaskans may apply for the payments. They may apply any time during that period, in order to be eligible for the money, they must have been residents for at least six months when they apply.

That means only people who have lived in Alaska since May 15 would be eligible for the payments.

BOSTON, MASS.
HERALD AMERICAN
D. 226,000 S. 274,690

Cyber

Equal Bonuses For Alaskans

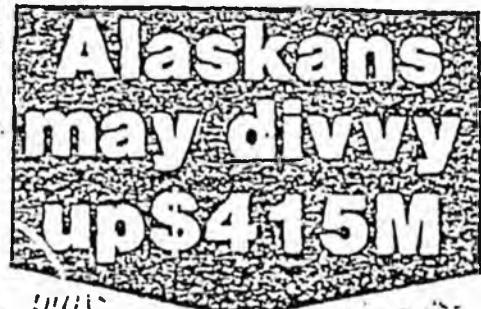
Longtime Alaska residents may deserve something for sticking it out, but it's not extra money, the Supreme Court said last week. The Court invalidated Alaska's plan to distribute its oil revenue windfall among citizens on the basis of how long they have lived in the state — \$50 for each year of residence retroactive to 1959, when Alaska became the 49th state.

But on this schedule, 23 percent of the state's population of 416,000 would receive the maximum \$1,050 per person. The plan was challenged by a couple who moved to the state in 1978.

Alaska's rationale for such a reward "was not a legitimate state purpose," the Court said, for "if the states can make the amount of a cash

dividend depend on length of residence, what would preclude varying university tuition on a sliding scale based on years of residence, or even limiting access to finite public facilities, eligibility for student loans, for civil service jobs or for government contracts by length of domicile?"

Alaska now plans to grant \$1,000 to anyone who has lived in the state at least six months, with no distinctions based on age or state seniority.



JUNEAU, Alaska (AP) — Every man, woman and child who has lived in Alaska for six months could pocket \$1,000 in cash this summer under a new plan aimed at sharing the state's oil wealth with its residents.

Under the plan, approved by the state Legislature on Thursday, \$415 million in payments could be mailed out beginning in mid-August.

The state has a population of 419,600, but officials say some residents will be ineligible and some probably won't fill out applications.

A program enacted two years ago called for annual payments to residents of \$50 for each year they had lived in Alaska since statehood in 1959.

But an Anchorage couple, Ron and Patricia Abel, filed suit on grounds that the program discriminated against newcomers. The state Supreme Court rejected their arguments, and they have appealed to the U.S. Supreme Court.

Faced with the delay caused by the suit, the state Legislature on Thursday approved Gov. Jay Hammond's "backstop" program to take effect if the U.S. Supreme Court strikes down the first plan or if it fails to rule by July 15, an arbitrary deadline.

The backstop plan calls for the \$1,000 payments this year and future annual payments to all Alaskans regardless of length of residency.

\$1,000 Checks for Everyone Fail to Make Alaskans Happy

By Jay Methews
Washington Post Staff Writer

ANCHORAGE, Alaska—On this northernmost frontier of American political science, a state government has decided to see if money really will buy happiness.

One thousand dollar checks have been going out for a month to every man, woman and child in this oil-rich state. So far few of the recipients have even bothered to say thank you.

"I almost feel that I'm on welfare," grumbled Ron Moore, a 36-year-old realtor from Soldotna. "I've lived here 30 years and I don't see why I should rely on the state for subsistence." The giveaway "was very poorly planned," said Kathy Potter, an office supply sales supervisor here who plans to buy drapes with her

money. "There should have been a better way to do it."

In the state Revenue Department at Juneau, Colleen Brown reported the givers are not blessed by the receivers, who only call to complain if their checks have not arrived. "We have received enraged and irate calls from just about everybody," Brown said. "You've never seen so many greedy people in your life."

So go the early days of Alaska's revolutionary scheme to share its oil taxes and royalties with its people, not through new roads or deeper harbors or any of the other pork barrel projects Washington is familiar with, but with blue and yellow checks instantly cashable at any bank. They are called "permanent fund dividends" and Alaska's expe-

See CHECKS, A4, Col. 1

Washington Post 8/22/82
was also printed in the Chicago Paper

122/1-

\$1,000 Checks Failing to Bring

CHECKS, From A1

ience with the idea so far may frighten away any future leaders elsewhere so bold and so rich as to attempt such generosity.

The giveaway has sent many Alaskan brains churning, not with sweet thoughts for Gov. Jay M. Hammond and the state legislature but with schemes to separate other Alaskans from their money. Police have reported several checks stolen from mail boxes. A full-page ad for the Alaska Bank of Commerce in the Anchorage Daily News said: "ONE THOUSAND DOLLARS! We'll help you make the most of it." A furniture store announced a "CHECK'S IN THE MAIL" sale: "Turn your permanent fund dividend into a water bed that you will enjoy for years to come."

Anchorage Times political reporter Ralph Nichols concluded after many discussions with his fellow Alaskans that, "With few exceptions they think it's the dumbest thing in the world, the only thing dumber being not to apply for it as long as they are giving it away."

This philosophy extends to the young and the unborn. The state's vital statistics bureau has been swamped with 1,000 requests a day for certified copies of birth certificates, necessary if parents are to claim \$1,000 for each of their children. Any resident's child born up to midnight Oct. 15 may claim a check, prompting speculation that women with babies due about that time will flood hospital maternity wards and induce labor in order to make sure.

So far the Revenue Department has sent out 87,901 checks, each decorated with the state flag, which shows, appropriately enough, the stars forming the "Big Dipper." Brown said the state expects to send a total of \$415 million in checks to the state's estimated 415,000 residents.

Alaskans don't seem quick to ladle out their new riches. Automobile and snowmobile dealers say there has been little upturn in business so far. Few charities claim to have benefited from the giveaway, though in some cases not for lack of trying.

The Fairbanks Environmental Center asked its members some time ago to donate all or part of their checks to the center, but so far fewer than 10 contributions have come in. The University of Alaska Foundation estimated it has received between 15 and 20 dividend checks.

Instead, with each check in the

THE CHECK'S IN THE MAIL SALE
Turn your permanent fund dividend into a water bed that you will enjoy for years to come.

ONE THOUSAND DOLLARS!

INVEST YOUR DIVIDEND DOLLARS IN A Capitol DIAMOND!

By Gail McCrory—The Washington Post

her daughter Sacha, 11, was quick to object when she learned her \$1,000 was going into savings. According to her mother, Sacha said, "So and So gets to spend \$200 of her's on school clothes and this one's going to camp and that one's going to Hawaii and why can't I have it in cash?"

Alaskan politicians who conceived the giveaway years ago wanted to demonstrate their faith in the people's ability to decide themselves how their money should be spent rather than building the usual political pet projects. The permanent fund has been created with about 25 percent of the state revenues from the Prudhoe Bay oil fields and other mineral resources. The giveaway checks were to come from half of the interest on the fund.

Hammond wants to give away even more. He has argued that all of the oil money, now about \$4 billion a year, ought to go into the permanent fund. He said people ought to be paid from the interest and the amount of their checks reduced whenever state representatives voted for a large pork barrel project that drained money from the fund. Since the state income tax has been abol-

The checks sent out this year were originally due in 1980. But Ron and Patricia Zobel, married lawyers who arrived in the state in 1978, objected to the original plan to distribute payments on a sliding scale—\$50 for newcomers and up to \$1,050 for old timers. The Zobels successfully sued to stop that plan on the ground that it discriminated unconstitutionally against new residents. The leg-

Happiness

islatore decided to go ahead and give the same amount to everyone who had been in the state at least six months; adding the dividends that had not been paid since 1980. That brought the payment for everyone this year up to \$1,000.

Ron Zobel said that like many of his fellow Alaskans he was never very happy with the idea of the government giving away cash. But now that the checks are arriving, the hate mail and threatening phone calls that accompanied his original suit have tapered off. The checks coming to himself, his wife, and their 15-month-old son will be invested in Alaska-oriented stock, he said.

Politicians here worry about what the giveaway will do to the state's relationship with the lower 48 states. They say they fear a mass inflow of American jobless, already a problem because of the widespread and somewhat erroneous impression that Alaska is full of job opportunities.

Under the current plan, Alaskans will each get \$350 in 1983, \$500 in 1984, and then the annual payments will begin increasing again at an unknown rate. Nearly every politician in the state expects the legislature to change the plan in some way next year. But the Revenue Department's Brown said, "They may find it very hard to get people to give up" the yearly dividend, no matter how ungrateful most have seemed for the money.

The checks have allowed a number of people to realize old dreams. Brown said her office received a letter from an elderly Eskimo man living in one of the coldest regions of the state's northern bush. "After thanking us profusely," Brown said, "He said that he was going to use the money to buy a refrigerator. I don't know if he was ribbing us or not."

Happiness

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WRITTEN TESTIMONY BY SENATOR FERGUSON

PRESENTED TO HOUSE FINANCE AND

STATE AFFAIRS COMMITTEES

CONCERNING HOUSE BILL 85 AND HOUSE BILL 11

THESE BILLS WILL ELIMINATE THE PERMANENT FUND DIVIDEND PAYMENTS. I HAVE CONCERNS OVER HOW THE FUND EARNINGS WILL BE DISTRIBUTED IF THE DIVIDEND PAYMENTS ARE REPEALED.

THE INTENT OF THE PERMANENT FUND DIVIDEND LAW WAS AND CONTINUES TO BE DISTRIBUTION OF INDIVIDUAL PAYMENTS TO ALL RESIDENTS OF ALASKA. THE ADMINISTRATION HAS DESIGNED PROPOSALS TO USE THE PERMANENT FUND EARNINGS. THE ATTORNEY GENERAL'S OFFICE HAS ATTEMPTED TO JUSTIFY THE ADMINISTRATION'S PROPOSALS BY INDICATING THE VOTER APPROVED SPENDING LIMIT EXCLUDED PERMANENT FUND DIVIDENDS AND THAT DIVIDENDS MEAN SOMETHING OTHER

THAN INDIVIDUAL CASH PAYMENTS. TO DATE, THE
ADMINISTRATION'S PROPOSALS WILL NOT GIVE DIVIDENDS
TO INDIVIDUALS THROUGH CASH PAYMENTS. LEGISLATIVE
INTENT OF THE LAW CANNOT BE CHANGED THROUGH
PERSUASION OR ANY OTHER MEANS. ASK ANY ALASKAN
WHAT THE DIVIDEND PAYMENT MEANS TO THEM AND THEY
WILL TELL YOU INDIVIDUAL CASH PAYMENTS. OTHERWISE,
WHY HAVE THEY FILLED OUT FORMS FOR THE LAST THREE
YEARS TO RECEIVE THE PAYMENTS.

THE SPENDING LIMIT APPROVED BY THE VOTERS IN
THE NOVEMBER 2, 1983 ELECTION HAD SEVEN EXCEPTIONS.

ONLY SEVEN SPECIFIC ITEMS ARE RESTRICTED FROM
THE SPENDING LIMIT.

1. AN APPROPRIATION FOR ALASKA PERMANENT
FUND DIVIDENDS;

2. AN APPROPRIATION OF REVENUE BOND
PROCEEDS;

3. AN APPROPRIATION TO PAY PRINCIPAL AND INTEREST ON STATE GENERAL OBLIGATION BONDS;

4. AN APPROPRIATION OF MONEY RECEIVED FROM NON-STATE SOURCES IN TRUST FOR SPECIFIC PURPOSES;

5. AN APPROPRIATION TO THE ALASKA PERMANENT FUND;

6. AN APPROPRIATION FOR CAPITAL PROJECTS IF THE APPROPRIATIONS BILL IS CONFINED TO PROJECTS OF THE SAME TYPE;

7. AN APPROPRIATION TO MEET A STATE OF DISASTER.

THE EFFECT OF REPEALING THE DIVIDEND PROGRAM WILL BE THAT ANOTHER PROGRAM WILL BE OFFERED TO TAKE ITS PLACE IN ORDER TO RETURN SOME OF THE EARNINGS BACK TO THE PEOPLE.

WHEN THE EARNINGS FROM THE DIVIDEND FUND EXCEED THE AMOUNT THAT CAN BE EXPENDED FOR CAPITAL AND OPERATING ITEMS UNDER THE VOTER APPROVED

SPENDING LIMIT, THEN THAT EXCESS AMOUNT OF REVENUES AVAILABLE FOR APPROPRIATION MUST GO BACK TO A VOTE OF THE PEOPLE.

ALL OPERATING AND CAPITAL BUDGET ITEMS ARE INCLUDED WITHIN THE SPENDING LIMITATION.

THE TERM "PERMANENT FUND DIVIDEND" WAS INCLUDED WITHIN THE TEXT OF THE CONSTITUTIONAL AMENDMENT, AND WAS USED TO COVER THE PERMANENT FUND DIVIDEND PAYMENTS PROGRAM.

IF THE DIVIDEND PAYMENT PROGRAM IS REPEALED, THEN THE EARNINGS FROM THE PERMANENT FUND CAN ONLY BE USED FOR:

1. FURTHER CAPITALIZATION OF THE FUND; OR
2. TRANSMITTAL OF EARNINGS TO THE GENERAL FUND, WHICH IS THEN GOVERNED BY THE SPENDING LIMITATION.

ARGUMENTS AND OPINIONS TO DATE INDICATE THAT THE LEGISLATURE CAN MAKE DIRECT APPROPRIATIONS FROM THE EARNINGS FROM THE PERMANENT FUND FOR SPECIFIC OPERATING OR CAPITAL PURPOSES, THEN THESE EXPENDITURES WOULD FALL WITHIN THE SPENDING LIMIT. TO INDICATE OTHERWISE WOULD BE A CIRCUMVENTION OF THE CONSTITUTIONAL LIMITATION AND THE VOTE OF THE PEOPLE.

STATE OF ALASKA

FIB 11
Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 7, 1983

Gene Dusek, Director of Budget
Office of Management & Budget
Pouch AM
Juneau, AK 99811

Re: Appropriation limit
questions
Our file: 366-374-83

Dear Mr. Dusek:

You have asked for our opinion concerning issues relating to the appropriation limit imposed by Alaska Constitution, article IX, section 16. These issues are as follows:

- (1) Are appropriations to reimburse a municipality for payment of the principal and interest on general obligation school construction bonds subject to the appropriation limit? We believe they are not.
- (2) If the permanent fund dividend law (AS 43.23) is amended or repealed and another plan for the distribution of permanent fund income is enacted, will appropriations to finance the new distribution program be included in the appropriation limit or will those appropriations be outside the limit? Generally, we believe that other distribution plans could qualify as dividends. However, certain limitations should be observed to make sure that the new plan satisfies the intent of the appropriation limit.
- (3) How will the appropriation limit be implemented if

anticipated state revenues are less than the limit for a fiscal year? We assume that the appropriation limit will be applied with common sense to empower the legislature to act without regard to allocations imposed by the appropriation limit when economic conditions deplete the state treasury.

(4) How will multi-year appropriations be counted for purposes of the appropriation limit? We believe a multi-year appropriation will be counted against the appropriation limit for the first year in which it could be expended.

(5) What is the definition of "capital project" as that term is used in the appropriation limit? There is some history which supports a liberal interpretation of the term "capital project."

I. BACKGROUND

The appropriation limit, Alaska Const. art. IX, sec. 16, was drafted during a period of anticipated high revenue yields from oil and gas production. In June 1981, the Alaska Department of Revenue forecast that the state would earn approximately \$4,895,300,000 during FY 82. Revenue Sources, Alaska Department of Revenue (June 1981). That forecast did not include the revenue dedicated to the Alaska permanent fund under AS 37-13.010. The revenue actually earned by the state during FY 82, less the permanent fund contribution, was \$4,108,400,000. Reve-

nue Sources, Alaska Department of Revenue (Jan. 1983). The legislature had exhibited a proclivity for appropriating all available revenue and more. 1/ Former Governor Jay S. Hammond introduced SJR 4 during the first session of the Twelfth Alaska Legislature. However, the legislature failed to enact a version of SJR 4 during the first regular session and on June 25, 1981, Governor Hammond called a special session of the legislature to consider SJR 4. In his address to the legislature, Governor Hammond cited the following circumstances which required the enactment of SJR 4:

- (1) the FY 82 operating budget increased 32 percent over the FY 81 operating budget;
- (2) the FY 82 capital budget increased 127 percent over the FY 81 capital budget; and,
- (3) for FY 82, the legislature appropriated an amount equal to 59 percent of the total spent for capital projects since statehood. 1981 S. Jour., FSS Jour. Supp. No. 1, p. 3.

A second free conference committee (FCC) initially appointed during the regular session met to continue consideration of SJR 4 during the special session. 1981 S. Jour., p. 1744. A

1/ The \$1.8 billion contribution to the Alaska permanent fund (sec. 2, ch. 61, SLA 1981 as amended by sec. 68, ch. 92, SLA 1981 and sec. 16, ch. 101, SLA 1982) is a continuing operating appropriation which literally causes total unobligated appropriations to exceed available state revenues for each fiscal year since enactment.

transcript of the open meetings of the FCC exists and forms a part of the history of the appropriation amendment (the transcript). However, it is evident from review of the transcript that other discussions concerning the intent of the amendment were conducted outside of open committee meetings. While the transcript is helpful, it presents only a partial record of the deliberations of the drafters of the amendment.

The FCC purported to adopt a letter of intent to accompany its report to the house and senate. 1981 S. Jour., FSS, p. 5. However, the letter of intent is not set out in the journal. A search of the bill files of the Department of Law yielded a copy of the missing letter of intent. See Ex. 1.

The campaigns for and against adoption of the appropriation limit began in September of 1982. The Anchorage Daily News criticized the proposed amendment for the following reasons:

(1) the ceiling is too high, revenues will exceed the limit only once before the year 2000; and

(2) the one-third reservation for capital projects and loan appropriations was included because the legislature "failed to make the distinction between a wise public agenda -- on which capital projects and loans surely would appear -- and an effectively timeless state constitution -- in which no such spending demands should be dictated.

Anchorage Daily News, Sept. 3, 1982, at A14, "opinion." The

Daily News based its opinion concerning revenue forecasts on a report made public by the legislative finance division of the Legislative Budget and Audit Committee. Anchorage Daily News, Sept. 2, 1982, at 1. On September 17, 1982, the Daily News urged Governor Hammond to oppose the adoption of the appropriation limit. The Anchorage Times basically took no position on the amendment. However, on October 19, 1982, the Times reported the results of a poll sponsored by supporters of the amendment. The poll, conducted the week of September 16-23, 1982, showed that the amendment was recognized and favored by the public as a "spending limit." The pollsters asked if the respondents had heard of the proposed amendment to the state constitution which sets a limit on increases on state appropriations. By a three-to-one margin, respondents said they were not familiar with the amendment when it was described as an "appropriation limit." Anchorage Times, Oct. 19, 1982, at A-4. On October 26, 1982, the Juneau Empire editorialized in favor of adoption of the amendment. Juneau Empire, Oct. 26, 1982, at 4.

During the week of October 24, 1982, the major dailies of the state published articles on the amendment. Governor Hammond received coverage in most of those stories by saying "It [the adoption of the appropriation limit] may be our last chance to control the juggernaut which otherwise will likely crush us into bankruptcy." Anchorage Daily News, Oct. 29, 1982, at B3.

On Sunday, October 31, 1982, the Daily News in its forum section, published an article by Governor Hammond in which he again strongly advocated adoption of the amendment because revenue projections and the growing vulnerability of the permanent fund compelled him to plead for the support of the people. Anchorage Daily News, Oct. 31, 1982, at K3. On the preceding Friday, the Daily News quoted Governor Hammond as follows: "Don't let anyone tell you that passage of Proposition 4 won't limit spending." Under recently revised revenue estimates, passage of the ballot issue would bar the legislature from appropriating between \$80 million and \$380 million in fiscal 1984 alone. Anchorage Daily News, Oct. 29, 1982, at B3.

At the 1982 general election, the voters approved the adoption of SJR 4 by a vote of 110,669 for the amendment and 70,831 opposed to the amendment. State of Alaska Official Returns by Election Precinct General Election Nov. 2, 1982, Div. of Elections, Office of the Governor.

II. EXCEPTIONS FROM THE LIMIT

The appropriation limit contains seven express exceptions. Five of those exceptions are for appropriations which are completely outside the limit and do not require voter approval. They include:

- (1) an appropriation for Alaska permanent fund divi-

dends;

(2) an appropriation of revenue bond proceeds;

(3) an appropriation to pay principal and interest on general obligation bonds;

(4) an appropriation of money received from nonstate sources in trust for a specific purpose, including revenues of a public corporation that issues revenue bonds; and

(5) an appropriation to meet a state of disaster declared by the governor.

You have requested our interpretation of exceptions (1) and (3) set out above.

A. Alaska Permanent Fund Dividend Exception

The appropriation limit provides: "Except for appropriations for Alaska permanent fund dividends ... appropriations from the state treasury made for a fiscal year shall not exceed \$2,500,000,000...." A question obviously arises as to whether "Alaska permanent fund dividends" means only those cash payments provided to individuals under AS 43.23 or if the word "dividend" encompasses other concepts for the distribution of income earned by the Alaska permanent fund.

We believe the answer to your question concerning appropriations for permanent fund dividends depends on whether the exceptions will be construed strictly or liberally. Usually,

provisions in a state constitution are construed liberally using the same rules of construction prescribed for other laws with regard given to the broader object and scope of the constitution as a charter of popular government. Eghert v. Dunseith, 24 N.W.2d 907 (N.D. 1946); 168 A.L.R. 621. Professor Sutherland explains the modern view for construing express exceptions as follows:

The older rule strictly interpreted both exceptions and provisos but today the prevailing view favors determining the effects of such provisions according to the usual criteria of decision applicable to other kinds of provisions as well without the use of any artificial presumptions to the effect that qualifying language should be strictly construed.

SUTHERLAND STATUTORY CONSTRUCTION § 47.11 (4th ed. 1974)(footnotes omitted). The FCC did not express an intent to limit this exception to only appropriations to finance cash payments to individuals under AS 43.23.

The appropriation limit must be interpreted consistently with the permanent fund amendment contained in article IX, section 15. Section 15 provides that the legislature may dispose of the income of the Alaska permanent fund "as provided by law." Each legislature may reexamine existing law and enact different laws providing for the use of income earned by the Alaska permanent fund. If section 16 were interpreted so that the exception to permanent fund dividends applied only to appropriations to finance cash dividends under AS 43.23, the legislature would essentially be denied the flexibility to adjust to changing philoso-

phies concerning the propriety of making cash payments directly to residents which section 15 expressly reserves to it. 2/ In interpreting and applying the constitution, it must be remembered that the constitution is not a lifeless or static instrument whose interpretation is confined to conditions and outlooks which prevailed at the time of its adoption. Yakus v. United States, 321 U.S. 414 (1944); Warwick v. State, 548 P.2d 384 (Alaska 1976).

The word "dividend" has no precise legal meaning. Trustees of University v. North Carolina R. Co., 13 WORDS AND PHRASES 107 (Permanent ed.); 22 Am. Rep. 671. Webster defines "dividend" as follows: "an individual share of something distributed among a number of recipients." We are not aware of any legal principle which would preclude the characterization of other distribution programs as "dividends." Rather, the words used

2/ The Thirteenth Legislature may reject direct cash distribution in favor of a plan which it determines will promote public purposes more effectively. During the period of consideration and adoption of the appropriation limit, the permanent fund dividend law was undergoing considerable scrutiny and change by both the legislature and the courts. The legislature adopted the proposed appropriation limit amendment on July 15, 1981. At that time the question of the constitutionality of the permanent fund dividend program as it was then structured was on appeal to the United States Supreme Court. On June 14, 1982, the United States Supreme Court issued an opinion which found the method established for determining the amount of dividends under that program void because the method promoted discrimination based on length of residence in the state. On August 13, 1982, amendments to the dividend law took effect. The people were undoubtedly aware that the dividend law in effect on election day in 1982 was not chiseled in marble.

by the drafters of the amendment afford broad latitude to the legislature to enact new distribution programs which will not be impaired by the appropriation limit.

It is well-settled law that a provision of a state's constitution must receive a liberal, practical construction to meet changed conditions and growing needs of the people. County of Alameda v. Sweeney, 312 P.2d 419, 424 (Cal. 1957). Under the permanent fund amendment, the discretion granted to the legislature to enact, amend, or repeal the present dividend program under AS 43.23 to meet the growing needs of the people is unfettered. However, the operation of exceptions from the appropriation limit must be interpreted consistent with the intent of the framers of the organic law and of the people adopting it. State v. Lewis, 559 P.2d 630, 637 (Alaska 1977).

One important consideration should be carefully observed. The Alaska Supreme Court has found that the purpose of the existing dividend program is to force the legislature to consider the reimposition of taxes when the decline of oil revenue encourages resort to permanent fund income to finance state government. Williams v. Zobel, 619 P.2d 448, 454 (Alaska 1981), rev'd 451 U.S. 905 (1982). The people can be expected to vigilantly protect their dividends by forcing the legislature to seek sources other than the permanent fund to finance state government. If a substitute distribution program accomplishes the same

purpose, it will more likely qualify under the exception in section 16 than if it fails to achieve that purpose. If the constituency benefitted by a dividend is narrow, the dividend may not be a dividend in the sense intended by the drafters of section 16 and the people who adopted it. Proposals soon to be considered by the legislature include replacing the existing distribution to all residents with a distribution of part of the permanent fund income to municipalities and as a substitute for the existing longevity bonus, and use of a part of the income to finance large capital projects.

A vast majority of the population of the state resides in or is served by municipal governments. It is also a fact that we all seek security for our "golden years." The constituents of these proposals seem broad enough to satisfy the purpose of the current dividend law. The use of permanent fund income to finance large capital projects presents a closer question. The character of each project must be considered to determine if it serves a state public purpose, rather than a local special purpose. Additionally, if the project is viewed as merely an alternate way of financing state government operations, the basic intent of the dividend law might not be served.

We cannot advise with certainty whether the financing of large capital projects with permanent fund income would constitute a dividend of the Alaska permanent fund for purposes of

the appropriation limit. Some may argue that the benefits provided by "public works" projects are too localized to approximate the benefits provided by the existing dividend law. However, in State v. Lewis, 559 P.2d 630 (Alaska 1977), the Alaska Supreme Court decided that "[l]egislation need not operate evenly in all parts of the state to avoid being classified as local or special." Lewis at 643. A definite answer will come only when the courts interpret article IX, section 16 of the Alaska Constitution. However, we believe that if the legislature enacts a distribution program which is consistent with the intent of the permanent fund dividend law, any appropriation to implement that program will be exempt from the appropriation limit.

B. Appropriations Required to Pay the Principal and Interest on General Obligation Bonds?

Under AS 43.18.100 -- 43.18.135 the state, subject to available appropriations, reimburses municipalities for the payment of a percentage of principal and interest to retire general obligation bonds issued by the municipality to finance school construction costs. Although they have been amended from time to time, these statutes have been in effect since 1971. You have asked whether appropriations to retire municipal general obligation debt are within the exception stated to the appropriation limit.

The exception reads as follows: "Except for ... appro-

priations required to pay the principal and interest on general obligation bonds...." The wording of the exception does not specify whether the bonds must be issued by the state to qualify. Later in section 16, the drafters carefully identified "appropriations of money received from a nonstate source...." Since the drafters could easily have expressly limited this exception to state general obligation bonds, an implication can be drawn that a strict construction limiting the exception to state general obligation bonds was not intended.

The purpose of the exception recognizes that appropriations to retire general obligation bonds may be to the state's "great advantage." Governor's transmittal letter, 1981 FSJ S. Jour., p. 16. Presumably the advantage accrues from the state's enhanced credit rating which results in lower debt service charges for subsequent bond issues. It is probable that the existence of the school construction debt assistance provisions of AS 43.18 have the same effect upon the bond rating assigned to municipalities. The identical purpose is achieved by appropriations made to finance the reimbursement program. Less state assistance will be necessary in the future if local bond ratings remain favorable.

There are some considerations which weigh against this construction. Debt service for general obligation bonds is financed by a continuing appropriation. AS 37.15.012. General.

obligation bonds are debts of the state secured by contracts (trust indentures); the impairment of contracts is prohibited by the state and federal constitutions. The reimbursement program under AS 43.18 does not transform municipal general obligation bonds into debts of the state. AS 43.18.130(a). However, the financial burden imposed on municipalities, if their local tax effort were increased to compensate for the loss of assistance under AS 43.18, could be devastating to the local taxpayer. According to the Department of Education, for fiscal year 1984 the estimated total entitlement for school debt retirement is \$36,900,000. This total is estimated to increase to \$44,300,000 by fiscal year 1988.

Accordingly, we believe that appropriations to retire municipal general obligation school bond indebtedness under AS 43.18 are "required" and qualify as an exception to the spending limit. We believe that the appropriation for school bond indebtedness can be represented as a moral obligation of the state for the following reasons:

- (1) the appropriation is made under a statute of general application;
- (2) the statute has been in effect since 1971; and
- (3) the reimbursement program is heavily relied upon by municipalities when they establish the local tax effort necessary to support local bonded indebtedness.

III. REVENUE SHORTFALL

You have also asked how to interpret the appropriation limit if the amount of state revenues subject to the limit is less than the amount determined to be the limit for a fiscal year, as provided in section 16. You wish to know specifically how the allocations within the limit for operating expenses and capital projects would be interpreted. As we have indicated, section 16 imposes an appropriation limit rather than a spending limit. We have earlier advised that the legislature may make appropriations which exceed available revenues. 1981 Inf. Op. Att'y Gen. (June 24; J77-159-81). However, obligations may not be paid under those appropriations unless there is enough surplus money available in the treasury.

Theoretically, the amount of anticipated state revenue should have no effect on the operation of the appropriation limit. However, under AS 37.07.020(c), the governor's proposed budget may not exceed estimated revenues for the succeeding fiscal year. Also, the amount of surplus revenues anticipated to be received by the state was an issue hotly publicly debated before adoption of section 16. The newspaper articles written about the appropriation limit before the election commonly referred to the amendment as a "spending limit." These articles were undoubtedly instrumental in forming the voters' understanding of the effect of the proposed amendment.

Section 16 provides, in part: "Within this limit, at least one-third shall be reserved for capital projects and loan appropriations." This wording is ambiguous when applied for a year in which revenue available for appropriations falls short of the adjusted limit for that year. Under those circumstances, it is not clear whether the reservation for capital projects and loan appropriations is calculated based on the total amount actually appropriated for that fiscal year (i.e., less than the limit) or on the limit amount (\$2.5 billion) for that fiscal year adjusted for population and inflation. Apparent ambiguities contained in the state constitution may be resolved by the contemporaneous construction by law or by the administrative agency charged with implementation of the provision. Amador Valley Joint Union High School District v. State Board of Equalization, 583 P.2d 1281 (Cal. 1978).

A review of the FCC transcript reveals no discussion of the intention of the drafters when they used the phrase "within this limit." Revenue projections at the time painted a rosy picture for the future. No history is available to indicate that the FCC even considered the effect of the amendment if the state suffers a sharp decline in revenue. Former Governor Hammond was clearly concerned by the possibility of a spendthrift legislature with an overflowing treasury at its disposal.

Under the circumstances, we believe it would be unwise

to blindly apply the allocations imposed by the appropriation limit when conditions impose an even more stringent limit than intended by the FCC. 3/ The appropriation limit drastically alters the most significant power of the legislature: the power to appropriate. The power to enact general law is largely nullified unless the money to finance enforcement or implementation of the law is appropriated. Consequently, we believe that an interpretation which restricts the legislature's power to respond to the needs of the state during unanticipated periods of revenue decline will not be endorsed by the courts. See State ex rel. Columbus v. Keterer, 189 N.E. 252 (Ohio 1934). Rather, we believe that the courts will recognize that the evil which the appropriation limit was designed to remedy does not exist when revenues are below the limit. Under those circumstances, a court would probably affirm an interpretation that restores the full lawmaking powers of the legislature to make appropriations in the best interests of the state. We believe the best way to resolve the ambiguity is to disregard the one-third allocation reserved for

3/ The reservation for capital projects and loan appropriation effectively restricts appropriations to finance the operating budget without restricting the relative share for capital projects. The operating budget finances all manner of essential programs for the preservation of the public health, safety, and welfare. Some of these expenditures are for so-called entitlement programs (aid for families with dependent children, for example) which for fiscal year 1982 comprised 42 percent of the operating budget.

capital projects and loan appropriations when economic conditions impose a limit which is more restrictive than that set out in section 16. 4/ The literal language of the constitution may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers. Sturges v. Crowninshield, 17 U.S. 122, 202 (1819). Where the general welfare is involved, constitutional questions should be approached from the pragmatic, rather than from a legalistic point of view. State v. Board of Administration, 25 So. 2d 880 (Fla. 1946).

IV. ATTRIBUTION OF CAPITAL APPROPRIATION TO A FISCAL YEAR

Another question you have raised is how the words "appropriation ... made for a fiscal year" should be applied to appropriations for capital projects. AS 37.25.020 provides "An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years." This provision recognizes that capital projects often span more than one fiscal year before completion. The balance of the appropriation remains available in sub-

4/ Another possible interpretation would limit the operating budget allocation for a fiscal year to two-thirds of the total limit (\$2.5 billion) adjusted for inflation and population. This interpretation is consistent with our earlier observation that there may be no relationship between appropriations and revenue. However, even under this interpretation, in a fiscal year with depressed revenues, the one-third reservation for capital projects is meaningless.

sequent fiscal years and is carried forward to those succeeding fiscal years. According to the Department of Administration, as of June 30, 1982, the total of all "carry forward" capital appropriations was: approximately \$1,591,000,000, and the total of all "carry forward" operating appropriations was \$1,862,000,000.

The FCC debated the intent of the limit concerning this issue. Transcript at 47-55. It is clear that the FCC was aware that multi-year appropriations are made. There was an attempt by Representative Hugh Malone to amend the proposal so that a legislature could not appropriate for a fiscal year subsequent to the upcoming fiscal year. This amendment was not adopted. Senator Bill Ray observed that the intent of the amendment was to include only those appropriations which are expended during the fiscal year. According to Senator Ray, appropriations which remain unexpended at the end of a fiscal year should lapse. Transcript at 52. Representative Rick Halford interpreted the proposed amendment to make multi-year appropriations count against the limit each year because each succeeding legislature could amend or repeal these appropriations at will. During all of these discussions, no distinction was made between operating and capital appropriations. However, these comments probably referred only to multi-year operating appropriations. See Transcript at 65-66.

The debate on this issue discloses that the FCC was confused about the operation of carry forward appropriations.

They formulated the \$2.5 billion base by taking the fiscal year 1982 appropriation total and reducing that amount by \$60 million. Transcript at 2-5. However, 1982 appropriations were made based on forecasts of anticipated surplus for that fiscal year, reduced by expected expenditures for "carry forward" appropriations. We assume, therefore, that the drafters did not intend to count carry forward appropriations in the limit established for each fiscal year.

We believe that a commonsense way to interpret the appropriation limit, which is supported by past practice, is to count appropriations that are available for expenditure in a fiscal year only against the limit for the first fiscal year during which they could be completely expended. This should be done even if an unexpended balance is carried forward into the next fiscal year. That balance must be considered obligated for the purposes of the appropriation limit. Unexpended balances of a prior year appropriation should not be counted with the current year appropriations in complying with the limit for the current year. If the legislature provides that an appropriation may not be expended until a later fiscal year, the appropriation should be counted only against the limit for that later fiscal year.

VI. DEFINITION OF THE TERM "CAPITAL PROJECT"

The appropriation limit amendment introduces the term

"capital project" to the glossary of words used in the Alaska Constitution. This new term causes some concern because a similar term, "capital improvement," is used in other sections of article IX setting out the general obligation bonding authority for local governments and the state. There are two Alaska Supreme Court cases which address the meaning of "capital improvement." See City of Juneau v. Hixon, 373 P.2d 743 (Alaska 1962); Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970). The supreme court did not adopt an all-inclusive definition of capital improvement in those cases. Rather, the court concluded that there was nothing in the history of municipal bonding in Alaska or in the minutes of the constitutional convention that indicates that the term "capital improvement" was intended to denote projects radically different than those for which municipalities had been permitted to incur bonded indebtedness in the past.

When former Governor Hammond first introduced SJR 4, the proposed amendment consistently used the term "capital improvement." It was not until the second FCC took up consideration of the proposal that the term capital project was used. Senator Ray defined capital projects to be "what the definitive judgment of a majority of the legislature determines they are." Transcript at 22. This was in response to an observation by Representative Malone that many appropriations designated as capital differ little from items set out in the operating budget. Tran-

script at 21. Former assistant attorney general Rodger W. Pegues explained to the FCC that "we're using the term capital project which pretty much means the capital budget - areas where you are dealing with capital investment or long-term financing and the bulk of your spending. That's a broader term than 'capital improvement.'"

There appears to be support in the history for an interpretation of "capital project" which includes more objects of expenditure than "capital improvement," which traditionally has been limited to public works of a permanent nature. 5/ It is possible, though, that the two terms will be construed to have the same meaning. The supreme court left room for the term "capital improvements" to acquire new meanings to accommodate the changing activities of state government. However, the appropriation limit implies that a general obligation bond may be issued for capital projects. 6/ It is probable that a court would find that not all capital improvements may be characterized as capital

5/ In recent years, opinions of the attorney general have somewhat broadened this interpretation to permit the use of bond proceeds to finance some unique activities under the Village Safe Water Act, see Inf. Op. Att'y Gen. (April 2; J-99-078-81); and to rehabilitate a leased jail facility. See Inf. Op. Att'y Gen. (Mar. 19; A66-398-78).

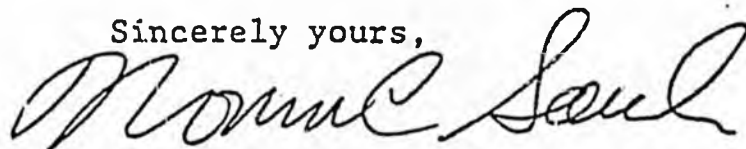
6/ Article IX, section 16 provides: "The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations in capital projects, whether of bond proceeds or otherwise, . . ." (Emphasis added.)

projects. A distinguishing factor may be that the constitution requires some permanent thing of value to show for the public debt incurred. A more liberal construction may be warranted when public debt is not incurred.

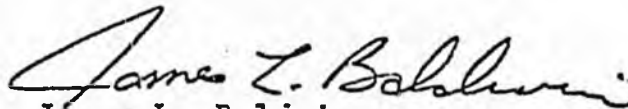
VI. CONCLUSION

The wording of the appropriation limit does not begin to live up to the high standards of clarity and simplicity adopted by the original framers of the Alaska Constitution. There are many who will regard this opinion as mere justification to exploit "loopholes" woven into the fabric of the amendment. However, we hope this opinion will provide the impetus to either adopt amendments to clarify the ambiguities noted or to enact legislation which interprets the amendment so that the ambiguities are avoided. We hope this opinion has answered your questions.

Sincerely yours,



Norman C. Gorsuch
Attorney General



James L. Baldwin
Assistant Attorney General

LETTER OF INTENT

2nd Free Conference Committee on SJR 4

The basic problem faced by Alaska is runaway growth in spending for state government operations and for capital projects. This growth is generated by revenues from resources which are nonrenewable and finite. Some limitation is therefore essential. The constitutional amendment proposed by the 2nd Free Conference Committee will provide a realistic limitation and yet allow, by popular approval, for expenditures in excess of the limitation for capital projects and for contributions to the permanent fund. Those who favor such expenditures can have no reasonable objection to the voters determining which capital projects and contributions are worthwhile and which are not.

The term "capital project" is used rather than the term "capital improvement" in order to have a broader reach. Capital improvements are pretty much limited to public facilities having a more or less permanent nature. Highways, airports, buildings, and ferries are examples. Capital projects include capital improvements and also other expenditures which require a multi-year investment or otherwise tend to fall into the category of capital costs as opposed to day-to-day expenses. Computers, large-scale resources inventories, and high-cost special equipment and instruments for libraries, schools, and museums are some examples.

In addition to limiting the excess appropriations to capital projects and contributions to the permanent fund, the proposed amendment requires bills for capital projects to be confined to capital projects of the same type. This is somewhat more narrow than the single-subject rule. It will require projects in a bill to be parts of an overall system. This will inhibit the packaging of diverse projects into one bill. As a further restraint on logrolling, the bills for excess appropriations are subject to the item veto, including the appropriation of general obligation bond proceeds which are in excess of the limit. Bond proceeds which are not in excess of the limit are not subject to an item veto.

There are three exclusions from the limitation. Debt service is necessarily excluded. An additional exclusion is provided for appropriations for permanent fund dividends. Non-state money, that is, money received from the United States or others to be used for specific purposes, is also excluded. This exclusion includes revenue bond proceeds, the revenues generated by the international airports, and other public enterprises which operate on revenue bonds. The first exclusion is required by the federal constitution's prohibition against impairing contracts. The other exclusions are provided because the use of the money for those purposes is not a part of the problem.

The proposed amendment requires the governor to cause any unexpended and unappropriated balance to be invested

so as to yield competitive rates to the treasury. The words "as prescribed by law" were not included so that the clause will be self-executing. However, the governor performs all executive functions in the manner prescribed by law, and the statutes on loan programs and investments will control here so long as they are consistent with the constitution's requirements.

Additionally, so as to eliminate any reasonable grounds for opposition by those who wish to relocate the capital, the resolution includes a transitional measure to exclude relocation costs, if they are approved at the 1982 general election, from the requirement of additional voter approval under the amendment. Another transitional measure provides for the amendment to take effect beginning with the budget for fiscal year 1984.

Finally, still another transitional measure places the amendment on the ballot again at the 1986 general election to allow it to be repealed by the electorate should it prove to be unworkable. If it is unworkable, the people will repeal it. If it works, they will not.

Sen. Bill Ray

Rep. Richard W. Halford

Sen. Donald E. Gilman

Rep. Robert H. Bettisworth

Sen. Frank R. Ferguson

Rep. Hugh Malone

- 3 -

Exhibit 1 - p. 3 of 3

FISCAL NOTE

LEGISLATIVE FINANCE

I. REQUEST

Bill/Resolution No. HB 11

Title An act repealing the permanent fund dividend program

Requested by House State Affairs & Finance Date 01-28-83

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected General Government

BRU, Program, Or Subprogram(s) Affected Enforcement Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Marilla L. Gemmer

IV. DATE 01-28-83 PREPARED BY Marilla L. Gemmer, Director

AGENCY Department of Revenue

Original: Legislative Finance PHONE (907) 465-2366

cc: Budget and Management
Priority Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: Glen Price *GP*

II. FISCAL DETAIL

Agency Affected Department of Administration

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	(11.0)	(11.5)	(12.1)			

FUNDING (Thousands of Dollars)

GENERAL FUND	(11.0)	(11.5)	(12.1)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 1/24/83

PREPARED BY Tom Haas

AGENCY Administration - Finance

PHONE 455-2240

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) RB

FISCAL NOTE

LEGISLATIVE FINANCE

REQUEST NO. HB 11
Bill/Resolution No. _____
Title repealing the permanent fund dividend program
Requested by House State Affairs Committee Date 1/21/83

II. FISCAL DETAIL

Agency Affected _____ Revenue _____
Program Category Affected _____ Revenue Operations _____
BRU, Program, Or Subprogram(s) Affected Public Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Repeal of the permanent fund dividend program is already reflected in the Executive Budget.

IV. DATE 1/27/83 PREPARED BY P A Wall
AGENCY Revenue
PHONE 465-2393

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: Glen Price *GP*

PA Wall

89

Bill/Resolution Number: HB 11
 Title: "An act repealing the permanent fund dividend program; and providing for an effective date."
 Requested by: House State Affairs Committee Date: 1/21/83

II. FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected: Administrative Services Div.
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-
TOTAL	-0-	-0-	-0-			

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The repeal of the Permanent Fund Dividend program has already been reflected in the Governor's FY84 Executive Budget.

IV. DATE: 1/24/83 PREPARED BY: *Ervin B. Jones*
 AGENCY: Revenue
 PHONE: 465-2313
 Original: Legislative Finance
 cc: Office of Management and Budget
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 01/83)

OMB Reviewed by: Glen Price *GP*

I. REQUEST

Bill/Resolution Number: HB 11
 Title: An Act repealing the permanent fund dividend program.
 Requested by: House State Affairs Committee Date: January 21, 1983

II. FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Permanent Fund, Dividend Fund
 BRU, Program, or Subprogram(s) Affected: _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)						
	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Millions of Dollars)						
	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
	-	-	-	-	-	-
	0	0				

POSITIONS						
	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The aforementioned amounts reflect no impact since what is proposed is, I am informed by Management and Budget, already implied in the governor's budget.

IV. DATE: January 24, 1983 PREPARED BY: Vincent Wright
 AGENCY: Revenue - Research
 PHONE: 465-2174
 Original: Legislative Finance
 cc: Office of Management and Budget
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 01/83)
 OMB Reviewed by: Glen Price



Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

AGENDA

DATE: 1/28/83

TIME: 1:00 p.m.

- I. Call meeting to Order
 - A. Note the committee members present.
 - B. Welcome those observing the meeting.
 - C. Remind those who have not signed in to do so. And remind those giving testimony to speak up and state their name before talking.
- II. Announce legislation under consideration:

EO 53 - Creating Office of Budget and Management

HB 11 - Repealing the permanent fund dividend program.

Other notes or reminders:

from me for you

There is a note in your file. ~~from me~~ to ask Mr. MacDowell from UBM, *if applicable*

43.23.085, and 43.23.095 as set out in section 19 of this Act. The provisions of AS 43.23 and notwithstanding that they have not been enacted into law before the effective date of this Act, they shall be deemed to have been enacted into law as of the effective date of this Act.

The permanent fund for fiscal year 1982 transferred to the dividend fund for payment of permanent fund dividends in 1983 along with the fiscal year 1983 earnings transferred to the dividend fund.

Section 19 of this Act, AS 43.23 for the years 1979 - 1981, SLA 1980, is repealed.

Sections 43.23.050(c) are repealed.

Sections 43.23.014, 43.23.020, 43.23.030, 43.23.040, 43.23.080, 43.23.090, and 43.23.100 are repealed.

Sections 13, and 14 of this Act are repealed.

Section 19 of this Act applies only to the determination of the amount to be paid in 1983 and applies only to dividends distributed under section 19 of this Act on or after that date, the United States Supreme Court decision.

Contrary provisions of AS 43.23.030, by the commissioner of revenue shall give public notice of the amount of income of the Alaska permanent fund for the year 1983 transferred to the dividend fund.

AS 43.23.050(b);

(2) determining the number of permanent fund dividends that would have been paid during 1982 if section 19 of this Act had not taken effect and an estimate of the number of permanent fund dividends for a prior year under AS 43.23.014; and

(3) dividing the amount determined in (1) of this subsection by the amount determined in (2) of this subsection.

Section 25. If sections 2 - 5 and 14 of this Act take effect under the provisions of section 27 of this Act, then all other provisions of AS 43.23, as enacted in chapter 21, SLA 1980 and as amended in sections 8, 10 - 12, and 15 - 17 of this Act, remain in effect.

Section 26. Notwithstanding the provisions of AS 43.23.014(c), enacted in section 4 of this Act, which require an individual to file an application for prior year permanent fund dividends within one year after reaching 18 years of age, an individual may file a claim during 1983 for permanent fund dividends for all prior years for which the individual is eligible if that individual has turned 18 years of age on or before the last day for filing an application during 1983.

Section 27. Sections 2 - 5, 14, 23, and 25 of this Act take effect 60 days after the date that the United States Supreme Court decides that AS 43.23.010 is invalid but also decides that AS 43.23.010 would not violate the United States Constitution if the amount of a permanent fund dividend were determined by accumulated years of residency in the state beginning on or after January 1, 1979.

Section 28. Sections 1 and 22 of this Act take effect 60 days after the date that the United States Supreme Court decides that AS 43.23.010 is invalid because the amount of a permanent fund dividend is determined by accumulated years of residency in the state whether those years are counted before or after January 1, 1979.

REPORT OF TRUSTEES NOVEMBER 21, 1955

AD 11 (3)

Responsibility for Recommendations:

The legislative enactment creating the Alaska Permanent Fund Corporation mandates that the trustees in their annual report submit their "recommendations of any needed changes, and any other information the board believes would be of interest to the Governor, the Legislature, and the public." (Sec. 37.13 170)

Under present law, this could be the most important contribution by the trustees. Furthermore, under efficient trust administration while the grantor (the Legislature) has the responsibility for determining the policy and objectives of a trust, the trustees (the board) have an obligation to draw on their collective experience and submit options and consequences with decision, in this case, by the Legislature.

Contrast with Province of Alberta:

When the Alberta legislature created the Alberta Heritage Savings Trust Fund, they opted to centralize their oil endowment in one corporation with broad powers and responsibility for all investments in both profit and non-profit projects, research, loans, etc. Our Alaskan Legislature has made the decision to use multiple channels through which the oil revenues are directed. These channels might be broadly classified as follows:

1. Operating budget
2. Capital budget
 e.g. educational, public works, etc.
3. Grants to municipalities, boroughs and other authorities.
4. Loan programs (including equity participations) for business and housing.
5. Permanent Fund Corporation

Consequences of Multiple Channels:

The fact that we in Alaska have chosen the multiple route concept does not mean we can escape from the need for coordination and forward planning of various operations funded basically from a single source. Else we run the danger of:

1. Overlapping, with more than one agency treating the same problem.
2. Missing objectives, with worthwhile projects not funded.
3. Emphasizing the immediate, with inadequate attention to the long-term concerns.
4. Substituting public funding for existing private sources of capital.
5. Concentrating on state funding rather than public leadership in getting local participation.

In the absence of a long-term plan, the Legislature has made a commendable effort to coordinate and arrange the relative priorities during the course of the sessions. However, the policy-making body will always perform best when free from operating burdens.

A brief review of the Permanent Fund as presently constituted should, not only identify possible modifications in the Fund itself, but also evidence why the Fund needs to be coordinated with alternative avenues for disposition of oil revenues.

Investment Problems:

1. Because the investment criteria provide only for money instruments, there is no hedge against inflation.

2. Clarification of policy regarding disposition of current earnings of the Fund would be beneficial. The law now provides for a 50 percent dividend distribution to the people of Alaska. If the other 50 percent could be retained in the Fund, these benefits would accrue:

(a) Longer term investments could be made with higher returns.

(b) It would facilitate a partial offset to inflation.

(c) Assuming the resident population of Alaska will increase, it would help maintain the dividend rate as well as the per capita asset value of the Fund.

3. There appears to be no investments in Alaska from the Fund, contrary to the intent of Sec. 37.13.120 (1) (1).

Alternative Investment Concepts:

The Legislature has stated that the Fund "Should be used as a savings device" and its assets "only be used for income-producing investments." It also mandates the use of the "prudent-man rule." However, an important fact, which necessarily affects investment thinking, is the prospective size of the Fund. Latest Department of Revenue forecasts estimate the Permanent Fund to be \$28 billions by the year 2000.

Once the concept is accepted that the oil revenues proceed from one source; that many of the projects authorized by the Legislature are in principle a type of permanent funding for the benefit of all Alaskans; then there is no reason why the total funding cannot be split with direct grants or loans and participation reserved to the Permanent Fund.

For example, if a hydro-power project is deemed worthy from a credit and public standpoint to be funded by the Legislature (or through its designated agency) with 50 percent of the cost as a grant, the other 50 percent could be an investment by the Permanent Fund. If the Permanent Fund charged say 10%, the net cost to the project would be 5% which would probably make it viable and ensure a profitable return to the Fund.

To offset inflation, there must be a return to the Fund that covers the CPI (Consumer Price Index) escalation plus a normal return for the use of the funds. This cannot come from interest alone but requires an equity instrument.

Examples are:

(1) Ownership in real estate. This can be in land with a responsible builder putting up the improvements. A good example is the ownership by the University of Washington of choice, central core real estate in Seattle. Or the state could lease, rather than sell, some of the land received from the Federal government with rentals to the Permanent Fund. Under proper safeguards, and with most of the money put up by strong partners, the Fund could take a position in improvements such as buildings, parking garages, port facilities, etc.

(2) Marketable stocks. Because of the prospective size of the Fund, some investment must be outside of Alaska. Any commitment in stocks should be split among several investment advisories with a satisfactory track record to ensure competition of performance and reduction in risk and regular grading of the results.

(3) Ownership in natural resources related enterprises. If the gas line is built, it will probably involve financing by the owner of the gas, namely, the major oil companies. If they put their money in, there should be little risk to the Fund by taking a combination position of limited debt and equity. The same principle and safeguards can be applied with respect to financing the extraction of gas liquids or an additional refinery. In addition to the equity features, there are collateral benefits of getting the project underway and ensuring consistency in state policies of taxation, regulation, etc.

(4) Public service projects.

(a) It is well known that intra-state communication rates are substantially higher than inter-state. Many areas have inadequate service. While the state could subsidize operating costs, as it has with respect to television, the Fund could make a limited equity investment in a satellite with the lead company in this field in Alaska.

(b) Power--both hydro and fossil fueled--is needed for public benefit. If public owned, consider matching funds with local authorities. If privately owned, the same financial strength from the principal owners should be required as in the discussion of natural resources. Already in this memorandum has been pointed out how a combination of grant and loan from the Fund can help both the project and the Fund.

(c) Water authorities. While Alaska is blessed with a tremendous natural

is for industry, such as fish processors and future mining, and for residential. Again, the financing can be by a formula using state and federal grants, community participation-municipal and private-with Fund participation. The approved mix can make the projects successful and income to the Fund. Frequently, such water projects can be tied in with power generation and transmission.

(d) Transportation. Many communities in Alaska need new or expanded marinas, harbor improvements, and airports. While the Legislature may wish to fund these projects through direct appropriation or grants, local participation would justify need and the Fund could be used for revenue-producing projects. This was the technique used by both the cities of Anchorage and Kodiak to finance crane installations at their respective docks, with ultimate payment coming from Sea Land Corporation.

Investment in Alaska:

The foregoing suggestions provide for enlarged, profitable investment in Alaska with strong safety factors, an oft-mentioned concern of the public. With the prospective size of the Permanent Fund, a bold, new approach is needed to have any meaningful investment in Alaska. This can be accomplished through real estate, income-related projects, and public service projects. Again, the size of the Fund will involve outside investment and the basic principles are equally applicable to the benefit of the Fund.

Frankly, the Fund should be able to follow the lead of our national insurance companies and make private placements.

Summary:

It is apparent that the investment restrictions on the management of the Permanent Fund can be safely and beneficially modified. In so doing, there should be coordination with other agencies and disbursements of the Legislature. This will mobilize the funding capabilities of the state and ensure leadership for better living.

To put this in perspective: if a new arrival in Alaska can step off the plane and acquire a home with over \$30,000 in subsidy by the state in interest during the life of the loan, should we not stimulate projects that produce income, and at the same time, benefit a broad section of the Alaskan population, many of whom have lived here all their life?

It would serve as a national model and show we are responsible custodians of both our land and our wealth. Thus would we best escape being designated as the "blue-eyed Arabs" of the North.

The very success in the public mind of our handling the Permanent Fund in coordination with other agencies will in the long run determine the amount placed in the Permanent Fund, especially as the General Fund may run down.

The interrelationship of all the allocations of oil money strongly supports the principle of long-range planning and budgeting. We need in the state a five-year and ten-year budget of cash outflow, especially capital expenditures. This is not as difficult as may first appear.

There are many obvious benefits:

1. Discipline in thinking and computation.
2. A rational basis for allocation of funds.
3. Freedom from pressures on the Legislature by lobbyists and special-interest groups.
4. Furnish the extra time to the Legislature to exercise its prime public policy function.

Recommendation:

It is my suggestion that the Legislature make use of the Board of Trustees of the Alaska Permanent Fund Corporation to serve in this connection as a review body in a staff position to the Legislature.

The advantages are as follows:

1. The trustees are completely objective with no authority but their ideas. All decisions must be made by the Legislature.
2. This procedure does not disturb existing agencies nor alter the multiple approach to distribution of the oil money.
3. It gives the trustees something meaningful to do. They could thereby discharge the responsibilities which the public assumes they have.
4. It is cost effective. There would be no need to hire expensive outside consultants. The facts and considerations are available. The task could be accomplished through existing departments and personnel with minimal aid and secretarial help.

Elmer Rasmuson

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

HB 11 70XS
JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

February 2, 1983

The Honorable Mike M. Miller
Alaska State Legislature
House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Miller:

During my talk last Friday, I alluded to the fact that there would be over one billion dollars in bonds (both general obligation and revenue) sold this coming year. Below is a summary of anticipated sales by agency and attached is a breakdown of our statistics received from those agencies involved.

<u>Agency</u>	<u>1/1/83 through 6/30/83</u>	<u>7/1/83 through 6/30/84</u>
Alaska Housing Finance Corporation	350 million	840 million
Alaska Industrial Development Authority	90 million	250 million
Alaska Power Authority	none	35 million
Municipal Bond Bank Authority	30 million	45 million
State Bond Committee	80 million	none
Total estimated bond sales	550 million	1,170 million

You also asked whether or not the Governor's alternatives to the existing Permanent Fund Dividend program would be considered dividends for purposes of the constitutional State Spending Limit. Those alternatives, as set out in his Budget Address, are:

1. Alaska Investment Fund
2. Revenue Sharing and Municipal Assistance
3. Longevity Bonus program
4. Reinvestment in the Permanent Fund itself.

The Honorable Mike M. Miller
February 2, 1983
Page 2

The Department of Law is currently researching this matter. It is their unofficial advice that preliminary research suggests that items 2, 3, and 4 will be considered a dividend. Research is still pending on the Alaska Investment Fund. As research has not been completed and the Department has not released an official opinion, you must consider this view unofficial.

If there is additional information you need, please do not hesitate to contact me.

Sincerely,



Robert D. Heath
Commissioner of Revenue

RDH:CB:m11

Attachments

cc: The Honorable Mitchel E. Abood, Chairman
and Committee members
House State Affairs Committee
w/attachments

Glen Price
Management and Budget
w/attachments

Questions submitted to the agencies contacted:

1. How many millions of dollars of GO and revenue bonds do you estimate will be sold between 1/1/83 through 6/30/83?
2. How many millions of dollars of GO and revenue bonds do you estimate will be sold during FY 84?
3. What was the interest rate at your last bond sale?
4. What is the total bonded indebtedness of your agency?

Alaska Housing Finance Corporation

1. Estimated between 1/1/83 and 6/30/83:

- A. Taxable: 150 million dollars
- B. Veteran's GO: 100 million dollars
- C. Tax exempt: 100 million dollars

2. Estimated during FY 84:

- A. Taxable: 500 million dollars (1st mortgage)
15 million dollars (2nd mortgage)
- B. Veteran's GO: 225 million dollars
Note: Authorized to sell 400 million dollars by 12/30/84
- C. Tax exempt: 100 million dollars

TOTAL estimated bonds to be sold: 1,190 Million

3. A. Taxable: 11.6750 True interest cost
12.6700 Cost of funds
- B. Veterans: 8.7273 True interest cost
9.4000 Cost of funds
- C. Tax exempt: 10.550 True interest cost
11.220 Cost of funds

4. The Corporation's lending activities are:

\$2,490,125,000 issued in total

\$2,443,615,000 outstanding as of 1/1/83

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

1. Estimated between 1/1/83 and 6/30/83:

A. Revenue: 40 million dollars

B. GO: 50 million dollars

2. Estimated during FY 84:

A. Revenue: 100 million dollars

B. GO: 150 million dollars

TOTAL estimated bonds to be sold: 340 Million

3. A. Revenue: variable from issue to issue

B. GO: 11.23 True interest cost (average)

4. The Corporation's lending activities are:

GO: \$101,325,000 issued in total

Revenue: \$310,000,000 issued in total

GO: \$ 90,000,000 outstanding as of 1/1/83

Revenue: unavailable at this time

ALASKA POWER AUTHORITY

1. Estimated between 1/1/83 and 6/30/83:

A. Variable demand rates: none

B. GO: none

2. Estimated during FY 84:

A. Variable demand rates: none

B. GO: 35 million dollars

TOTAL estimated bonds to be sold: 35 Million

3. A. VDR: Tax Exempt Note Rate + 1/4 of 1% = approx 9% quarterly
Earned interest in investments estimated at 11%

B. GO: Variable rate not tax exempt
Earned interest in investments estimated at 13%

4. The Corporation's lending activities are:

Variable rate demand notes: \$165 Million issued

GO: \$35 million issued

Municipal Bond Bank Authority

Note: FY 82 actual was \$48,500,000 issued of both types

1. Estimated between 1/1/83 and 6/30/83:

A. Revenue: none

B. GO: 30 million dollars

2. Estimated during FY 84:

A. Revenue: 15 million dollars

B. GO: 30 million dollars

TOTAL estimated bonds to be sold: 75 Million

3 A. Revenue: 10.34 True interest cost

B. GO: 10.34 True interest cost

4. The Corporation's lending activities are:

\$130,000,000 issued in total

\$122,000,000 outstanding

STATE BOND COMMITTEE

Total State bonded indebtedness (debt to maturity): \$1,435,716,090*
Interest Rate at next bond sale: calculate at 9% for 10 year period
Anticipated Sales this year: 80 million dollars

*Interest rate at last bond sale (\$185 M on 10/20/82) at 7.73%

1. Estimated between 1/1/83 and 6/30/83:

Tax exempt: 80 million dollars

2. Estimated during FY 84:

Tax exempt: none authorized excluding the Veteran's GO Bonds mentioned in item 4 below.

TOTAL estimated bonds to be sold: 80 Million

3. Tax exempt: 8.73 True interest cost

4. The Corporation's lending activities are:

Authorized GO Bonds:	\$1,400,550,500
Issued GO Bonds:	\$1,319,057,000
Unissued GO Bonds:	\$81,493,500
Outstanding:	\$1,007,898,000

Note: The #4 figures do not include the November, 1982 authorization of 400 million to purchase mortgages for qualifying vets as these are mortgage revenue bonds (see AHFC report) which are, however, unconditionally guaranteed as a general obligation of the State. \$50 million of these were sold 1/26/83

INTERNATIONAL AIRPORT REVENUE BONDS

The principal amount remaining payable from revenues derived from
International Airports: \$18,284,000.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 11

Title "An Act repealing the permanent fund dividend program; and

Requested by House State Affairs Date 1-18-83 providing

for an

effective date

II. FISCAL DETAIL

Agency Affected Office of the Governor

Program Category Affected Division of Elections

BRU, Program, Or Subprogram(s) Affected Division of Elections

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No additional fiscal impact is anticipated. The Division of Elections already prepares a microfiche listing of all persons who have registered to vote in this state. This list is generated from a magnetic tape compatible with Department of Administration data processing equipment.

IV. DATE 1-18-83

PREPARED BY Danith D. Arnoldt, Deputy Director
AGENCY Office of the Governor, Div. of Electric

Original: Legislative Finance
cc: Budget and Management

PHONE 586-6181

Prime Sponsor (First Legislator Named)

THIRTEENTH LEGISLATURE

FISCAL NOTE

Expenditure Type
 Revenue Type

I. REQUEST

Bill/Resolution No. HB 11
 Title An Act repealing the permanent fund dividend program.
 Requested by House State Affairs Date 1-19-83

II. FISCAL DETAIL

Agency Affected Department of Public Safety
 Program Category Affected Life and Property Protection
 BRU, Program, Or Subprogram(s) Affected Driver/Vehicle Services
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This would have no fiscal impact on Division of Motor Vehicles.

Office of Management and Budget
 Reviewed by: Mike Maher, Program Budget Analyst
 Division of Budget Review

IV. DATE January 19, 1983 PREPARED BY Bill Brown Phone 465-4335

DIVISION Motor Vehicles Initials [Signature]

Original: Legislative Finance DEPARTMENT OF PUBLIC SAFETY Initials [Signature]

cc: Budget and Management
 Prime Sponsor (First Legislator Named)

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES,
TITLE PAGE ONLY HAS BEEN FILMED.

THE TRUSTEE PAPERS

**A collection of professional papers prepared for
the Alaska Permanent Fund Corporation Board of Trustees**

Published in March, 1982

**Alaska Permanent Fund Corporation
Pouch SB
Juneau, Alaska 99811**

ALASKA PERMANENT FUND

Corporation

Members of the Board of Trustees

- Elmer E. Rasmuson, Chairman
- Thomas K. Williams, Vice-Chairman
- Peter B. McDowell, Secretary
- Wilson L. Condon
- George W. Rogers, Ph.D.
- Robert W. Ward

Acting Executive Director

Peter A. Bushre, Treasurer

Contact Address:

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Anchorage, (907) 277-1496



NOTE:
1982 ANNUAL REPORT
& FINANCIAL
STATEMENTS