

10/20/01

LONG-
RANGE
FISCAL
PLAN

SFIN

FILE




SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

MEMORANDUM

October 22, 2001

TO: Mindy Rowland

FROM: Senator Dave Donley, Co-Chair 
Senate Finance Committee

RE: Senate Finance Committee Teleconference

The following items from the Senate Finance Committee Teleconference held on Saturday, October 20, 2001 are attached:

- Audio tapes of the meeting
- Conference Logs
- Written testimony faxed in
- Packets provided to members of the Finance Committee
- Long-range Fiscal Plan Presentation given by Senator Donley
- Packets provided to the public

If you need any additional information, please contact Kristie Keele of my staff at 269-0234.

DD/kk

Co-Chair: Senate Finance Committee
Vice-Chair: Senate Judiciary Committee
Member: Legislative Budget and Audit Committee • Legislative Council



Alaska State Senate

Senate Finance Committee


Official Business

Mail Stop 2100
State Capitol
Juneau, Alaska 99801-1182

MEMORANDUM

October 8, 2001

TO: House Judiciary Committee Members

FROM: Senator Dave Donley, Co-Chair 
Senate Finance Committee

RE: Committee Substitute to Senate Joint Resolution 23 (FIN)am "P" Version, "Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit"

I ask that you support the adoption of CS SJR 23 (FIN)am, the "P" version, as a House Committee Substitute and pass it from committee at your earliest convenience.

Briefly, this proposed constitutional amendment revises the existing appropriation limit (Article IX, Section 16) adopted in 1981.

The existing appropriation limit is too high, is unclear, and is not functioning as intended. The "P" version of SJR 23 would lower the appropriation limit to create an enforceable reasonable restraint, clarify how the limit is calculated, remove the non effectual one-third capital spending requirement and link future increases to the two previous year's spending levels rather than a single starting point amount.

The Senate Finance Committee believes adoption of an effective, reasonable constitutional spending limit to be an essential first step to developing any new long-range fiscal plan for the state.

Attached for your further information are the following documents:

- Committee Substitute to Senate Joint Resolution 23 (FIN)am "P" Version
- Existing Article IX, Section 16 of the Alaska Constitution
- Sectional Summary
- Sponsor Statement to CS SJR 23 (FIN)am
- Talking Points for CS SJR 23 (FIN)am
- Charts

DD/jja

WORK DRAFT

WORK DRAFT

WORK DRAFT

22-LS0734P

Cook

9/4/01

HOUSE CS FOR CS FOR SENATE JOINT RESOLUTION NO. 23()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): SENATORS DONLEY, Holford, Ward, Taylor, Cowdery, Phillips, Austerman, Leman, Kelly

A RESOLUTION

1 **Proposing amendments to the Constitution of the State of Alaska relating to an**
2 **appropriation limit and a spending limit.**

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

4 *** Section 1. Article IX, sec. 16, Constitution of the State of Alaska, is repealed and**
5 **readopted to read:**

6 **Section 16. Appropriation and Spending Limit. (a) Appropriations made**
7 **for a fiscal year shall not exceed by more than four percent the amount appropriated**
8 **for the fiscal year two years preceding the fiscal year for which the appropriations are**
9 **made. This subsection does not apply to**

- 10 (1) an appropriation to the Alaska permanent fund;
- 11 (2) an appropriation of Alaska permanent fund income for a program
- 12 that provides permanent fund dividends to State residents;
- 13 (3) an appropriation to meet a state of disaster declared by the
- 14 governor as prescribed by law;
- 15 (4) an appropriation for the Alaska Railroad;
- 16 (5) an appropriation of State general obligation and revenue bond

WORK DRAFT

WORK DRAFT

22-LS0734P

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

proceeds;

(6) an appropriation required to pay obligations under general obligation bonds, revenue bonds, and certificates of participation issued by the State;

(7) an appropriation of money received from the federal government;

(8) a reappropriation of money already appropriated under an unobligated appropriation that is not void under Section 13 of this article;

(9) an appropriation of money for expenditure by a State agency to provide services to another State agency that has also received an appropriation of the same money; and

(10) an appropriation made under (b) of this section.

(b) An appropriation that exceeds the limit under (a) of this section may be made for any public purpose upon affirmative vote of two-thirds of the members of each house of the legislature. The total amount of appropriations under this subsection made for a fiscal year may not exceed two percent of the amount appropriated for the fiscal year two years preceding the fiscal year for which the appropriations are made.

(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) or (b) of this section, the governor shall reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending more than the amount that may be appropriated under (a) or (b) of this section.

* Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new section to read:

Section 30. Reconsideration of Appropriation and Spending Limit. If the 2002 amendment relating to an appropriation and spending limit (art. IX, sec. 16) is adopted, the lieutenant governor shall place the ballot title and proposition for the amendment on the ballot again at the general election in 2006 and every six years thereafter unless it is rejected. If the majority of those voting on the proposition rejects the amendment, Section 16 of Article IX is repealed on the date the election is certified.

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

WORK DRAFT

WORK DRAFT

22-LS0734P

1 State of Alaska, and the election laws of the state.

CS SJR 23 (FIN)am
Senator Dave Donley
October 8, 2001

**Existing Provision
Alaska Constitution
Article IX, Section 16**

Section 9.16 - Appropriation Limit.

Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

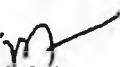
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

October 4, 2001

SUBJECT: Constitutional appropriation and spending limit; sectional summary for HCS CSSJR 23()(Work Order No. 22-LS0734\P; 9/14/01)

TO: Senator Dave Donley

FROM: Pamela Finley 
Revisor of Statutes

Sec. 1. (a) Rewrites the existing constitutional spending limit formula. With the exception of certain types of appropriations and reappropriations, provides that appropriations made for a fiscal year shall not exceed by more than four percent the amount appropriated for the fiscal year two years preceding the fiscal year for which the appropriations are made.

(b) Permits an appropriation that exceeds the limit to be made by affirmative vote of two-thirds of the members of each house, and establishes a limit on the amount of these types of appropriations.

(c) If appropriations for a fiscal year exceed the limits under (a) or (b), the governor is directed to reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending that exceeds the limits.

Sec. 2. The lieutenant governor is directed to place this proposition on the ballot again at the general election in 2006 and every six years thereafter unless it is rejected.

Sec. 3. The proposed amendments will be voted on during the 2002 general election.

PF:glc
01-328.glc



Alaska State Senate

Senate Finance Committee

Official Business

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement
for

**Committee Substitute for Senate Joint Resolution 23 (FIN)am
Including Explanation of Proposed "P" Version House Committee Substitute
"Proposing amendments to the Constitution of the State
of Alaska relating to an appropriation limit and a spending limit"**

The Senate Finance Committee believes adoption of an effective, reasonable constitutional spending limit to be an essential first step to developing any new long-range fiscal plan for the state.

Senate Joint Resolution 23 would amend Article LX, sec 16 of Alaska's Constitution by lowering the existing appropriation limit to better reflect Alaska's current revenue picture. Passage of SJR 23 would ensure a limit on the growth of state government and force the state to further reasonably reduce non-essential state spending.

The existing constitutional appropriation limit, adopted by voters in 1981, has not worked as anticipated and has never been effective in restraining state spending. A main reason for its failure is that the starting amount of \$2.5 billion was too high and its escalator factor based on population and inflation was too liberal. In fact, given the increases in inflation and population over the last 19 years, the general fund spending limit imposed by Article IX, Section 16 will be over \$6 billion. That is about \$3 billion more than general fund spending in the Fiscal Year 2000. SJR 23 would more accurately reflect today's spending by amending the existing appropriation limit.

SJR 23, as it passed the Senate, would allow the legislature to exceed the limit by no more than 1/2 of the annual increase in both population levels and the consumer price index. SJR 23 also contains a mechanism allowing the legislature to increase the base limit to 75% of the increase in population and inflation with a 2/3 vote of each house.

Working with Legislative Finance and Legal during the 2001 interim, we have developed a proposed committee substitute (P version).

The appropriation limit that the "P" version of SJR 23 proposes would be based on a non-cumulative amount appropriated from 2 years prior and would allow for up to a 2% increase per year (4% total) requiring a simple majority vote. An additional 2% may be appropriated bringing the total to 6%. This additional 2% would require a two-thirds vote of both houses.

If, for example 6% was appropriated for FY04, the FY06 limit would be based on the original 4% increase that passed with a simple majority, not the full 6%.

Sponsor Statement
CS SJR 23 (FIN)am "P" Version
October 8, 2001

If the amount appropriated exceeds the limit, the governor shall reduce expenditures by the executive branch for its operation and administration in order to bring expenditures back in line with the constitutional limit.

SJR 23 also removes the requirement that one-third of the budget be appropriated for capital expenditures. Over the years, several attorney general opinions have been written on the meaning of the constitutional limit; those opinions counter the plain English meaning of the language and have allowed the legislature and the administration to avoid this requirement. SJR 23 removes this arbitrary and superfluous requirement.

SJR 23 simplifies and clarifies exactly what spending counts towards the appropriation limit, something that is not clear in the existing constitutional language.

Without a meaningful constitutional amendment in place that limits the amount of state general fund expenditures, there is absolutely no guarantee that the state will restrain, let alone reduce, spending. SJR 23 would limit state spending and is a key component of any new long-range plan to ensure Alaska's long-term fiscal health.

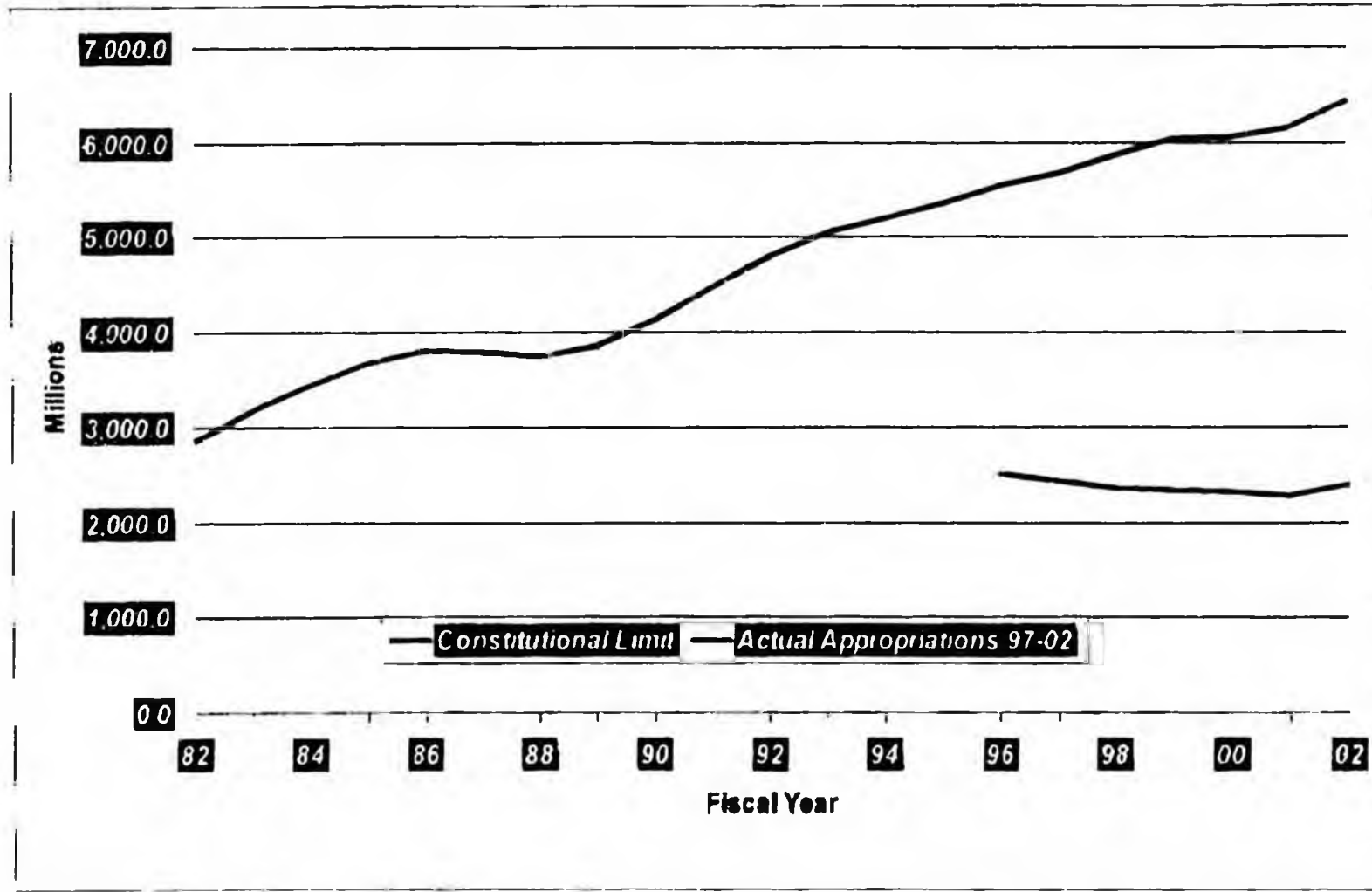
DD/jja

**Existing Constitutional Appropriation Limit
vs. the "P" Version of SJR 23 Appropriation Limit
(Includes explanation of charts)
Prepared by Senator Donley's Office**

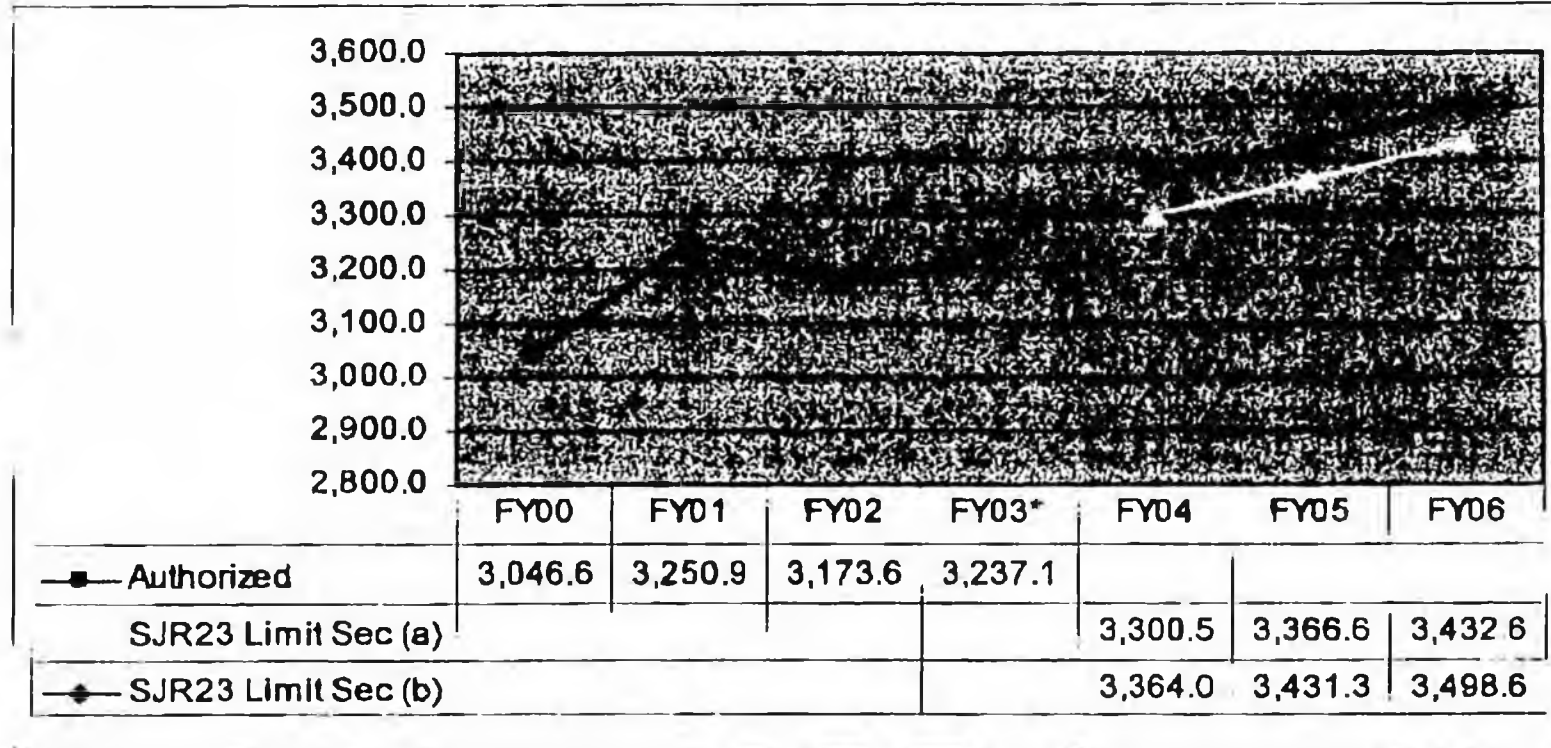
- A constitutional spending limit is a key component of any long-term fiscal plan
- Lowers existing appropriation limit to reflect the current budget situation
- The current appropriation limit, based on population growth and inflation rates, is addressed in Article 9, Section 16 of the Alaska Constitution which took affect December 24, 1982. The limit for FY02 is \$6.4 billion.
- The graph shows the existing spending limit based on numbers provided by OMB and includes actual GF appropriations for FY96 to FY02. It is obvious that the existing constitutional limit is obsolete since it allows for an FY02 appropriation of \$6.4 billion and the actual GF appropriated is only \$2.4 billion.
- Simplifies and clarifies exactly what spending counts toward the appropriation limit and more importantly, what does not.
- The following items are excluded from the limit:
 1. appropriations by the governor to meet a state disaster
 2. revenue bond proceeds
 3. principle & interest payments of general obligation bonds
 4. reappropriations
 5. interagency receipts (appropriations to one agency which are then paid to another agency for services)
 6. federal funds
 7. appropriations having to do with the Alaska railroad
 8. appropriations having to do with the permanent fund, including permanent fund dividends.
- The current limit excludes PFDs, revenue bond proceeds, general obligation bond principal/interest payments and "money received from a non-State source in trust for a specific purpose. . ." This is ambiguous.
- The appropriation limit that SJR 23 proposes would be based on a non-cumulative amount appropriated from 2 years prior and would allow for up to a 2% increase per year (4% total) requiring a simple majority vote. The chart assumes SJR 23 would be in effective for the FY04 budget process and would be based on the appropriated amount for FY02.
- An additional 2% may be appropriated bring the total to 6%. This additional 2% would require a two-thirds vote of both houses.

- If, for example 6% was appropriated for FY04, the FY06 limit would be based on the original 4% increase that passed with a simple majority, not the full 6%.
- If the amount appropriated exceeds the limit, the governor shall reduce expenditures by the executive branch for its operation and administration in order to bring expenditures back in line with the constitutional limit.
- Removes the requirement that 1/3 of the appropriations be used for capital projects. This is an arbitrary number and Attorney General Opinions have negated the original intent of the language, thus allowing the legislature and administration to currently avoid this requirement
- Alaska voters are given the opportunity after four years (2006) to reaffirm their wish to maintain this appropriation limit and again every six years after that. In the event they choose not to approve it, Article IX Section 16 is repealed and removed from the constitution.
- SJR 23 ensures a limit on state government growth and will encourage the state to reasonably reduce non-essential state spending.

The Current Spending Limit vs Recent Appropriations



Projected Appropriation Limits under SJR 23



*FY03 Authorized budget estimated at 2% increase over FY02.

Sec (a) allows for up to a 4% increase over the amount appropriated 2 years prior.

Sec (b) states an additional 2% may be appropriated with a two-thirds vote of both houses.

Not included in SJR23 Limit: Permanent Fund dividends, G.O. & revenue bond proceeds, reappropriations, duplicated funds, and funds from non-State sources.

All numbers taken from LFD Fiscal Summaries in Summary of Appropriations

TO: Senate Finance Committee Members
Senator Pete Kelly, Co-Chair, Bryan Butcher
Senator Alan Austerman, Cliff Stone
Senator Lyda Green, Jerry Burnett
Senator Loren Leman, Annette Kreitzer
Senator Jerry Ward, Loretta Brown
Senator Gary Wilken, Sheila Peterson
Senator Lyman Hoffman, Sandy Burd
Senator Donny Olson, Dave Gray

FROM: Senator Dave Donley, Co-Chair
Senator Pete Kelly, Co-Chair
Senate Finance Committee

RE: Senate Finance Committee Meeting, Saturday, October 20, 2001

We have scheduled a Senate Finance Committee meeting for 1:00 p.m. Saturday, October 20, 2001, at the Anchorage Legislative Information Office in the basement hearing room. The agenda for the meeting is an update on the status of the Senate Finance Committee Fiscal Plan and public testimony on developing a new long-range fiscal plan, cost-saving measures and ways in which to generate additional revenue for the state.

If you are unable to attend but would like to participate via teleconference, please let my office know and we will try to accommodate you.

DD:dld

To: Gary

Good morning - Sounds like cold weather is heading towards Fbys

**SENATOR DAVE DONLEY'S
SENATE FINANCE COMMITTEE
LONG-RANGE FISCAL PLAN PRESENTATION
OCTOBER 20, 2001**

(SLIDE 1)

Senator Dave Donley
Co-Chair Senate Finance Committee

**Presentation on
Long-Range Fiscal Plan**

**MOST ALASKANS AGREE THAT DEVELOPMENT OF A LONG-RANGE FISCAL PLAN
IS ONE OF THE GREATEST CHALLENGES FACING OUR STATE.**

(SLIDE 2)

Republican Majority's

Five Year Fiscal Plan Was a Success

AS WE BEGIN WORK ON A NEW PLAN IT IS IMPORTANT TO RECOGNIZE THAT THE REPUBLICAN MAJORITY'S FIVE-YEAR PLAN, WHICH WE COMPLETED LAST YEAR, BUILT AN EXCELLENT FOUNDATION FOR ALASKA'S LONG TERM FINANCIAL HEALTH.

(SLIDE 3)

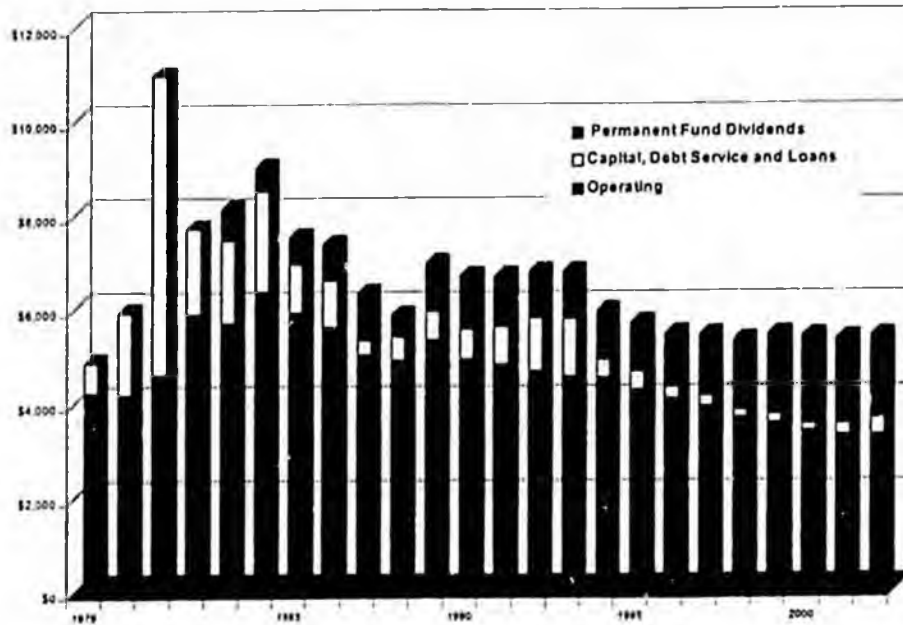
State General Fund Per Capita Spending Is Going Down

- Per capita state general fund spending is currently about \$3800 per Alaskan. For state services, in today's dollars, that is \$921 less than in FY79 when the oil era began. Combined operating and capital general fund spending is \$1,186 less.
- However, when Permanent Fund dividends are added to general fund spending, the total is \$534 more per capita than FY79.

IN DEALING WITH THE FISCAL GAP, THE KEY IS GENERAL FUND SPENDING VERSUS REVENUE. TODAY REAL PER CAPITA SPENDING OF STATE GENERAL FUNDS IS SIGNIFICANTLY LESS THAN 1979.

(SLIDE 4)

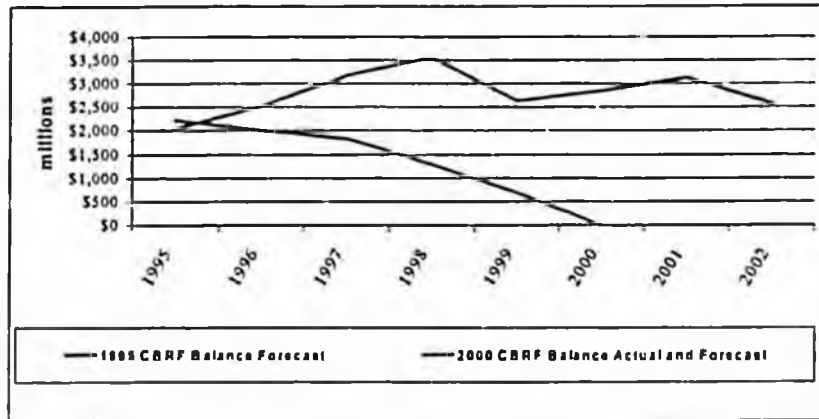
Real Per Capita General Fund and PFD Spending FY1979 - FY2002



UNDER THAT PLAN THE PERMANENT FUND WAS PROTECTED AND INCREASED BY \$5 BILLION TO OVER \$25 BILLION IN JUNE. CURRENTLY \$23.5 BILLION. 61% OF THAT INCREASE WAS BY DISCRETIONARY LEGISLATIVE ACTION.

(SLIDE 5)

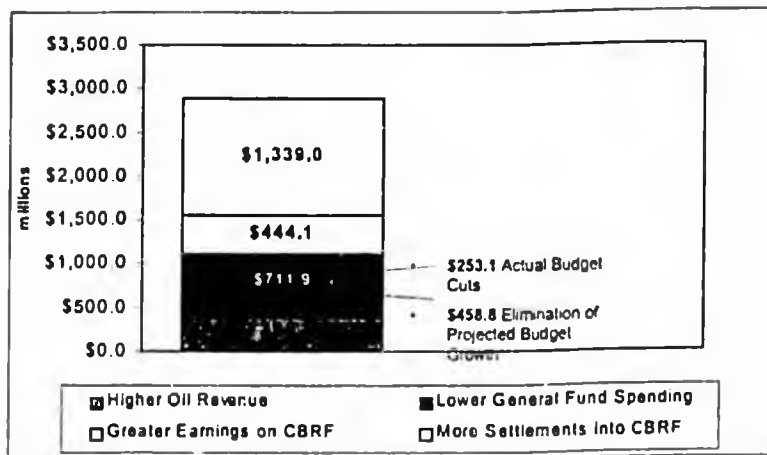
CBRF: The View from Here



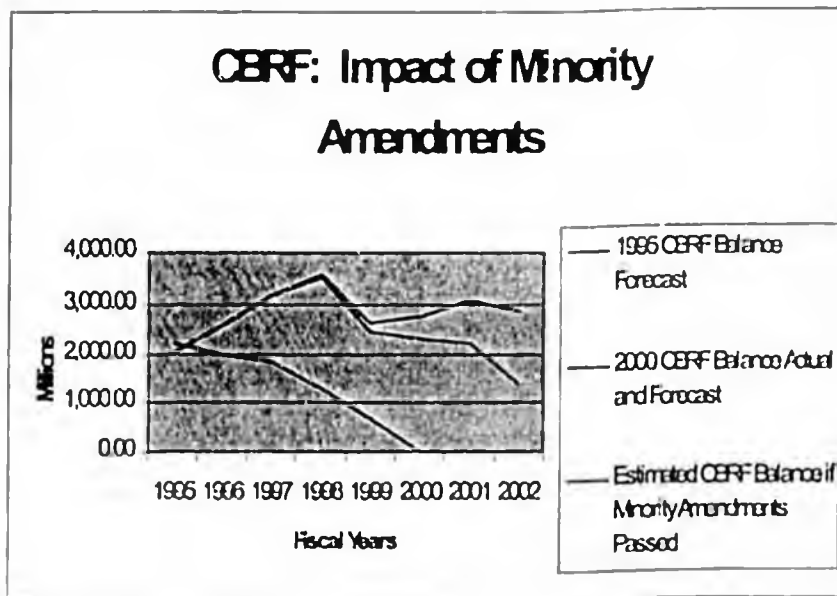
A VERY SURPRISING FACT TO MOST ALASKANS IS THAT OVER THE PAST FIVE YEARS, THE CONSTITUTIONAL BUDGET RESERVE, INCLUDING THE PCE ENDOWMENT, ACTUALLY INCREASED TO OVER \$3 BILLION IN JUNE.

(SLIDE 6)

Why We Had More in the CBRF in FY 2000 than We Forecast in 1995



(SLIDE 7)



WE HELD THE LINE AGAINST MORE THAN \$800 MILLION OF GOVERNOR KNOWLES' PROPOSED SPENDING INCREASES AND ACTUALLY REDUCED GENERAL FUND SPENDING.

WE IMPLEMENTED SUCCESSFUL MAJOR GOVERNMENT REFORMS INCLUDING:

- EDUCATION FUNDING REFORM
- WELFARE REFORM
- WE REDUCED STATE BUREAUCRACY AND MERGED STATE DEPARTMENTS
- REFORMED POWER COST EQUALIZATION
- UNDERGROUND STORAGE TANK FUNDING REFORM
- RELIEVED CORRECTIONS OVERCROWDING
- INCREASED FUNDING FOR THE UNIVERSITY OF ALASKA AND VOCATIONAL TRAINING

WE ALSO INITIATED RESULTS-BASED BUDGETING, AND WE INCREASED NON-OIL REVENUE.

(SLIDE 8)

Senate Majority Plan

- Protect the Permanent Fund
- Exercise budget discipline by holding any total state spending increases to below inflation and population increases
- Use results-based budgeting with Missions & Measures to continue our progress for a smaller, smarter state government
- Make constitutional and statutory systemic changes to reduce the fiscal gap as the first step in developing a new long-range fiscal plan

AS WE BUILD ON THIS TREMENDOUS PROGRESS AND WORK TOWARD A PUBLIC STATEWIDE CONSENSUS ON WHERE WE, AS ALASKANS, GO FROM HERE THE SENATE MAJORITY INTENDS TO CONTINUE TO:

1. PROTECT THE PERMANENT FUND.
2. EXERCISE BUDGET DISCIPLINE BY HOLDING ANY TOTAL STATE SPENDING INCREASES TO BELOW INFLATION AND POPULATION INCREASES.
3. USE RESULTS-BASED BUDGETING WITH MISSIONS & MEASURES TO CONTINUE OUR PROGRESS FOR A SMARTER, SMALLER, SMARTER STATE GOVERNMENT.

4. MAKE CONSTITUTIONAL AND STATUTORY SYSTEMIC CHANGES TO REDUCE THE FISCAL GAP AS THE FIRST STEP IN DEVELOPING A NEW LONG-RANGE FISCAL PLAN.

AFTER FIVE YEARS OF ACTUAL REDUCTIONS IN GENERAL FUND SPENDING, THIS YEARS' BUDGET INCREASED GENERAL FUND SPENDING. BUT IT IS STILL ALMOST \$60 MILLION BELOW THE GOVERNOR'S REQUESTS AND \$7 MILLION BELOW LAST YEARS' LEVELS WHEN ADJUSTED FOR POPULATION AND INFLATION.

IF NOT FOR A MAJOR DECREASE IN ONE TIME FUNDS, INCREASED MEDICARE/MEDICAID COSTS, AND MAJOR INCREASES TO K-12 EDUCATION, THE UNIVERSITY OF ALASKA AND PUBLIC SAFETY, GENERAL FUND SPENDING WOULD HAVE GONE DOWN AGAIN THIS YEAR.

ADDITIONAL STATE REVENUE WILL BE A NEEDED ELEMENT IN A NEW LONG-RANGE FISCAL PLAN, BUT THE FIRST STEP IN SUCH A PLAN SHOULD BE CONTINUED GOVERNMENT REFORMS TO CREATE A MORE EFFICIENT AND FAIRER STATE GOVERNMENT. ONLY AFTER SUCH NEEDED REFORMS SHOULD ALASKANS BE ASKED TO CONSIDER ANY MAJOR NEW TAXES.

SO WHY DOES ALASKA CONTINUE TO SPEND MORE PER CAPITA THAN OTHER STATES?

(SLIDE 9)

Per Capita Spending

Why does the Alaska spend more per capita than other states?

Obvious reasons include:

- Harsh climate
- Scattered communities
- Few economies of scale
- High transportation costs
- High cost of living

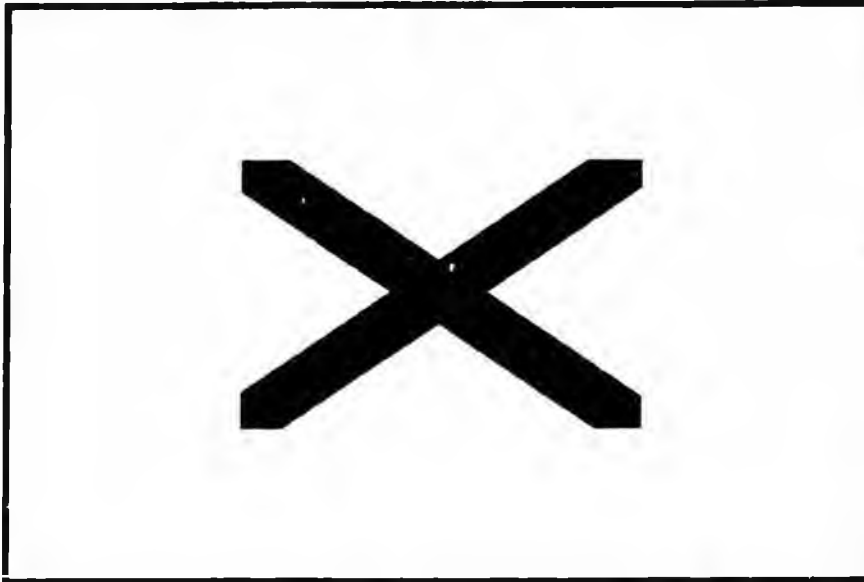
(SLIDE 10)

Why does Alaska spend more per capita than other states?

- Other reasons may not be so obvious:
 - provides services normally provided by counties or local governments-police, courts, jails, education, etc.
 - Is responsible for managing vast resources.
 - has an infrastructure that is not as developed, due to the short time span since statehood.
 - has programs that other states don't--Permanent Fund dividends, Longevity Bonus, Pioneer Homes, Power Cost Equalization, etc.
- Compared to other states the State of Alaska:

(SLIDE 11)

**State of Alaska Budget General Fund and Permanent Fund
Spending**



**THE SENATE REPUBLICANS BELIEVE THAT BEFORE CONSIDERING MAJOR
NEW TAXES ON ALASKANS, GOVERNMENT SHOULD FIRST BE AS WELL RUN
AS POSSIBLE.**

TO HELP DEVELOP PROPOSALS TO CONTINUE OUR SUCCESSFUL EFFORTS
TOWARD A SMALLER SMARTER STATE GOVERNMENT, EARLIER THIS YEAR I
WROTE THE COMMISSIONER OF EVERY STATE DEPARTMENT AND ASKED IF
THEY HAD ANY IDEA FOR LEGISLATION TO HELP IMPROVE STATE
GOVERNMENT EFFICIENCY AND REDUCE THE STATE'S FISCAL GAP.

NOT ONE MADE A SINGLE SUGGESTION OR REQUEST FOR SUCH LEGISLATION. I
REPEAT, GOVERNOR KNOWLES COMMISSIONERS DID NOT HAVE A SINGLE

SUGGESTION FOR NEW STATUTORY CHANGES TO HELP REDUCE THE FISCAL GAP.

(SLIDE 12)

Senate Finance Long-Range Fiscal Plan: The First Steps

- 1) Maintain budget discipline by holding any General Fund spending increases to below increases in population and inflation
- 2) Continue to utilize outcome based budgeting to increase government efficiency
- 3) Fix the Constitution by passing SJR 23 and SJR 24
- 4) Adopt fiscal gap reducing legislation

EVEN SO, THE SENATE FINANCE COMMITTEE DEVELOPED A PACKAGE OF FISCAL REFORM LEGISLATION THAT CONTINUES THE REPUBLICAN MAJORITY'S COMMITMENT TO FISCAL RESPONSIBILITY AND GOVERNMENT REFORM BEFORE NEW TAXES.

THIS PACKAGE PRESENTS THE FIRST STEP OF A NEW LONG-RANGE FISCAL PLAN THAT HAS THE POTENTIAL OF REDUCING THE FISCAL GAP BY OVER \$12 ½ MILLION A YEAR AT FIRST WITH REDUCTIONS INCREASING TO OVER \$100

MILLION A YEAR WITHIN 10 YEARS. THAT IS A VERY CONSERVATIVE ESTIMATE NOT INCLUDING THE CUMULATIVE IMPACT OF THESE SAVINGS.

WE DO NOT CONTEND THAT THIS IS A COMPREHENSIVE LONG-RANGE FISCAL PLAN, BUT WE DO SAY IT HAS THE ESSENTIAL FIRST INGREDIENTS THAT ANY NEW LONG-RANGE FISCAL PLAN MUST HAVE TO BE SUCCESSFUL.

THE BASIS OF GOVERNMENT IN AMERICA IS OUR CONSTITUTIONS. WHEN WE START TO CREATE A NEW FINANCIAL PLAN WE NEED TO LOOK AND MAKE SURE THAT OUR STATE CONSTITUTION IS FUNCTIONING PROPERLY.

IT'S CLEAR THAT THERE ARE TWO PARTS OF OUR STATE CONSTITUTION THAT DEAL WITH FISCAL POLICY THAT ARE NOT FUNCTIONING PROPERLY. THEY ARE THE EXISTING CONSTITUTIONAL APPROPRIATION LIMIT AND THE EXISTING CONSTITUTIONAL BUDGET RESERVE PROVISION.

(SLIDE 13)

SJR 23

Reforming the Constitutional Spending Limit

- The current constitutional appropriation limit is not working
- The language is misleading
- The language is unclear
- The limit has grown too large

ONE THING WAS CLEAR FROM THE OVERWHELMING REJECTION IN SEPTEMBER 1999 OF THE LAST FISCAL PLAN PROPOSAL. . . .

ALASKANS DO NOT WANT TO GIVE GOVERNMENT A BLANK CHECK.

THAT WAS ONE OF THE MAIN REASONS I STRONGLY OPPOSED THE SEPTEMBER 1999 PROPOSAL – BECAUSE IT LACKED CLEAR ENFORCEABLE FISCAL RESTRAINTS.

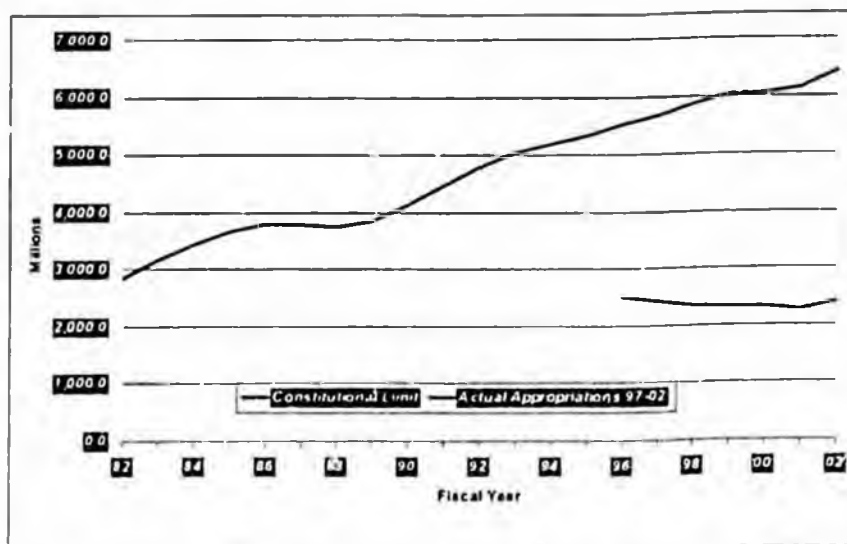
TO BE ACCEPTABLE TO THE MAJORITY OF ALASKANS, ANY NEW PLAN MUST START WITH REASONABLE LIMITS ON GOVERNMENT SPENDING.

THE FIRST STEP TO THE SENATE FINANCE COMMITTEE'S FISCAL PLAN IS EXACTLY THAT

TO LIMIT THE EXPANSION OF GOVERNMENT SPENDING THROUGH THE ADOPTION OF SENATE JOINT RESOLUTION 23 REVISING THE EXISTING CONSTITUTIONAL APPROPRIATION LIMIT.

TALK ABOUT SLIDE 13 (SLIDE 14)

The Current Spending Limit vs Recent Appropriations

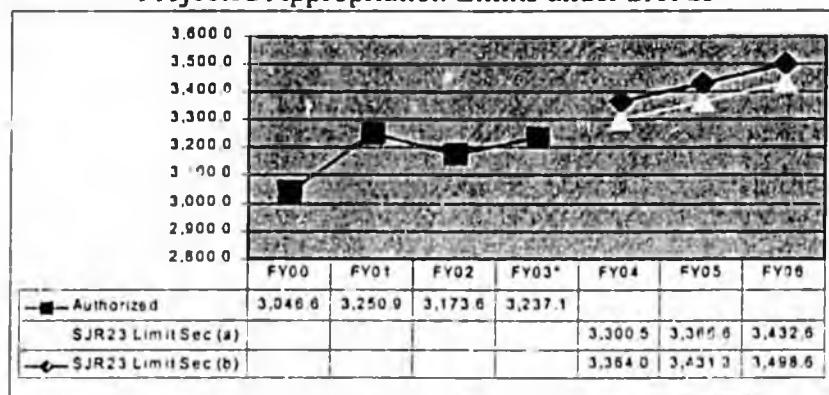


THE EXISTING CONSTITUTIONAL APPROPRIATION LIMIT WAS ADOPTED BY THE VOTERS IN 1982. THIS PROVISION CURRENTLY LIMITS GOVERNMENT SPENDING TO ABOUT \$6 BILLION; HOWEVER, WE ONLY CURRENTLY SPEND ABOUT \$3 BILLION. THE ENORMOUS SIZE OF THE CURRENT APPROPRIATION LIMIT OCCURRED BECAUSE THE CONSTITUTIONAL PROVISION HAS A BUILT-IN ESCALATOR CLAUSE FOR INFLATION AND POPULATION. TO CORRECT THIS, OUR MOST RECENT VERSION OF SJR 23 PROPOSES TO BASE ANY ALLOWABLE INCREASES ON PREVIOUS YEAR'S BUDGETS AND TO LIMIT THOSE INCREASES

TO ONLY 2 PERCENT. SJR 23 ALSO CLARIFIES WHAT IS AND IS NOT INCLUDED IN THE APPROPRIATION LIMIT.

(SLIDE 15)

Projected Appropriation Limits under SJR 23



*FY03 Authorized budget estimated at 2% increase over FY02.

Sec (a) allows for up to a 4% increase over the amount appropriated 2 years prior.
Sec (b) allows an additional 2% may be appropriated with a two-thirds vote of both houses.

Not included in SJR23 Limit: Permanent Fund dividends, G.O. & revenue bond proceeds, re-appropriations, duplicated funds, and funds from non-State sources.

All numbers taken from LFD Fiscal Summary & Summary of Appropriations.

IN REVISING THE EXISTING CONSTITUTIONAL APPROPRIATION LIMIT, WE ARE LEARNING FROM THE MISTAKES OF THE PAST. WE RECOGNIZE, HOWEVER, THAT CIRCUMSTANCES CHANGE. THAT'S WHY OUR MOST RECENT VERSION OF SJR 23 CONTAINS A SPECIAL PROVISION TO HAVE VOTERS REVIEW IT AGAIN IN 4 YEARS AND THEN EVERY 6 YEARS THEREAFTER. IF IT IS NOT FUNCTIONING CORRECTLY, IF PEOPLE WANT TO SPEND MORE THAN THE LIMIT ALLOWS, OR IF WE SOLVE THE FISCAL CRISIS, ALASKANS CAN VOTE IT OUT OF THE CONSTITUTION.

(SLIDE 16)

SJR 24

Restoring the Original Intent of the 1990 CBR Amendment

- The CBR is functioning well as a fiscal shock absorber, but is not working as intended to control spending
- Small groups of legislators can force increased spending by withholding CBR votes
- Last year this budget blackmail increased spending by about \$150 million
- What will this cost grow to in future years?

THE CONSTITUTIONAL BUDGET RESERVE LANGUAGE OF THE CONSTITUTION IS WORKING WELL AS A FISCAL SHOCK ABSORBER, BUT IT IS NOT WORKING AS INTENDED TO CONTROL SPENDING.

THE CONSTITUTIONAL BUDGET RESERVE (CBR) WAS ESTABLISHED IN 1990, AND HAS BEEN USED TO HELP FILL THE GAP BETWEEN STATE REVENUES AND EXPENDITURES. WHEN THE CBR WAS CREATED, THE ORIGINAL INTENT WAS THAT FUNDS COULD BE WITHDRAWN WITH A SIMPLE MAJORITY VOTE TO HELP COVER A BUDGET DEFICIT AS LONG AS CURRENT SPENDING DID NOT EXCEED THE PREVIOUS YEAR'S SPENDING, BUT A THREE-QUARTERS VOTE OF THE

LEGISLATURE WOULD BE NECESSARY TO WITHDRAW ANY FUNDS IN EXCESS OF THE PREVIOUS YEAR'S SPENDING.

IN 1994, THE ALASKA SUPREME COURT MISINTERPRETED THIS PROVISION TO REQUIRE A $\frac{3}{4}$ VOTE TO WITHDRAW ANY FUNDS FROM THE CBR. THIS CREATES A SITUATION IN WHICH A SMALL GROUP OF LEGISLATORS CAN "BLACKMAIL" THE MAJORITY AND HOLD THE BUDGET. THESE LEGISLATORS CAN TRADE THEIR VOTES, WHICH ARE CRUCIAL TO WITHDRAW CBR FUNDS AND BALANCE THE STATE'S BUDGET, IN EXCHANGE FOR ADDITIONAL SPENDING.

WE ESTIMATE THE COST THIS YEAR TO ACCESS THE CBR WITH A $\frac{3}{4}$ MAJORITY VOTE TO BALANCE THE BUDGET WAS NEARLY \$150 MILLION.

SENATE JOINT RESOLUTION 24 CORRECTS THIS BIZARRE IMBALANCE OF SPENDING POWER BY PROPOSING A CONSTITUTIONAL AMENDMENT THAT MAKES IT CLEAR A $\frac{3}{4}$ VOTE IS NOT NECESSARY WHEN SPENDING DOES NOT EXCEED THE PREVIOUS YEAR'S.

IF THIS RESOLUTION PASSES, THE AMENDMENT WILL BE PLACED ON THE NEXT STATE GENERAL ELECTION BALLOT IN FALL 2002 FOR APPROVAL BY THE PEOPLE OF ALASKA.

(SLIDE 17)

Senate Finance Long-Range Fiscal Plan: The First Steps

- 1) Maintain budget discipline by holding any General Fund spending increases to below increases in population and inflation
- 2) Continue to utilize outcome based budgeting to increase government efficiency
- 3) Fix the Constitution by passing SJR 23 and SJR 24
- 4) Adopt fiscal gap reducing legislation

BOTH THESE PROPOSED CONSTITUTIONAL AMENDMENTS HAVE ALREADY PASSED THE SENATE AND ARE SCHEDULED FOR HEARINGS IN THE HOUSE. OUR PLAN ALSO INCLUDES SEVEN OTHER FISCAL GAP REDUCING PROPOSALS, THREE OF WHICH HAVE ALREADY PASSED THE SENATE.

ALL TOGETHER, THE SAVINGS ASSOCIATED WITH THESE REFORMS GROW EXPONENTIALLY IN THE OUT YEARS TO FAR EXCEED THEIR PRESENT DAY VALUE OF OVER \$12 MILLION THE FIRST YEAR, GROWING TO OVER \$100 MILLION A YEAR WITHIN TEN YEARS.

ONCE AGAIN, WE DO NOT CONTEND THAT THIS LEGISLATION ALONE
CONSTITUTES A COMPLETE PLAN, BUT THESE PROPOSALS ARE ALL IN PLACE
TO PASS NEXT YEAR AND THEY ARE AN EXCELLENT AND NECESSARY FIRST
STEP FOR ANY COMPREHENSIVE NEW PLAN TO BE ACCEPTABLE TO THE
MAJORITY OF ALASKANS.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SENATOR DAVE DONLEY'S JUNE 2001 STATE BUDGET REPORT

*This Year's Focus Was On Education Funding, Budget Discipline and the
Development of a Long-Term Fiscal Plan*

As the Co-Chair of the Senate Finance Committee this year, it was my task to maintain fiscal discipline and build on the strong foundation of the Republican Five-Year Budget Plan which was completed last year. The Senate Republicans are committed to continuing Alaskans' enjoyment of the lowest state taxes in the nation.

Each year the legislature faces the challenging responsibility to develop a budget that addresses the critical needs of Alaskans while working to balance state spending and revenue. Accordingly, the Republican Majority maintained fiscal discipline while providing for the constitutional priorities of education, public safety and public health.

EDUCATION FUNDING: This was a historic year for education in Alaska!

- ★ Total of over \$50 million increase in state funding of education
 - Over \$34 million increase in K-12 funding - largest increase in over 10 years
 - Doubled funding for Learning Opportunity Grants for exam preparation, supplies & books from \$6.1 million to \$12.2 million
 - Increased funding for pupil transportation, which reduces local property taxes
 - Increased funding and number of Charter schools
 - Increased funding for the University of Alaska by over \$16 million
 - Funded a large package for school construction - 3 new schools and 32 maintenance projects

FISCAL DISCIPLINE:

We continued budget discipline and began development of a new long-term fiscal plan.

- ★ Continued results-based budgeting to ensure government fiscal accountability
- ★ Passed an operating budget that was \$60 million below the governor's request. This year's operating budget is more than \$7 million below last year's budget in total state funds, adjusted for population and inflation
- ★ The Senate passed two Constitutional Amendments to improve the budget process and encourage fiscal discipline.
 - SJR 23, proposed a new and effective constitutional spending limit
 - SJR 24, is an important reform of how the Constitutional Budget Reserve works
- ★ The Senate also passed three major cost saving proposals and began work on four others. These proposals are now before the Alaska State House
- ★ This year's state budget is simpler, easier to understand and more accurately represents spending than in past years

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

PUBLIC SAFETY FUNDING: Needed funding secured

- ★ Increases funding for the Alaska State Troopers by \$1,560,000 and provides 6 more officers
- ★ Adds \$320,000 for Fish and Wildlife Protection to provide 2 more officers
- ★ Provides \$250,000 statewide for forensic crime lab support, funding three new positions including a DNA testing specialist
- ★ Allocates \$50,000 for Avalanche Safety Public Education
- ★ Increases training and benefits for Village Public Safety Officers (VPSOs) and improved probation services in rural Alaska
- ★ Authorized construction of new private prison to prevent prison overcrowding

PUBLIC HEALTH FUNDING: Essential services funded

- ★ Increases to essential medical services
- ★ Adds \$700,000 to address Fetal Alcohol Syndrome efforts
- ★ Allocates \$3 million for Tobacco Prevention and Control
- ★ Provides \$225,000 for additional emergency service personnel
- ★ Funds additional statewide youth correction facilities necessary to fight juvenile crime

DEMOCRATS PROMOTE UNCONTROLLED SPENDING:

★ Republican Majorities rebuked excessive Democratic spending proposals: During the 2001 legislative session, the Republicans rejected a total of \$246 million in amendments to increased spending for operating and capital budgets proposed by Democrats. General fund expenditures for the **operating budget would have increased by \$49.1 million and for the capital budget by \$196.9 million** had all these amendments **not been voted down by the Republican Majorities.**

Listed below are the costs of failed budget amendments offered by the Democrats since 1997

	State General Fund Impact		
	<u>Operating Budget</u>	<u>Capital Budget</u>	<u>TOTAL</u>
2002	49,128,650	196,870,851	245,999,501
2001	89,545,788	38,148,078	127,693,866
2000	101,137,840	22,006,666	123,144,506
1999	90,495,223	1,420,000	91,915,223
1998	34,407,015	5,719,314	40,126,329
1997	<u>14,135,690</u>	<u>2,193,322</u>	<u>16,329,012</u>
TOTAL	378,850,206	266,358,231	645,208,437

As the figures show, Alaska would be in far worse financial shape today had the Democrats controlled state spending during the last six years. In sharp contrast, the Republican Majorities improved Alaska's fiscal health by implementing general fund spending reductions totaling over \$175 million. When factoring in inflation and population growth, **state general fund spending has been reduced by over \$600 million.** The Constitutional Budget Reserve has grown from \$2.2 billion to \$2.6 billion and the Permanent Fund has grown from \$15.7 billion to \$25.3 billion.

All of this was accomplished without Governor Knowles' proposed massive new income tax, new general statewide taxes, reducing your Permanent Fund Dividends or using the Permanent Fund.



Senator Dave Donley

JUNE 1, 2001

SENATOR DAVE DONLEY'S 2001 LEGISLATIVE REPORT

This Year's Focus Was On Education, Natural Gas Line and Budget Discipline

Ensuring excellent education opportunities for Alaska's students was the Republican Majority's top priority this year. While the Republican Five Year Budget Plan completed last year has built a strong fiscal foundation; the state is still annually spending more than its revenues. Accordingly, the Republican Majority this year maintained fiscal discipline while providing for the constitutional priorities of education, public safety and public health. Additionally, work was needed to promote and prepare for a new Alaska gas line. The legislature met these challenges as follows:

EDUCATION:

This was a historic year for education in Alaska!

- ★ Total of over \$50 million increase in state funding of education
- Over \$34 million increase in K-12 funding
- Largest increase in the education funding formula in over 10 years (SB 174 sponsored by the Senate Finance Committee)
- Doubled funding for Learning Opportunity Grants for exam preparation, supplies & books from \$6.1 million to \$12.2 million
- Increased funding for pupil transportation, which reduces local property taxes
- Increased funding and number of Charter schools
- Fully funded the University of Alaska's requested funding increase of \$16 million
- Funded school maintenance and construction state-wide – 3 new schools and 32 maintenance projects
- ★ Added a property tax relief provision to the education foundation funding formula, providing property tax relief for Anchorage residents (SB 174 sponsored by the Senate Finance Committee)
- ★ Successfully dealt with the issues surrounding the new high school competency exam – extended the deadline for mandatory passage to 2004, to give time to align curriculum and exam – BUT maintained importance of the exam by recording results on students' transcripts
- ★ Passed new legislation to help with recruiting, hiring and retaining teachers: one allows subject matter teachers to be hired and the other smoothes the way for retired teachers to return to service

NATURAL GAS LINE:

Legislation was passed to promote commercialization of Alaska's North Slope natural gas.

- ★ Removed statutory impediments to a gas line right-of-way

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

- ★ Made an "over the top" gas pipeline route out of the question as far as the State of Alaska is concerned
- ★ Approved legislation allowing the Department of Natural Resources (DNR) to enter into contracts to be reimbursed by oil and gas companies for work related to permitting a gas pipeline
- ★ Directed the commissioner of the Department of Revenue to prepare a report for the Legislature outlining options regarding the state's participation in owning or financing a gas pipeline project, and providing recommendations in these areas
- ★ Provided necessary funding for DNR and the State Pipeline Coordinator's office to prepare for a gas line project

BUDGET DISCIPLINE:

We continued budget discipline and began development of a long-term fiscal plan.

- ★ Continued results-based budgeting to ensure government fiscal accountability
- ★ Passed an operating budget that was **\$60 million below the governor's request**. This year's operating budget is more than **\$7 million below last year's budget in total state funds, adjusted for population and inflation**
- ★ Increased funding for essential services including: K-12 education, University of Alaska, public safety, Medicaid, subsidized adoption and foster care
- ★ The Senate passed two Constitutional Amendments to improve the budget process and encourage fiscal discipline
 - SJR 23 (sponsored by Senator Donley), proposed a new and effective **constitutional spending limit**
 - SJR 24 (sponsored by the Senate Finance Committee), is an important reform of how the Constitutional Budget Reserve works to **encourage fiscal discipline**.
- ★ The Senate also passed three major cost saving proposals and began work on four others, all sponsored by the Senate Finance Committee.
- ★ This year's state budget is simpler, easier to understand and more accurately represents spending than past years' budgets

OTHER IMPORTANT LEGISLATIVE ACCOMPLISHMENTS:

The Legislature also adopted important new laws for Alaskans.

- ★ **Increased municipal assistance** to reduce local property taxes
- ★ Provided \$4 million in **additional funding for Anchorage road maintenance**
- ★ Funded \$6 million for **improvements at the Port of Anchorage** to reduce the cost of consumer goods
- ★ **Helped fight drunk driving** by lowering the DWI Blood Alcohol Content to .08 percent
- ★ **Will ensure pay equity for women** by funding a study to determine if female state employees receive unfairly low wages compared to their male counterparts (SB 65 by Senator Donley)
- ★ **Increased the penalties for hate crimes** – the Senate passed legislation requiring juveniles sixteen years of age or older who commit serious, violent hate crimes to be tried as an adult. This legislation is currently awaiting hearings in the Alaska State House (SB 169 by Senator Donley)
- ★ Authorized construction of a new private prison to **solve prison overcrowding**
- ★ **Helped fight alcohol abuse** by increasing penalties for underage drinking and bootlegging
- ★ Provided new funding to assist in **suicide prevention efforts**
- ★ Increased training and salaries for Village Public Safety Officers to **improve rural public safety**
- ★ Passed reforms to **streamline insurance practices**
- ★ **Improved public health** providing essential treatment services for breast and cervical cancer patients

PERSONAL NOTE:

Unfortunately the Anchorage news media, and especially the Anchorage Daily News, have failed to report on many of these accomplishments. The facts are the legislature accomplished a lot for the people of Alaska this session and Anchorage did very well.

Senator Dave Donley

Co-Chair Senate Finance Committee

**Presentation on
Long-Range Fiscal Plan**

Republican Majority's

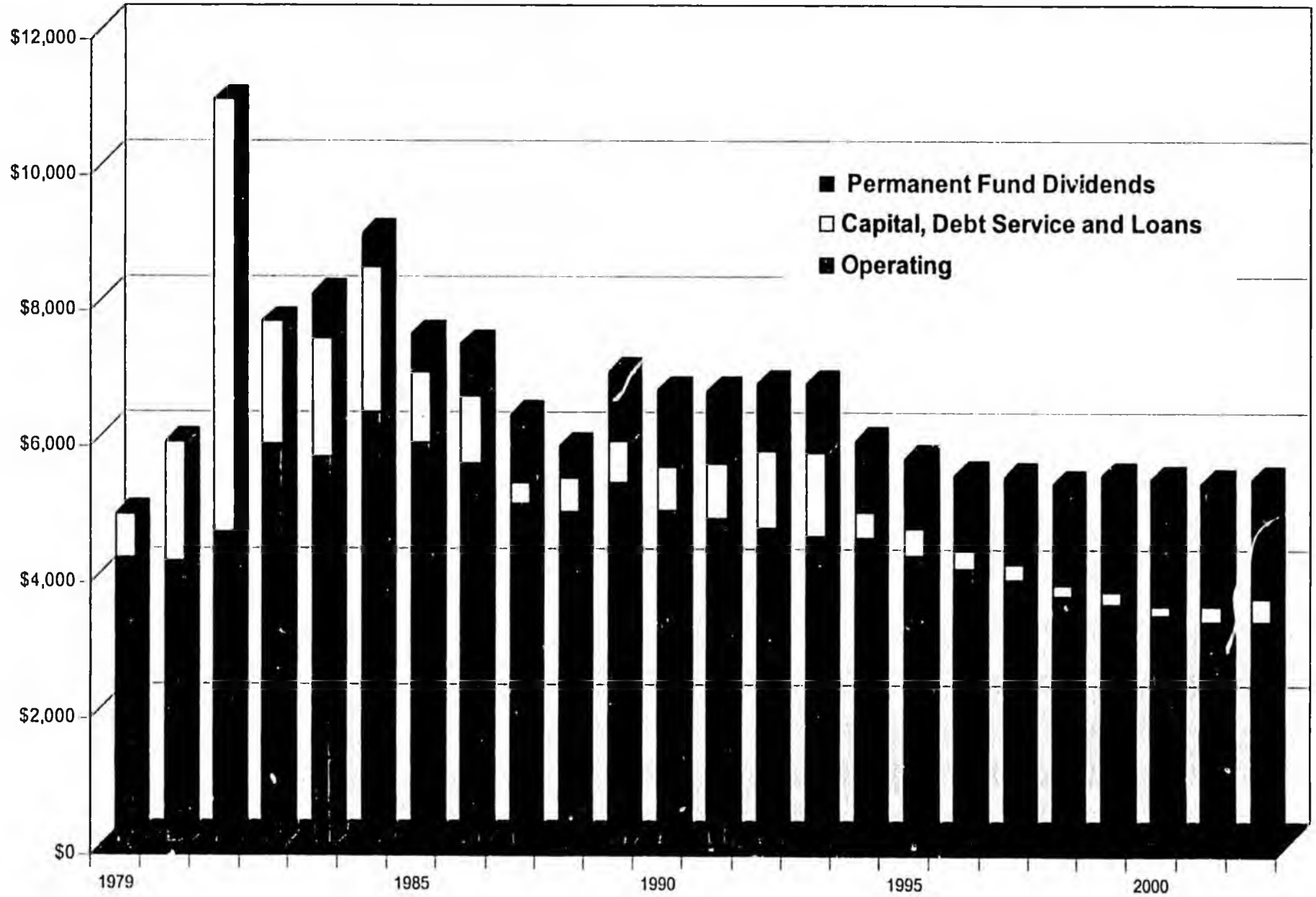
Five Year Fiscal Plan

Was a Success

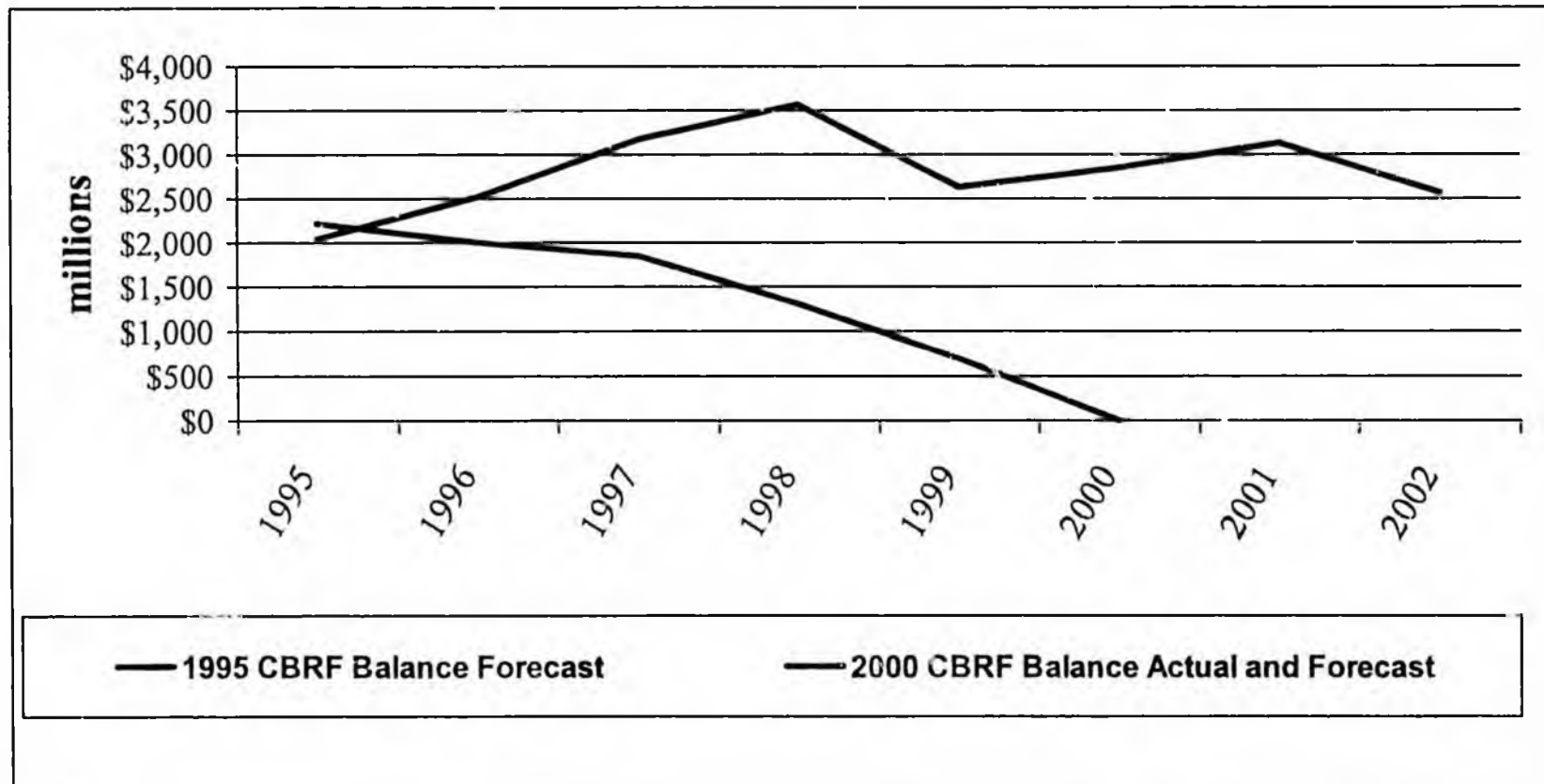
State General Fund Per Capita Spending Is Going Down

- Per capita state general fund spending is currently about \$3800 per Alaskan. For state services, in today's dollars, that is \$921 less than in FY79 when the oil era began. Combined operating and capital general fund spending is \$1,186 less.
- However, when Permanent Fund dividends are added to general fund spending, the total is \$534 more per capita than FY79.

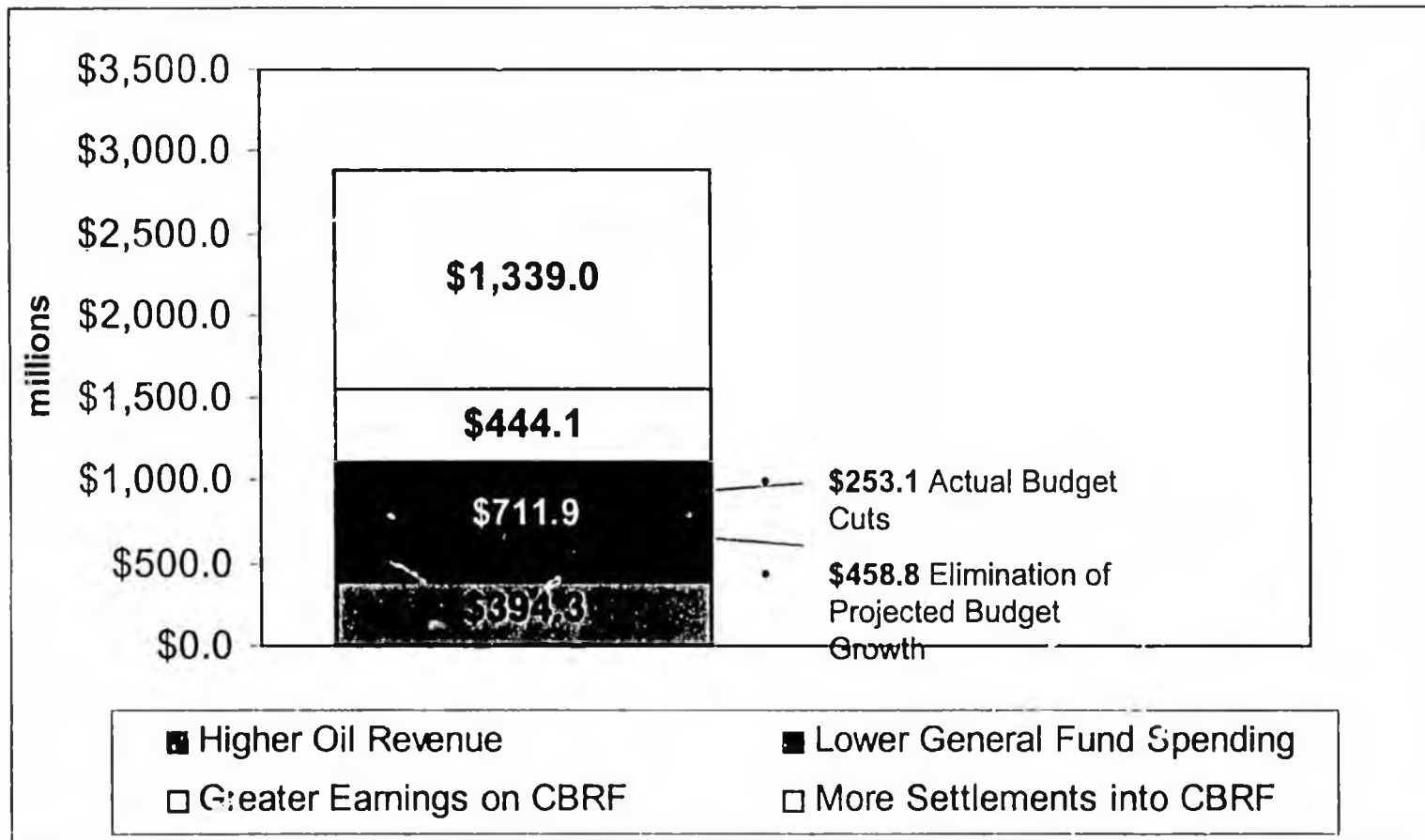
Real Per Capita General Fund and PFD Spending FY1979 - FY2002



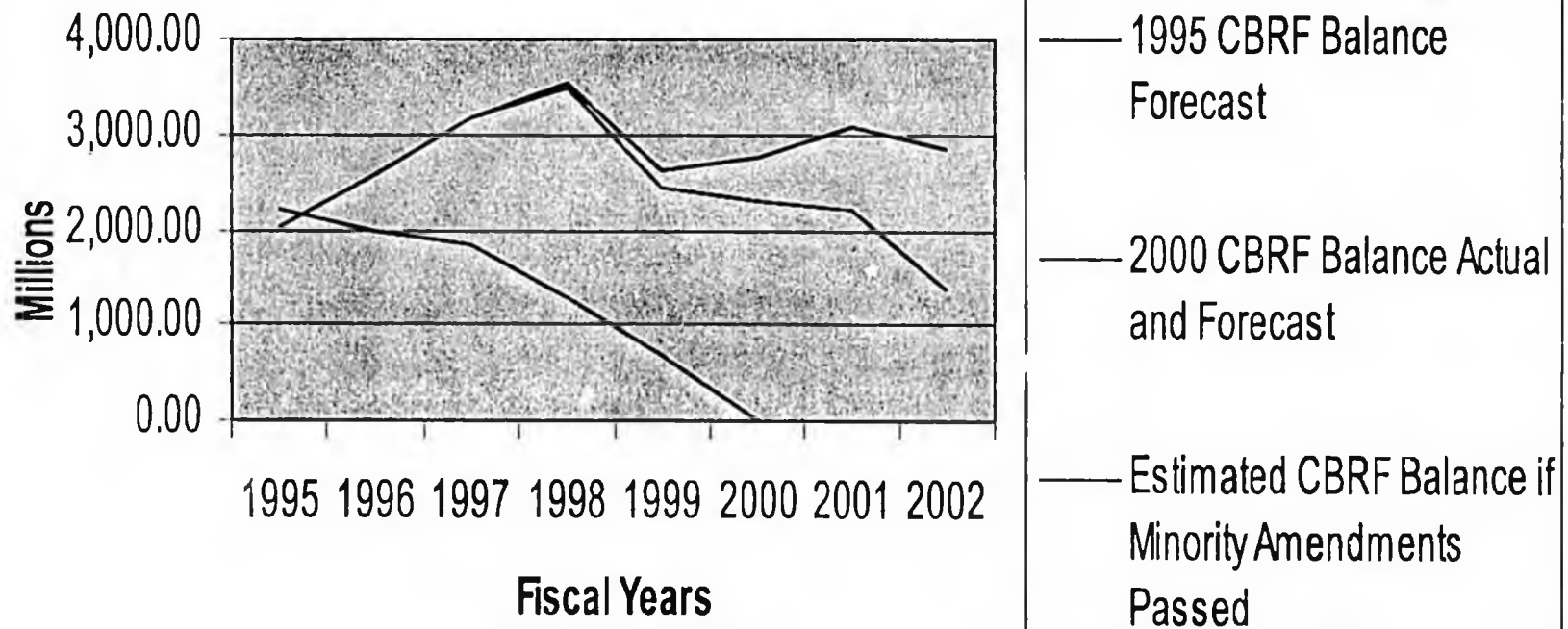
CBRF: The View from Here



Why We Had More in the CBRF in FY 2000 than We Forecast in 1995



CBRF: Impact of Minority Amendments



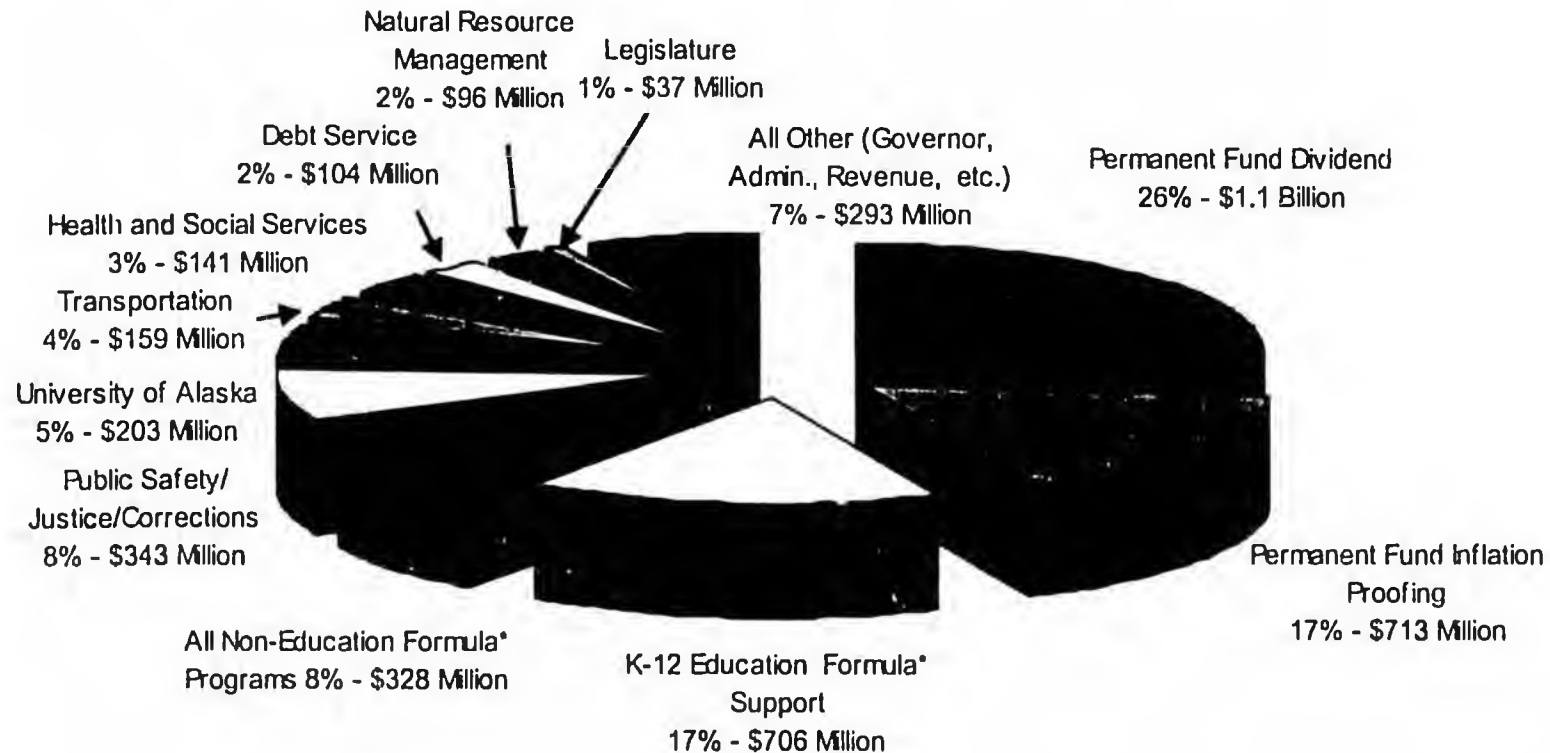
Senate Majority Plan

- Protect the Permanent Fund
- Exercise budget discipline by holding any total state spending increases to below inflation and population increases
- Use results-based budgeting with Missions & Measures to continue our progress for a smaller, smarter state government
- Make constitutional and statutory systemic changes to reduce the fiscal gap as the first step in developing a new long-range fiscal plan

State of Alaska Budget General Fund and Permanent Fund Spending

Fiscal Year 2002 - \$4.3 Billion

Where the money is being spent this year:



*Formula programs are based in statute and guarantee a specific level of benefits to qualified recipients.
Non-education formula programs include: Medicaid, Adult Public Assistance, Longevity Bonus, Revenue Sharing, Foster Care, Elected Officials Retirement, Shared Fisheries Business Tax and Temporary Assistance.

Senate Finance Long-Range Fiscal Plan: The First Steps

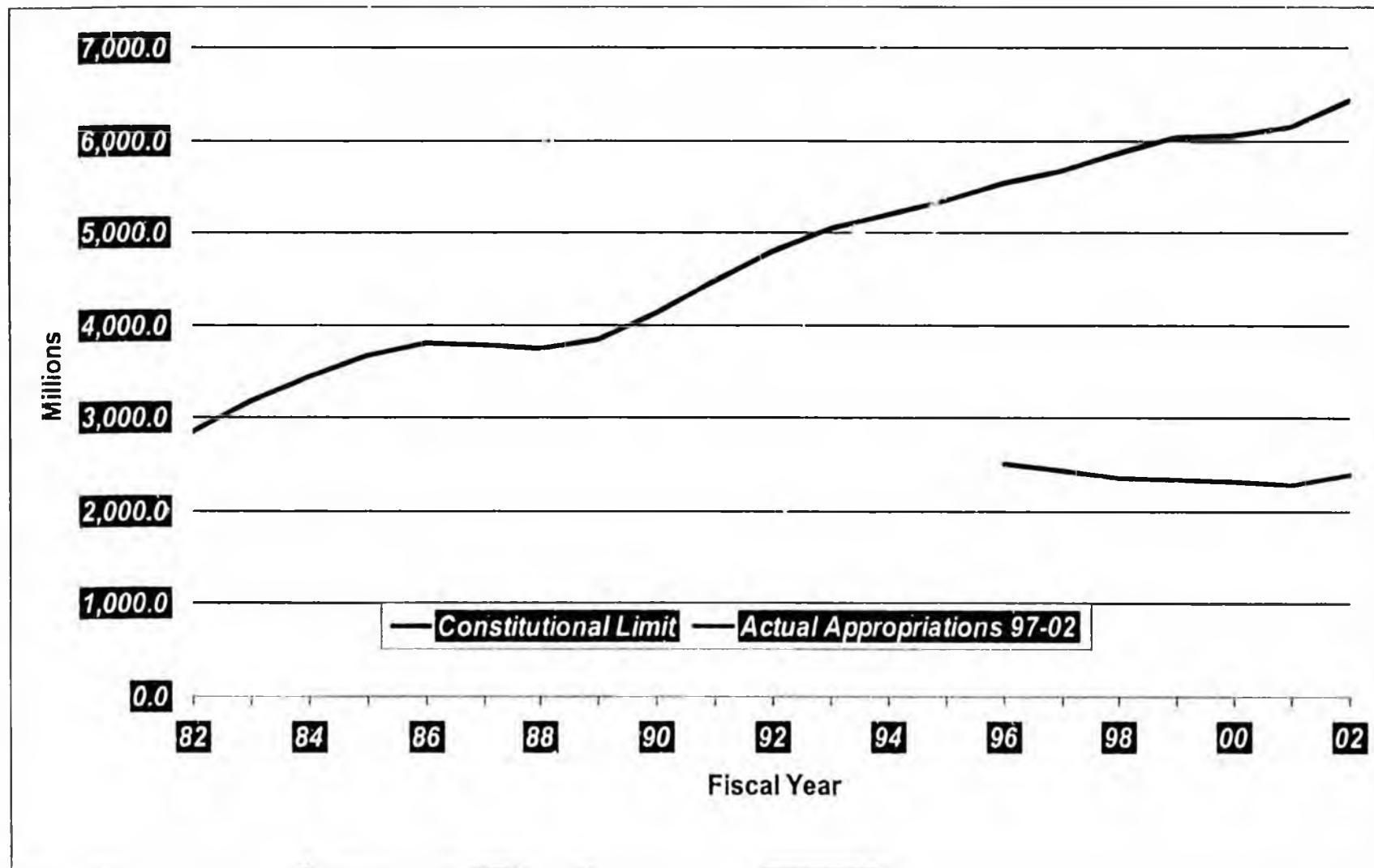
- 1) Maintain budget discipline by holding any General Fund spending increases to below increases in population and inflation
- 2) Continue to utilize outcome based budgeting to increase government efficiency
- 3) Fix the Constitution by passing SJR 23 and SJR 24
- 4) Adopt fiscal gap reducing legislation

SJR 23

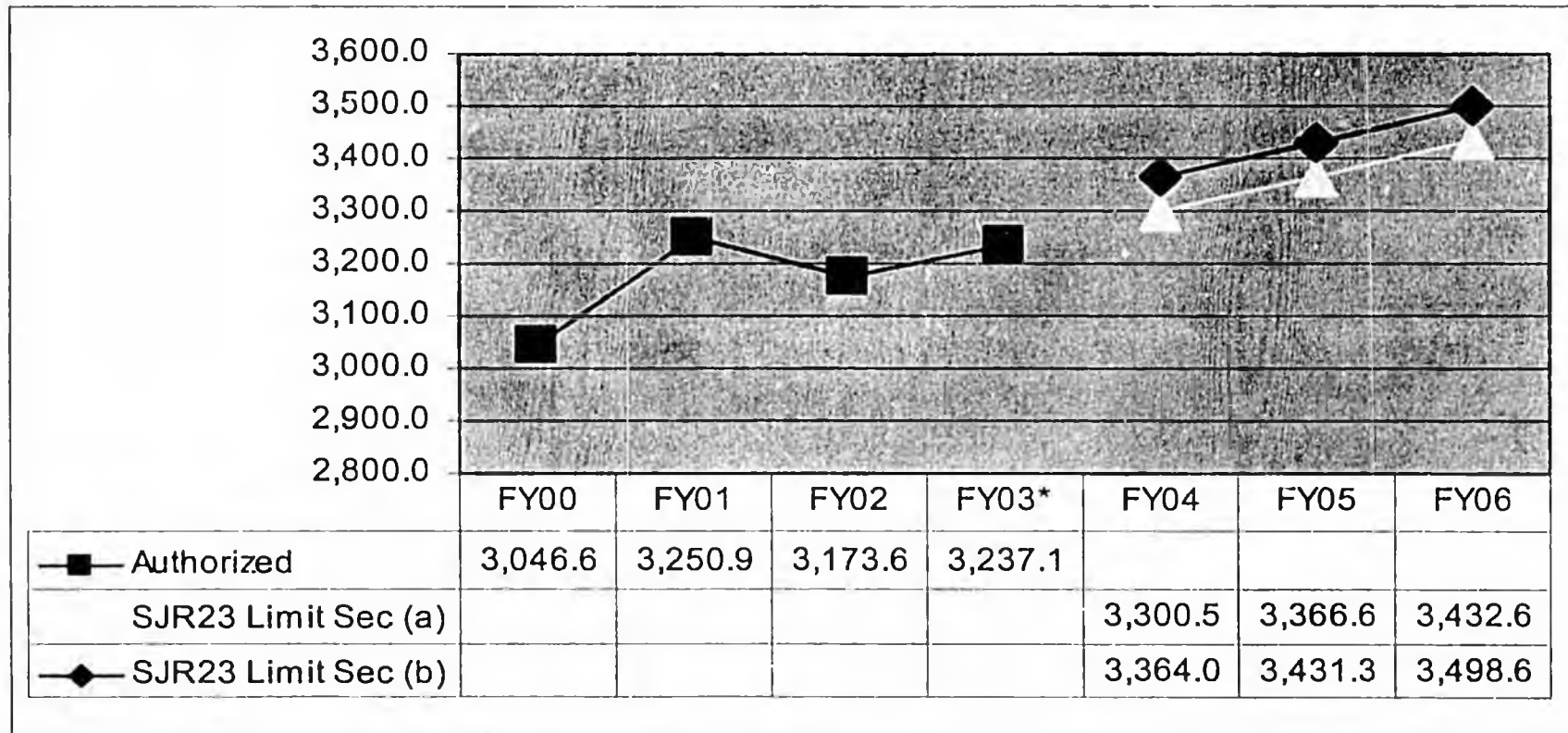
Reforming the Constitutional Spending Limit

- The current constitutional appropriation limit is not working
- The language is misleading
- The language is unclear
- The limit has grown too large

The Current Spending Limit vs Recent Appropriations



Projected Appropriation Limits under SJR 23



*FY03 Authorized budget estimated at 2% increase over FY02.

Sec (a) allows for up to a 4% increase over the amount appropriated 2 years prior.

Sec (b) states an additional 2% may be appropriated with a two-thirds vote of both houses.

Not Included In SJR23 Limit: Permanent Fund dividends, G.O. & revenue bond proceeds, reappropriations, duplicated funds, and funds from non-State sources.

All numbers taken from LFD Fiscal Summaries in Summary of Appropriations

SJR 24

Restoring the Original Intent of the 1990 CBR Amendment

- The CBR is functioning well as a fiscal shock absorber, but is not working as intended to control spending
- Small groups of legislators can force increased spending by withholding CBR votes
- Last year this budget blackmail increased spending by about \$150 million
- What will this cost grow to in future years?

Senate Finance Long-Range Fiscal Plan: The First Steps

- 1) Maintain budget discipline by holding any General Fund spending increases to below increases in population and inflation
- 2) Continue to utilize outcome based budgeting to increase government efficiency
- 3) Fix the Constitution by passing SJR 23 and SJR 24
- 4) Adopt fiscal gap reducing legislation

Per Capita Spending

Why does the Alaska spend more per capita than other states?

Obvious reasons include:

- Harsh climate
- Scattered communities
- Few economies of scale
- High transportation costs
- High cost of living

Why does Alaska spend more per capita than other states?

- Other reasons may not be so obvious:

- Compared to other states the State of Alaska:

- provides services normally provided by counties or local governments-police, courts, jails, education, etc.
- Is responsible for managing vast resources.
- has an infrastructure that is not as developed, due to the short time span since statehood.
- has programs that other states don't--Permanent Fund dividends, Longevity Bonus, Pioneer Homes, Power Cost Equalization, etc.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

The Long-Range Fiscal Plan

- I. Long Range Fiscal Plan Legislation of the Senate Majority
- II. Senate Finance Committee Long Range Fiscal Plan Legislation
April 9, 2001
- III. Senate Finance Committee's Sponsor Statement for SB 180
- IV. Senate Finance Committee's Sponsor Statement for SB 181
- V. Senate Finance Committee's Sponsor Statement for SB 182
- VI. Senate Finance Committee's Sponsor Statement for SB 183
- VII. Senate Finance Committee's Sponsor Statement for SB 184
- VIII. Senate Finance Committee's Sponsor Statement for SB 185
- IX. Senate Finance Committee's Sponsor Statement for SB 186
- X. Senate Finance Committee's Sponsor Statement for SJR 24
- XI. Senate Finance Committee's Sponsor Statement for SJR 23

AF 9/26

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

January-May: STATE CAPITOL • JUNEAU, AK • 99801 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 West Fourth Avenue • Suite 400 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238
Email: Senator_Dave_Donley@legis.state.ak.us
www.akrepublicans.org/Donley.htm • www.legis.state.ak.us/senate/donley/htm



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Long Range Fiscal Plan Legislation of the Senate Majority

Most Alaskans agree that development of a long-range fiscal plan is one of the greatest challenges facing our state.

As we begin to develop a new plan it is important to recognize that the Republican majority's Five-Year Plan, which we completed last year, built an excellent foundation for Alaska's long term financial health.

The Permanent Fund was protected and increased to over \$26 billion
The Constitutional Budget Reserve will have a balance of over \$3 billion
on 6/30/01.

We held the line against more than \$800 million of Governor Knowles' proposed spending increases and actually reduced general fund spending.

We implemented successful major government reforms for:

- Education Funding
- Welfare
- Reduced Bureaucracy / Merged State Departments
- Power Cost Equalization
- Underground Storage Tank Funding
- Relieved Corrections Overcrowding
- Increased University Funding

We also initiated results-based budgeting, and we increased non-oil revenue.

As we build on this tremendous progress and work toward a public statewide consensus on where we, as Alaskans, go from here. The Senate Majority intends to continue to:

1. Protect the Permanent Fund.
2. Exercise budget discipline by holding any total state spending increases to below inflation and population increases.
3. Use results-based budgeting with missions & measures to continue our progress for a smarter, smaller state government.
4. Make statutory systemic changes to reduce the fiscal gap as the first step in developing a new long-range fiscal plan.

Development of a new multi-year fiscal plan will take extensive study and assessment. This legislative package is just the first stage of a more comprehensive plan that can be developed over the interim. This is a two-year process and that will require a consensus approach to be successful.

Additional state revenue will be a needed element in a new long-range fiscal plan. But the first step in such a plan should be continued government reforms to create a more efficient and fairer state government. Only after such needed reforms should Alaskans be asked to consider any major new taxes.

As Republicans, we believe that before considering major new taxes on Alaskans, government should first be as well run as possible.

To help develop proposals to continue our successful efforts toward a smaller smarter state government, earlier this year we wrote every state commissioner of every state department and asked if they had any ideas for legislation to help improve state government efficiency and reduce the state's fiscal gap that hadn't already been introduced.

Not one made a single suggestion or request for such legislation. I repeat, Governor Knowles Commissioners did not have a single suggestion for statutory changes to help reduce the fiscal gap.

So we, without the help of any new ideas from the executive branch, have developed a package of fiscal reform legislation.

The Senate Finance Committee has introduced a package of legislation that continues the Republican Majority's commitment to fiscal responsibility and government reform before new taxes. This package presents the first step of a new long-range fiscal plan that has the potential of reducing the fiscal gap by over \$12,500,000 a year at first with reductions increasing to over \$100,000,000 within 10 years. Listed below are the topics of each bill along with the estimated savings of each bill.

1. SB 180 Updating Geographic Differential - Annual Savings would be \$183,300 for the first 6 years and \$312,000 each year thereafter.
2. SB 181 Eliminating AHFC 1 percent HALF subsidy - Annual savings of over \$500,000 per year could be available from AHFC to general fund.
3. SB 182 Requiring Proration of Benefit Payments - Annual savings depends on program funding levels in budget.
4. SB 183 Reforming Public Interest Litigant Attorney Fees - Annual savings would average \$117,100 per year at 25 percent savings.
5. SB 184 Allowing Local Contribution to Village Safe Water Program Projects - Annual savings of \$2,700,000 at a 5 percent local contribution rate could be realized.
6. SB 185 Reforming Power Cost Equalization (PCE) - Annual savings of \$9,000,000 per year could be realized.
7. SB 186 Municipal Bonding Capacity Cap - State revenue could increase by over \$100 million a year within ten years.

8. SJR 24 Constitutional Budget Reserve (CBR) – Promotes fiscal discipline and provides for a more efficient budgetary process by amending article IX, sec. 17 of the Alaska Constitution to clarify “the amount available for appropriation” which was improperly interpreted by the Alaska Supreme Court in *Halford v Cowper*. The Court’s decision distorts the true intent of the $\frac{3}{4}$ vote and allows a small minority of legislators to “blackmail” the majority into increased spending each year. This change also repeals the so-called “sweep” provision, which if left unchanged would defeat the purpose of the amendment.
9. SJR 23 Constitutional Spending Limit - Replaces the clumsy, confusing and completely useless current constitutional appropriations limit with an effective and easy to understand limit. Provides a needed step to ensure future fiscal discipline and help limit growth in the State’s fiscal gap.

In contrast to the efforts of the Republican led majority to build a smaller and smarter state government, the governor and Democratic minority legislators regularly have proposed spending increases that by today would have wiped out our savings and required massive new taxes on Alaskans.

In order to finance this plan, the governor and some Democrats wanted to fund this spending spree by increasing taxes and spending Permanent Fund earnings. Together their tax proposals would have cost the citizens of Alaska in excess of \$275 million per year. Various proposals to spend Permanent Fund monies would have reduced the fund balance by over \$6.8 billion. A proposal to create a Municipal Dividend Fund would have depleted the earnings reserve account annually. If this proposal had been approved, in 1999 this would have removed \$1.26 billion from the Permanent Fund earnings reserve account.

In each year since the governor has taken office, either he or another member of his party, and in some years both, have introduced a state income tax. Unfortunately that tax and spend mentality may be starting to spread.

But numerous polls over the years tell us that Alaskans do not want the Permanent Fund’s assets diminished. In spite of this, the governor and minority Democrats have attempted to spend great amounts of Permanent Fund income. The attacks on the Permanent Fund have been to divert funds for the establishment of various dedicated funds to increase state spending. There has also been an attempt to divert part of the Permanent Fund earnings reserve account to the General Fund.

For Fiscal Year 2002 the governor’s proposed spending increases to the operating budget and democratic legislative proposals would increase annual general fund spending by \$237,550,000. These proposals are just in the first three months of the current legislative session. The Senate Finance Committee Long Range Fiscal Plan legislation package reforms programs that don’t make sense, are discriminatory (as evidenced by recent legislative reports) or updates constitutional provisions. This legislation has the potential of reducing the fiscal gap by over \$12.5 million in its first years, increasing to over \$100 million within 10 years simply by adopting sound public policy reforms.

Only through the constant efforts of the Republican led majority, has the state been able to maintain such a positive financial outlook. It is only through continued vigilant efforts that we will continue to reasonably limit state government growth and protect the citizens of Alaska from burdensome taxation. Attached is information about this legislation including a brief description and estimated savings to the state of each proposal and a copy of each bill.

DD/bc

SENATE FINANCE COMMITTEE LONG RANGE FISCAL PLAN LEGISLATION

April 9, 2001

1. SB 180 Updating Geographic Differential

This proposal changes the method of calculation and brings cost-of-living payments in line with the equalization of the cost-of-living that has occurred statewide over the years. The current statutory formula has not been updated since June 1976 and unfairly discriminates against some state employees while unfairly benefiting others. Potential Savings would be \$183,300 for 1st 6 years, \$312,000 each year thereafter.

2. SB 181 Eliminating AHFC 1 percent HALF subsidy

This bill eliminates the statutory 1 percent below market rates for the Housing Assistance Loan Fund (HALF) program and replaces it with the standard market rate for AHFC home loans. Potential savings of over \$500,000 per year could be available from AHFC to the state general fund.

3. SB 182 Requiring Proration of Benefit Payments

Currently, most statutes require that payments be made at a prescribed level without reference to funding actually available in the budget. This bill would require program directors to prorate benefit payments over the entire fiscal year based on the available level of funding that a program receives. This would encourage greater accuracy and accountability in state budgeting. It will also encourage accountability on the part of program directors for the efficient management of their program. Potential savings depend on program funding levels in budget.

4. SB 183 Reforming Public Interest Litigant Attorney Fees

This bill makes public interest litigants subject to Court Civil Rule 82 regarding judgments for attorneys' fees, thus adopting a uniform standard for all litigants. It places them under the same guidelines regarding attorney's fees as all other litigants. Courts would continue to have the authority to award higher or full attorney fees when a court felt exceptional circumstances justified a higher award to a public interest litigant. Potential savings could average \$117,100 per year at 25 percent savings calculated on current fees paid out annually.

5. SB 184 Allowing Local Contribution to Village Safe Water Program Projects

Current statutes prohibit any local contribution in support of local water and sewer enhancements under this program. This bill would remove the barrier to local financial support of water and sewer construction costs under the VSW program. Potential savings of \$2,700,000 a year at a 5 percent local contribution rate could be realized.

6. SB 185 Reforming Power Cost Equalization (PCE)

This legislation revises the formula under which PCE subsidies are paid, making it a truly equitable program, and adjusts the maximum kilowatt-hours eligible for the subsidy to more accurately reflect power usage in PCE communities and encourage energy conservation. Potential savings of \$9,000,000 per year could be realized.

7. SB 186 Municipal Bonding Capacity Cap

This legislation implements a \$15,000 per resident limit on bond indebtedness. According to a recent court decision, current law does not limit the amount that a municipality may incur in bond indebtedness. This limit will provide a new fund source for the state's Revenue Sharing and Safe Communities programs. State revenue could eventually increase by over \$100 million as the North Slope Borough's current debt is paid down over the next ten years.

8. SJR 24 Constitutional Budget Reserve (CBR) – Promotes fiscal discipline and provides for a more efficient budgetary process by amending article IX, sec. 17 of the Alaska Constitution to clarify "the amount available for appropriation" which was improperly interpreted by the Alaska Supreme Court in Halford v Cowper. The Court's decision distorts the true intent of the 3/4 vote and allows a small minority of legislators to "blackmail" the majority into increased spending each year. This change also repeals the so called "sweep" provision, which if left unchanged would defeat the purpose of the amendment.

9. SJR 23 Constitutional Spending Limit

The existing constitutional appropriation limit, adopted by voters in 1981, has simply not worked. This constitutional amendment would adopt a simpler and stricter limit to restrain spending increases in future years. SJR __ would more accurately reflect today's spending by lowering the existing appropriation limit. This amendment provides a needed step to ensure future fiscal discipline and help limit growth in the State's fiscal gap.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement

SB 180

"An act implementing pay differentials based on geographic areas for certain employees and for members of the Alaska State Defense Force...."

Senate Bill 180 changes the manner in which geographic differential payments for cost-of-living differences are determined for certain state employees. This legislation adopts the most current geographic differential report. The current statutory formula has not been updated since June 1976 and unfairly discriminates against some state employees while unfairly benefiting others. A similar bill was passed by the legislature in 2000 but was vetoed by the governor. This bill does not contain the provisions the governor cited as the reason for his veto of the 2000 bill.

Under this legislation current employees' are protected from a decrease in cost-of-living salary adjustment benefits as long as they remain in the same geographic area. However, these employees total pay will not increase until their total pay, including future salary adjustments, exceeds the amount the employee was receiving the day before the cost-of-living adjustment took effect, June 30, 2001.

The geographic differential calculation utilizes a percentage above a specific measurement baseline. In Alaska, Anchorage is the only federal measurement of the cost-of-living. Therefore, Anchorage is used as the baseline measurement for determining the cost-of-living in the various Alaska election districts and "out of state" locations. Previous legislation indicated these measures affect 316 employees in the executive branch of government not covered by union contract. Although there is a small cost in its first year, this legislation can save the State of Alaska an average of approximately \$183,333 per year for the next six years and \$312,000 each year thereafter. The adjustment also affects the compensation paid to members of the Alaska State Defense Force whenever they are called to active state service.

SB 180 purposely holds harmless other programs that use these statutory sections for calculation of revenue sharing cost-of-living adjustments. It also makes no change to the current differential applicable to state employees who work in another state.

Fiscal responsibility continues to be a top priority of the legislative majorities this session. These changes simply implement fair pay adjustments based on a new cost-of-living analysis. Some employees will actually see an increase in cost-of-living adjustments.

DD/bc

SENATE BILL NO. 180

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY THE SENATE FINANCE COMMITTEE

**Introduced: 4/9/01
Referred:**

A BILL

FOR AN ACT ENTITLED

1 "An Act implementing pay differentials based on geographic areas for certain state
2 employees and for members of the Alaska State Defense Force; and providing for an
3 effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * Section 1. AS 26.05 260(i) is amend to read:

6 (i) When active state service is authorized by the governor or by the adjutant
7 general as the governor's designee, members of the Alaska State Defense Force are
8 entitled to receive, for each day of active service under AS 26.05.070, pay and
9 allowances as provided in this subsection. Pay is equal to that provided under
10 AS 39.27.011 - 39.27.021 [AS 39.27.011 - 39.27.020] for equivalent assignments of
11 state officials or employees, including adjustments under AS 39.27.025, if applicable.
12 Allowances shall be paid to the same extent, in the same manner, and under the same
13 conditions as provided for state officials and employees under AS 39.20.110 -
14 39.20.170. However, pay or allowances are not authorized for training or community

1 service activities of members of the Alaska State Defense Force.

2 * **Sec. 2.** AS 29.60.160(a) is amended to read:

3 (a) Payments to a municipality or other eligible recipient under AS 29.60.110
4 - 29.60.130 shall reflect area cost-of-living differentials. Payments shall be based on
5 the sum of per capita, per mile, and per bed or facility grants due each municipality or
6 other recipient multiplied by the appropriate area cost-of-living differential. The area
7 cost-of-living differential for each recipient shall be determined annually by election
8 district under the provisions of former AS 39.27.020 and AS 39.27.030. Application
9 of the area cost-of-living differential may not result in distribution of an amount less
10 than the amount of the payment determined without reference to application of this
11 section.

12 * **Sec. 3.** AS 29.60.290(b) is amended to read:

13 (b) The area cost-of-living differential payable to each municipality under this
14 section shall be determined annually by election district under the provisions of
15 former AS 39.27.020 and AS 39.27.030. Except as provided in AS 29.60.300,
16 application of the area cost-of-living differential may not result in a payment that is
17 less than the minimum payment determined under (a) of this section. For purposes of
18 this subsection, the election districts used are those designated by the proclamation of
19 reapportionment and redistricting of December 7, 1961, and retained for the house of
20 representatives by proclamation of the governor September 3, 1965.

21 * **Sec. 4.** AS 39.27 is amended by adding a new section to read:

22 **Sec. 39.27.021. Pay differentials by election district and in other states**
23 **and countries.** (a) The following pay differentials are approved as an amendment to
24 the basic salary schedules provided in AS 39.27.011:

25	Percentage Pay	Geographic Areas
26	Differential	(Election Districts)
27	0	1, 2, 3, 4, 7, 8, 9, and 10
28	4	16a (Fairbanks South of the Arctic Circle
29		except the duty stations of Tok and Delta
30		Junction)
31	5	5

1	9	11
2	11	6
3	16	16b (the duty stations of Tok and Delta
4		Junction)
5	20	15b (the duty station of Nenana)
6	27	12 and 13
7	30	15a (Yukon-Kuskokwim except the duty
8		station of Nenana) and 19
9	34	18
10	38	14
11	42	16c (Fort Yukon - North of the Arctic
12		Circle) and 17.

(b) The basic salary schedule set out in AS 39.27.011 is amended for positions in other states to provide that those positions shall be compensated using a pay step differential of minus six pay steps.

(c) The director of the division of personnel shall establish salary differentials for positions in foreign countries. The differentials shall be adjusted annually, effective July 1, to maintain equitable relationships between salaries for positions in foreign countries and salaries for positions in Alaska.

* Sec. 5. AS 39.27.030 is amended to read:

Sec. 39.27.030. Cost-of-living survey. Subject to an appropriation for this purpose, the director shall conduct a survey, at least every five years, to review the pay differentials established in AS 39.27.021 [AS 39.27.020]. The survey may address factors, as determined by the director, that are also relevant in review of state salary schedules, entitlement for beneficiaries of state programs, and payments for state service providers. The survey must reflect the costs of living in various election districts of the state, and Seattle, Washington, by using the cost of living in Anchorage as a base. [IN THIS SECTION, "ELECTION DISTRICT" HAS THE MEANING GIVEN IN AS 39.27.020(b).]

* Sec. 6. AS 39.27.045 is amended to read:

Sec. 39.27.045. Definitions [DEFINITION]. In AS 39.27.021 - 39.27.045

1 [AS 39.27.020 - 39.27.030],

2 (1) "director" means the director of the division of personnel;

3 (2) "election district" means an election district designated in the
4 governor's proclamation of reapportionment and redistricting of December 7,
5 1961.

6 * Sec. 7. AS 39.35.675(d) is amended to read:

7 (d) In this section, "cost-of-living differential" means an adjustment to salary
8 based on the cost of living in the geographic region where the employee works and
9 includes a pay step differential under former AS 39.27.020 or a pay differential
10 under AS 39.27.021.

11 * Sec. 8. AS 44.31.020 is amended to read:

12 **Sec. 44.31.020. Duties of department.** The Department of Labor and
13 Workforce Development shall

14 (1) enforce the laws, and adopt regulations under them concerning
15 employer-employee relationships, including the safety, hours of work, wages, and
16 conditions of workers, including children;

17 (2) accumulate, analyze, and report labor statistics;

18 (3) operate systems of workers' compensation and unemployment
19 insurance;

20 (4) gather data reflecting the cost of living in the various election
21 districts of the state upon request of the director of personnel under AS 39.27.030; in
22 this paragraph, "election district" has the meaning given in AS 39.27.045
23 [AS 39.27.020(b)];

24 (5) operate the federally funded employment and training programs
25 under 29 U.S.C. 1501 - 1792b (Job Training Partnership Act); and

26 (6) administer the state's program of adult basic education.

27 * Sec. 9. AS 39.27.020 is repealed.

28 * Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 **LIMITATION ON SALARY ADJUSTMENT FOR GEOGRAPHIC**
31 **DIFFERENTIALS.** (a) The salary that an employee is receiving on June 30, 2001, may not

1 be reduced by application of a provision of sec. 4 of this Act so long as the employee remains
2 in the same geographic area as set out in AS 39.27.021, enacted by sec. 4 of this Act. If an
3 employee moves to another geographic area on or after July 1, 2001, the pay differential in
4 AS 39.27.021, enacted by sec. 4 of this Act, applies to the employee's salary on the effective
5 date of the move.

6 (b) If, on July 1, 2001, an employee's salary would have been reduced but for the
7 provisions of (a) of this section, that employee's salary may not be increased by application of
8 an adjustment to the salary schedules in AS 39.27.011 or a step increase until the application
9 of the adjustment or increase to the reduced salary the employee would otherwise have been
10 receiving as of July 1, 2001, results in an amount that meets or exceeds the salary that the
11 employee was receiving on June 30, 2001.

12 * Sec. 11. This Act takes effect July 1, 2001.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement

Senate Bill 181

"Elimination of discriminatory 1 percent mortgage subsidy"

SB 181 eliminates the statutory 1 percent below market rates for the Housing Assistance Loan Fund (HALF) program and replaces it with the standard market rate for AHFC home loans. AS 18.56.420 creates the HALF program to provide housing loans to residents in communities of less than 6500. AS 18.56.420 currently requires that these loans be at 1 percent below market rates. This loan program is managed by AHFC. The 1 percent discount on HALF loans costs the state on average over \$40,000 in lost income over the life of one of these loans. This legislation eliminates the 1 percent subsidy from the HALF program for the following reasons:

- 1) A September 2000 legislative audit concluded that the need for the program has been eliminated through other programs and private entities meeting the needs of homeowners.
- 2) If the 1 percent subsidy is eliminated from the HALF program, over a half-million dollars a year in additional AHFC earnings could potentially be made available to help balance the state fiscal gap.
- 3) Providing these low cost loans to borrowers who don't need the subsidy while denying such a subsidy to other less well off Alaskans is unfair discrimination.
- 4) Elimination of the subsidy will help to promote formation, consolidation and unification of local governments.

The HALF program was designed to help overcome certain barriers to home ownership in smaller Alaska communities such as high construction costs and a lack of private financing services. But according to a September 25, 2000 legislative audit, in the last 20 years most of these barriers have been removed. Other programs and private entities have moved in to meet the needs of rural homeowners. While the program tried to address allegedly higher costs, the audit found that building in smaller communities doesn't always cost more.

The 1 percent subsidized rate is being abused and is no longer necessary. In fiscal years 98 and 99 there were 1,026 HALF-subsidized loans made. During that two-year period the 1 percent subsidized loans were made to 166 borrowers with annual incomes **over \$100,000**. 74 percent of the loans made during this period were to borrowers in areas where home construction costs are **less than in the Anchorage area**. The average price of a home receiving a subsidized loan during this period was \$167,000. During this same period 148 loans were made for **amounts above \$200,000**. 11 loans were for amounts **greater than \$300,000**, the highest loan being for \$400,000. The 1 percent subsidy on that \$400,000 loan will cost the state **close to \$100,000 in lost income** over the life of that loan.

The HALF program was intended to give people a chance at home ownership when they didn't have other options. Now that those options are available, it appears that the program is being chosen for its lower discriminatory interest rate, not because it is the only way to get a home loan.

The recent legislative audit report indicated that "most barriers to home ownership financing have been overcome by changes in the private and governmental sectors...." Assuming that interest rates, loan volume, dollar value of loans and expenses remain the same as during FY 99 and FY 00, elimination of the HALF 1 percent subsidy could increase AHFC earnings by approximately \$540,000 in the first year, according to the report. If the subsidy program is eliminated, over a half-million dollars a year in additional AHFC earnings could be made available to help balance the state fiscal gap.

The HALF 1 percent subsidy as it currently exists simply does not make sense. Providing these low cost loans to borrowers who don't need the subsidy while denying such a subsidy to other Alaskans is unfair discrimination.

In addition, the discriminatory lower rate provided by the HALF 1 percent subsidy has had an unintended bad affect. The constitutionally created Local Boundary Commission report released in 1998 cited this program as a major impediment to the formation and consolidation of local government in Alaska. That report cited specific examples including that of opponents of the proposal to consolidate the City of Haines and the Haines Borough, who listed the loss of eligibility for the HALF 1 percent subsidy as a reason not to consolidate.

Another example is in the Kenai area where among residents who live along the boundary between the city and the borough, those who live in the borough get the 1 percent reduced home loans, while residents on the city side do not. It is this unfair discrimination that inhibits the efficient formation of local government. The state pursuant to the Alaska Constitution should be encouraging the formation and unification of local government not discouraging it.

It is clearly not good public policy to have a program that rewards rich and well off people in low cost construction areas with a special discriminatory subsidy that discourages formation and unification of local governments. For these reasons the HALF 1 percent subsidy should be eliminated.

DD/bc

SENATE BILL NO. 181

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 4/9/01

Referred:

A BILL**FOR AN ACT ENTITLED**

1 "An Act making the interest rate for the Alaska Housing Finance Corporation's small
2 community housing mortgage loans the same as the interest rate on mortgage loans
3 purchased under the corporation's special mortgage loan purchase program from the
4 proceeds of the most recent applicable issue of taxable bonds before the origination or
5 purchase of the small community housing mortgage loans."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * Section 1. AS 18.56.470(a) is amended to read:

8 (a) The interest rate on a mortgage loan originated or purchased in whole or in
9 part under AS 18.56.420 for small community housing is the same as [ONE
10 PERCENT LESS THAN] the interest rate, as determined under AS 18.56.098(f)(1) -
11 (4), on a mortgage loan purchased under AS 18.56.098(a) from the proceeds of the
12 most recent applicable issue of taxable bonds before the origination or purchase of the
13 mortgage loan originated or purchased under AS 18.56.420.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement

Senate Bill 182

“Reducing certain payments to ensure continued payments for an entire fiscal year when funding at the statutory designated level is not appropriated”

SB 182 recognizes the realities that funds may not always be available to fund individual benefit payments at the statutorily suggested level. If this were to occur, people who rely on these programs may receive benefits only until the available money runs out for that fiscal year. This situation would be unacceptable. SB 182 provides a contingency in the event that a funding shortage occurs in the future.

Currently, most statutes require that payments be made at a prescribed level without reference to funding actually available in the budget for that year. If a program does not receive funding at the statutorily suggested level, the only current option is to request a supplemental appropriation or shut a program down in the later months of the fiscal year. Senate Bill 182 would require program directors to prorate benefit payments over the entire fiscal year based on the available level of funding that a program receives. While this would reduce each payment, it would extend the payments over the full 12-month period, thus allowing the Legislature and Administration to respond to reductions in revenue and increases in program recipients in a simple and practical manner. This mechanism is no different than other state programs that provide benefits based on funds available.

This legislation will encourage greater accuracy and accountability in state budgeting. It will also encourage accountability on the part of program directors for the efficient management of their program.

This Senate bill specifically excludes loan programs, subsidies for hard-to-place children, retirement programs and programs for which other provisions of law address underfunding.

SB 182 provides a reasonable budgetary tool for the administration and legislature. It will provide a mechanism that may be needed to help deal with future fiscal challenges.

DD/bc

SENATE BILL NO. 182

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 4/9/01

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring reductions in payments to individuals under certain benefit
2 programs if appropriations are not sufficient to fully fund the statutorily established
3 levels of payments."

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

5 * Section 1. AS 37.07.080(d) is amended to read:

6 (d) A state agency

7 (1) shall, if an appropriation made for a benefit program is not
8 sufficient to fully fund all statutorily established levels of payments to individuals
9 under that program, reduce the amount of payments to eligible individuals on a
10 pro rata basis; in making the pro rata reductions required by this paragraph, the
11 agency may not consider any potential supplemental appropriation for that
12 program until the appropriation has been enacted; this paragraph does not apply
13 to payments under AS 25.23.190 - 25.23.240, loan programs, state employee
14 retirement benefit programs, or programs for which other provisions of law

1 address underfunding; and

2 (2) may not increase the salaries of its employees, employ additional
3 employees, or expend money or incur obligations except in accordance with law and
4 properly approved operations plan.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

SPONSOR STATEMENT

SENATE BILL 183

"An Act relating to public interest litigants and attorney fees; and amending Rule 82, Alaska Rules of Civil Procedure"

SB 183 makes public interest litigants subject to Court Civil Rule 82 regarding judgments for attorneys' fees, thus adopting a uniform standard for all litigants. Courts would continue to have the authority to award higher or full attorney fees when a court felt exceptional circumstances justified a higher award.

Through Alaska Supreme Court decisions, a doctrine known as the *Public Interest Litigant Doctrine* (PILD) has been established. This doctrine is not codified in law or set out in any court procedure. The courts apparently created the PILD as social policy to encourage private plaintiffs to advocate for issues that are deemed by the court to be "in the public interest."

Civil Rule 82 sets out a formula for the reimbursement of attorney fees to be collected by a prevailing party in a legal action. Court Civil Rule 82 limits attorney's fees recovery by prevailing litigants to 20 percent of the litigant's reasonable actual attorney's fees incurred on a case resolved without trial and 30 percent for those cases that go to trial.

PILD creates an exception to Civil Rule 82 by allowing the courts to classify a party as a "public interest litigant", thus allowing said party to collect **full**, reasonable, actual attorney fees if they prevail. And if they lose, the public interest litigant pays **none** of the prevailing party's attorney fees. Not even the innocent victims of violent crime who bring subsequent civil suit against criminals are allowed such generous attorney fees.

Additionally, SB 183 prevents legal fees being awarded to a litigant for claims on which they did not prevail. Such awards serve to promote spurious lawsuits, since plaintiffs know they will receive compensation for all costs even if they only win on one of several points. This problem was created by the recent Alaska Supreme Court Decision *Dansereau v. Ulmer* 955 P.2d 916 1998. Prior to *Dansereau v. Ulmer* lawyer fees for public interest litigants were only awarded for issues on which they prevailed. *Dansereau v. Ulmer* sets a precedent that allows courts to award the lawyer fees for all contested points even if the public interest litigants only prevailed on one point.

SB 183 includes a provision that gives the courts the flexibility to continue to follow the *Dansereau* case and/or award higher or full attorney fees when the court finds exceptional circumstances to justify a higher award.

SB 183 seeks to prevent awards of lawyer fees of \$150 or more an hour to special interest litigating organizations that have staff attorney's on salary for \$30 - \$40 per hour. When organizations are awarded such unnecessarily high lawyer fees they are able to utilize the embellished award to not only pay their in house lawyers but to also finance political and advocacy operations. It is wrong that the current system is being exploited in this way.

The Senate Finance Committee introduced SB 183 to make "public interest litigants" equally accountable for their lawsuits and to protect the state from having to pay excessive lawyer fees for frivolous public litigant cases. Based on claims paid in recent years this legislation could save the state hundreds of thousands of dollars annually.

A similar bill passed the State Senate in 2000. However, the legislation, sponsored by the Senate Finance Committee, failed to get a hearing in the House of Representatives.

SENATE BILL NO. 183

IN THE LEGISLATURE OF THE STATE OF ALASKA
 TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 4/6/01

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to public interest litigants and to attorney fees; and amending Rule 82,
 2 Alaska Rules of Civil Procedure."

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

4 * Section 1. AS 09.60.010 is amended to read:

5 Sec. 09.60.010. Costs and attorney fees allowed prevailing party. The
 6 supreme court shall determine by rule or order the costs, if any, that may be allowed a
 7 prevailing party in a civil action. Unless specifically authorized by statute or by
 8 agreement between the parties, attorney fees may not be awarded to a party in a civil
 9 action for personal injury, death, or property damage related to or arising out of fault,
 10 as defined in AS 09.17.900, unless the civil action is contested without trial, or fully
 11 contested as determined by the court. Attorney fees may only be awarded to or
 12 against a public interest litigant as provided in Rule 82(g), Alaska Rules of Civil
 13 Procedure, on the effective date of this Act.

14 * Sec. 2. Rule 82(b), Alaska Rules of Civil Procedure, is amended by adding a new

1 paragraph to read:

2 (5) If the court chooses to vary an award of attorney's fees under (b)(3)
3 of this rule by increasing the award beyond the amounts provided in (b)(1) or (2) of
4 this rule, then the court shall apportion the attorney's fees by issue and may only award
5 the increased fees for an issue the party prevailed upon unless the court finds
6 exceptional circumstances to be present that require an increased award of fees
7 without apportionment by issue.

8 * **Sec. 3.** Rule 82, Alaska Rules of Civil Procedure, is amended by adding a new subsection
9 to read:

10 (g) **Attorney's Fees for Public Interest Litigants.** Attorney's fees shall be
11 awarded to or against a public interest litigant in the same manner as attorney's fees
12 may be awarded to or against a non-public interest litigant under (b) of this section.

13 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 **CONDITIONAL EFFECT.** Section 1 of this Act takes effect only if secs. 2 and 3 of
16 this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
17 Constitution of the State of Alaska.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement

SB 184

"User contributions toward the cost of construction of certain water and sewer facilities"

Water and Sewer projects funded through the "Village Safe Water Act" (VSW) program benefits villages with between 25 and 600 residents within a two-mile radius, a second or first class city with not more than 600 residents. The program is sustained through federal dollars and the Alaska Housing Finance Corporation (AHFC) dividend payment to the state.

Current statutes actually prohibit any requirement of a local contribution in support of local water and sewer enhancements under this program. SB 184 does not mandate that local communities benefited by this program contribute a certain amount for local enhancements. It does, however, remove the barrier to local financial support of water and sewer construction costs under the VSW program.

Eligible VSW projects receive 2/3rd of the funding from the federal government with the remaining 1/3rd supplied with state AHFC dividend funding. There are many more communities that do not receive requested funding than do receive funding in any given year. There is just not enough funding to support all the requests for VSW projects. Local contribution toward these programs will free up additional money in order to fund some of the requests that currently go unfunded each year. The FY 01 VSW appropriation was for \$53.0 million. If local communities contributed just 5 percent toward the cost, there would have been an additional \$2.7 million available to fund additional community requests.

With passage of this bill, the Department of Environmental Conservation will be encouraged to draft regulations creating a framework for local participation in water and sewer construction projects funded by the VSW program.

DD/bc

SENATE BILL NO. 184
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 4/9/01
Referred:

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to user contributions toward the cost of construction of certain water
2 and sewage facilities."

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

4 * Section 1. AS 46.07.040(a) is amended to read:

5 (a) The commissioner shall provide for the construction of facilities under this
6 chapter, and is authorized to provide for the construction by contract or through grants
7 to public agencies or private nonprofit organizations, or otherwise. A contribution
8 toward the cost of the construction of a facility may [NOT] be required from its users.
9 Construction under this section by contract is governed by AS 36.30 (State
10 Procurement Code).



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

SPONSOR STATEMENT SENATE BILL 185

An Act relating to the basis for determining eligibility for and the amount of power cost equalization payments; and providing for an effective date

Senate Bill 185 revises the formula under which PCE subsidies are paid, making it a truly equitable program, and adjusts the maximum kilowatt-hours eligible for the subsidy to more accurately reflect power usage in PCE communities and encourage energy conservation.

During the past twenty years, the State of Alaska has funded various programs subsidizing electrical rates in rural areas of the state. The goal of these programs is to provide affordable utility power to rural Alaskans. I agree with the general goal of the program, but even with recent reform, Power Cost Equalization as it currently exists is extremely generous and represents poor public policy.

Rates in some PCE-eligible communities are subsidized to below what many other Alaskans in non-PCE-eligible communities pay, and the program fails to do a good job of encouraging energy conservation. This is poor public policy and highly discriminatory against Alaskans who pay higher than PCE-subsidized rates.

Senate Bill 185 corrects these inadequacies and makes the program what its name implies—equal. The legislation first changes the manner in which the rates are calculated to make payments more equalized. Instead of basing payments on the average cost per kilowatt-hour in Anchorage, Fairbanks and Juneau, PCE payments are based on the highest cost per kilowatt-hour charged to a community that is not eligible for PCE. A review of 68 communities' residential electric rates for FY 00 indicates that numerous communities receiving PCE pay less for their power than those that do not receive PCE. Of the sampling's 41 communities that receive PCE, 26 pay less than individuals in Kodiak for power usage of 500 kWh per month. If the sampling is representative of all communities in the state, almost half of PCE-subsidized customers pay less for their power than customers of the Kodiak Electric Association.

Senate Bill 185 next encourages energy conservation by lowering the maximum number of subsidized kilowatt-hours per month from 500 to 400. A review of year 2000 usage reveals that the average kilowatt-hours used per month in communities eligible for PCE is 417 kWh. At the current 500 kWh level of subsidy, there is no incentive for these customers to conserve energy. By lowering the maximum to 400 kWh, individuals will still receive a subsidy for all the kWh needed to power their home.

This legislation also indirectly encourages everyone within the state to continue to find ways to generate cheaper, more cost-effective power. As the cost for power decreases in non-PCE-eligible communities, the power costs for PCE communities will automatically decrease as well. It is an equitable way to assist those hardest hit by the cost of power without providing them with special benefits denied to others.

Revising PCE to this more equitable formula is estimated to reduce required funding by approximately \$9 million. This eliminates the need for most of the Governor's FY 02 request to appropriate \$7.8 million to pay for PCE subsidies. Additionally, if the entire income of the Power Cost Equalization/Rural Electric Capitalization Fund is not needed to pay the subsidy each year, the fund will grow through interest income, making more income available in future years to help pay future PCE/REC needs.

SENATE BILL NO. 185

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY THE SENATE FINANCE COMMITTEE

**Introduced: 4/9/01
Referred:**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the basis for determining eligibility for and the amount of power**
2 **cost equalization payments; and providing for an effective date."**

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

4 *** Section 1.** AS 42.45.100(a) is amended to read:

5 (a) The power cost equalization and rural electric capitalization fund is
6 established as a separate fund for the purpose of

7 (1) equalizing power cost per kilowatt-hour statewide at a cost close to
8 or equal to the highest cost per kilowatt-hour charged by a utility in the state that
9 does not receive power cost equalization under AS 42.45.100 - 42.45.170 for sales
10 to residential customers of 400 kilowatt-hours per month [MEAN OF THE COST
11 PER KILOWATT-HOUR IN ANCHORAGE, FAIRBANKS, AND JUNEAU BY
12 PAYING MONEY FROM THE FUND TO ELIGIBLE ELECTRIC UTILITIES IN
13 THE STATE]; and

14 (2) making grants to eligible utilities under AS 42.45.180 to improve

1 the performance of the utility.

2 * Sec. 2. AS 42.45.110(b) is amended to read:

3 (b) An eligible electric utility is entitled to receive power cost equalization

4 (1) for sales of power to local community facilities, calculated in the
5 aggregate for each community served by the electric utility, for actual consumption of
6 not more than 70 kilowatt-hours per month for each resident of the community; the
7 number of community residents shall be determined under AS 29.60.020; and

8 (2) for actual consumption of not more than 400 [500] kilowatt-hours
9 per month sold to each residential customer.

10 * Sec. 3. AS 42.45.110(c) is amended to read:

11 (c) The amount of power cost equalization provided per kilowatt-hour under
12 [SUBSECTION] (b) of this section may not exceed 95 percent of the power costs, or
13 the average rate per eligible kilowatt-hour sold, whichever is less, as determined by
14 the commission. However,

15 (1) during the state fiscal year that began July 1, 1999, the power costs
16 for which power cost equalization were paid to an electric utility were limited to
17 minimum power costs of more than 12 cents per kilowatt-hour and less than 52.5 cents
18 per kilowatt-hour;

19 (2) during the state fiscal year beginning July 1, 2000, [EACH
20 FOLLOWING STATE FISCAL YEAR], the commission shall adjust the power costs
21 for which power cost equalization may be paid to an electric utility based on the
22 weighted average retail residential rate in Anchorage, Fairbanks, and Juneau; however,
23 the commission may not adjust the power costs under this paragraph to reduce the
24 amount below the lower limit set out in (1) of this subsection; [AND]

25 (3) during each following state fiscal year, the commission shall
26 adjust the power costs for which power cost equalization may be paid to an
27 electric utility based on the highest cost per kilowatt-hour charged by a utility in
28 the state that does not receive power cost equalization under AS 42.45.100 -
29 42.45.170 for sales to residential customers of 400 kilowatt-hours per month; the
30 commission may not adjust the power costs under this paragraph to reduce the
31 amount below the lower limit set out in (1) of this subsection; and

1 (4) [(3)] the power cost equalization per kilowatt-hour may be
2 determined for a utility without historical kilowatt-hour sales data by using kilowatt-
3 hours generated.

4 * **Sec. 4.** AS 42.45.110(d) is amended to read:

5 (d) An electric utility whose customers receive power cost equalization under
6 AS 42.45.100 - 42.45.150 shall set out in its tariff the rates without the power cost
7 equalization and the amount of power cost equalization per kilowatt-hour sold. The
8 rate charged to the customer shall be the difference between the two amounts. Power
9 cost equalization paid under AS 42.45.100 - 42.45.150 shall be used to reduce the cost
10 of all power sold to local community facilities, in the aggregate, to the extent of 70
11 kilowatt-hours per month per resident of the community, and to reduce the cost of the
12 first 400 [500] kilowatt-hours per residential customer per month.

13 * **Sec. 5.** This Act takes effect July 1, 2001.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement for

Senate Bill 186

"Establishing a General Obligation Bond Limit for Local Governments"

SB 186 limits the amount of bonding exposure a local government may incur by placing a \$15,000 per resident ceiling on municipal general obligation bond debt. The March 23, 2001 Bullock v. State decision by the Alaska Supreme Court has necessitated this legislation. Over the next decade, this limitation will gradually add over \$100 million per year to the state general fund.

In 1973, the legislature adopted a statute that allows the state to levy a 20-mill property tax on property used for the exploration, production and pipeline transportation of oil and gas, known as AS 43.56 property. Municipalities may also tax this same AS 43.56 property using one of two methods made available in this state statute. Subsequently, the taxpayers (oil & gas companies) are allowed a credit against their state tax liability for the 20-mill state property tax for taxes paid to a municipality. For example, if a municipality levies a tax of \$9,000 on "43.56" oil and gas property, from which the state was to receive \$10,000 in taxes, the state would receive \$1,000, the difference between the two.

AS 43.56 was established to distribute oil and gas property tax revenues equally throughout the state even though the oil & gas properties are not similarly situated. It was the intent of AS 43.56 to prevent pockets of wealth in our state at the expense of other areas. However, the intent of this law (AS 43.56) has not been recognized by state agencies. This has cost the state general over \$100 million per year in income from the oil and gas property taxes.

SB 186 corrects this inequity by clearly establishing a per resident bond debt limitation of \$15,000 per resident.

Other than the North Slope Borough, every community in the state is far below the \$15,000 limitation set out in SB 186. In 2000, the North Slope Borough per resident debt is \$64,409. The next highest community is the City of St. Paul with per resident debt of \$13,318. The statewide average is \$2,873.

In 1999 Donald Bullock Jr. and the Ketchikan Gateway Borough filed suit to correct this inequity in a different manner by alleging that the state agencies have failed to enforce limitations on the municipal taxation of oil and gas related property under AS 43.56. However, on March 23, 2001 the Alaska Supreme Court ruled against their suit necessitating this legislation.

Senate Bill 186
Sponsor Statement
Page 2

SB 186 preserves the intent of the 1973 AS 43.46 oil and gas taxation legislation and distributes state revenues from oil and gas property taxation more equitably across the state to the benefit of all residents. This reasonable and prudent limitation on excessive municipal debt will eventually increase state revenues and help reduce the state fiscal gap by over \$100 million per year.

DD/jja

SENATE BILL NO. 186

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY THE SENATE FINANCE COMMITTEE

Introduced: 4/9/01

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a limit on the general obligation debt that may be authorized and
2 issued by home rule and general law municipalities; and providing for an effective
3 date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * Section 1. AS 29.10.200 is amended by adding a new paragraph to read:

6 (60) AS 29.47.185 and 29.47.305 (limitations on new or additional
7 general obligation debt).

8 * Sec. 2. AS 29.47 is amended by adding a new section to read:

9 **Sec. 29.47.185. Limitations on new or additional general obligation bonds.**

10 (a) A municipality may not incur new or additional general obligation bond debt for a
11 purpose described in AS 29.47.180 or for another purpose for which a municipality
12 may authorize and issue its general obligation bonds if the proposed new or additional
13 general obligation bond debt, when added to the current total general obligation
14 bonded indebtedness of the municipality, including the authorized but unsold bonds of

1 the municipality, would cause the total general obligation bonded indebtedness of the
2 municipality to exceed \$15,000 per capita based on the number of residents of the
3 municipality.

4 (b) For purposes of (a) of this section, the population of the municipality shall
5 be determined under AS 29.45.080(e) and 29.45.090(d).

6 (c) The limitation of (a) of this section applies to the entire general obligation
7 bonded indebtedness of a unified municipality or borough, whether incurred as
8 areawide debt, nonareawide debt, or debt involving a service area.

9 * Sec. 3. AS 29.47 is amended by adding a new section to read:

10 **Sec. 29.47.305. Limitations on new or additional bonds to refund general**
11 **obligation bonds of the municipality.** (a) A municipality may not issue general
12 obligation refunding bonds if the general obligation refunding bond debt, when added
13 to the current total general obligation bonded indebtedness of the municipality,
14 including the authorized but unsold bonds of the municipality, would cause the total
15 general obligation bonded indebtedness of the municipality to exceed \$15,000 per
16 capita based on the number of residents of the municipality.

17 (b) For purposes of (a) of this section, the population of the municipality shall
18 be determined under AS 29.45.080(e) and 29.45.090(d).

19 (c) The limitation of (a) of this section applies to the entire general obligation
20 bonded indebtedness of a unified municipality or borough, whether incurred as
21 areawide debt, nonareawide debt, or debt involving a service area.

22 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement for Senate Joint Resolution 24 "Proposing amendments to the Constitution of the State of Alaska relating to the budget reserve fund"

Senate Joint Resolution 24 would amend Article LX, sec 17 of Alaska's Constitution to promote fiscal discipline and provide a more efficient budgetary process. The purpose of SJR 24 is to restore the legislative intent of subsection (b). That section was intended to allow the legislature to fill a portion of the fiscal gap using funds from the Constitutional Budget Reserve (CBR) with a majority vote when the amount available for appropriation for a fiscal year is less than the amount available in the previous year.

The Alaska Supreme Court, in Hickel v Cowper, determined that "the amount available for appropriation" was improperly defined in statute. The Court improperly interpreted the true legislative intent of the $\frac{3}{4}$ vote, which is now required to access the CBR. This has allowed a small minority of legislators to "blackmail" the majority into increased spending each year.

SJR 24 addresses this problem by clearly defining subsection (b), and allows the legislature to transfer the difference between *current year revenue* and *appropriations for the previous year* from the CBR to the General Fund (GF) without a $\frac{3}{4}$ vote. Funds transferred from the CBR may be spent only as unrestricted GF. That is, the CBR couldn't be used to fill gaps in GF program receipts or in any of the fund codes the legislature classifies as "other." If current year appropriations exceed appropriations for the previous year, that gap will not be covered by the transfer from the CBR, but additional money can be appropriated from the CBR with a $\frac{3}{4}$ vote, just as it is done now.

SJR 24 amends Article IX, sec 17 of Constitution by:

- reestablishing the trigger mechanism for accessing the CBR with a majority vote when:
Available money (this year) is less than Appropriations (this year)
The original trigger, declared invalid in Hickel v Cowper, was:
Available money (this year) is less than Appropriations (last year)
- defining the CBR gap-filler provision (subsection b), which is not used because it was declared unconstitutional, as a transfer rather than an appropriation.
- defining money available for appropriation (it will exclude federal receipts, income of the Permanent Fund, and the CBR).
- specifying that money transferred from the CBR can be used only to replace unrestricted GF appropriations.
- repealing the repayment provision.

The existing trigger comparing revenue in the current year to appropriations in the prior year has little to do with determining whether a fiscal gap exists or how large it might be. The revised trigger is based on revenue and appropriations for the same fiscal year, making the comparison a valid indicator of a fiscal gap.

In addition, the original intent of using the CBR to fund no more than the level of appropriations for the prior year without a $\frac{3}{4}$ vote is not changed under SJR 24.

Definitions of the terms "amount available for appropriation" and "amount appropriated" are the root of problems with interpreting the CBR provision. The revised language in SJR 24, in addition to the court decision, makes it clear that federal receipts, Permanent Fund earnings (PFDs, inflation proofing and excess income) and the CBR are excluded from both definitions, as are monies excluded from the existing "sweep" provision (subsection d).

Essentially, that leaves the GF fund group and many of the "other" fund codes subject to the trigger. However, transfers under the revised subsection (b) of SJR 24 can be used only to fund appropriations from the unrestricted general fund. The purpose of this limitation is to make sure that the CBR is not used when non-general fund receipts fall short of expectations. For example, the CBR could not be used to make up a shortfall in University tuition or Aerospace Corporation receipts without a $\frac{3}{4}$ vote.

The transfer from the CBR is limited to prior year appropriations less the amount available for appropriation in the current year. If appropriations in the current year exceed appropriations in the prior year, only getting a $\frac{3}{4}$ vote can fill that portion of the fiscal gap.

Money withdrawn from the CBR with a $\frac{3}{4}$ vote can be used for any purpose.

SJR 24 also repeals the "sweep" provision because it can be reversed only with a $\frac{3}{4}$ vote. Since the sweep reversal would be an annual requirement, failing to delete it would defeat the purpose of the proposed amendments to subsection (b).

SENATE JOINT RESOLUTION NO. 24

IN THE LEGISLATURE OF THE STATE OF ALASKA
 TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 4/9/01

Referred:

A RESOLUTION

1 **Proposing amendments to the Constitution of the State of Alaska relating to the budget**
 2 **reserve fund.**

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

4 * **Section 1.** Article IX, sec. 17(a), Constitution of the State of Alaska, is amended to read:

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

1 only as authorized under [(b) OR] (c) of this section.

2 * Sec. 2. Article IX, sec. 17(b), Constitution of the State of Alaska, is amended to read:

3 (b) If the amount available for appropriation for a fiscal year is not sufficient
4 to fully fund the amount appropriated for that year, money shall be transferred
5 [LESS THAN THE AMOUNT APPROPRIATED FOR THE PREVIOUS FISCAL
6 YEAR, AN APPROPRIATION MAY BE MADE] from the budget reserve fund and
7 used to fund appropriations from the unrestricted general fund. However, the
8 amount transferred [APPROPRIATED] from the fund under this subsection may not
9 exceed the amount necessary, when added to other funds available for appropriation,
10 to provide for total funding [APPROPRIATIONS] equal to the amount of
11 appropriations made [IN THE PREVIOUS CALENDAR YEAR] for the previous
12 fiscal year. For purposes of applying this subsection, amounts available for
13 appropriation or appropriated from federal funds, income of the permanent
14 fund, or this budget reserve fund may not be considered. For purposes of this
15 subsection. "unrestricted general fund" shall be defined by law.

16 * Sec. 3. Article IX, sec. 17(d), Constitution of the State of Alaska, is repealed.

17 * Sec. 4. The amendments proposed by this resolution shall be placed before the voters of
18 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
19 State of Alaska, and the election laws of the state.



Alaska State Senate

Senate Finance Committee

Official Business

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement
for

**Committee Substitute for Senate Joint Resolution 23 (FIN)am
Including Explanation of Proposed "P" Version House Committee Substitute
"Proposing amendments to the Constitution of the State
of Alaska relating to an appropriation limit and a spending limit"**

The Senate Finance Committee believes adoption of an effective, reasonable constitutional spending limit to be an essential first step to developing any new long-range fiscal plan for the state.

Senate Joint Resolution 23 would amend Article IX, sec 16 of Alaska's Constitution by lowering the existing appropriation limit to better reflect Alaska's current revenue picture. Passage of SJR 23 would ensure a limit on the growth of state government and force the state to further reasonably reduce non-essential state spending.

The existing constitutional appropriation limit, adopted by voters in 1981, has not worked as anticipated and has never been effective in restraining state spending. A main reason for its failure is that the starting amount of \$2.5 billion was too high and its escalator factor based on population and inflation was too liberal. In fact, given the increases in inflation and population over the last 19 years, the general fund spending limit imposed by Article IX, Section 16 will be over \$6 billion. That is about \$3 billion more than general fund spending in the Fiscal Year 2000. SJR 23 would more accurately reflect today's spending by amending the existing appropriation limit.

SJR 23, as it passed the Senate, would allow the legislature to exceed the limit by no more than 1/2 of the annual increase in both population levels and the consumer price index. SJR 23 also contains a mechanism allowing the legislature to increase the base limit to 75% of the increase in population and inflation with a 2/3 vote of each house.

Working with Legislative Finance and Legal during the 2001 interim, we have developed a proposed committee substitute (P version).

The appropriation limit that the "P" version of SJR 23 proposes would be based on a non-cumulative amount appropriated from 2 years prior and would allow for up to a 2% increase per year (4% total) requiring a simple majority vote. An additional 2% may be appropriated bringing the total to 6%. This additional 2% would require a two-thirds vote of both houses.

If, for example 6% was appropriated for FY04, the FY06 limit would be based on the original 4% increase that passed with a simple majority, not the full 6%.

Sponsor Statement
CS SJR 23 (FIN)am "P" Version
October 8, 2001

If the amount appropriated exceeds the limit, the governor shall reduce expenditures by the executive branch for its operation and administration in order to bring expenditures back in line with the constitutional limit.

SJR 23 also removes the requirement that one-third of the budget be appropriated for capital expenditures. Over the years, several attorney general opinions have been written on the meaning of the constitutional limit; those opinions counter the plain English meaning of the language and have allowed the legislature and the administration to avoid this requirement. SJR 23 removes this arbitrary and superfluous requirement.

SJR 23 simplifies and clarifies exactly what spending counts towards the appropriation limit, something that is not clear in the existing constitutional language.

Without a meaningful constitutional amendment in place that limits the amount of state general fund expenditures, there is absolutely no guarantee that the state will restrain, let alone reduce, spending. SJR 23 would limit state spending and is a key component of any new long-range plan to ensure Alaska's long-term fiscal health.

DD:jj

22-LS0734P
Cook
9/4/01

HOUSE CS FOR CS FOR SENATE JOINT RESOLUTION NO. 23()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Halford, Ward, Taylor, Cowdery, Phillips, Austerman, Leman, Kelly

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to an
2 appropriation limit and a spending limit.

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

4 * Section 1. Article IX, sec. 16, Constitution of the State of Alaska, is repealed and
5 readopted to read:

6 Section 16. Appropriation and Spending Limit. (a) Appropriations made
7 for a fiscal year shall not exceed by more than four percent the amount appropriated
8 for the fiscal year two years preceding the fiscal year for which the appropriations are
9 made. This subsection does not apply to

- 10 (1) an appropriation to the Alaska permanent fund;
- 11 (2) an appropriation of Alaska permanent fund income for a program
- 12 that provides permanent fund dividends to State residents;
- 13 (3) an appropriation to meet a state of disaster declared by the
- 14 governor as prescribed by law;
- 15 (4) an appropriation for the Alaska Railroad;
- 16 (5) an appropriation of State general obligation and revenue bond

1 proceeds;

2 (6) an appropriation required to pay obligations under general
3 obligation bonds, revenue bonds, and certificates of participation issued by the State;

4 (7) an appropriation of money received from the federal government;

5 (8) a reappropriation of money already appropriated under an
6 unobligated appropriation that is not void under Section 13 of this article;

7 (9) an appropriation of money for expenditure by a State agency to
8 provide services to another State agency that has also received an appropriation of the
9 same money; and

10 (10) an appropriation made under (b) of this section.

11 (b) An appropriation that exceeds the limit under (a) of this section may be
12 made for any public purpose upon affirmative vote of two-thirds of the members of
13 each house of the legislature. The total amount of appropriations under this subsection
14 made for a fiscal year may not exceed two percent of the amount appropriated for the
15 fiscal year two years preceding the fiscal year for which the appropriations are made.

16 (c) If appropriations for a fiscal year exceed the amount that may be
17 appropriated under (a) or (b) of this section, the governor shall reduce expenditures by
18 the executive branch for its operation and administration to the extent necessary to
19 avoid spending more than the amount that may be appropriated under (a) or (b) of this
20 section.

21 * Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new
22 section to read:

23 Section 30. Reconsideration of Appropriation and Spending Limit. If the
24 2002 amendment relating to an appropriation and spending limit (art. IX, sec. 16) is
25 adopted, the lieutenant governor shall place the ballot title and proposition for the
26 amendment on the ballot again at the general election in 2006 and every six years
27 thereafter unless it is rejected. If the majority of those voting on the proposition
28 rejects the amendment, Section 16 of Article IX is repealed on the date the election is
29 certified.

30 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of
31 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the

1 State of Alaska, and the election laws of the state.

**SENATOR DAVE DONLEY'S
SENATE FINANCE COMMITTEE
LONG-RANGE FISCAL PLAN PRESENTATION
OCTOBER 20, 2001**

(SLIDE 1)

Senator Dave Donley
Co-Chair Senate Finance Committee

**Presentation on
Long-Range Fiscal Plan**

**MOST ALASKANS AGREE THAT DEVELOPMENT OF A LONG-RANGE FISCAL PLAN
IS ONE OF THE GREATEST CHALLENGES FACING OUR STATE.**

(SLIDE 2)

Republican Majority's Five Year Fiscal Plan Was a Success

AS WE BEGIN WORK ON A NEW PLAN IT IS IMPORTANT TO RECOGNIZE THAT THE REPUBLICAN MAJORITY'S FIVE-YEAR PLAN, WHICH WE COMPLETED LAST YEAR, BUILT AN EXCELLENT FOUNDATION FOR ALASKA'S LONG TERM FINANCIAL HEALTH.

(SLIDE 3)

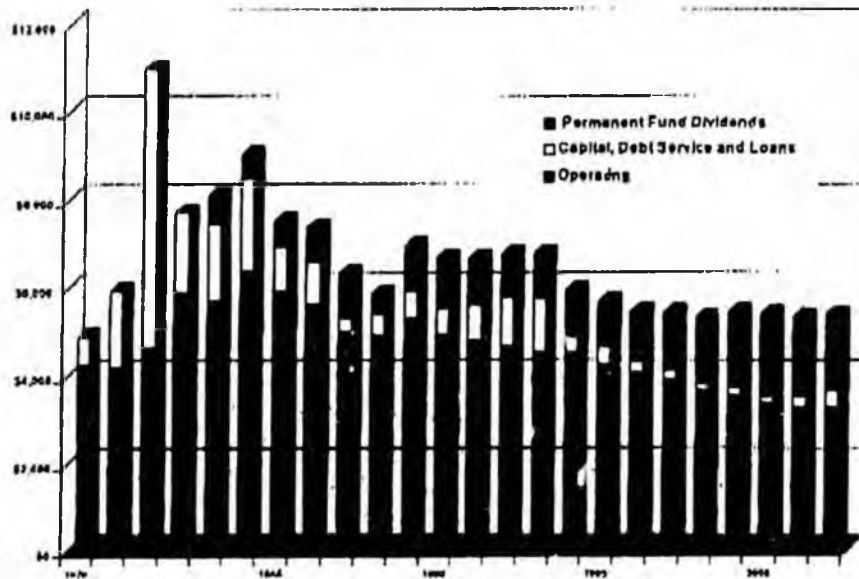
State General Fund Per Capita Spending Is Going Down

- Per capita state general fund spending is currently about \$3800 per Alaskan. For state services, in today's dollars, that is \$921 less than in FY79 when the oil era began. Combined operating and capital general fund spending is \$1,186 less.
- However, when Permanent Fund dividends are added to general fund spending, the total is \$534 more per capita than FY79.

IN DEALING WITH THE FISCAL GAP, THE KEY IS GENERAL FUND SPENDING VERSUS REVENUE. TODAY REAL PER CAPITA SPENDING OF STATE GENERAL FUNDS IS SIGNIFICANTLY LESS THAN 1979.

(SLIDE 4)

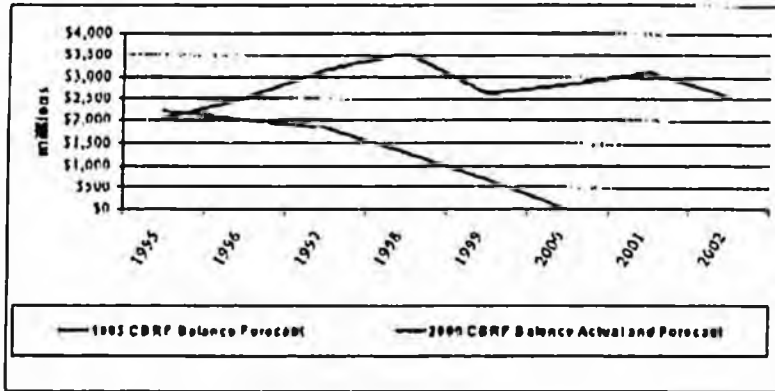
Real Per Capita General Fund and PFD Spending FY1979 - FY2002



UNDER THAT PLAN THE PERMANENT FUND WAS PROTECTED AND INCREASED BY \$5 BILLION TO OVER \$25 BILLION IN JUNE. CURRENTLY \$23.5 BILLION, 61% OF THAT INCREASE WAS BY DISCRETIONARY LEGISLATIVE ACTION.

(SLIDE 5)

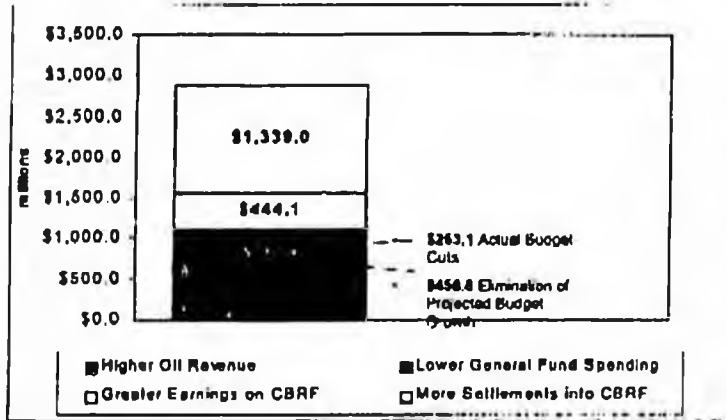
CBRF: The View from Here



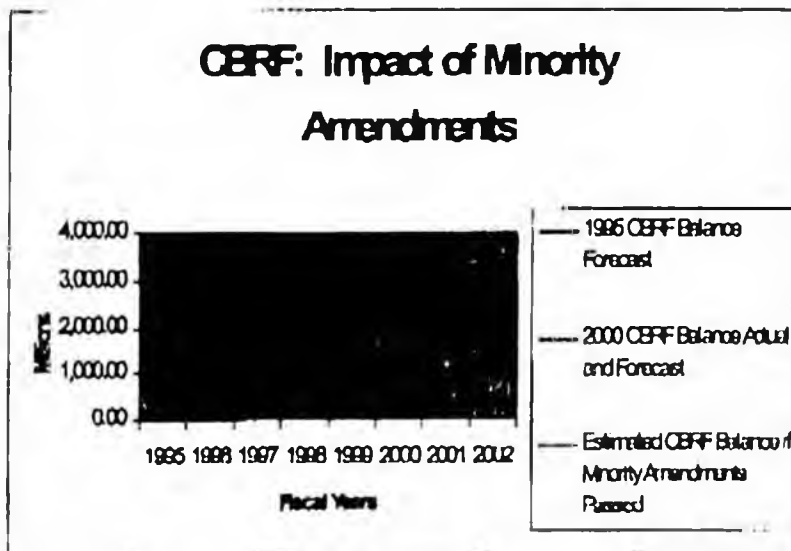
A VERY SURPRISING FACT TO MOST ALASKANS IS THAT OVER THE PAST FIVE YEARS, THE CONSTITUTIONAL BUDGET RESERVE, INCLUDING THE PCE ENDOWMENT, ACTUALLY INCREASED TO OVER \$3 BILLION IN JUNE.

(SLIDE 6)

Why We Had More in the CBRF in FY 2000 than We Forecast in 1995



(SLIDE 7)



7

WE HELD THE LINE AGAINST MORE THAN \$800 MILLION OF GOVERNOR KNOWLES' PROPOSED SPENDING INCREASES AND ACTUALLY REDUCED GENERAL FUND SPENDING.

WE IMPLEMENTED SUCCESSFUL MAJOR GOVERNMENT REFORMS INCLUDING:

- EDUCATION FUNDING REFORM
- WELFARE REFORM
- WE REDUCED STATE BUREAUCRACY AND MERGED STATE DEPARTMENTS
- REFORMED POWER COST EQUALIZATION
- UNDERGROUND STORAGE TANK FUNDING REFORM
- RELIEVED CORRECTIONS OVERCROWDING
- INCREASED FUNDING FOR THE UNIVERSITY OF ALASKA AND VOCATIONAL TRAINING

WE ALSO INITIATED RESULTS-BASED BUDGETING, AND WE INCREASED NON-OIL REVENUE.

(SLIDE 8)

Senate Majority Plan

- Protect the Permanent Fund
- Exercise budget discipline by holding any total state spending increases to below inflation and population increases
- Use results-based budgeting with Missions & Measures to continue our progress for a smaller, smarter state government
- Make constitutional and statutory systemic changes to reduce the fiscal gap as the first step in developing a new long-range fiscal plan

AS WE BUILD ON THIS TREMENDOUS PROGRESS AND WORK TOWARD A PUBLIC STATEWIDE CONSENSUS ON WHERE WE, AS ALASKANS, GO FROM HERE THE SENATE MAJORITY INTENDS TO CONTINUE TO:

1. PROTECT THE PERMANENT FUND.
2. EXERCISE BUDGET DISCIPLINE BY HOLDING ANY TOTAL STATE SPENDING INCREASES TO BELOW INFLATION AND POPULATION INCREASES.
3. USE RESULTS-BASED BUDGETING WITH MISSIONS & MEASURES TO CONTINUE OUR PROGRESS FOR A SMARTER, SMALLER, SMARTER STATE GOVERNMENT.

4. MAKE CONSTITUTIONAL AND STATUTORY SYSTEMIC CHANGES TO REDUCE THE FISCAL GAP AS THE FIRST STEP IN DEVELOPING A NEW LONG-RANGE FISCAL PLAN.

AFTER FIVE YEARS OF ACTUAL REDUCTIONS IN GENERAL FUND SPENDING, THIS YEAR'S BUDGET INCREASED GENERAL FUND SPENDING. BUT IT IS STILL ALMOST \$60 MILLION BELOW THE GOVERNOR'S REQUESTS AND \$7 MILLION BELOW LAST YEAR'S LEVELS WHEN ADJUSTED FOR POPULATION AND INFLATION.

IF NOT FOR A MAJOR DECREASE IN ONE TIME FUNDS, INCREASED MEDICARE/MEDICAID COSTS, AND MAJOR INCREASES TO K-12 EDUCATION, THE UNIVERSITY OF ALASKA AND PUBLIC SAFETY, GENERAL FUND SPENDING WOULD HAVE GONE DOWN AGAIN THIS YEAR.

ADDITIONAL STATE REVENUE WILL BE A NEEDED ELEMENT IN A NEW LONG-RANGE FISCAL PLAN, BUT THE FIRST STEP IN SUCH A PLAN SHOULD BE CONTINUED GOVERNMENT REFORMS TO CREATE A MORE EFFICIENT AND FAIRER STATE GOVERNMENT. **ONLY AFTER SUCH NEEDED REFORMS SHOULD ALASKANS BE ASKED TO CONSIDER ANY MAJOR NEW TAXES.**

SO WHY DOES ALASKA CONTINUE TO SPEND MORE PER CAPITA THAN OTHER STATES?

(SLIDE 9)

Per Capita Spending

Why does the Alaska spend more per capita than other states?

Obvious reasons include:

- Harsh climate
- Scattered communities
- Few economies of scale
- High transportation costs
- High cost of living

(SLIDE 10)

Why does Alaska spend more per capita than other states?

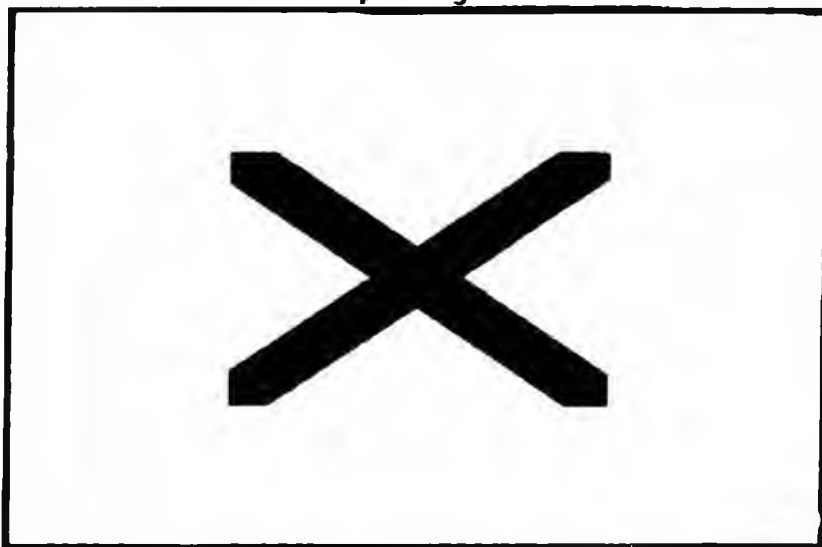
• Other reasons may not be so obvious:

– Compared to other states the State of Alaska:

- provides services normally provided by counties or local governments-police, courts, jails, education, etc.
- is responsible for managing vast resources.
- has an infrastructure that is not as developed, due to the short time span since statehood.
- has programs that other states don't-Permanent Fund dividends, Longevity Bonus, Pioneer Homes, Power Cost Equalization, etc.

(SLIDE 11)

**State of Alaska Budget General Fund and Permanent Fund
Spending**



**THE SENATE REPUBLICANS BELIEVE THAT BEFORE CONSIDERING MAJOR
NEW TAXES ON ALASKANS, GOVERNMENT SHOULD FIRST BE AS WELL RUN
AS POSSIBLE.**

TO HELP DEVELOP PROPOSALS TO CONTINUE OUR SUCCESSFUL EFFORTS
TOWARD A SMALLER SMARTER STATE GOVERNMENT, EARLIER THIS YEAR I
WROTE THE COMMISSIONER OF EVERY STATE DEPARTMENT AND ASKED IF
THEY HAD ANY IDEA FOR LEGISLATION TO HELP IMPROVE STATE
GOVERNMENT EFFICIENCY AND REDUCE THE STATE'S FISCAL GAP.

NOT ONE MADE A SINGLE SUGGESTION OR REQUEST FOR SUCH LEGISLATION. I
REPEAT, GOVERNOR KNOWLES COMMISSIONERS DID NOT HAVE A SINGLE

SUGGESTION FOR NEW STATUTORY CHANGES TO HELP REDUCE THE FISCAL GAP.

(SLIDE 12)

Senate Finance Long-Range Fiscal Plan: The First Steps

- 1) Maintain budget discipline by holding any General Fund spending increases to below increases in population and inflation
- 2) Continue to utilize outcome based budgeting to increase government efficiency
- 3) Fix the Constitution by passing SJR 23 and SJR 24
- 4) Adopt fiscal gap reducing legislation

EVEN SO, THE SENATE FINANCE COMMITTEE DEVELOPED A PACKAGE OF FISCAL REFORM LEGISLATION THAT CONTINUES THE REPUBLICAN MAJORITY'S COMMITMENT TO FISCAL RESPONSIBILITY AND GOVERNMENT REFORM BEFORE NEW TAXES.

THIS PACKAGE PRESENTS THE FIRST STEP OF A NEW LONG-RANGE FISCAL PLAN THAT HAS THE POTENTIAL OF REDUCING THE FISCAL GAP BY OVER \$12 ½ MILLION A YEAR AT FIRST WITH REDUCTIONS INCREASING TO OVER \$100

13

MILLION A YEAR WITHIN 10 YEARS. THAT IS A VERY CONSERVATIVE ESTIMATE NOT INCLUDING THE CUMULATIVE IMPACT OF THESE SAVINGS.

WE DO NOT CONTEND THAT THIS IS A COMPREHENSIVE LONG-RANGE FISCAL PLAN, BUT WE DO SAY IT HAS THE ESSENTIAL FIRST INGREDIENTS THAT ANY NEW LONG-RANGE FISCAL PLAN MUST HAVE TO BE SUCCESSFUL.

THE BASIS OF GOVERNMENT IN AMERICA IS OUR CONSTITUTIONS. WHEN WE START TO CREATE A NEW FINANCIAL PLAN WE NEED TO LOOK AND MAKE SURE THAT OUR STATE CONSTITUTION IS FUNCTIONING PROPERLY.

IT'S CLEAR THAT THERE ARE TWO PARTS OF OUR STATE CONSTITUTION THAT DEAL WITH FISCAL POLICY THAT ARE NOT FUNCTIONING PROPERLY. THEY ARE THE EXISTING CONSTITUTIONAL APPROPRIATION LIMIT AND THE EXISTING CONSTITUTIONAL BUDGET RESERVE PROVISION.

(SLIDE 13)

SJR 23

Reforming the Constitutional Spending Limit

- The current constitutional appropriation limit is not working
- The language is misleading
- The language is unclear
- The limit has grown too large

ONE THING WAS CLEAR FROM THE OVERWHELMING REJECTION IN SEPTEMBER 1999 OF THE LAST FISCAL PLAN PROPOSAL. . . .

ALASKANS DO NOT WANT TO GIVE GOVERNMENT A BLANK CHECK.

THAT WAS ONE OF THE MAIN REASONS I STRONGLY OPPOSED THE SEPTEMBER 1999 PROPOSAL – BECAUSE IT LACKED CLEAR ENFORCEABLE FISCAL RESTRAINTS.

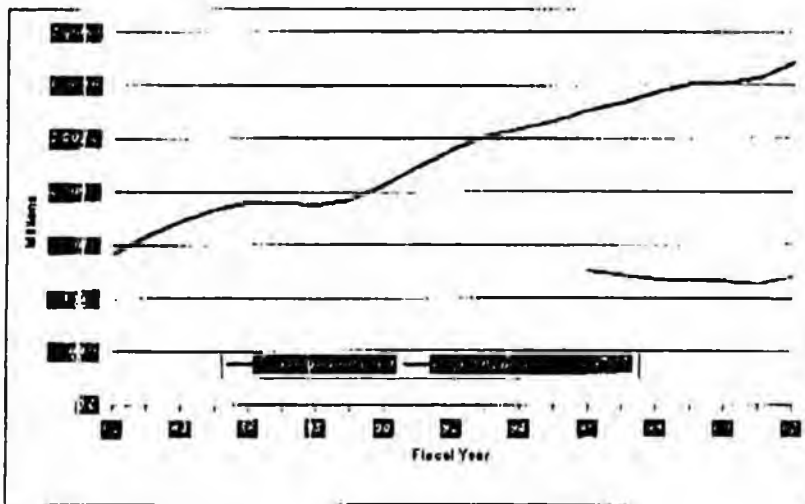
TO BE ACCEPTABLE TO THE MAJORITY OF ALASKANS, ANY NEW PLAN MUST START WITH REASONABLE LIMITS ON GOVERNMENT SPENDING.

THE FIRST STEP TO THE SENATE FINANCE COMMITTEE'S FISCAL PLAN IS EXACTLY THAT. . . .

TO LIMIT THE EXPANSION OF GOVERNMENT SPENDING THROUGH THE ADOPTION OF SENATE JOINT RESOLUTION 23 REVISING THE EXISTING CONSTITUTIONAL APPROPRIATION LIMIT.

TALK ABOUT SLIDE 13 (SLIDE 14)

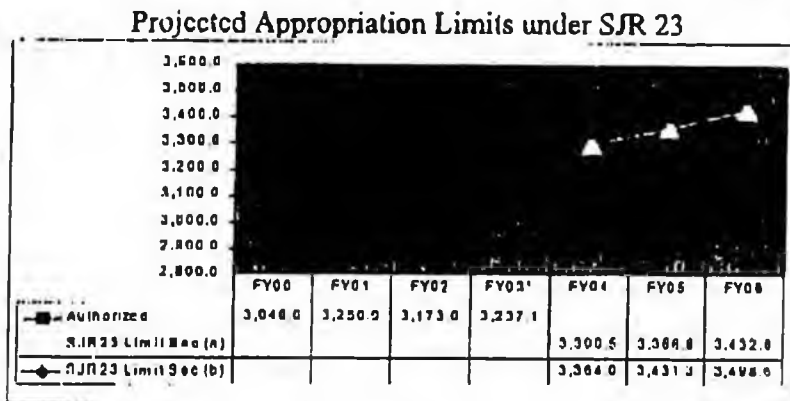
The Current Spending Limit vs Recent Appropriations



THE EXISTING CONSTITUTIONAL APPROPRIATION LIMIT WAS ADOPTED BY THE VOTERS IN 1982. THIS PROVISION CURRENTLY LIMITS GOVERNMENT SPENDING TO ABOUT \$6 BILLION; HOWEVER, WE ONLY CURRENTLY SPEND ABOUT \$3 BILLION. THE ENORMOUS SIZE OF THE CURRENT APPROPRIATION LIMIT OCCURRED BECAUSE THE CONSTITUTIONAL PROVISION HAS A BUILT-IN ESCALATOR CLAUSE FOR INFLATION AND POPULATION. TO CORRECT THIS, OUR MOST RECENT VERSION OF SJR 23 PROPOSES TO BASE ANY ALLOWABLE INCREASES ON PREVIOUS YEAR'S BUDGETS AND TO LIMIT THOSE INCREASES

TO ONLY 2 PERCENT. SJR 23 ALSO CLARIFIES WHAT IS AND IS NOT INCLUDED IN THE APPROPRIATION LIMIT.

(SLIDE 15)



*FY03 Authorized Budget estimated at 2% increase over FY02
 Sec (a) shows for up to a 4% increase over the amount appropriated 2 years prior
 Sec (b) shows an additional 2% may be appropriated with a two-thirds vote of both houses
 Not included in SJR 23 Limit: Permanent Fund Dividends, G.O. & revenue local projects, joint appropriations, duplicate Gov. 1, and funds from non-State sources
 All numbers in \$ million FY00 Fiscal Summary in Summary of Appropriations

IN REVISING THE EXISTING CONSTITUTIONAL APPROPRIATION LIMIT, WE ARE LEARNING FROM THE MISTAKES OF THE PAST. WE RECOGNIZE, HOWEVER, THAT CIRCUMSTANCES CHANGE. THAT'S WHY OUR MOST RECENT VERSION OF SJR 23 CONTAINS A SPECIAL PROVISION TO HAVE VOTERS REVIEW IT AGAIN IN 4 YEARS AND THEN EVERY 6 YEARS THEREAFTER. IF IT IS NOT FUNCTIONING CORRECTLY, IF PEOPLE WANT TO SPEND MORE THAN THE LIMIT ALLOWS, OR IF WE SOLVE THE FISCAL CRISIS, ALASKANS CAN VOTE IT OUT OF THE CONSTITUTION.

(SLIDE 16)

SJR 24

Restoring the Original Intent of the 1990 CBR Amendment

- The CBR is functioning well as a fiscal shock absorber, but is not working as intended to control spending
- Small groups of legislators can force increased spending by withholding CBR votes
- Last year this budget blackmail increased spending by about \$150 million
- What will this cost grow to in future years?

THE CONSTITUTIONAL BUDGET RESERVE LANGUAGE OF THE CONSTITUTION IS WORKING WELL AS A FISCAL SHOCK ABSORBER, BUT IT IS NOT WORKING AS INTENDED TO CONTROL SPENDING.

THE CONSTITUTIONAL BUDGET RESERVE (CBR) WAS ESTABLISHED IN 1990, AND HAS BEEN USED TO HELP FILL THE GAP BETWEEN STATE REVENUES AND EXPENDITURES. WHEN THE CBR WAS CREATED, THE ORIGINAL INTENT WAS THAT FUNDS COULD BE WITHDRAWN WITH A SIMPLE MAJORITY VOTE TO HELP COVER A BUDGET DEFICIT AS LONG AS CURRENT SPENDING DID NOT EXCEED THE PREVIOUS YEAR'S SPENDING, BUT A THREE-QUARTERS VOTE OF THE

LEGISLATURE WOULD BE NECESSARY TO WITHDRAW ANY FUNDS IN EXCESS OF THE PREVIOUS YEAR'S SPENDING.

IN 1994, THE ALASKA SUPREME COURT MISINTERPRETED THIS PROVISION TO REQUIRE A $\frac{3}{4}$ VOTE TO WITHDRAW ANY FUNDS FROM THE CBR. THIS CREATES A SITUATION IN WHICH A SMALL GROUP OF LEGISLATORS CAN "BLACKMAIL" THE MAJORITY AND HOLD THE BUDGET. THESE LEGISLATORS CAN TRADE THEIR VOTES, WHICH ARE CRUCIAL TO WITHDRAW CBR FUNDS AND BALANCE THE STATE'S BUDGET, IN EXCHANGE FOR ADDITIONAL SPENDING.

WE ESTIMATE THE COST THIS YEAR TO ACCESS THE CBR WITH A $\frac{3}{4}$ MAJORITY VOTE TO BALANCE THE BUDGET WAS NEARLY \$150 MILLION.

SENATE JOINT RESOLUTION 24 CORRECTS THIS BIZARRE IMBALANCE OF SPENDING POWER BY PROPOSING A CONSTITUTIONAL AMENDMENT THAT MAKES IT CLEAR A $\frac{3}{4}$ VOTE IS NOT NECESSARY WHEN SPENDING DOES NOT EXCEED THE PREVIOUS YEAR'S.

IF THIS RESOLUTION PASSES, THE AMENDMENT WILL BE PLACED ON THE NEXT STATE GENERAL ELECTION BALLOT IN FALL 2002 FOR APPROVAL BY THE PEOPLE OF ALASKA.

(SLIDE 17)

Senate Finance Long-Range Fiscal Plan: The First Steps

- 1) Maintain budget discipline by holding any General Fund spending increases to below increases in population and Inflation
- 2) Continue to utilize outcome based budgeting to increase government efficiency
- 3) Fix the Constitution by passing SJR 23 and SJR 24
- 4) Adopt fiscal gap reducing legislation

BOTH THESE PROPOSED CONSTITUTIONAL AMENDMENTS HAVE ALREADY PASSED THE SENATE AND ARE SCHEDULED FOR HEARINGS IN THE HOUSE. OUR PLAN ALSO INCLUDES SEVEN OTHER FISCAL GAP REDUCING PROPOSALS, THREE OF WHICH HAVE ALREADY PASSED THE SENATE.

ALL TOGETHER, THE SAVINGS ASSOCIATED WITH THESE REFORMS GROW EXPONENTIALLY IN THE OUT YEARS TO FAR EXCEED THEIR PRESENT DAY VALUE OF OVER \$12 MILLION THE FIRST YEAR, GROWING TO OVER \$100 MILLION A YEAR WITHIN TEN YEARS.

ONCE AGAIN, WE DO NOT CONTEND THAT THIS LEGISLATION ALONE
CONSTITUTES A COMPLETE PLAN, BUT THESE PROPOSALS ARE ALL IN PLACE
TO PASS NEXT YEAR AND THEY ARE AN EXCELLENT AND NECESSARY FIRST
STEP FOR ANY COMPREHENSIVE NEW PLAN TO BE ACCEPTABLE TO THE
MAJORITY OF ALASKANS.



Alaska State Senate

Senate Finance Committee

Official Business

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

MEMORANDUM

October 20, 2001

TO: Senate Finance Committee Members

FROM: Senator Dave Donley, Co-Chair
Senate Finance Committee

RE: Senate Finance Committee Meeting

The following items are attached for your information:

- Agenda
- Committee Substitute to Senate Joint Resolution 23 (FIN)am "P" Version
(Adopted by House Judiciary on October 19, 2001)
- Existing Article IX, Section 16 of the Alaska Constitution
- Sectional Summary
- Sponsor Statement to CS SJR 23 (FIN)am
- Talking Points for CS SJR 23 (FIN)am
- Charts
- Fiscal Note on SJR 23
- Committee Substitute to Senate Joint Resolution 24 (Rules)
- Existing Article IX, Section 17 of the Alaska Constitution
- Sectional Summary
- Sponsor Statement to CS SJR 24 (Rules)
- Talking Points for CS SJR 24 (Rules)
- Quotes from the 1990 Voters Guide Statement on the Budget Reserve Constitutional Amendment
- 1990 Election Pamphlet information regarding the original Constitutional Budget Reserve Fund amendment
- *Hickel v. Cowper*, 874 P.2d 922 (1994) in which the Supreme Court interprets "amount available for appropriation"
- Fiscal Note on SJR 24



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Agenda For Senate Finance Committee Meeting 10/20/01

- I. Introduction by Senator Donley

- II. Senate Finance Committee Long Range Fiscal Plan Overview by Senator Donley

- III. Leg Finance Director David Teal on New Committee Substitute for SJR 23

- IV. Public Testimony
 - a. 3 minute maximum (more if available)

- V. Report on Supplemental Funding needed for FY 02 by David Teal
(Time Permitting)

22-LS0734P

Cook

9/4/01

HOUSE CS FOR CS FOR SENATE JOINT RESOLUTION NO. 23()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Halford, Ward, Taylor, Cowdery, Phillips, Austerman, Leman, Kelly

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to an
2 appropriation limit and a spending limit.

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

4 * Section 1. Article IX, sec. 16, Constitution of the State of Alaska, is repealed and
5 readopted to read:

6 Section 16. Appropriation and Spending Limit. (a) Appropriations made
7 for a fiscal year shall not exceed by more than four percent the amount appropriated
8 for the fiscal year two years preceding the fiscal year for which the appropriations are
9 made. This subsection does not apply to

- 10 (1) an appropriation to the Alaska permanent fund;
- 11 (2) an appropriation of Alaska permanent fund income for a program
12 that provides permanent fund dividends to State residents;
- 13 (3) an appropriation to meet a state of disaster declared by the
14 governor as prescribed by law;
- 15 (4) an appropriation for the Alaska Railroad;
- 16 (5) an appropriation of State general obligation and revenue bond

1 proceeds;

2 (6) an appropriation required to pay obligations under general
3 obligation bonds, revenue bonds, and certificates of participation issued by the State;

4 (7) an appropriation of money received from the federal government;

5 (8) a reappropriation of money already appropriated under an
6 unobligated appropriation that is not void under Section 13 of this article;

7 (9) an appropriation of money for expenditure by a State agency to
8 provide services to another State agency that has also received an appropriation of the
9 same money; and

10 (10) an appropriation made under (b) of this section.

11 (b) An appropriation that exceeds the limit under (a) of this section may be
12 made for any public purpose upon affirmative vote of two-thirds of the members of
13 each house of the legislature. The total amount of appropriations under this subsection
14 made for a fiscal year may not exceed two percent of the amount appropriated for the
15 fiscal year two years preceding the fiscal year for which the appropriations are made.

16 (c) If appropriations for a fiscal year exceed the amount that may be
17 appropriated under (a) or (b) of this section, the governor shall reduce expenditures by
18 the executive branch for its operation and administration to the extent necessary to
19 avoid spending more than the amount that may be appropriated under (a) or (b) of this
20 section.

21 * Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new
22 section to read:

23 **Section 30. Reconsideration of Appropriation and Spending Limit.** If the
24 2002 amendment relating to an appropriation and spending limit (art. IX, sec. 16) is
25 adopted, the lieutenant governor shall place the ballot title and proposition for the
26 amendment on the ballot again at the general election in 2006 and every six years
27 thereafter unless it is rejected. If the majority of those voting on the proposition
28 rejects the amendment, Section 16 of Article IX is repealed on the date the election is
29 certified.

30 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of
31 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the

1 State of Alaska, and the election laws of the state.

**Existing Provision
Alaska Constitution
Article IX, Section 16**

Section 9.16 - Appropriation Limit.

Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

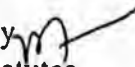
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

October 4, 2001

SUBJECT: Constitutional appropriation and spending limit; sectional summary for HCS CSSJR 23() (Work Order No. 22-LS0734\P; 9/14/01)

TO: Senator Dave Donley

FROM: Pamela Finley 
Revisor of Statutes

Sec. 1. (a) Rewrites the existing constitutional spending limit formula. With the exception of certain types of appropriations and reappropriations, provides that appropriations made for a fiscal year shall not exceed by more than four percent the amount appropriated for the fiscal year two years preceding the fiscal year for which the appropriations are made.

(b) Permits an appropriation that exceeds the limit to be made by affirmative vote of two-thirds of the members of each house, and establishes a limit on the amount of these types of appropriations.

(c) If appropriations for a fiscal year exceed the limits under (a) or (b), the governor is directed to reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending that exceeds the limits.

Sec. 2. The lieutenant governor is directed to place this proposition on the ballot again at the general election in 2006 and every six years thereafter unless it is rejected.

Sec. 3. The proposed amendments will be voted on during the 2002 general election.

PF:glc
01-328.glc



Alaska State Senate

Senate Finance Committee

Official Business

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement
for

**Committee Substitute for Senate Joint Resolution 23 (FIN)am
Including Explanation of Proposed "P" Version House Committee Substitute
"Proposing amendments to the Constitution of the State
of Alaska relating to an appropriation limit and a spending limit"**

The Senate Finance Committee believes adoption of an effective, reasonable constitutional spending limit to be an essential first step to developing any new long-range fiscal plan for the state.

Senate Joint Resolution 23 would amend Article IX, sec 16 of Alaska's Constitution by lowering the existing appropriation limit to better reflect Alaska's current revenue picture. Passage of SJR 23 would ensure a limit on the growth of state government and force the state to further reasonably reduce non-essential state spending.

The existing constitutional appropriation limit, adopted by voters in 1981, has not worked as anticipated and has never been effective in restraining state spending. A main reason for its failure is that the starting amount of \$2.5 billion was too high and its escalator factor based on population and inflation was too liberal. In fact, given the increases in inflation and population over the last 19 years, the general fund spending limit imposed by Article IX, Section 16 will be over \$6 billion. That is about \$3 billion more than general fund spending in the Fiscal Year 2000. SJR 23 would more accurately reflect today's spending by amending the existing appropriation limit.

SJR 23, as it passed the Senate, would allow the legislature to exceed the limit by no more than 1/2 of the annual increase in both population levels and the consumer price index. SJR 23 also contains a mechanism allowing the legislature to increase the base limit to 75% of the increase in population and inflation with a 2/3 vote of each house.

Working with Legislative Finance and Legal during the 2001 interim, we have developed a proposed committee substitute (P version).

The appropriation limit that the "P" version of SJR 23 proposes would be based on a non-cumulative amount appropriated from 2 years prior and would allow for up to a 2% increase per year (4% total) requiring a simple majority vote. An additional 2% may be appropriated bringing the total to 6%. This additional 2% would require a two-thirds vote of both houses.

If, for example 6% was appropriated for FY04, the FY06 limit would be based on the original 4% increase that passed with a simple majority, not the full 6%.

Sponsor Statement
CS SJR 23 (FIN)am "P" Version
October 8, 2001

If the amount appropriated exceeds the limit, the governor shall reduce expenditures by the executive branch for its operation and administration in order to bring expenditures back in line with the constitutional limit.

SJR 23 also removes the requirement that one-third of the budget be appropriated for capital expenditures. Over the years, several attorney general opinions have been written on the meaning of the constitutional limit; those opinions counter the plain English meaning of the language and have allowed the legislature and the administration to avoid this requirement. SJR 23 removes this arbitrary and superfluous requirement.

SJR 23 simplifies and clarifies exactly what spending counts towards the appropriation limit, something that is not clear in the existing constitutional language.

Without a meaningful constitutional amendment in place that limits the amount of state general fund expenditures, there is absolutely no guarantee that the state will restrain, let alone reduce, spending. SJR 23 would limit state spending and is a key component of any new long-range plan to ensure Alaska's long-term fiscal health.

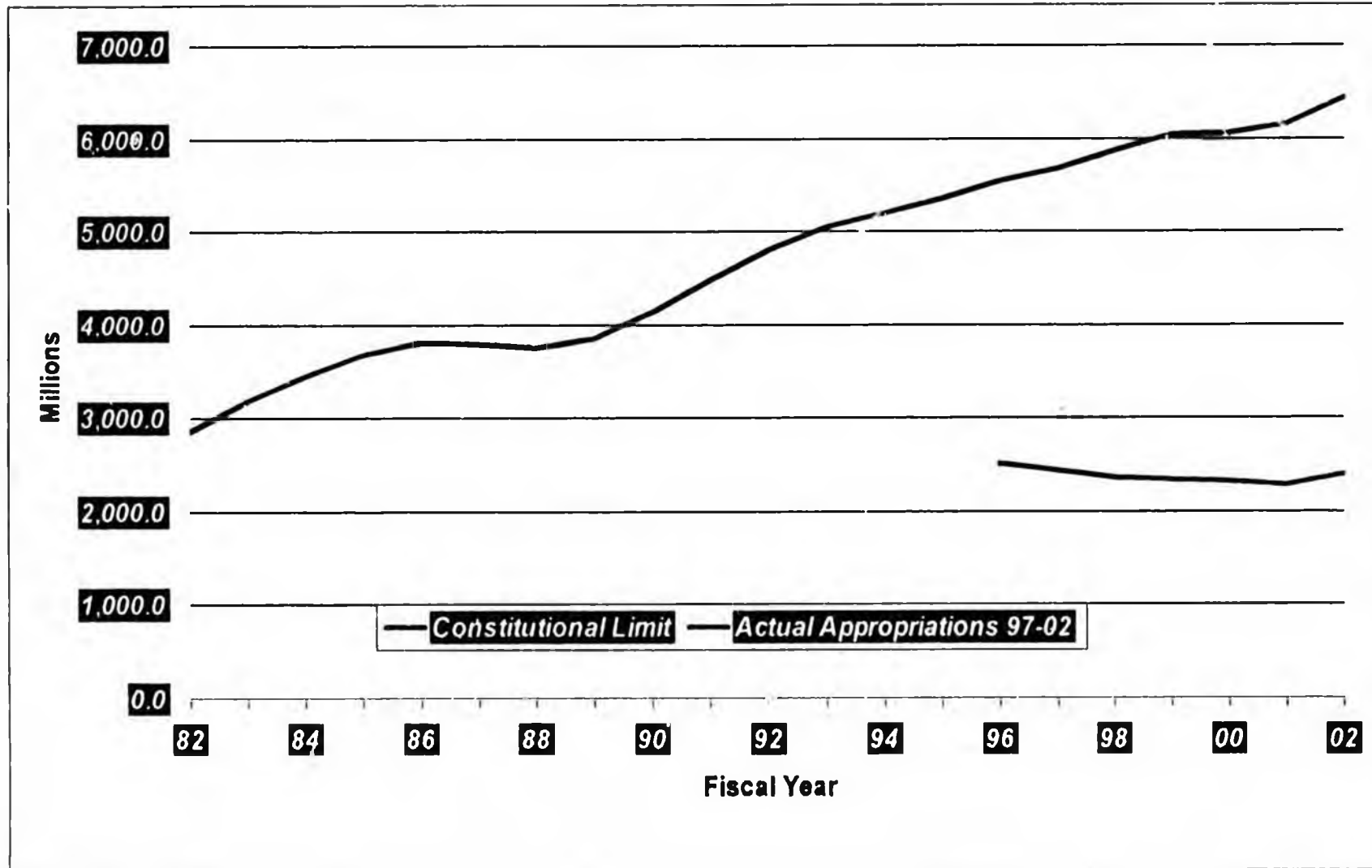
DD/jja

**Existing Constitutional Appropriation Limit
vs. the "P" Version of SJR 23 Appropriation Limit
(Includes explanation of charts)
Prepared by Senator Donley's Office**

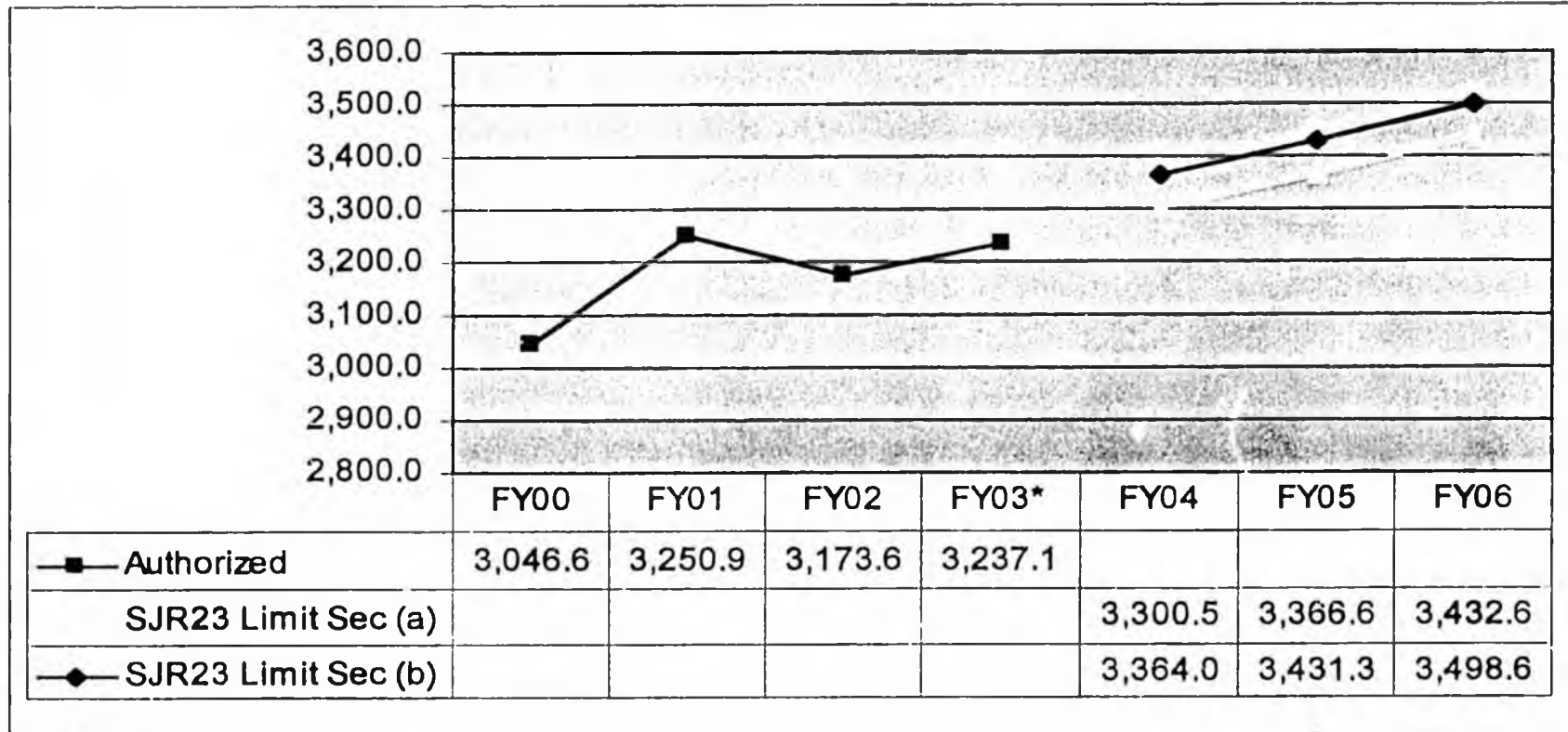
- A constitutional spending limit is a key component of any long-term fiscal plan
- Lowers existing appropriation limit to reflect the current budget situation
- The current appropriation limit, based on population growth and inflation rates, is addressed in Article 9, Section 16 of the Alaska Constitution which took affect December 24, 1982. The limit for FY02 is \$6.4 billion.
- The graph shows the existing spending limit based on numbers provided by OMB and includes actual GF appropriations for FY96 to FY02. It is obvious that the existing constitutional limit is obsolete since it allows for an FY02 appropriation of \$6.4 billion and the actual GF appropriated is only \$2.4 billion.
- Simplifies and clarifies exactly what spending counts toward the appropriation limit and more importantly, what does not.
- The following items are excluded from the limit:
 1. appropriations by the governor to meet a state disaster
 2. revenue bond proceeds
 3. principle & interest payments of general obligation bonds
 4. reappropriations
 5. interagency receipts (appropriations to one agency which are then paid to another agency for services)
 6. federal funds
 7. appropriations having to do with the Alaska railroad
 8. appropriations having to do with the permanent fund, including permanent fund dividends.
- The current limit excludes PFDs, revenue bond proceeds, general obligation bond principal/interest payments and "money received from a non-State source n trust for a specific purpose. . ." This is ambiguous.
- The appropriation limit that SJR 23 proposes would be based on a non-cumulative amount appropriated from 2 years prior and would allow for up to a 2% increase per year (4% total) requiring a simple majority vote. The chart assumes SJR 23 would be in effective for the FY04 budget process and would be based on the appropriated amount for FY02.
- An additional 2% may be appropriated bring the total to 6%. This additional 2% would require a two-thirds vote of both houses.

- If, for example 6% was appropriated for FY04, the FY06 limit would be based on the original 4% increase that passed with a simple majority, not the full 6%.
- If the amount appropriated exceeds the limit, the governor shall reduce expenditures by the executive branch for its operation and administration in order to bring expenditures back in line with the constitutional limit.
- Removes the requirement that 1/3 of the appropriations be used for capital projects. This is an arbitrary number and Attorney General Opinions have negated the original intent of the language, thus allowing the legislature and administration to currently avoid this requirement
- Alaska voters are given the opportunity after four years (2006) to reaffirm their wish to maintain this appropriation limit and again every six years after that. In the event they choose not to approve it, Article IX Section 16 is repealed and removed from the constitution.
- SJR 23 ensures a limit on state government growth and will encourage the state to reasonably reduce non-essential state spending.

The Current Spending Limit vs Recent Appropriations



Projected Appropriation Limits under SJR 23



*FY03 Authorized budget estimated at 2% increase over FY02.

Sec (a) allows for up to a 4% increase over the amount appropriated 2 years prior.

Sec (b) states an additional 2% may be appropriated with a two-thirds vote of both houses.

Not Included in SJR23 Limit: Permanent Fund dividends, G.O. & revenue bond proceeds, reappropriations, duplicated funds, and funds from non-State sources.

All numbers taken from LFD Fiscal Summaries In Summary of Appropriations

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SJR 23
 (S) Publish Date: 5/3/01

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title: Constitutional Amendment relating to an BRU: Elective Operations
appropriation limit and a spending limit Component: Elections
 Sponsor: Senator Donley
 Requester: Senate Finance Committee Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	1.5	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF		1.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	1.5	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenumial Phone 465-3935
 Division: Division of Elections Date/Time 04/10/01 4:25PM
 Approved by: Lieutenant Governor Fran Ulmer Date 04/10/2001
 Agency: Office of the Lieutenant Governor

For distribution information, call the Governor's Legislative Office

CS FOR SENATE JOINT RESOLUTION NO. 24(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered: 5/1/01
Referred: Rules

Sponsor(s): SENATE FINANCE COMMITTEE

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to the budget
2 reserve fund.

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

4 * Section 1. Article IX, sec. 17(b), Constitution of the State of Alaska, is amended to read:

5 (b) If the amount available for appropriation for a fiscal year is not sufficient
6 to fully fund the amount appropriated for that year [LESS THAN THE AMOUNT
7 APPROPRIATED FOR THE PREVIOUS FISCAL YEAR], an appropriation may be
8 made from the budget reserve fund and used to fund appropriations from the
9 unrestricted general fund. However, the amount appropriated from the fund under
10 this subsection may not exceed the amount necessary, when added to other funds
11 available for appropriation, to provide for total funding [APPROPRIATIONS] equal
12 to the amount of appropriations made [IN THE PREVIOUS CALENDAR YEAR] for
13 the previous fiscal year. For purposes of applying this subsection, amounts
14 available for appropriation or appropriated from federal funds, income of the
15 permanent fund, or this budget reserve fund may not be considered. For
16 purposes of this subsection, "unrestricted general fund" shall be defined by law.

- 1 * Sec. 2. Article IX, sec. 17(d), Constitution of the State of Alaska, is repealed.
- 2 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of
- 3 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
- 4 State of Alaska, and the election laws of the state.

**Existing Provision
Alaska Constitution
Article IX, Section 17**

Section 9.17 - Budget Reserve Fund.

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

Section 7 of this article does not apply to deposits made to the fund under this subsection. Money may be appropriated from the fund only as authorized under (b) or (c) of this section.

(b) If the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund.

However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year.

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

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

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

October 5, 2001

SUBJECT: Budget Reserve Fund; sectional summary for CS SJR 24(RLS)
(Work Order No. 22-LS0794\O)

TO: Senator Dave Donley

FROM: Pamela Finley 
Revisor of Statutes

Sec. 1. Amends subsection (b) of art. IX, sec. 17 (constitutional budget reserve fund). Permits transfers from the constitutional budget reserve fund to be used to fund appropriations from the unrestricted general fund if the amount otherwise available for appropriation is not sufficient to fully fund the appropriations. The amount transferred under subsection (b) is limited to that amount necessary to provide for total funding, when added to other funds available for appropriation, equal to the amount of appropriations made for the previous fiscal year. In applying this subsection, federal funds, income of the permanent fund, or constitutional budget reserve fund money is not to be considered. "Unrestricted general fund" is to be defined by law.

Sec. 2. The budget reserve fund repayment or "sweep" provision is repealed.

Sec. 3. The proposed amendments are to be submitted to the voters in 2002.

PF:glc
01-329.glc



Alaska State Senate

Senate Finance Committee

Official Business

Sponsor Statement
for
CS SJR 24 (Rules)

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

"Proposing amendments to the Constitution of the State of Alaska relating to the budget reserve fund"

Senate Joint Resolution 24 would amend Article IX, sec 17 of Alaska's Constitution to promote fiscal discipline and provide a more efficient budgetary process. The purpose of SJR 24 is to restore the legislative intent of subsection (b). That section was intended to allow the legislature to fill a portion of the fiscal gap using funds from the Constitutional Budget Reserve (CBR) with a majority vote when the amount available for appropriation for a fiscal year is less than the amount available in the previous year.

The Alaska Supreme Court, in Hickel v Cowper, determined that "the amount available for appropriation" was improperly defined in statute. The Court improperly interpreted the true legislative intent of the $\frac{3}{4}$ vote, which is now required to access the CBR. This has allowed a small minority of legislators to "blackmail" the majority into increased spending each year.

SJR 24 addresses this problem by clearly defining subsection (b), and allows the legislature to transfer the difference between *current year revenue* and *appropriations for the previous year* from the CBR to the General Fund (GF) without a $\frac{3}{4}$ vote. Funds appropriated from the CBR may be spent only as unrestricted GF. That is, the CBR couldn't be used to fill gaps in GF program receipts or in any of the fund codes the legislature classifies as "other." If current year appropriations exceed appropriations for the previous year, that gap will not be covered by the transfer from the CBR, but additional money can be appropriated from the CBR with a $\frac{3}{4}$ vote, just as it is done now.

SJR 24 amends Article IX, sec 17 of Constitution by:

- reestablishing the trigger mechanism for accessing the CBR with a majority vote when;
Available money (this year) is less than Appropriations (last year)
The original trigger, declared invalid in Hickel v Cowper, was:
Available money (this year) is less than Appropriations (this year)
- redefining the CBR gap-filler provision (subsection b), which is not used because it was declared unconstitutional, as an appropriation.
- defining money available for appropriation (it will exclude federal receipts, income of the Permanent Fund, and the CBR).
- specifying that money transferred from the CBR can be used only to replace unrestricted GF appropriations.
- repealing the repayment provision

The existing trigger comparing revenue in the current year to appropriations in the prior year has little to do with determining whether a fiscal gap exists or how large it might be. The revised trigger is based on revenue and appropriations for the same fiscal year, making the comparison a valid indicator of a fiscal gap.

In addition, the original intent of using the CBR to fund no more than the level of appropriations for the prior year without a $\frac{3}{4}$ vote is not changed under SJR 24.

Definitions of the terms "amount available for appropriation" and "amount appropriated" are the root of problems with interpreting the CBR provision. The revised language in SJR 24, in addition to the court decision, makes it clear that federal receipts, Permanent Fund earnings (PFDs, inflation proofing and excess income) and the CBR are excluded from both definitions, as are monies excluded from the existing "sweep" provision (subsection d).

Essentially, that leaves the GF fund group and many of the "other" fund codes subject to the trigger. However, appropriations under the revised subsection (b) of SJR 24 can be used only to fund appropriations from the unrestricted general fund. The purpose of this limitation is to make sure that the CBR is not used when non-general fund receipts fall short of expectations. For example, the CBR could not be used to make up a shortfall in University tuition or Aerospace Corporation receipts without a $\frac{3}{4}$ vote.

The appropriation from the CBR is limited to prior year appropriations less the amount available for appropriation in the current year. If appropriations in the current year exceed appropriations in the prior year, only getting the $\frac{3}{4}$ vote can fill that portion of the fiscal gap.

Money withdrawn from the CBR with a $\frac{3}{4}$ vote can be used for any purpose.

SJR 24 also repeals the "sweep" provision because it can be reversed only with a $\frac{3}{4}$ vote. Since the sweep reversal would be an annual requirement, failing to delete it would defeat the purpose of the proposed amendments to subsection (b).

DD/jja

CS SJR 24 (Rules) —Budget Reserve Fund
Talking Points
Prepared by Senator Donley's Office

- Adoption of CS SJR 24 promotes fiscal discipline and provides a more efficient budgetary process.
- CS SJR 24 clarifies the situations under which funds are withdrawn from the CBRF and restores the legislature's original intent regarding the circumstances under which a ¾ vote is required.
- The original intent of the legislature was to allow the use of the CBR by majority vote to fund no more than the level of prior year appropriations. If appropriations for the new budget year are more than the prior year's, that gap can only be filled with a CBR draw by a ¾ vote.
- The existing trigger compares revenue in the current year with appropriations from the prior year. This has little to do with determining how large a fiscal gap exists. The trigger under CS SJR 24 compares revenue and appropriations from the same fiscal year making the determination of a fiscal gap more relative to the actual situation
- CS SJR 24 clarifies that federal receipts, PF earnings and CBR are excluded from the definition of both "amount available for appropriation" and "amount appropriated." The lack of clarification under the existing provision is the root of the problem with the court interpretation of when a ¾ vote is required.
- Under CS SJR 24, transfers from the CBR which may be made by majority vote are limited to prior year appropriations less the amount available for appropriation in the current year. These funds may only be used as unrestricted GF. They cannot be used to fill gaps in program receipts or "other funds." The original resolution was written in a way that made this transfer automatic. The CS is written to provide that although not automatic, this amount of money needs approval by only a majority of each house.
- Additional CBR funds may still be made, but require approval by a ¾ vote of each house.
- CS SJR 24 also repeals the "sweep" provision. The sweep reversal is an annual requirement and failing to delete it works counter to the purpose of this change.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Quotes from the 1990 Voters Guide Statement on the Budget Reserve Constitutional Amendment in 1990

In 1990, the voters approved the Budget Reserve Constitutional Amendment which created the Constitutional Budget Reserve Fund (CBRF). In the ballot measure presented to the voters, there were several references to how the fund could be used. The statements clearly indicate that the intent was that in years where there is a budget shortfall, monies from the CBRF can be accessed by a simple majority vote.

- The ballot language explanation prepared by the Lt. Governor's office said, in part, *"The fund could be used when money available for appropriation in the year is less than the year before, but only to make up the shortfall."*
- The summary prepared by the Legislative Affairs Agency said, in part, *"Appropriations may be made from the fund if money available for a fiscal year is less than the amount appropriated for the prior year."*
- The Statement in Support of the Ballot Measure said, in part, *"Ballot Measure 1 is the first step Alaskans can take to effectively control state spending." and "revenues are less than the amount appropriated in the previous year, in which case money could be appropriated from the Budget Reserve in an amount not to exceed the shortfall".*

These statements were signed by Senator Faiks and Representatives Brown and Randy Phillips.

- The Statement in Opposition to the Ballot Measure said, in part, *"Under paragraph (b) of the proposed constitutional change, a simple majority in the legislature could 'hollow' funds from the reserve, to make up any shortfall in revenues, up to the amount appropriated in the previous year."*
This statement was signed by Representative Martin.
- In addition, in 1994, the Legislature passed AS37.10.420, which reiterated that CBR funds could be used in this manner with a simple majority vote.

Prepared By Senator Donley

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

BALLOT MEASURE NO. 1

Budget Reserve Constitutional Amendment

[HCS CSSSSJR 5 (Fin) am H]

BALLOT LANGUAGE

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

Should this constitutional amendment be adopted?

Yes No

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

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

LEGISLATIVE AFFAIRS AGENCY SUMMARY

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

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

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

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

FULL TEXT OF PROPOSED LAW

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

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

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

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

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

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

*Section 2. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

STATEMENT IN SUPPORT

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

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

BALLOT MEASURE NO. 1

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

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

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

• revenues are less than the amount appropriated the previous year, in which case money could be appropriated from the Budget Reserve in an amount not to exceed the shortfall; or

• three-fourths of the members of both the House and Senate vote to spend money from the Budget Reserve for a public purpose, such as a disaster.

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

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

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

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

Senator Jan. Faiks
Representative Kay Brown
Representative Randy Phillips

STATEMENT IN OPPOSITION

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

- will *not* save any windfalls,
- does *not* require a 3/4 vote to gain access to it.

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

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

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

How would the budget continue to increase? Legislative leaders can easily get a 3/4 vote out of their members by dangling capital project plums in front of them.

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

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

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

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

Representative Terry Martin

Walter J. HICKEL, Governor of the State of Alaska, Darrel J. Rexwinkel, Commissioner of the Department of Revenue for the State of Alaska, and the State of Alaska, Petitioners and Cross-Respondents,

v.

Steve COWPER, Respondent and Cross-Petitioner.

Nos. S-6294, S-6304.

Supreme Court of Alaska.

May 27, 1994.

Action was brought challenging as unconstitutional statute defining terms contained within section of the Alaska Constitution establishing budget reserve fund. The Superior Court, Third Judicial District, John Reese, J., declared statute unconstitutional, and the state petitioned for emergency review. Petitioner cross-petitioned on same issue. After granting petitions, the Supreme Court, Matthews, J., held that statute was unconstitutional because it did not provide accurate definition of constitutional terms.

Affirmed.

1. Appeal and Error \Rightarrow 8-42(1)

Proper interpretation of a constitutional provision is a question of law to which Supreme Court applies its independent judgment.

2. States \Rightarrow 131

"Amount available for appropriation" within meaning of section of the Constitution authorizing appropriation from budget reserve fund if amount available for appropriation for fiscal year is less than amount appropriated for previous fiscal year includes all monies over which legislature has retained power to appropriate and which require further appropriation before expenditure; in addition, all amounts actually appropriated, whether or not they would have been considered available prior to appropriation, are "available" within meaning of section; illiquid assets, such as land and unexploited natural

resources, are not "available" so long as they remain illiquid. Const. Art. 9, § 17(b).

See publication Words and Phrases for other judicial constructions and definitions.

3. States \Rightarrow 131

Statute defining "amount available for appropriation," for purposes of constitutional provision allowing appropriation from budget reserve fund if amount available for appropriation for fiscal year is less than amount appropriated for previous fiscal year, is unconstitutional, as it does not provide accurate definition of constitutional term; statute fails to include several funds in the "amount available for appropriation" which are in fact available within meaning of the constitutional provision, including trust receipts, "restricted accounts" within the general fund, and permanent fund earnings reserve account. AS 37.10.420(a)(1); Const. Art. 9, § 17(b).

4. States \Rightarrow 131

Statute defining term "amount appropriated for the previous fiscal year" for purposes of constitutional provision authorizing appropriation from budget reserve fund if amount available for appropriation for fiscal year is less than amount appropriated for the previous fiscal year, is unconstitutional because it does not include all actual appropriations made for previous fiscal year in the "amount appropriated for the previous fiscal year," and thus it does not accurately reflect meaning of constitutional term. AS 37.10.420(a)(2); Const. Art. 9, § 17(b).

5. States \Rightarrow 131

Statutory section defining "amount of appropriations made in the previous calendar year for the previous fiscal year" for purposes of constitutional provision authorizing appropriation from budget reserve fund if amount available for appropriation for fiscal year is less than amount appropriated for previous fiscal year, is unconstitutional, since it relies primarily on unconstitutionally limited number of appropriation sources identified in other statutory sections, and it cannot be severed from such subsections. AS 37.10.420(a)(1-3); Const. Art. 9, § 17(b).

6. States ⇐131

Statutory section designating means by which appropriations from budget reserve fund are paid back to fund is unconstitutional because it fails to consider all amounts which are "available for appropriation" within meaning of constitutional provision. AS 37.10.420(b); Const. Art. 9, § 17(d).

James L. Baldwin, Stephen C. Slotnick, Juneau, Jenifer A. Kohout, Anchorage, Asst. Attys. Gen., and Bruce M. Botelho, Atty. Gen., Juneau, for petitioners and cross-respondents.

Douglas Pope, Thomas A. Ballantine, Wagstaff, Pope & Katcher, Anchorage, for respondent and cross-petitioner.

Before MOORE, C.J., RABINOWITZ, MATTHEWS and COMPTON, JJ., and BRYNER, J. Pro Tem.*

MATTHEWS, Justice.

OPINION

In *Hickel v. Halford*, 872 P.2d 171 (1994) (*Halford*), we addressed the meaning of the term "administrative proceeding" as used in article IX, section 17 of the Alaska Constitution.¹ This is one of the terms which de-

scribes state revenues which must be deposited into the budget reserve fund. We are now required to interpret several other key terms of section 17, including "amount available for appropriation" and "amount appropriated for the previous fiscal year." § 17(b). These terms govern the legislature's ability to withdraw from the budget reserve fund by a simple majority vote.

This case arises out of a legislative attempt to define these terms. While final decision in *Halford* was pending, the Alaska Legislature passed and Governor Hickel signed Senate Committee Substitute for Committee Substitute for House Bill 58 (FIN) (the Act). Chapter 5, SLA 1994. Section 1 of the Act amends AS 37.10 by adding new sections AS 37.10.410 and .420. Alaska Statute 37.10.410 defines what money is received as a result of the termination of an administrative proceeding under article IX, section 17(a) of the Alaska Constitution. Alaska Statute 37.10.420 defines several other key phrases and concepts used in section 17, including "amount available for appropriation," "amount appropriated for the previous fiscal year," and "amount of appropriations made in the previous calendar year for the previous fiscal year." Alaska Statute 37.10.420 also establishes the means by which appropriations from the budget reserve fund are

* Sitting by assignment made pursuant to article IV, section 16 of the Alaska Constitution.

1. Article IX, section 17 provides as follows:

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

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

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

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

repaid.² Section 2 of the Act states that the provisions of section 1 "are declaratory of existing law and represent the intent of the legislature when the Sixteenth Alaska State Legislature passed [the resolution proposing the constitutional amendment creating section 17]." Ch. 5 SLA 1994.

Following passage of the Act, the current respondent and cross-petitioner, former Governor Steve Cowper, applied to this court for a limited remand in the pending *Halford* case so that he could challenge the constitutionality of the Act.³ Petitioners and cross-respondents, Governor Walter J. Hickel, Commissioner of Revenue Darrel J. Rexwinkel, and the State of Alaska (hereafter referred to as the State), applied to this court for original jurisdiction to consider the constitutionality of the Act. We granted a limited remand to the superior court so that Gov. Cowper could

move to amend his complaint in order to challenge the constitutionality of the Act.⁴

On remand, the consolidated cases were severed and Gov. Cowper was allowed to amend his complaint to allege that the Act was unconstitutional. He then moved for partial summary judgment on this question. The State also moved for a partial summary judgment declaring the Act constitutional. The superior court granted expedited consideration of the summary judgment motions. Following briefing and oral argument, the court declared the Act unconstitutional on April 8, 1994.⁵ In a written decision the superior court held that AS 37.10.420 is unconstitutional because it unduly limits the funds counted as available for appropriation. The court explained that "[i]f a simple majority vote can withdraw the funds ... it is

2. AS 37.10.420 provides:

(a) For purposes of applying art. IX, sec. 17(b), Constitution of the State of Alaska,

(1) "the amount available for appropriation" or "funds available for appropriation" means

(A) the unrestricted revenue accruing to the general fund during the fiscal year;

(B) general fund program receipts as defined in AS 37.05.146;

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

(D) the balance in the statutory budget reserve fund established in AS 37.05.540;

(2) "the amount appropriated for the previous fiscal year" means the amount appropriated from the

(A) constitutional budget reserve fund under the authority granted in art. IX, sec. 17, Constitution of the State of Alaska; and

(B) same revenue sources used to calculate the money available for appropriation for the current fiscal year; and

(3) "the amount of appropriations made in the previous calendar year for the previous fiscal year" means appropriations made from sources identified in (2) of this subsection for a fiscal year that were enacted during the calendar year that ends on December 31 of that same fiscal year.

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

before December 16 of the following fiscal year.

(c) In this section, "unrestricted revenue accruing to the general fund" or "unreserved, undesignated general fund balance carried forward" is money not restricted by law to a specific use that accrues to the general fund according to accepted principles of governmental or fund accounting adopted for the state accounting system established under AS 37.05.150 in effect on July 1, 1990.

(d) An appropriation under art. IX, sec. 17(b), Constitution of the State of Alaska, requires an affirmative vote of the majority of the members of each house of the legislature. An appropriation under art. IX, sec. 17(c) requires an affirmative vote of three-fourths of the members of each house of the legislature.

3. See *Halford*, 872 P.2d at 174-76, for a full statement of the earlier proceedings in this case.

4. This court does not possess original jurisdiction over the case. AS 22.05.010. In addition, no Alaska court could normally adjudicate an action by the State seeking to have a statute declared constitutional, in the absence of the willing participation of a truly adverse party. See *Greater Anchorage Area Borough v. City of Anchorage*, 504 P.2d 1027, 1036 (Alaska 1972) ("Parties seeking a judicial determination of a hypothetical, advisory or moot question will be denied relief.").

5. The superior court found AS 37.10.410 unconstitutional based on an inconsistency between the statute and this court's interpretation of the term "administrative proceeding" in *Halford*. The State does not challenge this portion of the court's decision in this petition.

available for appropriation ... [unless] it belongs to someone else ... or would not be there without the purpose and permission of the source." The superior court also ruled that AS 37.10.420(b), which provides for repayment of funds appropriated out of the budget reserve, unconstitutionally limits the source of these funds. The superior court did not attempt to identify which funds were and were not available for appropriation under section 17(b).

The State petitioned this court for emergency review of the superior court's decision with respect to AS 37.10.420. Gov. Cowper cross-petitioned on the same issue. We granted both petitions. After expedited briefing, we heard oral argument on April 22, 1994.

I. STANDARD OF REVIEW

The State argues that this court should defer to the legislature's interpretation of section 17. The State bases this argument on a "strong presumption" in favor of legisla-

tive interpretations, *State ex rel. Udall v. Colonial Penn Ins. Co.*, 112 N.M. 123, 812 P.2d 777, 783 (1991), and the presumption that statutes are constitutional, *Bonjour v. Bonjour*, 592 P.2d 1233, 1237 (Alaska 1979). Further, the disputed terms in section 17(b) involve appropriations, and the power to appropriate is wholly legislative, Alaska Const. art. IX, § 13. The State misconstrues the applicable standard of review.

The cases cited by the State do not support the proposition that courts should defer to legislative interpretations of ambiguous constitutional provisions. On the contrary, in each of the cases cited by the State, the court clearly is engaged in interpreting the constitutional provision.⁶ Nor does the legislature's role in making appropriations somehow alter or increase its authority to define constitutional terms merely because the terms contain the word "appropriation." This court retains the same power to interpret constitutional terms regardless of the subject matter of the term.⁷

6. See *Heckendorn v. City of San Marino*, 42 Cal.3d 481, 229 Cal.Rptr. 324, 327, 723 P.2d 64, 67 (1986) ("We must determine what the term 'ad valorem tax' means in Article XIII A."); *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization*, 22 Cal.3d 208, 149 Cal.Rptr. 259, 257, 583 P.2d 1281, 1300 (1978) (en banc) (discussing rules of construction used by courts in interpreting constitutional provisions); *State ex rel. Udall v. Colonial Penn Ins. Co.*, 112 N.M. 123, 812 P.2d 777, 782-83 (1991) ("We interpret our constitution to carry out its spirit."); *Coronado Oil Co. v. Grievs*, 603 P.2d 406, 411 (Wyo.1979) ("Though the legislature's interpretation of the constitution is not binding on the supreme court, we would be loath to interpret the constitution otherwise. We must give weight to legislative interpretation, though not conclusive.") (citations omitted).

7. The legislature's interpretation of the constitutional terms at issue in this case may be considered more persuasive than otherwise because of its greater familiarity with appropriations. Deference in such circumstances is at most, however, a single tool for use by this court in interpreting the constitution. If the legislature adopted AS 37.10.420 contemporaneously with its approval of the Legislative Resolve No. 129 (eventual Article IX, section 17), that would be considered a significant indication of the actual meaning of section 17. A statement by the Eighteenth Legislature of the intent of the Sixteenth Legislature would not bear great weight even if the subject was the meaning of a statute; the applicable degree of deference is lessened by the fact

that at issue is the meaning of a constitutional amendment for which the legislature is not the ultimate adopting authority. Our discussion of the weight to be afforded a subsequent legislative statement of the meaning of an earlier statute in *Hillman v. Nationwide Mut. Fire Ins. Co.*, 758 P.2d 1248, 1252-53 (Alaska 1988), is relevant here.

While the legislature is fully empowered to declare present law by legislation, it is not institutionally competent to issue opinions as to what a statute passed by an earlier legislature meant. If the legislature were in some form to declare its opinion as to the meaning of prior law, that declaration would be entitled to the same respect that a court would afford to, for example, an opinion of a learned commentator; that is, the court would examine the reasoning offered in support of the opinion and either reject or accept it based on the merit of the reasons given. It is possible to argue that the legislature has knowledge superior to a disinterested commentator because there may be some legislators in the current legislature who were also members of the legislature which passed the prior law and thus have special insight into the intent of the legislature. However, the force of this is dispelled when one considers that it is not permissible to allow a legislator to testify on the question of his unexpressed legislative intent or on the unexpressed legislative intent of others.

Id. (citing *Kenai Peninsula Borough Sch. Dist. v. Kenai Peninsula Educ. Ass'n*, 572 P.2d 416 (Alaska 1977)).

[1] This court's task, therefore, is identical to that faced whenever a statutory enactment is claimed to run afoul of a constitutional provision. "Questions concerning the constitutionality of a statute are questions of law and are reviewed *de novo*." *Sun v. State*, 830 P.2d 772, 775 n. 4 (Alaska 1992). We must first determine what the constitution actually means. The proper interpretation of a constitutional provision is a question of law to which this court applies its independent judgment. *Arco Alaska, Inc. v. State*, 824 P.2d 708, 710 (Alaska 1992). We then examine the statute to see whether it conflicts with the constitutional requirement. "[S]tatutes should be construed if reasonably possible to avoid the conclusion that they are unconstitutional." *Sonneman v. Hickel*, 836 P.2d 936, 940 (Alaska 1992).

The appropriate approach to interpreting language in the Alaska Constitution is well established. "Constitutional provisions should be given a reasonable and practical interpretation in accordance with common sense. The court should look to the plain meaning and purpose of the provision and the intent of the framers." *Arco Alaska*, 824 P.2d at 710; see also *Kochutin v. State*, 739 P.2d 170, 171 (Alaska 1987).

Because of our concern for interpreting the constitution as the people ratified it, we generally are reluctant to construe ab-

strusely any constitutional term that has a plain ordinary meaning. Rather, absent some signs that the term at issue has acquired a peculiar meaning by statutory definition or judicial construction, we defer to the meaning the people themselves probably placed on the provision. Normally, such deference to the intent of the people requires "[a]dherence to the common understanding of words."

Citizens Coalition for Tort Reform, Inc. v. McAlpine, 810 P.2d 162, 169 (Alaska 1991) (citations omitted) (quoting *Division of Elections v. Jahnstone*, 669 P.2d 537, 539 (Alaska 1983)).

II. DISCUSSION

A. "Amount Available for Appropriation"

[2] The primary issue in this case is the meaning of the term "amount available for appropriation" as used in article IX, section 17(b) of the Alaska Constitution.⁸ The State asserts, in accordance with the definition set forth in AS 37.10.420(a)(1), that the "amount available for appropriation" consists only of 1) unrestricted revenue accruing to the general fund during the fiscal year; 2) general fund program receipts as defined in AS 37.05.146;⁹ 3) the unreserved, undesignated

fore, these funds are not made dedicated funds by virtue of the Act.

9. AS 37.05.146 provides:

In AS 37.05.142—37.05.146 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other state money received by a state agency in connection with the performance of its functions; all program receipts except the following are general fund program receipts:

- (1) federal receipts;
- (2) University of Alaska receipts (AS 14.40.491);
- (3) individual, foundation, or corporation gifts, grants, or bequests that by their terms are restricted to a specific purpose;
- (4) receipts of the following funds:
 - (A) highway working capital fund (AS 44.68.210);
 - (B) correctional industries fund (AS 33.32.020);
 - (C) loan funds;
 - (D) international airport revenue fund (AS 37.15.430);

8. As preliminary matters, Gov. Cowper argues that the statutes are invalid irrespective of their substantive content because (1) they violate the separation of powers doctrine; (2) they constitute an impermissible attempt by the legislature to influence an ongoing judicial controversy; (3) they intrude on the judicial realm of constitutional interpretation; and (4) the statute violates article IX, section 7's prohibition against dedicated funds. The "influencing" claim pertains entirely to AS 37.10.410 and therefore is not relevant to the present petitions which deal exclusively with AS 37.10.420. The "intrusion on the judicial realm" argument is without merit.

Gov. Cowper's argument that the Act establishes a dedicated fund is also without merit. Although the Act defines certain funds as not available for appropriation under section 17(b), it does not prohibit the executive branch from requesting that these funds be reassigned to different purposes or the legislative branch from allocating these funds differently. *Sonneman v. Hickel*, 836 P.2d 936, 940 (Alaska 1992). In addition, because the Act does not dedicate any state revenue to any particular fund, it cannot implicate the prohibitions of section 7. There-

general fund balance carried forward from the preceding fiscal year; and 4) the balance in the statutory budget reserve fund, AS 37.05.540. In addition to the program receipts excluded under AS 37.05.146, this definition excludes the funds listed in AS 37.05.146, several other funds which have been established by the legislature,¹⁰ and the surplus assets of public corporations.¹¹ Gov. Cowper argues that the "amount available for appropriation" includes the total amount accessible by the legislature, including all of the funds and assets referred to above. Under this argument, funds are available for appropriation so long as a simple majority can make the funds available.

We reject both interpretations. The text of section 17 cannot support the State's narrow interpretation. However, Gov. Cowper's position would require a complete restructuring of the established financial system of the State government. We are unwilling to add "missing terms" to the Constitution or to

interpret existing constitutional language more broadly than intended by the framers or the voters. Instead, we consider it appropriate, as well as consistent with both the language of the amendment and the intent of the framers, to focus on the legal status of the various funds implicated in relationship to the legislative power of appropriation. The "amount available for appropriation" must include all funds over which the legislature has retained the power to appropriate and which are not available to pay expenditures without further legislative appropriation. It must also include all amounts which the legislature actually appropriates for the fiscal year, whether or not they could have been considered available prior to the appropriation.

Our analysis of a constitutional provision begins with, and remains grounded in, the words of the provision itself. We are not vested with the authority to add missing terms or hypothesize differently worded pro-

(E) funds managed by the Alaska Housing Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010), the Municipal Bond Bank Authority (AS 44.85.020), the Alaska Aerospace Development Corporation (AS 14.40.821), or the Alaska Industrial Development and Export Authority (AS 44.88.020);

(F) fish and game fund (AS 16.05.100);

(G) school fund (AS 43.50.140);

(H) training and building fund (AS 23.20.130);

(I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and former AS 39.37);

(J) permanent fund (art. IX, sec. 15, Alaska Constitution);

(K) public school fund (AS 37.14.110);

(L) second injury fund (AS 23.30.040);

(M) fishermen's fund (AS 23.35.060);

(N) FICA administration fund (AS 39.30.050);

(O) receipts of the employee benefits program established under AS 39.30.150—39.30.180;

(P) receipts of the deferred compensation program established under AS 39.45;

(Q) clean air protection fund (AS 46.14.260);

(R) receipts of the group insurance programs established under AS 39.30.090.

(S) receipts of or from the trust established by AS 37.14.400—37.14.450, except reimbursements described in AS 37.14.410.

10. These additional funds include the Railbelt energy fund, AS 37.05.520, the Alaska marine highway system vessel replacement fund, AS 37.

05.530, the educational facilities maintenance and construction fund, AS 37.05.560, the oil and hazardous substance release response fund, AS 46.08.010, the power cost equalization and rural electric capitalization fund, AS 42.45.100, the power project fund, AS 42.45.010, the Alaska science and technology endowment, AS 37.17.020, and the permanent fund earnings reserve account, AS 37.13.145.

11. In 1985, the Department of Law issued an informal opinion, written by Assistant Attorney General James L. Baldwin, which concluded that "unrestricted money in the [Alaska Housing Finance Corporation] revolving fund is probably available for appropriation." 1985 Informal Op. Att'y Gen. 307 at 309 (emphasis added). The Opinion recommended that the statute governing the Alaska Housing Finance Corporation (AHFC) be amended to specifically authorize interim transfers of unrestricted surplus assets of AHFC to the general fund and to provide that the board of directors annually determine the amount of surplus available for transfer. *Id.* at 310-11.

The statutes governing the AHFC and the Alaska Industrial Development and Export Authority (AIDEA) now require each organization to annually determine whether it has assets in excess of the amount required to fulfill its purposes. See AS 18.56.089(b)(1); AS 44.88.205(b)(1). Each organization must present this determination to the legislature by January 10 of each year. AS 18.56.089(b)(2); AS 44.88.205(b)(2). See Ch. 12 SLA 1991.

visions in order to reach a particular result.¹² Our task is to identify the meaning that the people probably placed on the term. *Halford*, 872 P.2d at 176. The dictionary definitions of the controlling words "amount" and "available" provide a helpful starting point. *Webster's Third New International Dictionary* defines "amount" as "a: the total number or quantity . . . ; b: the sum of individuals . . . ; c: the quantity at hand or under consideration." *Id.* at 72. Relevant definitions of "available" are "3: such as may be availed of: capable of use for the accomplishment of a purpose: immediately utilizable . . . ; 4: that is accessible or may be obtained . . . : at disposal esp. for sale or utilization." *Id.* at 150.

From similar dictionary definitions, Gov. Cowper paraphrases "amount available for appropriation" as meaning "the total funds accessible by the legislature for appropriation." He further interprets this paraphrase as meaning that all funds which the legislature can make available to itself by a majority vote, whatever their current use or designation, are "available for appropriation."¹³ At the outer limits, this construction would

12. On this basis alone, we must reject the State's plea to convert the term "amount available for appropriation," as used in section 17(b), to either "amount available for appropriation from the [unrestricted] general fund" or "revenues available for appropriation." If the definition of "amount available for appropriation" in AS 37.10.420 is to withstand constitutional scrutiny, it must be because it is in conformity with the text of section 17(b), and not because section 17(b) is missing words which would make it conform to AS 37.10.420.

13. The State argues that the "common understanding" of the phrase "available for appropriation" is more limited. It states that the term should have the same meaning in the Constitution that it has in the budget process, meaning only "revenue sources customarily considered by the legislature." The State asserts that only unrestricted revenues are so considered. To be distinguished are "restricted revenues," the use of which is restricted in some way, usually by the source of the funds, predominantly the federal government.

The State never asserts or shows evidence, however, that the term "available for appropriation" is actually used in any particular way in the budget process. Rather, it argues that the term "should be interpreted with reference to revenue sources customarily considered by the legislature

require that all net assets held by the State, however liquid, be considered available in determining whether the amount available was less than the amount appropriated for the previous year.¹⁴ Such an expansive reading of the constitutional language would render section 17(b) superfluous for all practical purposes.¹⁵ It would also involve the adoption of a radically different approach to government financing. Neither result is consistent with the purpose of the amendment, the intent of the framers, or extrinsic indications of the voters' probable understanding of section 17's terms.

Section 17(b) allows a simple legislative majority to use the constitutional budget reserve fund in order to make up the difference between the "amount available for appropriation" for a given fiscal year and the "amount appropriated for the previous fiscal year." If net state assets are included in the total amount available, then they would have to be actually expended before the budget reserve fund could be reached by a simple majority to keep spending at a constant level. Even if we consider only net assets which exist in a cash form—such as the balances contained in

when it considers the state budget." It is also not clear that the legislative definition of "amount available for appropriation" includes all monies "customarily considered by the legislature." Although it probably does include all revenues customarily considered, it may not include all amounts so considered.

14. Gov. Cowper does limit his argument to cash funds, presumably because of the relative ease with which cash funds can be converted to different purposes, as compared to illiquid assets. This is a reasonable limitation. Although we have held, in a different context, that property other than money may be "appropriated," see *McAlpine v. University of Alaska*, 762 P.2d 81, 87-89 (Alaska 1988), it does not follow that it is necessarily "available for appropriation" within the meaning of section 17(b).

There does not appear to be any significant difference, however, in the type of legislative action necessary to reach cash funds and less liquid state assets. Gov. Cowper's interpretation therefore recognizes that "available," as used in section 17(b), requires more than mere accessibility.

15. Under this interpretation, if state assets are in excess of annual appropriations, even a total lack of revenue would not allow a simple majority to withdraw from the budget reserve fund.

any one of the State's several revolving loan funds¹⁶—the existing state programs dependent on these funds would have to be curtailed if these funds were expended on another purpose. These funds are maintained, however, because in the judgment of the legislature they serve worthwhile purposes. Therefore, one of the uses the legislature presumably would want to make of the newly available money would be to reestablish these funds. Yet, to the extent that any of these funds were started and funded before the previous year, there would not be an equivalent appropriation in the previous year to balance out the appropriation required in the present year. Gov. Cowper's interpretation of section 17(b)'s majority access formula would, in effect, require reductions in the level of government service until no liquid funds remained before a simple majority could reach the budget reserve.

One of the purposes of the budget reserve amendment, however, was to provide a "stabilizing mechanism" in the budgetary process.¹⁷ The formula in section 17(b), which compares funds currently available to the amount appropriated for the previous fiscal year, and allows simple majority appropriation from the budget reserve fund to the extent necessary "to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year," Alaska Const. art. IX, § 17(b), reflects this purpose and clearly anticipates use of the budget reserve fund to maintain "equal" appropriation levels from year to year. Gov. Cowper's interpretation is inconsistent with this purpose because it would only allow simple majority access to the budget reserve fund if all state programs involving cash funds were eliminated or if

state spending were reduced by the total amount retained in such funds.

Similarly, both the legislative history of section 17 and extrinsic evidence of the voter's understanding of the amendment's provisions indicate that elimination of state services and/or liquidation of state assets was not considered a necessary prerequisite to simple majority access to the budget reserve. Both Representative Rieger and Representative Brown stated in committee that if revenues declined, a simple majority could appropriate from the fund to make up the difference.¹⁸ Statements in the voter pamphlet indicated similar conditions to appropriation. The statement in support of the amendment in the voter pamphlet states:

The Legislature will be able to spend money from the Budget Reserve only if:

- revenues are less than the amount appropriated the previous year, in which case money could be appropriated from the Budget Reserve in an amount not to exceed the shortfall[.]

At the very least, this ballot measure will establish a savings account that can help minimize the effects of a "boom" one year, and a "bust" the next.

The statement in opposition expresses a similar understanding:

Under paragraph (b) of the proposed constitutional change, a simple majority in the legislature could "borrow" funds from the reserve, to make up any shortfall in revenues, up to the amount appropriated in the previous year.

(Emphasis eliminated.)

These statements demonstrate that Gov. Cowper's expansive reading of "amount avail-

16. See, e.g., AS 03.10.040 (agricultural revolving loan fund); AS 14.43.090 (scholarship revolving loan fund); AS 14.43.630 (teacher scholarship revolving loan fund); AS 16.10.340 (commercial fishing revolving loan fund); AS 42.45.010 (power project fund); AS 42.45.250 (bulk fuel revolving loan fund); AS 44.29.210 (alcoholism and drug abuse revolving loan fund); AS 44.88.400 (small business economic development revolving loan fund); AS 45.95.060 (small business revolving loan fund); AS 45.98.010 (historical district revolving loan fund).

17. See, e.g., Testimony of budget officer Mary Halloran, House Finance Comm. TR. 37, May 1, 1990.

18. See Statement of Rep. Rieger, H. Finance Comm., HFC tape 90-97, tr. at 31 (May 3, 1990) ("[I]f oil prices went to \$9, it would take a simple majority to use the Budget Reserve Fund to bring you back to what you had last year."); Statement of Rep. Brown, *Id.* at 30 ("[T]o get back to last year's spending level, a simple majority could appropriate from the budget reserve.").

able for appropriation" is not consistent with the purpose of the amendment or the probable understanding of the drafters and voters.

On the surface, these statements may appear to support the State's interpretation of "amount available for appropriation" as including only revenues received by the State within the fiscal year.¹⁹ This interpretation is, however, plainly inconsistent with the language of section 17(b). If the drafters of the amendment had intended that a decline in revenues alone would trigger access, it would have been easy to formulate a test which compared current revenues to prior revenues. The formula in section 17(b), however, compares the "amount available for appropriation" to the amount previously appropriated. In order to accept the various secondary indications of the people's possible understanding as dispositive, it would be necessary to read "amount available for appropriations" as meaning only current revenue. Yet it is clear that in the normal functioning of state government, other funds are routinely available including, at a minimum, the general fund balance carried forward. Nor is an understanding that the reserve fund could be reached by a simple majority when revenues decline necessarily inconsistent with requiring some standing funds to be considered available for appropriation. The State concedes that the statutory budget reserve and the general fund balance would have to be considered available. See 37.10.420(a)(1)(C)-(D). Eliminating even these funds from the calculation would allow majority access to the budget reserve whenever there was even the slightest decline from year to year in revenues, even if in the prior year a huge sum was left unappropriated or placed in the statutory budget reserve. The language of sec-

19. The State asserts that this reading is further supported by newspaper descriptions of the amendment prior to the 1990 general election. Some of the statements in these articles do support the State's position:

If State revenues decline, money could be taken out to fill the gap. For example, let's say our state earned \$2.5 billion in fiscal year 1995. For some reason, such as a drop in production or a drop in price, we earned just \$1.5 billion in fiscal year 1996. The legislature could tap into the Budget Reserve Fund to make up the gap.

tion 17 and the purposes behind the establishment of the fund do not support such easy access.

The flaw in Gov. Cowper's analysis of the text of section 17(b) is in his assumption that "available" can only mean "accessible by any means." The dictionary definitions of the word indicate narrower meanings which are more consistent with the purpose and intent of the provision and with the probable understanding of the voters. As quoted above, one of the definitions of "available" is "immediately utilizable," indicating that the ease with which funds may be accessible is a factor in determining their availability. This is in accord with a common sense understanding of section 17. As demonstrated above, the purpose and common understanding of the language in section 17(b) allows the budget reserve to be used by a simple majority as necessary to maintain state appropriations at a constant level. Although all funds might be available by some means, counting funds already validly appropriated to a specific purpose as still "available" would disrupt existing state programs and would constitute an inflexible constitutional intrusion on the legislature's authority to evaluate the wisdom of particular appropriations. Although such a constitutional intrusion is conceivable, we are unwilling to read it into a provision with quite a different purpose.

It is far more reasonable to interpret "amount available for appropriation" in light of the relative consequences of and circumstances attendant in making appropriations from different sources. In this light, monies which already have been validly committed by the legislature to some purpose should not

"Vote Yes on Ballot Measure No. 1," *Fairbanks Daily News-Miner*, Nov. 2, 1990, at 4; see also John Enders, "Cowper pushes for economic stability in form of state budget reserve fund," *Juneau Empire*, Oct. 25, 1990, at 3; John Enders, "Budget Reserve-Account Would Cushion State Revenue," *Anchorage Daily News*, Oct. 28, 1990, at M16; John Enders, "Ballot measure would set up budget reserve," *Fairbanks Daily News-Miner*, Oct. 22, 1990, at 6 ("[I]f state revenues fell from one year to the next the Legislature could tap the reserve to make up the difference."). These articles cannot, however, control over contrary wording in the constitution.

be counted as available.²⁰ In addition, illiquid assets owned by the state are not available so long as they remain illiquid. Given the "stabilizing" purpose of the amendment, it would make little sense to interpret section 17 as requiring the costly and time-consuming process of liquefying state assets before allowing majority access to the constitutional budget reserve fund. See *supra* note 14. The "amount available for appropriation" would include, however, all monies from which the legislature can make an appropriation and which require a legislative appropriation before they can be expended, as well as any amount which would not otherwise be counted as "available" but from which the legislature does in fact appropriate. This interpretation is consistent with the stabilizing purpose of section 17 and with the extrinsic evidence of the voter's understanding of the amendment. Most importantly, it is consistent with the text of section 17(b), as it is based on a reasonable and practical interpretation of the words of that section, in accordance with common sense.²¹

20. To do otherwise would be to continue to count sums of money as "available for appropriation" after they have been appropriated, so long as they have not been paid out or converted from cash to some other type of asset. Instead, we recognize that any given sum of money can only be appropriated once during a given time period. Of course, if an appropriation lapses or if the legislature does in fact reappropriate money from an excluded fund to another purpose, it is no longer necessary to exclude that money from the "amount available for appropriation" in order to protect the legislature's authority to make such decisions.

21. This interpretation is related to the State's argument that AS 37.10.420 properly excludes "restricted funds" because those funds, at least in part, have already been appropriated. We reject, however, the State's conception of relevant fund restrictions and the State's definition of when an amount has been validly appropriated. Therefore, our definition of the "amount available for appropriation" includes several funds excluded by the statutory definition.

22. "Trust receipts" include all funds, whatever the source, which the State can only use for a specific stated purpose under applicable law. The largest "trust receipt" category is federal funding, which may only be appropriated by the State for the purposes prescribed by the federal government. Private entities may also grant the

This definition necessarily includes all amounts which are in fact appropriated for a fiscal year, including "trust receipts."²² There is nothing in the text or history of section 17 which would justify classifying money actually appropriated as *unavailable* for appropriation.²³

The State argues that "[s]ound policy" requires that these trust receipts be excluded because they "are not available for discretionary appropriation by the legislature." Even if we were to agree that policy considerations favored a system which compared only amounts available for discretionary appropriation to the previous year's appropriations from such amounts, we could not impose that policy choice on a differently worded constitutional provision.

Moreover, it is not clear that excluding these receipts would constitute a better policy. The appropriations made from these receipts represent a significant portion of state spending. The purposes to which these funds are restricted include many core state government functions, including education,

State money to use for specific purposes. State appropriations from trust accounts, such as the Public Employees Retirement Fund, for purposes relating to the trust, such as fund administration, are also properly characterized as trust receipts. Although the amount of the appropriation is apparently set by the legislature, it must be made in accordance with trust principles. Therefore, the amount which the legislature appropriates in accordance with trust principles is the amount available to the legislature for such appropriation. Finally, amounts appropriated by the legislature out of other funds within executive agencies for purposes of administering these funds, under explicit statutory authority, may also be treated as a type of trust receipt. See, e.g., AS 03.10.040(b) (agricultural revolving loan fund); AS 16.10.340 (commercial fishing revolving loan fund); AS 45.95.060(o) (small business revolving loan fund). Although these funds are not trust funds, the statutes do limit legislative authority to appropriate from them.

23. Money appropriated from the AHFC and the AIDEA therefore must be counted as available for appropriation. However, money which either organization determines to be in excess of the amount required to fulfill its purposes, see AS 18.56.089(b)(1); AS 44.88.205(b)(1), should not be counted unless actually appropriated to another purpose or transferred to the general fund. The statutes do not automatically transfer these funds out of the respective organizations.

health, social services, public safety, and transportation. See State of Alaska, Dep't of Revenue, *Revenue Sources Book* (Fall 1993) at 54 (listing historical grants-in-aid by category). Because these funds are an integral part of the State's annual spending, changes in the amounts received would certainly affect other budget decisions. Policy considerations therefore appear to favor including trust receipts in the amount available, so that, for example, declines in federal funding might result in increased access to the budget reserve fund. The budget reserve amendment does anticipate that all budget decisions be made in relation to one another. We need not choose between these alternative policies, however. Regardless of which policy argument is in fact more compelling, the text of section 17(b) clearly requires that all funds which are in fact appropriated be counted as "available for appropriation."

The key question in applying our interpretation of the term "amount available for appropriation" to particular funds²⁴ is what constitutes a valid appropriation such that the funds involved are no longer available. "Appropriation" is defined as

something that has been appropriated; *specif.*: a sum of money set aside or allotted by official or formal action for a specific use (as from public revenue by a legislative body that stipulates the amount, manner, and purpose of items of expenditure).

24. In this regard, the State argues that the question of whether funds outside the unrestricted general fund are "available for appropriation" is "not justiciable in a court of law." To the extent the State argues that this court cannot decide the meaning of the term "available for appropriation" or the legal status of different funds under this definition, its position is without merit. The meaning of the constitution and its application to particular facts are questions squarely within the jurisdiction and inherent power of the judiciary. "[T]he judicial branch of government has the constitutionally mandated duty to ensure compliance with the provisions of the Alaska Constitution, including compliance by the legislature." *McAlpine v. University of Alaska*, 650 P.2d 351, 356 (Alaska 1982). The State's error is in assuming that the "power of appropriation necessarily includes the power to determine what amounts are available to finance appropriations enacted." Compare *Abood v. Gorsuch*, 703 P.2d 1158, 1161-62 (Alaska 1985) ("What quorum is necessary for the

Webster's Third New Int'l Dictionary 106 (1969). *Black's Law Dictionary* defines "appropriation" as

[t]he act of appropriating or setting apart; prescribing the destination of a thing; designating the use or application of a fund

....
In governmental accounting, an expenditure authorized for a specified amount, purpose, and time.

....
Public law. The act by which the legislative department of government designates a particular fund, or sets apart a specified portion of the public revenue or of the money in the public treasury, to be applied to some general object of governmental expenditure, or to some individual purchase or expense. Authority given by legislature to proper officers to apply distinctly specified sum from designated fund out of treasury in given year for specified object or demand against the state.

Black's Law Dictionary 101-02 (6th ed. 1990); see generally *McAlpine v. University of Alaska*, 762 P.2d 81, 87-88 (Alaska 1988) (discussing definitions of "appropriation").

In *Thomas v. Rosen* we cited with approval the following definition of appropriation by the Wisconsin Supreme Court:

An appropriation is the setting aside from the public revenue of a certain sum of money for a specified object, in such man-

confirmation votes is a question of Alaska constitutional law. It is therefore a question to which the nonjusticiability doctrine does not apply."). Although the court cannot say what particular funds should be used for appropriations, or set the amount of appropriations, it can and must determine the status of particular funds when such a determination is necessary for constitutional interpretation or enforcement.

The State is correct, however, insofar as it asserts that decisions to appropriate certain funds and withdraw other appropriations are political questions. All this means, however, is that the court cannot second guess the wisdom of individual appropriation or non-appropriation decisions. This limitation supports a definition of "available for appropriation" which does not require amounts validly appropriated to specific purposes to be counted. As these amounts have already been appropriated, counting them as available is functionally equivalent to questioning the wisdom of the original appropriation.

ner that the executive officers of the government are authorized to use that money, and no more, for that object, and no other. 569 P.2d 793, 796 (Alaska 1977) (quoting *State ex rel. Finnegan v. Dammann*, 220 Wis. 143, 264 N.W. 622, 624 (1936)). Finally, in *City of Fairbanks v. Fairbanks Convention and Visitors Bureau*, in determining that a local initiative did not make an appropriation, we asked "whether the initiative would set aside a certain specified amount of money or property for a specific purpose or object in such a manner that is executable, mandatory, and reasonably definite with no further legislative action." 818 P.2d 1153, 1157 (Alaska 1991).

Under these definitions, it is clear that one of the fundamental characteristics of an appropriation, in the public law context, is that it authorizes governmental expenditure without further legislative action. Therefore, funds established by the legislature which may be used to pay state expenditures without further legislative action are not available for appropriation, to the extent that expenditures are authorized. This is true regardless of whether the fund is nominally established within the general fund or within a state agency. For example, the oil and hazardous substance release response fund is a restricted fund within the general fund. AS 46.08.010. The commissioner of environmental conservation is authorized to

use money from the fund to

(1) investigate and evaluate the release or threatened release of oil or a hazardous substance, and contain, clean up, and take other necessary action, such as monitoring and assessing, to address a release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or welfare, or to the environment.

AS 46.08.040(a). The entire balance of the fund could potentially be used by the com-

missioner of environmental conservation under this provision without any further authorization by the legislature.²⁵ In addition, AS 46.08.040(b) authorizes the governor to use money from the fund to respond to an oil or hazardous substance discharge emergency during the effective period of such an emergency declared under AS 26.23.020(c). Because the legislature has made the entire balance of this fund available for expenditure, the amounts deposited into the fund are validly appropriated and therefore no longer available for appropriation.

On the other hand, funds which require further legislative appropriation before expenditures can be made against them are available for appropriation. Thus, the Railbelt energy fund, AS 37.05.520, the Alaska marine highway system vessel replacement fund, AS 37.05.550, and the educational facilities maintenance and construction fund, AS 37.05.560, remain "available for appropriation," within the meaning of section 17(b). Each of these funds has the same general structure. Each is established as a "restricted" fund within the general fund, and each consists of money "appropriated" to it by the legislature. AS 37.05.520, .550(a), .560(a). These initial appropriations, however, are not sufficient to support any expenditure. Further legislative appropriations are necessary. See AS 37.05.520 ("The legislature may appropriate money from the fund for programs, projects, and other expenditures to assist in meeting Railbelt energy needs, including projects for retrofitting state-owned buildings for and facilities for energy conservation."); AS 37.05.550(a) ("The legislature may appropriate money from the fund for refurbishment of existing state ferry vessels, or replacement of retired or outmoded state ferry vessels."); AS 37.05.560(b) ("Money in the fund may be appropriated (1) to finance the design, construction, and maintenance of public school facilities; and (2) for mainte-

25. AS 46.08.040 lists eight other purposes for which the commissioner of environmental conservation may use money from the fund. See AS 46.08.040(a)(2)-(7) and (d)(1)-(2). Except as provided for in AS 46.08.040(d)(1), however, expenditures for these purposes are limited to amounts available from appropriations made specifically for the purposes listed. AS 46.08.-

040(c). AS 46.08.040(d)(1) provides that the commissioner of environmental conservation shall, upon request of the Alaska Legislative Council, "use money from the fund to reimburse the Alaska Legislative Council for expenditures that it makes for the operation of the Citizens' Oversight Council on Oil and Other Hazardous Substances."

nance of University of Alaska facilities."').²⁶ Because the initial "appropriations" to these funds cannot support any expenditure, the money in these funds remains "available for appropriation" until further appropriations are made.²⁷

A similar analysis applies to the permanent fund earnings reserve account (earnings reserve account), AS 37.13.145. This fund is established as a separate account within the permanent fund under the authority of the last sentence of Article LX, § 15 of the Alaska Constitution: "All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law." AS 37.13.145(a) provides otherwise: "The earnings reserve account is established as a separate account in the fund. Income from the fund shall be deposited by the corporation into the account as soon as it is received." Therefore, money in the earnings reserve account never passes through the general fund, and is never appropriated as such by the legislature.

A percentage of the money in the reserve account is automatically transferred to the

26. The lists of specific purposes in each statute for which these second appropriations "may" be made are not sufficient to make the assignment of money to these funds "appropriations." Further appropriations are necessary before expenditures can be made. In addition, we have previously recognized that statutory statements that the legislature "may" appropriate money from funds within the general fund for specific purposes "impose no legal restraint on the appropriations power of the legislature." *Sonneman v. Hickel*, 836 P.2d 936, 939-40 (Alaska 1992).

27. In a hybrid situation, where expenditures can be made from part but not all of a fund, the fund is not available for appropriations to the extent that it is subject to expenditure without further legislative approval. We express no opinion on the possible status of funds which technically are subject to full expenditure, but which are funded well beyond any reasonably expectable need, as there is no evidence in the record before us that any such fund exists.

We also make no attempt to name and classify as "available" or "unavailable" every fund within the treasury of the State of Alaska. We leave it, in the first instance, to executive and legislative branch officials more familiar with all of the funds involved to apply the general definition we adopt today.

28. In a May 1990 memorandum describing the budget reserve amendment, budget officer Mary

dividend fund at the end of each fiscal year, AS 37.13.145(b). After that transfer has been made, an additional amount is transferred from the earnings reserve account to the principal of the permanent fund in order to "offset the effect of inflation on principal of the fund." AS 37.13.145(c). No regular provision is made for amounts in the earnings reserve account in excess of that necessary to fund dividends and inflation proof the permanent fund principal. Absent an appropriation, this excess accumulates from year to year. The unencumbered balance of this account was \$1.087 billion as of February 28, 1994.

The balance remaining in the earnings reserve account each year after the dividend and inflation-proofing transfers have been made is liquid, has never been appropriated by the legislature, and is not subject to expenditure without further legislative action. There are no statutory or constitutional prohibitions against direct appropriations from this account.²⁸ The earnings reserve account is therefore available for appropriation.²⁹

Halloran states that the amount available for appropriation includes "all revenue sources, such as permanent fund earnings, federal funds and other restricted funds."

In addition, the language of section 17, and specifically the difference in language between sections 17(b) and (d), suggests that at least some funds outside the general fund may be available for appropriation. Compare § 17(b) ("the amount available for appropriation for a fiscal year") with § 17(d) ("the amount of money in the general fund available for appropriation").

29. In oral argument before the superior court, the State argued that the earnings reserve account should not be considered available because, under current projections of the Alaska Permanent Fund Corporation, the entire balance will be used for dividend payments and inflation proofing by the year 2010. This argument rests on reasoning similar to that which prompted us to conclude that the oil and hazardous substance release response fund was not available for appropriation: the entire account may be expended without further legislative action. Unlike the release response fund, which may be needed for expenditure at any time, the earnings reserve account balance will not be used for many years to come. In the meantime, there are no restrictions on its use. Something more than a possibility of future use is necessary before a fund is considered no longer available for appropriation.

[3] Alaska Statute 37.10.420 fails to include several funds—including trust receipts, “restricted” accounts within the general fund which require further legislative appropriation before they can be expended, and the permanent fund earnings reserve account—in the “amount available for appropriation” which are in fact available within the meaning of article IX, section 17 of the Alaska Constitution. It therefore does not provide an accurate definition of the constitutional term. Therefore, although we differ from the superior court in our analysis of the “amount available for appropriation,” we affirm the superior court’s decision declaring AS 37.10.420(a)(1) unconstitutional.

In summary, the “amount available for appropriation” within the meaning of article IX, section 17 of the Alaska Constitution includes all monies over which the legislature has retained the power to appropriate and which require further appropriation before expenditure. In addition, all amounts actually appropriated, whether or not they would have been considered available prior to appropriation, are available within the meaning of section 17. Illiquid assets, such as land and unexploited natural resources, are not available so long as they remain illiquid. For these reasons, trust receipts are available for appropriation, as are funds like the Railbelt energy fund and the educational facilities maintenance and construction fund, which are not available for expenditure without additional appropriations. In contrast, the oil and hazardous substance release response fund is not counted as available because the entire balance of the fund may be expended at any time without further legislative action. The availability of funds not specifically discussed in this opinion must be determined in accordance with this opinion. Finally, the permanent fund earnings reserve account must be counted as available for appropriation, because appropriations may be made from it and it is not subject to expenditure without legislative action.

30. This amount would include appropriations made from the constitutional budget reserve fund. It would not include “appropriations” made to funds from which additional appropriations are necessary before expenditures can be made. If the legislature both appropriates mon-

B. “Amount appropriated for the previous fiscal year”

[4] The meaning of the term “amount appropriated for the previous fiscal year” in article IX, section 17(b) of the Alaska Constitution follows logically from the definitions of the word “appropriation” listed above. The “amount appropriated for the previous fiscal year” means all amounts set aside for the previous fiscal year by the legislature “for a specific purpose or object in such a manner that is executable, mandatory, and reasonably definite with no further legislative action.” *Fairbanks Convention and Visitors Bureau*, 818 P.2d at 1157. In short, the “amount appropriated” includes every dollar appropriated by the legislature, whatever its source.³⁰ Because our definition of the amount available for appropriation includes all amounts actually appropriated, it is unnecessary to exclude artificially any amount actually appropriated from the “amount appropriated” in order to achieve symmetry in the comparison. The State correctly argues that this symmetry is necessary in order to insure that the comparison required by section 17(b) fairly measures the need for access to the budget reserve fund. Contrary to the State’s argument, however, symmetry can be obtained without abandoning the plain meaning of the words used in the constitution. Because AS 37.10.420(a)(2) does not include all actual appropriations made for the previous fiscal year in the “amount appropriated for the previous fiscal year,” it does not accurately reflect the meaning of the constitutional term. We therefore affirm the superior court’s decision declaring AS 37.10.420(a)(2) unconstitutional.

C. “Amount of appropriations made in the previous calendar year for the previous fiscal year”

[5] Alaska Statute 37.10.420(a)(3) defines the “amount of appropriations made in the previous calendar year for the previous fiscal

ty into a fund which is not available for appropriation and removes money from the same fund to appropriate to a different purpose in the same year, the amounts should be offset so that the same amount of money is not counted twice in determining the total amount appropriated.

year" in terms of the unconstitutionally limited number of appropriation sources identified in subsection (a)(2) of the statute, which itself relies primarily on the sources identified in subsection (a)(1). It cannot be severed from these subsections and therefore is also unconstitutional, as the superior court properly held.

This term is meant to prevent the legislature from increasing prior year appropriations in order to increase access to the budget reserve in the present year.³¹ Other than its unduly narrow interpretation of what counts as an appropriation, the definition of the term in AS 37.10.420(a)(3) appears to be consistent with this purpose. The "amount of appropriations made in the previous calendar year for the previous fiscal year" means the amount of all appropriations made in the calendar year in which the previous fiscal year began.

D. Constitutionality of AS 37.10.420(b)

[6] Alaska Statute 37.10.420(b) designates the means by which appropriations from the budget reserve fund are paid back to the fund. Article IX, § 17(d) provides:

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

Pursuant to the authority granted it by § 17(d), the legislature enacted AS 37.10.420(b), which provides:

If the amount appropriated from the budget reserve fund has not been repaid under art. IX, sec. 17(d), Constitution of the State of Alaska, the Department of Admin-

31. See Halloran memorandum, at 5 ("The phrase 'in the previous calendar year' was inserted by the House Finance Committee specifically to preclude stratagems whereby a supplemental appropriation to the current fiscal year ... could be made in order to increase the allowable size of a Budget Reserve Fund appropriation for the fiscal year being budgeted.")

32. We see no reason to give "available for appropriation" a different meaning in subsection (d)

istration: shall transfer to the budget reserve fund the amount of money comprising the unreserved, undesignated general fund balance to be carried forward as of June 30 of the fiscal year, or as much as necessary to complete the repayment. The transfer shall be made on or before December 16 of the following fiscal year.

This definition excludes restricted funds within the general fund from the calculation of the amount available to pay back appropriations from the budget reserve fund. As discussed above, some of these funds remain "available for appropriation" within the meaning of section 17.³² Although the constitution gives the legislature authority to implement subsection (d), the legislature's authority must be exercised within the constraints of subsection (d)'s own requirements. Because AS 37.10.420 fails to consider all amounts which are "available for appropriation" within the meaning of section 17 in determining the State's repayment obligation, it is unconstitutional. The superior court's decision declaring AS 37.10.420(b) unconstitutional is therefore affirmed.

III. CONCLUSION

The decision of the superior court is AFFIRMED, for the reasons stated in this opinion.



than we did in subsection (b). We recognize, however, that the payback provision in section 17(d) is limited to only those funds which are "available for appropriation" and "in the general fund." Thus, available amounts outside the general fund, such as the earnings reserve account, need not be deposited in the budget reserve. This additional limitation has no effect on funds which exist within the general fund.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SJR 24
(S) Publish Date: 4/23/01

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
Title: Constitutional Amendment relating to the BRU: Elective Operations
budget reserve fund Component: Elections
Sponsor: Senate Finance Committee
Requester: Senate Finance Committee Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	1.5	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	1.5	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2001 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenumial Phone 465-3935
Division: Division of Elections Date/Time 04/10/01 4:28PM
Approved by: Lieutenant Governor Fran Ulmer Date 04/10/2001
Agency: Office of the Lieutenant Governor

For distribution information, call the Governor's Legislative Office



Alaska State Legislature

Please enter into the record my testimony to the

Senate Finance

committee name

Committee on

Long Range Plans

, dated

10/20/01

bill # / subject

I support placing a CAP on the State Government similar to the Kenai Peninsula Borough cap. The cap would allow the State to provide needed services without creating a huge budget deficit.

Signed:

Jack E. Brown

Testifier

Representing (optional)

P.O. Box 7073

Niisk., AK 99635

Address

776-3670

Phone number



Alaska State Legislature

Please enter into the record my testimony to the ? (Senator Ward)

Long-range fiscal plan, cost saving measures, and ways to generate additional revenues for the state
committee on _____, dated October 20, 2001
committee on _____, dated _____, bill # / subject _____

To whom it may concern:

The subject of this hearing is rather vague, and little written material was made available to me. I am unable to come to the Kenai Legislative Information Office to testify in person, therefore I request that this written statement be accepted in lieu of oral testimony.

There is an old saying, "If you pay peanuts, you get monkeys". We have seen the sad results of operating airport security systems with near minimum wage workers, hired by the low bidder for these contracts. Our state needs qualified, competent workers; private industry is not necessarily the best way to go. Experienced, dedicated career employees (or "bureaucrats", as some people like to call them) are important to our safety and well being as Alaskans. We need to stop denigrating these folks, and give them the respect, and the pay, they deserve.

Many Alaskans, particularly Senator Ward's sycophants, seem to believe that the only legitimate function of state government is to mail them their annual Permanent Fund Dividend checks. This money is distributed on a per capita basis, without regard to the need of the recipient. I do not argue against that principle, and have accepted mine gratefully every year since the inception of the program. However, I do not have any deceptions as to whether or not I deserve, or have earned, it. We get them by virtue of living in Alaska, not because of merit or any work or effort we have made to improve the state.

I would like to recommend that it is long past time to restore a graduated income tax to our state, to help to fund needed state programs. I believe Alaska is the only state that does not have a consumer protection advocate in it's Department of Law. Such a program, restoring the state Ombudsman's office to a level of funding that would enable it to handle the job it was originally charged with, etc., are vital to the well-being of all Alaskans. If we are willing to accept money from the state on a per capita basis, we should be willing to pay a fair, graduated income tax on the basis of our ability to pay. I urge you to stop equating greed with virtue, and to re-institute a fair, progressive, graduated income tax.

FOR THE RECORD: Neither my wife or I are now, have ever been, or even expect to be, employees of the state of Alaska or any other state.

Signed: Gerald R. Brookman
Testifier

Myself and my wife, Janet
Representing (Optional)

715 Muir Avenue, Kenai, Alaska 99611-8816

Address
(907) 283-9329

Phone number

Janet E. Brookman

Subject: Capping Budget and Spending

Date: Fri, 19 Oct 2001 10:16:26 -0800

From: William Arnold <wildbill@corecom.net>

To: SYDA_Linda Reynolds <linda3@ptialaska.net>,
Senator Jerry Ward <Senator_Jerry_Ward@legis.state.ak.us>,
Senator Dave Donley <Senator_Dave_Donley@legis.state.ak.us>,
Senator Pete Kelly <Senator_Pete_Kelly@legis.state.ak.us>,
Loretta Brown <Loretta_Brown@legis.state.ak.us>,
Mark Gage <Mark_Gage@legis.state.ak.us>

Dear Senators and Alaska Voters Statewide,

Myself and my wife Samon vote and we are Charter Members of Save Your Dividend Alaskans. We hope the Budgeting and Spending is capped at the numbers authorized the past spring devoid of supplementals period!

The next task is to utilize the Alaska Constitution in one hand to review all the agencies of each department to determine what is necessary. There are a handful of items authorized by the Alaska Constitution. Most of that handful we do pretty poorly. The excess budgeting and spending beyond that is what will be excised by the executive and legislative ax.

All Departments of our State and their their respective agencies are dollar driven by statutes and formulas going back to 1959. It is time to review those statutes and formulas to repeal all the outdated items plus the ones that do not conform with what was provided by our Constitution.

Federal Funds come at a heavy price. The match portion has a cumulative effect, which impacts state earnings.

The General Fund Budget and Spending only covers a portion of government spending. The remaining portion that adds up to 7.2 billion has to be reviewed in a similar fashion, supra.

We will not entertain any new taxes, embellished Permanent Fund Earnings formulas until we are entirely satisfied that our government has shrunk to a decent size to fit our population of about 627,000.

My wife and I will not be able to attend the 10-19-01 meeting in Kenai but we would like someone to utilize our combined 6 minute time frame allotment to read this word for word slowly into the record. Any questions feel free to contact us infra.

Thank you for your time and attention.

Bill and Samon Arnold
SYDA Charter Members
P.O. Box 1392
Sterling, Alaska 99672-1392

Contact us at:
e mail wildbill@corecom.net
(907) 260-5463

Headquarters:
217 2nd Street, Suite 201
Juneau, Alaska 99801
(907) 586-2323 FAX 463-5515
asciumo@ptialaska.net



Regional Office:
P.O. Box 91896
Anchorage, Alaska 99509
(907) 278-2722 FAX 278-6643
ascanch@ptialaska.net

October 19, 2001

Senator Dave Donley
Co-Chairman, Senate Finance Committee
Alaska State Legislature
716 W. 4th Avenue
Anchorage, Alaska 99501-2133

Dear Senator Donley:

Please accept my apology, but I find that I am unable to provide testimony on behalf of the State Chamber when the Senate Finance Committee meets tomorrow, Saturday, October 20. We are preparing for our annual convention next week, and I have realized that I have a conflict because of a project we are working on on Saturday.

Attached is a letter I sent to Representative Rokeberg today regarding HJR 15, SJR 23, and SJR 24 that were heard today in a meeting of the House Judiciary Committee. As stated in the letter, we will be able to provide more input on these issues once they have been addressed by our membership.

I will look forward to learning the results of your meeting.

Sincerely,



Pamela La Bolle
President

Headquarters:
217 2nd Street, Suite 201
Juneau, Alaska 99801
(907) 586-2323 FAX 463-5515
ascjuno@ntialaska.net



Regional Office:
P.O. Box 91896
Anchorage, Alaska 99509
(907) 278-2722 FAX 278-6643
ascanch@ntialaska.net

ALASKA
★ STATE ★
CHAMBER
OF COMMERCE

October 19, 2001

Representative Norm Rokeberg
Chairman, House Judiciary Committee
Alaska State Legislature
716 W. 4th Avenue
Anchorage, Alaska 99501-2133

Re: Committee hearing on HJR 15, SJR 23 and SJR 24

Dear Chairman Rokeberg:

We would like to offer some comments on the above-cited resolutions taken up by your committee in a hearing held today in Anchorage. These are important resolutions, which I am certain the public will want to speak to when the regular legislative session convenes.

At a meeting to be held on October 30, 2001, the Alaska State Chamber of Commerce will develop its positions on issues to be considered during the upcoming legislative session. At that time we will consider the resolutions discussed in your meeting today and we will provide your committee with our position on these issues.

In the meantime, I am able to provide you with our general position regarding development of a long-range fiscal plan. Our policy adopted last December is attached, and from this you can see that we believe a fiscal plan should contain many elements. We have wanted the legislature to develop a blueprint, if you will, a plan for managing Alaska's fiscal future with lessening oil revenue. With a blueprint in place, it can then be determined what actions will be needed to carry out the plan.

The news release announcing the hearing says that these resolutions represent the foundation of a long-range fiscal plan and that the Senate-passed resolutions are essential cornerstones in the structure of a long-range fiscal plan. We have not seen a plan, so we are unable to determine how essential these resolutions are to the plan.

Sincerely,

Pamela La Bolle
President

ALASKA STATE CHAMBER OF COMMERCE

Priority 2001 - 1

Long Range Fiscal Planning

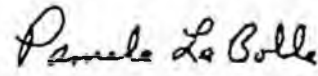
The Alaska State Chamber of Commerce urges the Administration and Legislature to adopt and implement a unified long-range fiscal plan for the state. The plan should address a strategy to bring state spending in line with revenues, encourage and promote economic investment and business development, maintain the state's infrastructure and implement a deferred maintenance plan for all state-owned facilities, and further establish performance measures for state services in concert with results-based government.

The plan should implement a biennial state budget; privatize state services which could be competitively provided by the private sector; promote development of new businesses that could competitively provide goods or services currently provided by the state; and utilize a systematic funding mechanism, such as general obligation bonds, to meet the state's capital needs. The budget shall disclose all revenue and expense items.

ADOPTED

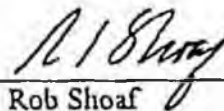
December 1, 2000

BY



Pamela La Bolle
President

BY



Rob Shoaf
Chairman

SITE: WRANGELL LIO

COMMITTEE: SFIN

DATE: 10/20/01

SUBJECT OF MEETING:

Update status of SFIN fiscal plan

UPDATE #:



PLEASE SIGN IN

PLEASE PRINT:

NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

DO YOU WANT
TO TESTIFY?
Y OR N

NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y OR N
<input checked="" type="checkbox"/> Don McConnochie	Box 361 Wrangell, Alaska 99929 <i>Fiscal discipline / \$ for security</i>	Wrg Councilman	Y
<input checked="" type="checkbox"/> Bruce E. Harding	Box 1062 Wrangell, Alaska 99929	Wrg. Mayor	Y
<i>Moses Smith</i>	<i>Vice Mayor of Lower Kallay</i>		
<i>City of</i>			
<i>P.O. Box 69</i>	<i>(907) 471 - 2228</i>		
<i>Lower</i>	<i>Fax (907) 471 - 2363</i>		
<i>99626</i>			

SITE: Kenai LIO

COMMITTEE: SFIN

DATE: 10-20-01

SUBJECT OF MEETING:

Long Range Fiscal Plan

UPDATE #: No. 1



PLEASE SIGN IN

PLEASE PRINT:

DO YOU WANT
TO TESTIFY?
Y or N

NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y or N
Sen. Jerry Ward		Legislature	Y
✓ Linda Reynolds	PO Box 763 Soldotna, AK <i>- Cap on spending -</i>	SYDA chair	Y

Testimony

Legislative Teleconference Network

SPONSOR: Senate Finance

SUBJECT: Fiscal Plan

START TIME: 1:00 DATE: 10/20/01

Please Print

	Name/Representing	Address	Zip	Phone No.	Testify Yes or No	Bill No.
1	Chuck Alberger Common Sense for Alaska	6610 Lakeview <i>Fiscal discipline SJR 2001</i>	99502	243 2029	Yes	SJR 21/21
2.	Barbara Huff Tuckness	520 E. 34	99503	565-8230	NO	
3	Virgil Norton	<i>Save Your Dividend Alaskans Fiscal Discipline</i>			Yes	
4.	Gov Jay Hammond	<i>Will have to deal with indivi. interests</i>			Yes	
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						

Testimony

Legislative Teleconference Network

SPONSOR: Senate Finance

SUBJECT: Fiscal Plan

START TIME: 1:00

DATE: 10/20/01

Please Print

	Name/Representing	Address	Zip	Phone No.	Testify Yes or No	Bill No.
1.	<i>VIRGIL NORTON</i>	<i>P O Box 141796</i>		<i>7706489</i>	<i>YES</i>	
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						