

LEG. FINANCE - BILLS 1983 - 1984 1994
HJR 45 cont. - HJR 57 1994

be 302,361. This figure includes the military population residing in the State of Alaska at the time of the Official Census of April, 1970. In the time available to the Court for the preparation of the interim plan, the Court could find no feasible method of excluding some or all of the military personnel from the total population base. Moreover, computations revealed that changes in representation under the interim plan due to the inclusion of military personnel were minimal.

[1-3] Subsequent to the entry of this court's order establishing an interim reapportionment plan, petitioners filed objections thereto on the stated grounds:

The Court erred in instructing the masters that the population base should include all military personnel who were enumerated in the 1970 census and in allowing nonresident military personnel enumerated by the census to be counted for the purpose of determining the population size and shape of particular districts.

Petitioners contended that the effect of the inclusion of all enumerated military personnel was to give greater political power to those communities which adjoin major military installations. In arguing for preservation of the civilian population concept,⁵ petitioners state that Alaska's legislature established a presumption against residency of military personnel except on affirmation of intent by the person involved that he chooses to be an Alaska resident.⁶ In overruling petitioners' objection to the inclusion in the interim plan's population base of all military personnel who

- 5. Alaska Const. art. VI, § 3 provides in part: "Reapportionment shall be based upon civilian population within each election district as reported by the census."
- 6. In support of this argument, petitioners cite A.S. 15.05.020. The 1971 Reapportionment Plan includes Coast Guard Personnel, 3,752 resident aliens, and all military dependents. These persons cannot be classified as citizens of the State of Alaska under the test urged by petitioners.

were enumerated in the 1970 Census, in our order of June 20, 1972,⁷ we said in part:

[We] could find no feasible basis for the exclusion of part or all of the military population from the population base required for interim reapportionment. Under the Alaska Constitution this base must include all residents of the State of Alaska as enumerated in the decennial census. The base is not limited to voter population. Neither the 1971 reapportionment plan nor the materials relied upon by the petitioners provide a legal basis for identifying nonresident military personnel in order to eliminate them from the population base.

In the absence of reliable data, the elimination of the military from the population base as a class of persons would be a denial of equal protection of the law, prohibited by the Fourteenth Amendment to the United States Constitution. (Footnotes omitted.)

Davis v. Mann, 377 U.S. 678, 84 S.Ct. 1441, 12 L.Ed.2d 609, 617 (1964), instructs that it is constitutionally impermissible to discriminate against a class of individuals merely because of the nature of their employment.

Given Davis v. Mann, this court is nevertheless under the duty, pursuant to article VI, section 3 of the Alaska constitution, to employ census data in determining the total population base for purposes of formulating an interim reapportionment plan.⁸ The census practice of enumeration is as follows:

In accordance with census practice dating back to 1790, each person enumerated in the 1970 census was counted as an in-

- 7. This order is included in the appendix attached hereto.
- 8. See note 1, *supra*. In reaching the conclusion that census data must be employed, we do no more than hold that for purposes of fashioning an interim reapportionment plan the unconstitutional limitation in art. VI, § 3 of the Alaska constitution is severable.

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suant to the mandate of article VI of the Alaska Constitution. The constitution provides for decennial reapportionment of the House of Representatives.¹ The authority to reapportion the House is vested in the Governor of the state, with the advice of a reapportionment board.² Since the adoption of the Alaska Constitution in 1956 the United States Supreme Court has ruled that both houses of a state legislature must be apportioned according to population.³

Because the Alaska Constitution made no provision for reapportionment of the Senate, we held in *Wade v. Nolan*⁴ that on an interim basis until amendment of the Alaska Constitution the Governor had the power to reapportion the Senate in the same manner as specified by the constitution for the reapportionment of the House.

In 1971, following the 1970 decennial census, no amendment having been made to the Alaska Constitution, the Governor reapportioned both houses of the Alaska legislature. Thirteen members of the Alaska legislature then challenged the validity of the 1971 plan.⁵ They argued that the percentage variations from the population norms for legislative districting violated the equal protection clauses of both the United States and the Alaska Constitutions; that the exclusion of the military from the population base was a denial of equal protection; that the Advisory Reapportionment Board was not constituted in the manner required by the Alaska Constitution; that the Governor lacked power to subdivide existing multi-member districts; that the Governor lacked power to create "designated seats" within multi-member districts; that the Governor was without authority to require incumbent Senators to stand for mid-term elections; and that the Governor exceeded his constitutional power by reapportioning the Senate.

1. Alaska Const. art. VI, § 3.
2. Alaska Const. art. VI, § 8.
3. *Reynolds v. Sims*, 377 U.S. 533, 84 S.Ct. 1292, 12 L.Ed.2d 506 (1964).
4. 411 P.2d 689 (Alaska 1966).
5. Alaska Const. art. VI, § 11.

The superior court held for the plaintiffs that the variances from population norms were so great as to render the plan invalid; that the Governor lacked the power to subdivide existing multi-member districts and to designate seats within such districts; and that the Governor could not prematurely terminate the terms of senators elected for four years.

The superior court held for the defendants that the military were properly excluded from the population base, that the Advisory Reapportionment Board was properly constituted; and that the Governor did possess the power to reapportion the Senate.

The trial court directed that the matter of reapportionment of the Alaska State Legislature be sent back to the Governor and the Advisory Reapportionment Board for further consideration in accordance with the decision. Both the plaintiffs and the defendants below filed petitions for review from the superior court holdings adverse to their respective positions.

This court was mindful of the need for a speedy decision to enable election officials to prepare registration lists and ballots, to disseminate information and to afford time for election campaigns in the impending primary elections.⁶ The petitions for review were filed on April 26, 1972. The time for filing briefs was accelerated and oral arguments were heard on May 23, 1972. During the course of those oral arguments, counsel were requested to recommend to this court procedures to be followed in the event that the 1971 plan was found to be constitutionally defective. It was suggested that the court fashion its own interim plan, and the Attorney General further recommended that Masters be appointed by the court.

6. The date of filing for candidacies was May 31, 1972. It was extended by this court in accordance with its powers over reapportionment matters first to June 15, 1972 and then to June 30, 1972. *Connor v. Johnson*, 492 U.S. 630, 91 S.Ct. 1760, 29 L.Ed.2d 298 (1971).

From The Last Frontier



Rep. Terry Martin
State Capitol, Pouch V
Juneau, AK 99811

State of Alaska because of its differing climates, topography, ethnic composition, socio-economic interests and distribution of its relatively sparse population. However, under the mandate of various decisions of the United States Supreme Court, we make the following determinations and order:

1. The reapportionment plan proposed by the Governor of Alaska in his Proclamation of Reapportionment and Redistricting of December 30, 1971, is unconstitutional in that its overall reapportionment of the Senate and House of Representatives results in proposed election districts that do not contain as nearly equal population proportions as is practicable. Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed. 2d 506 (1964); Wade v. Nolan, 414 P.2d 689 (Alaska 1966).

Under the Equal Protection and Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowing from malapportionment of either the House of Representatives or the Senate

in order to effectuate this constitutionally protected right to vote, we are obliged to declare the reapportionment plan of December 30, 1971, invalid under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

2. To insure compliance with the Equal Protection Clause in regard to the forthcoming 1972 primary and general elections for the State Legislature this court must formulate an interim reapportionment and redistricting plan. Scott v. Germano, 381 U.S. 407, 85 S.Ct. 1525, 14 L.Ed.2d 477 (1965); Maryland Comm. for Fair Representation v. Tawes, 377 U.S. 656, 675-676, 84 S.Ct. 1429, 12 L.Ed.2d 595, 607 (1964). The Lieutenant Governor is to conduct the 1972 primary and general elections for the State Legislature pursuant to the interim reapportionment and redistricting plan which this court will adopt.

3. In order to fashion an interim plan this court will appoint one or more masters to assist it.

4. Upon receipt of the report of the master or masters, this court will consider the manner in which the House and Senate districts shall be reapportioned. This court will then proceed to adopt an interim plan of reapportionment which, as nearly as practicable, considering the allotted time, reflects the standards which have been made binding upon the states by the United States Supreme Court. Ely v. Klar, 403 U.S. 108, 91 S.Ct. 1803, 29 L.Ed.2d 352 (1971); Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506, 541 (1964).

5. In the event this court determines that the exigencies of the situation preclude the fashioning of an interim constitutional reapportionment plan by June 15, 1972, this court will enter a further order specifying the plan under which the Lieutenant Governor shall conduct the 1972 primary and general elections for the State Legislature, together with the dates that such elections will be held. Connor v. Johnson, 402 U.S. 690, 91 S.Ct. 1760, 29 L.Ed.2d 268 (1971).

6. A full opinion discussing and determining the issues which were raised in the petition and cross-petition will be filed in due course.

Dated at Juneau, Alaska, this 26th day of May, 1972.

- George F. Boney
Chief Justice
- Jay A. Rabinowitz
Associate Justice
- Roger G. Connor
Associate Justice
- Robert C. Erwin
Associate Justice
- Robert Booschever
Associate Justice
- Associate Justice

ORDER ESTABLISHING AN INTERIM REAPPORTIONMENT PLAN FOR 1972 LEGISLATIVE ELECTIONS

This Court declared the Reapportionment and Redistricting Proclamation dated December 30, 1971, unconstitutional by its Decision and Order entered May 26, 1972. Pursuant to that Decision and Order, the Court appointed Dr. George W. Rogers and William H. Scott Masters to assist it in fashioning an interim reapportionment plan for the 1972 Alaska Legislative Elections.¹

The Court, on May 26, 1972 gave the Masters the following written instructions:

1. By use of the official census of 1970, you should establish a population base for the State of Alaska. This population base should include military personnel who were enumerated in the 1970 Census.

2. You should make an inquiry to determine whether or not the number of nonresident military personnel included in the 1970 Census can be determined. If a determination can be made, then you should subtract the number from the total which you have arrived at in paragraph 1 above. You should also state the methods in detail by which you arrived at this determination.

3. Once you have determined the population base, you should divide the same by 40. This will give you the ideal number of persons to be included in a single member House district. You should then divide the population base by 20 which will represent the ideal population for a single member Senate district.

4. You should then establish House and Senate election districts containing a number of persons as close to the formula as feasible.

1. We commend George W. Rogers, Professor of Economics at the University of Alaska, and Mr. William H. Scott, C.P.A., their legal assistant R. E. Hicks, and Mr.

5. In establishing House and Senate districts, an effort should be made to make the districts correspond, where feasible, with the approximate boundaries set out in the 1971 reapportionment plan. No designated seats will be established with a multi-member district if multi-member districts are established. In establishing House and Senate districts you should, wherever feasible, create a district of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.

6. If there are any substantial deviations from the population norms, express, specific reasons should be set forth.

The Masters submitted a report on June 12, 1972. Thereafter, the Masters met with the Court on June 13, 1972, at which time the report was amended to reflect determinations made by the Court concerning the reapportionment plan.

The Court, now being fully advised in the premises, hereby makes and orders the following interim reapportionment plan for the 1972 legislative elections:

(1) By use of the Official Census of 1970, the Court determines that the total population base for the State of Alaska shall be 302,361. This figure includes the military population residing in the State of Alaska at the time of the Official Census of April, 1970. In the time available to the Court for the preparation of the interim plan, the Court could find no feasible method of excluding some or all of the military personnel from the total population base. Moreover, computations revealed that changes in representation under the interim plan due to the inclusion of military personnel were minimal.

Richard Listowski, cartographic and statistical assistant, for the excellence of their performance in executing the Court's instructions.



1970 Census of Alaska, Alaska, USGPO, 1970).

this right. In urging the people to adopt the Constitution, Madison said in No. 57 of *The Federalist*:

"Who are to be the electors of the Federal Representatives? Not the rich more than the poor; not the learned more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States. . . ."

Readers surely could have fairly taken this to mean, "one person, one vote." Cf. *Gray v. Sanders*, 372 U.S. 368, 381.

While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives.

That is the high standard of justice and common sense which the Founders set for us.

Reversed and remanded.

MR. JUSTICE CLARK, concurring in part and dissenting in part.

Unfortunately I can join neither the opinion of the Court nor the dissent of my Brother HARLAN. It is true that the opening sentence of Art. I, § 2, of the Constitution provides that Representatives are to be chosen "by the People of the several States" However, in my view, Brother HARLAN has clearly demonstrated that both the historical background and language preclude a finding that Art. I, § 2, lays down the *ipse dixit* "one person, one vote" in congressional elections.

On the other hand, I agree with the majority that congressional districting is subject to judicial scrutiny. This

¹ The Federalist, No. 57 (Cooke ed. 1001), at 385.

Court has so held ever since *Smiley v. Holm*, 285 U.S. 355 (1932), which is buttressed by two companion cases, *Koenig v. Flynn*, 285 U.S. 375 (1932), and *Carroll v. Becker*, 285 U.S. 380 (1932). A majority of the Court in *Colegrove v. Green* felt, upon the authority of *Smiley*, that the complaint presented a justiciable controversy not reserved exclusively to Congress. *Colegrove v. Green*, 328 U.S. 549, 564, and 568, n. 3 (1946). Again, in *Baker v. Carr*, 369 U.S. 186, 232 (1962), the opinion of the Court recognized that *Smiley* "settled the issue in favor of justiciability of questions of congressional redistricting." I therefore cannot agree with Brother HARLAN that the supervisory power granted to Congress under Art. I, § 4, is the exclusive remedy.

I would examine the Georgia congressional districts against the requirements of the Equal Protection Clause of the Fourteenth Amendment. As my Brother BLACK said in his dissent in *Colegrove v. Green*, *supra*, the "equal protection clause of the Fourteenth Amendment forbids . . . discrimination. It does not permit the States to pick out certain qualified citizens or groups of citizens and deny them the right to vote at all. . . . No one would deny that the equal protection clause would also prohibit a law that would expressly give certain citizens a half-vote and others a full vote. . . . Such discriminatory legislation seems to me exactly the kind that the equal protection clause was intended to prohibit." At 569.

The trial court, however, did not pass upon the merits of the case, although it does appear that it did make a finding that the Fifth District of Georgia was "grossly out of balance" with other congressional districts of the State. Instead of proceeding on the merits, the court dismissed the case for lack of equity. I believe that the court erred in so doing. In my view we should therefore vacate this judgment and remand the case for a hearing

Opinion of the Court. 377 U. S.
~~But neither history alone nor economic or other sorts of~~

group interests, are permissible factors in attempting to justify disparities from population-based representation. Citizens, not history or economic interests, cast votes. Considerations of area alone provide an insufficient justification for deviations from the equal-population principle. Again, people, not land or trees or pastures, vote. Modern developments and improvements in transportation and communications make rather hollow, in the mid-1960's, most claims that deviations from population-based representation can validly be based solely on geographical considerations. Arguments for allowing such deviations in order to insure effective representation for sparsely settled areas and to prevent legislative districts from becoming so large that the availability of access of citizens to their representatives is impaired are today, for the most part, unconvincing.

A consideration that appears to be of more substance in justifying some deviations from population-based representation in state legislatures is that of insuring some voice to political subdivisions, as political subdivisions. Several factors make more than insubstantial claims that a State can rationally consider according political subdivisions some independent representation in at least one body of the state legislature, as long as the basic standard of equality of population among districts is maintained. Local governmental entities are frequently charged with various responsibilities incident to the operation of state government. In many States much of the legislature's activity involves the enactment of so-called local

Ordinance of 1787, in explicitly providing for population-based representation of those living in the Northwest Territory in their territorial legislatures, clearly implied that, as early as the year of the birth of our federal system, the proper basis of legislative representation was regarded as being population.

377 U.S. 533 (1964)

533

Opinion of the Court.

legislation, directed only to the concerns of particular political subdivisions. And a State may legitimately desire to construct districts along political subdivision lines to deter the possibilities of gerrymandering. However, permitting deviations from population-based representation does not mean that each local governmental unit or political subdivision can be given separate representation, regardless of population. Carried too far, a scheme of giving at least one seat in one house to each political subdivision (for example, to each county) could easily result, in many States, in a total subversion of the equal-population principle in that legislative body.¹² This would be especially true in a State where the number of counties is large and many of them are sparsely populated, and the number of seats in the legislative body being apportioned does not significantly exceed the number of counties.¹³ Such a result, we conclude, would be constitutionally impermissible. And careful judicial scrutiny must of course be given, in evaluating state apportionment schemes, to the character as well as the degree of deviations from a strict population basis. But if, even as a result of a clearly rational state policy of according some legislative representation to political subdivisions, population is submerged as the controlling consideration in the apportionment of seats in the particular legislative body, then the right of all of the State's citizens to cast an effective and adequately weighted vote would be unconstitutionally impaired.

¹² See McKay, Political Thickets and Crazy Quilts: Reapportionment and Equal Protection, 61 Mich. L. Rev. 645, 698-699 (1963).

¹³ Determining the size of its legislative bodies is of course a matter within the discretion of each individual State. Nothing in this opinion should be read as indicating that there are any federal constitutional maximums or minimums on the size of state legislative bodies.

ter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized. Almost a century ago, in *Fick Wo v. Hopkins*, 118 U. S. 356, the Court referred to "the political franchise of voting" as "a fundamental political right, because preservative of all rights." 118 U. S., at 370.

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system. It could hardly be gainsaid that a constitutional claim had been asserted by an allegation that certain otherwise qualified voters had been entirely prohibited from voting for members of their state legislature. And, if a State should provide that the votes of citizens in one part of the State should be given two times, or five times, or 10 times the weight of votes of citizens in another part of the State, it could hardly be contended that the right to vote of those residing in the disfavored areas had not been effectively diluted. It would appear extraordinary to suggest that a State could be constitutionally permitted to enact a law providing that certain of the State's voters could vote two, five, or 10 times for their legislative representatives, while voters living elsewhere could vote only once. And it is inconceivable that a state law to the effect that, in counting votes for legislators, the votes of citizens in one part of the State would be multiplied by two, five, or 10, while the votes of persons in another area would be counted only at face value, could be constitutionally sustainable. Of course, the effect of

state legislative districting schemes which give the same number of representatives to unequal numbers of constituents is identical.⁴⁰ Overweighting and overvaluation of the votes of those living here has the certain effect of dilution and undervaluation of the votes of those living there. The resulting discrimination against those individual voters living in disfavored areas is easily demonstrable mathematically. Their right to vote is simply not the same right to vote as that of those living in a favored part of the State. Two, five, or 10 of them must vote before the effect of their voting is equivalent to that of their favored neighbor. Weighting the votes of citizens differently, by any method or means, merely because of where they happen to reside, hardly seems justifiable. One must be ever aware that the Constitution forbids "sophisticated as well as simple-minded modes of discrimination." *Lane v. Wilson*, 307 U. S. 268, 275; *Gomillion v. Lightfoot*, 364 U. S. 339, 342. As we stated in *Wesberry v. Sanders*, *supra*:

"We do not believe that the Framers of the Constitution intended to permit the same vote-diluting discrimination to be accomplished through the device of districts containing widely varied numbers of inhabitants. To say that a vote is worth

⁴⁰ As stated by Mr. Justice Black, dissenting, in *Colegrove v. Green*, 328 U. S. 549, 569-571:

"No one would deny that the equal protection clause would . . . prohibit a law that would expressly give certain citizens a half-vote and others a full vote. . . . [T]he constitutionally guaranteed right to vote and the right to have one's vote counted clearly imply the policy that state election systems, no matter what their form, should be designed to give approximately equal weight to each vote cast. . . . [A] state legislature cannot deny eligible voters the right to vote for Congressmen and the right to have their vote counted. It can no more destroy the effectiveness of their vote in part and no more accomplish this in the name of 'apportionment' than under any other name."

more in one district than in another would . . . run counter to our fundamental ideas of democratic government" ⁴¹

State legislatures are, historically, the fountainhead of representative government in this country. A number of them have their roots in colonial times, and substantially antedate the creation of our Nation and our Federal Government. In fact, the first formal stirrings of American political independence are to be found, in large part, in the views and actions of several of the colonial legislative bodies. With the birth of our National Government, and the adoption and ratification of the Federal

⁴¹ 376 U. S., at 8. See also *id.*, at 17, quoting from James Wilson, a delegate to the Constitutional Convention and later an Associate Justice of this Court, who stated:

"[A]ll elections ought to be equal. Elections are equal, when a given number of citizens, in one part of the state, choose as many representatives, as are chosen by the same number of citizens, in any other part of the state. In this manner, the proportion of the representatives and of the constituents will remain invariably the same." 2 *The Works of James Wilson* (Andrews ed. 1896) 15.

And, as stated by Mr. JUSTICE DOUGLAS, dissenting, in *MacDougall v. Green*, 335 U. S., at 288, 290:

"[A] regulation . . . [which] discriminates against the residents of the populous counties of the state in favor of rural sections . . . lacks the equality to which the exercise of political rights is entitled under the Fourteenth Amendment.

"Free and honest elections are the very foundation of our republican form of government. . . . Discrimination against any group or class of citizens in the exercise of these constitutionally protected rights of citizenship deprives the electoral process of integrity. . . .

"None would deny that a state law giving some citizens twice the vote of other citizens in either the primary or general election would lack that equality which the Fourteenth Amendment guarantees. . . . The theme of the Constitution is equality among citizens in the exercise of their political rights. The notion that one group can be granted greater voting strength than another is hostile to our standards for popular representative government."

Constitution, state legislatures retained a most important place in our Nation's governmental structure. But representative government is in essence self-government through the medium of elected representatives of the people, and each and every citizen has an inalienable right to full and effective participation in the political processes of his State's legislative bodies. Most citizens can achieve this participation only as qualified voters through the election of legislators to represent them.

Full and effective participation by all citizens in state government requires, therefore, that each citizen have an equally effective voice in the election of members of his state legislature. Modern and viable state government needs, and the Constitution demands, no less.

Logically, in a society ostensibly grounded on representative government, it would seem reasonable that a majority of the people of a State could elect a majority of that State's legislators. To conclude differently, and to sanction minority control of state legislative bodies, would appear to deny majority rights in a way that far surpasses any possible denial of minority rights that might otherwise be thought to result. Since legislatures are responsible for enacting laws by which all citizens are to be governed, they should be bodies which are collectively responsive to the popular will. And the concept of equal protection has been traditionally viewed as requiring the uniform treatment of persons standing in the same relation to the governmental action questioned or challenged. With respect to the allocation of legislative representation, all voters, as citizens of a State, stand in the same relation regardless of where they live. Any suggested criteria for the differentiation of citizens are insufficient to justify any discrimination, as to the weight of their votes, unless relevant to the permissible purposes of legislative apportionment. Since the achieving of fair and effective representation for all citi-

Alaska State Legislature

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DURING LEGISLATURE
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December 29, 1983

Mr. Willie Hensley
c/o Reapportionment Board
Pouch A
Juneau, AK 99811

Attention: Karen Rehfeld

Dear Mr. Hensley:

A copy of the Board's most recent reapportionment plan (Dec.19) was most appreciated and I take this opportunity to express my concerns.

Because of past actions of the 1981 Reapportionment Board, Judge Souter's very restrictive directions, Governor Sheffield's concerns that all persons be counted, outdated constitution wording and fast growing, population, your Board faces an impossible task and is severely hampered in doing a responsible and constitutionally sound job of reapportionment. The previous Board's action seriously discriminated against the majority of Alaska's true population. All plans thus far proposed by your Board only exasperate the problem of meeting the superior requirement of one person equals one vote.

In order to save excessive court costs in the immediate future, I believe it imperative that the Board request Gov. Sheffield to ask Judge Souter and/or the Alaska Supreme Court to lift the current restrictions imposed and allow a statewide reapportionment that will properly use Federal census figures of 1980 (if we must be limited to this) and insure equal and fair representation for all Alaskans.

Admittedly this may delay reapportionment taking place until after the 1984 election but in the long run, without broader direction for the Board and considering the court's previous recommended changes in Alaska's constitution, all your current efforts seem futile.

Please also consider the following points of views on the past and present reapportionment plans.

Yours very truly,

A handwritten signature in cursive script that reads "Terry Martin".

Rep. Terry Martin

cc: Board Members
Executive Director
Gov. Wm. Sheffield
Speaker of House

Senate President
Media
Attorney General's Office

In the wake of the Carpenter v. Hammond decision it seems that the current Board has strayed from the controlling consideration in reapportionment - one man, one vote. The 1980 Board strove to keep combined variances between any two districts below ten per cent. This ten per cent total population variance (from highest to lowest) seems to be the rule of thumb. In Carpenter v. Hammond, Judge Moore required the adjustment of district boundaries in Southwest Alaska to reduce the combined population variance between Districts 25 and 26 (11.5%).

The current Board appointed by Governor Sheffield, seems to weigh the socio-economic guideline (brought out in the Carpenter Case) equal to if not more important than equally populated districts. In the original reapportionment plan (June 10, 1981) there was only one variance between districts greater than ten per cent and Judge Moore required adjustment of those districts. In the plan adopted by the current Board on Dec. 19, 1983 (Plan 2) there are 28 cases where combined variances between districts exceed ten per cent. (TABLE X) Granted, there may be uncontrollable factors involved, but to leap from 1 to 28 seems excessive.

In examining past Supreme Court decisions the basis for apportionment is clearly stated. The opinion of the U.S. Supreme Court in Wesberry v. Sanders 376 U.S. 1 at 180 was: "While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives." And although the previous quote refers specifically to Federal Representatives, the same applies to state legislatures as noted in the opinion of the Alaska Supreme Court in Egan v. Hammond, Alaska 502P2d 856 at 875: "Under the Equal Protection & Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowing from malapportionment of either the House of Representatives or the Senate."

Some would argue that the Alaska State Constitution provides guidelines other than population alone to be used for reapportionment. While contiguity, compactness, and socio-economic integration can be considered, they are not to be the controlling factors. This point is in the U.S. Supreme Courts opinion in Reynolds v. Sims 377 U.S. 533 at 579-580: "But neither history alone, nor economic or other sorts of group interests, are permissible factors in attempting to justify disparities from population - based representation." In the same opinion on page 581 the Justices noted, "But if, even as a result of a clearly rational state policy of according some legislative representation to political subdivisions, population is submerged as the controlling consideration in the apportionment of seats in the particular legislative body, then the right of all the State's citizens to cast an effective and adequately weighted vote would be unconstitutionally impaired."

In utilizing the variance concept to achieve equitable representation, there must be an underlying assumption of randomness in those variances. If one region is biased with non-random variations then the cumulative effect of those variations can be substantial. Southeast Alaska is a good example of these non-random variances and their effect. With 5 of 6 S.E. districts having significant negative variations, the average negative variation for all 6 seats is 3.5%.

While statistics are useful aids for comparison, they can also be quite misleading. In Reapportionment Plan 2 (Dec 19, 1983) the average population variance in Southeast from the ideal House seat size is -3.5%. The variance for the 17 Anchorage seats from the ideal is +1.8%. (TABLE I)

Neither variance sounds excessive, but when actual numbers from Southeast and Anchorage are compared, the problem becomes apparent. The total population for six Southeast House seats is 53308 or 8885 per seat. Likewise, Anchorage's population is 159,466 for 17 seats or 9380 per seat. Direct comparison shows a difference of 495 people per average seat size. (TABLE I)

While individual variances may seem reasonable, the cumulative effect is not. Essentially, Anchorage is under represented by 495 people per seat. For 17 Anchorage seats that works out to 8415 people, which is a significant number when compared with the Southeast seat size of 8885 and the ideal seat size of 9211. Anchorage is under represented by one seat. (TABLE II)

When comparing the rest of Alaska (excluding Anchorage) with Southeast similar problems occur. There is a 271 person per seat difference between Southeast and the rest of Alaska. This works out to a cumulative inequity of 4607 people between the two regions. The total overpopulation for the whole state vs. Southeast is 8415 (Anchorage) + 4607 (Remaining Alaska) or 13022. This emphasizes that not only is most of Alaska under represented, but that Southeast Alaska is over represented when compared with the rest of the state. (TABLE III)

As noted in the order of the Alaska Supreme Court in Egan vs. Hammond, Alaska, 502P2d 856 at 875: "Under the Equal Protection and Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowing from malapportionment of either the House of Representatives or the Senate."

While there have been instances where Courts have upheld reapportionment plans with variances greater than ten per cent, there are usually specific reasons for this. In Abate v. Mundt, 403 U.S. 182, the U.S. Supreme Court upheld an 11.9% total variance due to historical considerations and the fact that there were no built in bases which favored a certain area or interest. Just the opposite is true in Alaska. The variances in the reapportionment plan are strongly biased in favor of Southeast Alaska and against the Anchorage area.

In Kilgarlin v. Hill, 386 U.S. 120, the U.S. Supreme Court set a precedent in allowing a combined variance of 26.48%. They reasoned that the under populated area had a high growth rate and would soon have the population to eliminate the variance. In examining Alaska's reapportionment under this growth principle, inequities surface once again. Those areas growing fastest, which would soon justify more representation are the regions with the highest variances above the average. North Kenai - South Anchorage (+4.0%), Campbell-Hillside (+4.4%), Turnagain-Sandlake (+4.0%), Kenai-Cook Inlet (+4.2%) are all rapidly expanding, yet they all have large positive variances. It seems the Board could at least consider growth areas and rather than becoming more under represented, a region could grow into fair representation.

The major problem with all the reapportionment plans is the unequal representation afforded certain regions of the state. The 1981 Board made some mistakes which when coupled with mandates from the Carpenter v Hammond case further exacerbate the problem.

Throughout the reapportionment process the Anchorage area has been allocated more people and the Southeast region has been allocated less. This is specifically due to three things; the movement of Cordova out of Southeast, the alternative treatment of the military, and the 1980 census revisions. All of these further the inequity of representation between the two regions.

The 1981 Board received its official census data on March 12, 1981. The first Draft of the reapportionment plan, issued May 5, 1981, did not include an April Census revision which added 1414 people to Eagle River, 50 to the Mat Su Borough and subtracted 94 from the S.E. Fairbanks area. The Board still did not consider the corrections when it made revisions and issued its final plan on May 22, 1981.

Reasons for not using the updated census data are unknown. Fortunately, the current board appointed by Gov. Sheffield has utilized these corrections in at least one of its reapportionment plans (2). The reasons for still considering Plan I, which doesn't use corrected data, are unclear. The 1414 people in Eagle River need to be represented. They can't be just overlooked.

The 1981 Board utilized a plan to consider a certain proportion of military personnel as residents for reapportionment purposes. In the original reapportionment plan (June 10, 1981, resident military personnel were determined at only 7 major military installations (Elmendorf, Eilson, Ft. Wainwright, Ft. Richardson, Ft. Greeley, Adak Naval Base, and the Kodiak Coast Guard Station). This resulted in 31,363.8 non-resident military personnel. Since all military were included in Alaska's population during the 1980 Federal census, these 31,363.8 were subtracted from the census figures to arrive at Alaska's resident population for reapportionment ($400,481 - 31,353.7 = 369,117.2$).

Problems arise in the application of the plan. Why did the 1981 Board only consider the seven major military installations? They didn't include approximately 2491 other military personnel throughout the state. Of the 2491 only 424 were considered residents. Therefore 2067 more people should be subtracted from the total state population to arrive at the base figure for reapportionment.

Fortunately, the current Board has considered these additional personnel in formulating both of their reapportionment plans (Plan 1 and Plan 2). The only criticism to be levied upon the current Board is their lack of public disclosure. No where do they explain this exclusion of the additional 2067 non-resident military personnel in the current plans (Plan 1 & 2). The population figures change in many districts without any explanations or indications of change.

In the Carpenter v Hammond case the Alaska Supreme Court decided that Cordova was not similar enough in socio-economic terms to be included in the Iceworm District. Their mandate was to take Cordova out of the Southeast district and move it elsewhere. This shift reduced Southeast's population base by 2241.

Also, in *Carpenter v Hammond*, Judge Souter,, who has jurisdiction in the case, ordered that the reapportionment be done consistent with federal and state constitutional requirements of equal representation, but with the fewest possible changes to the original plan (June 10,1981). All of these guidelines make the current Boards reapportionment job extremely difficult.

To tie in all three problem areas it must be noted again that throughout the reapportionment process, Anchorage has been gaining people and S.E. has been losing them, resulting in an unacceptable imbalance of representation. Due to the census correction, Anchorage area gained 1414 people. As a result of considering additional non-resident military, rural Alaska lost 2067 people, and specifically Southeast lost 484. Most significant of all is moving Cordova, thus reducing Southeast's population by another 2241 people. So, as a result of the reapportionment the disparity between Anchorage and Southeast has grown by 4139 people (1414 + 2241 + 484).

Since the *Carpenter v. Hammond* case which required removal of Cordova from the Iceworm District, the current Board seems to be picking and choosing when to apply the socio-economic test and when not to. In Plan 2 (Dec. 19,1983) Port Graham and English Bay were reincluded in District 5 because of the feeling from public testimony that their ties were with Seldovia and Homer. This move increased the variances of both Districts 5 and 6, but the Board made the move because of the economic ties and they felt it was reaching a long way from Prince William Sound just to include these two communities.

The same socio-economic and distance arguments can be made for Metlakatla in Southeast, yet no changes were made. The people of Metlakatla have strongly voiced their desire to be politically attached to Ketchikan only a few miles away and not be forced to vote for a representative that lives four or five hundred miles away. All of their ties are with Ketchikan - social, economic, transportation, communication, yet Metlakatla is included with Yakutat, Haines and Skagway who are far away and have few if any direct ties. It seems the Board is reaching as far in this Southeast District as it did with Port Graham and English Bay, yet no changes have been made.

Including Nikishki (North Kenai) in one district with South Anchorage seems as bad as the above cases. People from North Keani and South Anchorage have expressed their displeasure at being combined into one district. All of Nikishki's ties are with Kenai. Travel must be through Kenai to get to Anchorage. Nikishki belongs to the Kenai school district not Anchorage. Again, despite few ties between two areas and public opposition the Board has placed them in the same district.

Why are a few blocks from Muldoon placed in District 15 which is primarily Eagle River-Chugiak? Why is Tyonek, an area in the Kenai School District and with all its ties to Anchorage or Kenai, the only coastal village in a huge district stretching far into the Interior? It seems that the current Board lacks a consistent set of guidelines to apply during the reapportionment process.

One guideline which would improve representation would be to fashion all single member House and Senate seats. The history of Alaska since the Statehood convention of 1955-56 has shown a continuous effort to move toward single member elected House and Senate seats. Catering to this principle that insures and enhances one person one vote will readily decrease the problems of equal representation and drawing of election boundary lines.

Single member seats would guarantee that your representative would live in your District. One strong block of voters, such as Eagle River or downtown wouldn't be able to elect both representatives for the whole election area.

Single seat districts further guarantee representation for neighborhoods in large urban areas. In the future Fairview and Mountain View will always be sure of a Representative that truly lives in their area. Chugiak-Eagle River can easily support its own single Senate seat and two House seats. Under the current districts (1981) there are no Senators living in District 13. If Plan 2 (Dec. 19, 1983) were adopted and the current Senators were re-elected, Districts 13 and 14 (all of east Anchorage) would lack senators living in their district.

Multi-member districts also discriminate against the political candidates in them. It costs a lot more to run a campaign focused at 18,500 people (multi-member district size) than one for 9250 people. Single member districts make it more feasible (less money) for the average person to run for office. And once in office it costs less for mailouts to smaller districts. Fewer people to represent would hopefully result in better representation. In large districts (area wise) single seats cut down the distance a representative must travel to physically meet constituents.

It must be noted again that many of the problems mentioned in this report are unsurmountable when working within the constraints given the current Board. The Boards current plans (1 and 2) which discriminate against a large number of people and many regions of the state, will no doubt face expensive and time consuming litigation. Rather than end up with a patch-work reapportionment that must be lived with until 1990, why not take the necessary time and use specific guidelines to fashion a fair and equitable state reapportionment plan.

TABLE I

Anchorage vs Southeast

Plan 2
Dec. 19, 1983

Southeast 6 House Seats

<u>District</u>	<u>Population</u>	<u>Variance</u>
D1	16602	-9.9
D2	8924	-3.1
D3	8449	-8.3
D4	19333	+4.9
6/53308 =		8885/seat
Ave. S.E. variance) 3.5%		
Ave. Anchorage Variance +1.8%		
State Total 368,420 ÷ 40 = 9210.5		

Anchorage

<u>District</u>	<u>Population</u>	<u>Variance</u>
D7	9580	+4.0
D8	19231	+4.4
D9	19156	+4.0
D10	18184	-1.3
D11	18804	+2.1
D12	18678	+1.4
D13	19173	+4.1
D14	18265	- .1
17/159466 =		9380/seat

Difference per average seat Anchorage vs S.E. 9380 - 8885 = 495

Total people not represented in Anchorage 495 x 17 = 8415



TABLE II

Southeast vs Anchorage

Plan 2
Dec 19, 1983

Total Population 53308 + 159466 = 212774
 Southeast Anchorage

Ave Juneau Seat Size 8885 212774 ÷ 8885 = 23.95

23.95 - 6 = 17.95

Should be 6 seats in Juneau and 18 in Anchorage

S.E.

Anchorage

6/ $\overline{53308} = 8885/\text{seat}$

17/ $\overline{159466} = 9380/\text{seat}$

Ave S.E. variance - 3.5%

Ave Anch variance + 1.8%

9380 - 8885 = 495/seat

495 x 6 = 2970

495 x 17 = 8415

From The Last Frontier

Rep. Terry Martin
State Capitol, Pouch V
Juneau, AK 99811

TABLE III

Remaining AK (excluding Anch) vs Southeast

Plan 2
Dec. 19, 1983

Remaining Alaska (excluding Anch)

Southeast 6 seats

<u>District</u>	<u>Population</u>	<u>Variance</u>		<u>District</u>	<u>Population</u>
D5	19190	+4.2		D1	16602
D6	8598	-6.7		D2	8924
D16	17692	-3.9		D3	8449
D17	8918	-3.2		D4	19333
D18	9300	+ .9			6/ 53308 = 8885/seat
D19	8934	-3.0			
D20	18320	- .5			
D21	9247	+ .4			
D22	8999	-2.3			
D23	9339	+1.4			
D24	8936	-3.0	9210		9210
D25	9432	+2.4	-9156		-8885
D26	9158	- .6	54		325
D27	9592	+4.1	54		325
	17/ 155655 = 9156/seat		9210 = -0.6%		9210 = 3.5%

9156	271
-8885	x17
<u>271/</u>	<u>4607</u>
seat	

Anchorage vs Remain Alaska (excluding S.E.)

Plan 2
Dec. 19, 1983

Anch	17 seats	159466	9380	+1.8%
Alaska	17 seats	<u>-155656</u>	9156	-0.6%
		<u>3820</u>	<u>224/seat</u>	

Anchorage vs Rest of Alaska (including S.E.)

Anch	17 seats	159466	9380/seat	+1.8%
Alaska	23 seats	208954	9085/seat	-1.4%
			<u>295/seat</u>	

295
x17
5015

Plan 1

S.E. 6 seats

Anchorage 17 seats

<u>District</u>	<u>Population</u>
D1	16602
D2	8924
D3	8449
D4	19333
	6/53308 = 8885/seat

Ave S.E. Variance = -3.2%
Ave S.E. Seat size - 8885

<u>District</u>	<u>Population</u>
D7	9110
D8	18269
D9	18005
D10	19083
D11	18960
D12	18170
D13	18908
D14	19032
D15	18561

17/158053 = 9297/seat

Ave Anch Variance = +1.3%
Ave Anch Seat size = 9297

9297 - 8885 = 412/seat

6 S.E. seats vs 6 Ave Anch seats 53308 - 55782 = 2474

6 S.E. seats vs 6 most populated Anch seats 57030 - 53308 = 3722

Total Anch under represented vs. S.E. = 17 x 412 - 7004

Total Alaska under represented vs. S.E. = 7004 + 4641 = 11645

From The Last Frontier



Rep. Terry Martin
State Capitol, Pouch V
Juneau, AK 99811

TABLE X
 Districts With Combined Variances
 Greater Than Ten Percent

<u>Districts</u>	<u>Variances</u>	<u>Districts</u>	<u>Variances</u>
1 v. 4	9.9 + 4.9 = 14.8	3 v. 4	8.3 + 4.9 = 13.2
1 v. 5	9.9 + 4.2 = 14.1	3 v. 5	8.3 + 4.2 = 12.5
1 v. 7	9.9 + 4.0 = 13.9	3 v. 7	8.3 + 4.0 = 12.3
1 v. 8	9.9 + 4.4 = 14.3	3 v. 8	8.3 + 4.4 = 12.7
1 v. 9	9.9 + 4.0 = 13.9	3 v. 9	8.3 + 4.0 = 12.3
1 v. 11	9.9 + 2.1 = 12.0	3 v. 11	8.3 + 2.1 = 10.4
1 v. 12	9.9 + 1.4 = 11.3	3 v. 13	8.3 + 4.1 = 12.4
1 v. 13	9.9 + 4.1 = 14.0	3 v. 25	8.3 + 2.4 = 10.7
1 v. 18	9.9 + 0.9 = 10.8	3 v. 27	8.3 + 4.1 = 12.4
1 v. 21	9.9 + 0.4 = 10.3		
1 v. 23	9.9 + 1.4 = 11.3	6 v. 4	6.7 + 4.9 = 11.6
1 v. 25	9.9 + 2.4 = 12.3	6 v. 5	6.7 + 4.2 = 10.9
1 v. 27	9.9 + 4.1 = 14.0	6 v. 8	6.7 + 4.4 = 11.1
		6 v. 9	6.7 + 4.0 = 10.7
		6 v. 13	6.7 + 4.1 = 10.8
		6 v. 27	6.7 + 4.1 = 10.8

Continuing analysis of Plan 2 (1983-84)
By Rep. Terry Martin 1/31/84

As previously expressed, numerous problems exist in Plan 2. Particularly disconcerting is the Board's decision to combine House Districts 6, 7, and 16 to form a two member senate district (Jan. 12, 1984 Plan). This action seems most inconsistent with the current Board's desire to work within the constraints provided by Judge Souter, the courts, and the Constitution. It is hard to follow the Board's logic when the formation of this "donut district" is contrary to its own reistricting guidelines.

In adhering to Judge Souter's order to make as few changes as possible, one would expect House District 16 (seats A & B) to be a single member senate district as it was under the original 1981 Reapportionment Plan. In fact, the Dec. 19, 1983 Plan does leave Mat-Su in a single member senate district. House Districts 6 and 7 are then combined in a separate single member senate district. On page 4 of the Dec. 19, 1983 news release, the Board explained their senate districting decisions: "In an effort to make as few changes as possible the Board decided to retain the two-member senate districts in Anchorage as utilized in the 1981 Plan." (emphasis added) So why, in the Jan. 12, 1984 Plan, does the Board ignore Judge Souter's order, as well as its own previous decisions, and change the senate district from what it was in 1981, into a two member district?

There are numerous arguments against creating a multi-member senate district. Specifically, it would seem to violate article VI, Section 6, of the Alaska Constitution, which calls for contiguous, compact, and integrated socio-economic districts. While technically contiguous, proposed Senate District E verges on gerrymandering, as it completely encircles Anchorage, thus creating the so called "donut district" (Appendix A). The compactness criterion is difficult to meet with a hole in the middle of the district and an area encompassing thousands of square miles. Hardest of all is showing that District E is relatively integrated socio-economically. In actuality, one would be hard pressed to form a more diverse district. The proposed district includes urban South Anchorage, rural Nikishka with its ties to Kenai, Cooper Landing, Moose Pass and Seward; the fishing communities of Prince William Sound - Whittier, Cordova and Valdez; stretches to Cape Yakataga, then north to include the interior areas of Chitina and McCarthy, as well as the entire Mat-Su Borough with Palmer, Wasilla, Big Lake, Sutton, Chickaloon, Talkeetna and Chulitna. Quite a variety of economies, social interests and backgrounds.

The fact that the Matanuska-Susitna Borough is the fastest growing area in the state must also be considered. The large influx of people into the area creates a corresponding increase in the voting population. Since the Board is limited to using the 1980 census data, a situation arises where the large number of new Mat-Su voters could dominate an election. Because this large population growth isn't considered in the data used for reistricting, Mat-Su could elect both District E

senators, effectively leaving South Anchorage, North Kenai and Prince William Sound without local senate representation. The single member district, as it was in 1981, assures Mat-Su (House District 16, Seats A & B) of its senator and also guarantees that Districts 6 & 7 have a senator from their area. Nothing is gained and serious inequities surface when forming a huge two member senate district.

The history of Alaska since the Statehood Convention of 1955-56 has shown a continuous effort to move toward single member House and Senate districts. The 1981 Board was heading in that direction as the following statement from page 19 of the June 10, 1981 Reapportionment Plan indicates: "This plan is, in effect, a step toward single member districts, which goal may be reached in the 1991 reapportionment plan if the intervening decade of experience recommends the concept." Public testimony to the 1981 Board favored single member districts in all areas, except in Fairbanks, where the sentiment was evenly divided.

Support of single member districts has been advanced in numerous Federal Court cases. In Conner v. Johnson, 402 U.S. 690 (1971), six of the U.S. Supreme Court Justices expressed a preference for single member districts. Specifically, they said, "We agree that when district courts are forced to fashion apportionment plans, single-member districts are preferable to large multi-member districts as a general matter." (supra, p. 692) The Court's opinion in Chapman v. Meier, 420 U.S. 1 (Jan. 27, 1975) ¶26, articulated the same preference for single member districts: "We hold today that unless there are persuasive justifications, a court-ordered reapportionment plan of a state legislature must avoid use of multi-member districts, and, as well, must ordinarily achieve the goal of population equality with little more than de minimus variation. Where important and significant state considerations rationally mandate departure from these standards, it is the reapportioning court's responsibility to articulate precisely why a plan of single-member districts with minimal population variance cannot be adopted."

Circuit Judge Bright does an excellent job of explaining specific reasons for supporting single member districts. His opinion in Chapman v. Meier, 372 F. Supp. 371 (1974) ¶391, states:

"I have read the complete record in this case with care and find no reasons advanced anywhere in that record for continuing multi-member senate districts as either furthering the art and science of politics or improving the conduct of state government. However, the record does disclose several arguments in favor of the more traditional single-member senate districts:

- (1) It gives a voter a chance to compare only two candidates, head to head in making a choice.
- (2) It prevents one political party with a heavy plurality in one or two potential districts from

dominating other potential districts that might narrowly go for the candidate of the opposite party.

- (3) It prevents a city wide political organization from ostracizing or disciplining a legislator, who dares stray from the machine's line.
- (4) It permits a citizen to identify a legislator as his senator and makes direct communication easier.
- (5) It makes each senator responsible for his actions and makes it difficult for a senator to fade into the ranks of "the team" to avoid being identified with specific actions taken.
- (6) It reduces campaign costs and "personalizes" a campaign.
- (7) It creates greater interest in the possibility of a citizen seeking a legislative seat without the political machine blessing.
- (8) It would diminish the animosity created in the legislature against multi-senate districts because of the tendency of senators elected by one political party from a city to vote as a bloc.
- (9) It would tend to guarantee an individual point of view if all senators are not elected as a team.
- (10) It would equalize the power of people in single senate districts with the people in the broken down multi-senate districts to influence the election of only one senator."

Numerous arguments oppose the creation of proposed Senate District E. While multi-member districts are not unconstitutional per se, the courts have indicated their preference for single member districts. This, combined with Judge Soutar's order to make as few changes as possible, suggests that the Matanuska-Susitna area should remain a single member senate district.

The proposed multi-member senate district should be rejected. One would hope it will be.

Offered: 2/8/84
Referred: Judiciary and Finance
Original sponsor: Martin

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE JOINT RESOLUTION NO. 53 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 Relating to the reapportionment of the
6 legislature.

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

8 * Section 1. Article VI, sec. 1, Constitution of the State of Alaska is
9 amended to read:

10 SECTION 1. ELECTION DISTRICTS. Members of the house of repre-
11 sentatives shall be elected by the qualified voters of the [RESPEC-
12 TIVE] election districts that are established in the most recent
13 reapportionment under this article. Each member of the house of
14 representatives shall be elected from a single member district.
15 [UNTIL REAPPORTIONMENT, ELECTION DISTRICTS AND THE NUMBER OF REPRESENT-
16 TIVES TO BE ELECTED FROM EACH DISTRICT SHALL BE AS SET FORTH IN
17 SECTION 1 OF ARTICLE XIV.]

18 * Sec. 2. Article VI, sec. 2, Constitution of the State of Alaska is
19 amended to read:

20 SECTION 2. SENATE DISTRICTS. Members of the senate shall be
21 elected by the qualified voters of the [RESPECTIVE] senate districts
22 that are established in the most recent reapportionment under this
23 article. Each senate district shall be composed of two election
24 districts established under sec. 1 of this article. [SENATE DISTRICTS
25 SHALL BE AS SET FORTH IN SECTION 2 OF ARTICLE XIV, SUBJECT TO CHANGES
26 AUTHORIZED IN THIS ARTICLE.]

27 * Sec. 3. Article VI, sec. 3, Constitution of the State of Alaska is
28 amended to read:

29 SECTION 3. REAPPORTIONMENT OF HOUSE AND SENATE. The governor

1 shall reapportion the house of representatives and the senate immedi-
2 ately following the official reporting of each decennial census of the
3 United States. Reapportionment shall be based upon the best available
4 evidence of the resident [CIVILIAN] population within each election
5 district and senate district [AS REPORTED BY THE CENSUS].

6 * Sec. 4. Article VI, sec. 6, Constitution of the State of Alaska is
7 amended to read:

8 SECTION 6. REDISTRICTING. The governor may [FURTHER] redistrict
9 by changing the size and area of election districts and senate dis-
10 tricts, subject to the limitations of this article. Each [NEW] dis-
11 trict [SO] created shall be formed of contiguous and compact territory
12 containing as nearly as practicable a relatively integrated socio-eco-
13 nomic area. [EACH SHALL CONTAIN A POPULATION AT LEAST EQUAL TO THE
14 QUOTIENT OBTAINED BY DIVIDING THE TOTAL CIVILIAN POPULATION BY FORTY].
15 Consideration may be given to local government boundaries. Drainage
16 and other geographic features shall be used in describing boundaries
17 whenever possible.

18 * Sec. 5. Article VI, sec. 6, Constitution of the State of Alaska is
19 amended by adding a new subsection to read:

20 (b) Each election district shall contain a population as nearly
21 equal as possible. Each senate district shall contain a population as
22 nearly equal as possible. In no case shall the absolute value of the
23 total percentage deviations of all districts of a house divided by the
24 number of districts exceed two percent. In no case shall a single
25 district have a population which varies from the average population of
26 all districts of that house by more than five percent.

27 * Sec. 6. Article VI, sec. 8, Constitution of the State of Alaska is
28 amended to read:

29 SECTION 8. REAPPORTIONMENT BOARD. The governor shall appoint a

1 reapportionment board to act in an advisory capacity to him. It shall
2 consist of five members, none of whom may be public employees or
3 officials. At least one member each shall be appointed from the
4 Southeastern, Southcentral, Central and Northwestern regions of the
5 state [SENATE DISTRICTS]. Appointments shall be made without regard
6 to political affiliation. Board members shall be compensated.

7 * Sec. 7. Article VI, secs. 4, 5, and 7 and Article XIV are repealed.

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

Introduced: 1/9/84
Referred: Judiciary

1 IN THE HOUSE

BY MARTIN

2

HOUSE JOINT RESOLUTION NO. 53

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

Relating to the reapportionment of the

6

legislature.

7

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

8

* Section 1. Article VI, sec. 1, Constitution of the State of Alaska is

9

amended to read:

10

SECTION 1. ELECTION DISTRICTS. Members of the house of repre-

11

sentatives shall be elected by the qualified voters of the [RESPEC-

12

TIVE] election districts that are established in the most recent

13

reapportionment under this article. Each member of the house of

14

representatives shall be elected from a single member district.

15

[UNTIL REAPPORTIONMENT, ELECTION DISTRICTS AND THE NUMBER OF REPRESENT-

16

TATIVES TO BE ELECTED FROM EACH DISTRICT SHALL BE AS SET FORTH IN

17

SECTION 1 OF ARTICLE XIV.]

18

* Sec. 2. Article VI, sec. 2, Constitution of the State of Alaska is

19

amended to read:

20

SECTION 2. SENATE DISTRICTS. Members of the senate shall be

21

elected by the qualified voters of the [RESPECTIVE] senate districts

22

that are established in the most recent reapportionment under this

23

article. Each senate district shall be composed of two election

24

districts established under sec. 1 of this article. [SENATE DISTRICTS

25

SHALL BE AS SET FORTH IN SECTION 2 OF ARTICLE XIV, SUBJECT TO CHANGES

26

AUTHORIZED IN THIS ARTICLE.]

27

* Sec. 3. Article VI, sec. 3, Constitution of the State of Alaska is

28

amended to read:

29

SECTION 3. REAPPORTIONMENT OF HOUSE AND SENATE. The governor

1 shall reapportion the house of representatives and the senate immedi-
2 ately following the official reporting of each decennial census of the
3 United States. Reapportionment shall be based upon the best available
4 evidence of the resident [CIVILIAN] population within each election
5 district and senate district [AS REPORTED BY THE CENSUS].

6 * Sec. 4. Article VI, sec. 6, Constitution of the State of Alaska is
7 amended to read:

8 SECTION 6. REDISTRICTING. The governor may [FURTHER] redistrict
9 by changing the size and area of election districts and senate dis-
10 tricts, subject to the limitations of this article. Each [NEW] dis-
11 trict [SO] created shall be formed of contiguous and compact territory
12 containing as nearly as practicable a relatively integrated socio-eco-
13 nomic area. [EACH SHALL CONTAIN A POPULATION AT LEAST EQUAL TO THE
14 QUOTIENT OBTAINED BY DIVIDING THE TOTAL CIVILIAN POPULATION BY FORTY].
15 Consideration may be given to local government boundaries. Drainage
16 and other geographic features shall be used in describing boundaries
17 whenever possible.

18 * Sec. 5. Article VI, sec. 6, Constitution of the State of Alaska is
19 amended by adding a new subsection to read:

20 (b) Each election district shall contain a population as nearly
21 equal as possible. Each senate district shall contain a population as
22 nearly equal as possible. In no district may the absolute value of
23 the total percentage deviations of all districts of a house divided by
24 the number of districts exceed two percent. In no district may a
25 single district have a population which varies from the average
26 population of all districts of that house by more than five percent.

27 * Sec. 6. Article VI, sec. 8, Constitution of the State of Alaska is
28 amended to read:

29 SECTION 8. REAPPORTIONMENT BOARD. The governor shall appoint a

1 reapportionment board to act in an advisory capacity to him. It shall
2 consist of five members, none of whom may be public employees or
3 officials. At least one member each shall be appointed from the
4 Southeastern, Southcentral, Central and Northwestern regions of the
5 state [SENATE DISTRICTS]. Appointments shall be made without regard
6 to political affiliation. Board members shall be compensated.

7 * Sec. 7. Article VI, secs. 4, 5, and 7 and Article XIV are repealed.

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



Official Business

Alaska State Legislature
House of Representatives

Al Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

January 13, 1984

Mr. Jay Hogan, Associate Director
Division of Budget Review
Office of Management & Budget
Office of the Governor

Dear Mr. Hogan:

Yesterday I received a copy of Assistant Attorney General James Baldwin's opinion of January 12, 1984 regarding interest income from investments made by the University of Alaska. It appears to me that in addition to calling into question current practices of the University, the opinion also raises serious questions regarding the treatment of program receipts in the state budget. Specifically, it appears that in the opinion of the Department of Law, many program receipts are, in fact, general funds.

I would like you and your staff to reevaluate the Governor's FY 85 budget in light of this opinion for the purpose of segregating those program receipts which are truly general funds from those program receipts which meet the criteria for program receipts set out by the Department of Law. In so doing, I would imagine that it will be necessary to refine the definition of program receipts contained in Mr. Baldwin's opinion. Please attach your definition of program receipts to your breakdown of funds when you reply to this request.

Your attention to this matter will be appreciated.

Sincerely,

Al Adams
Chairman
House Finance Committee

APA/el

cc: Senator John Sackett
Mr. Mike Greany

MEMORANDUM

State of Alaska

TO: Jay Hogan, Associate Director
Division of Budget Review
Office of Management & Budget
Office of the Governor

DATE: January 12, 1984

FILE NO: 366-588-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: University of Alaska
investment power re
interest income

James L. Baldwin

By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

This memorandum responds to a request for opinion made by your predecessor dated April 19, 1983. Our advice was requested concerning the status of receipts earned by the University of Alaska, and the treatment of interest income earned by the University of Alaska through the deposit of those receipts in an interest bearing account. We believe that certain funds held by the university may be invested and the legislature may appropriate interest as a source of funding separate from the state general fund. However, the investment power of the university does not extend to money which represents unrestricted state revenue appropriated to the university.

Specifically, you have asked "what authority is there to treat interest income as a program receipt?" The term "program receipts" is not defined by law. That term has been used to describe a source for certain appropriations included in the executive budget. Generally, the money is paid to a state agency by a third party in trust, for a specific purpose, or as a custodian, or as a consequence of authorized activities of the agency. For most executive branch agencies, receipts are paid monthly into a program receipts account within the state treasury (also referred to as the "general fund"). Each fiscal year the legislature appropriates money based on estimates contained in the governor's budget. If program receipts exceed the estimates, the agency may expend the money only after it submits a revised program for approval by the office of management and budget. AS 37.07.080(h). These appropriations are considered made from a funding source other than the general fund. However, the designation of program receipts as a separate source of funding in the executive budget is not appropriate for all of that revenue. Rather, some of the revenue can properly be considered separate because it is held in trust or as a custodian. The remainder must be considered unrestricted revenue: that is, the money is not held by the state as custodian nor held in trust for a specific purpose but is available for appropriation for any purpose.

Generally, program receipts are accounted for as a separate funding source for either of the following two reasons:

Jay Hogan, Associate Director
Office of Management & Budget
366-588-83

January 12, 1983
Page #2

(1) by doing so the amount of general fund expenditures appears to be reduced without reducing spending; and (2) an agency can be encouraged to capture program receipts which it might otherwise lose for lack of a proper incentive. Unrestricted revenue in the form of program receipts should not be considered to be a separate funding source from other unrestricted revenue because to do so creates the same conditions for which the dedicated fund prohibition (Alaska Const. art. IX, § 7) was adopted to prevent.

You next ask whether certain sources of cash payments to the university are "property of the university or under state control." The university apparently retains all receipts from tuition, dormitory fees, rental income earned on university land and private endowments given to the university. The university deposits these receipts without segregation in an investment account established by the university. The university considers all receipts generated by the operation of its programs to be property which may be segregated from the state treasury.

Generally, the dedication of state revenue is prohibited by article IX, section 7 of the Alaska Constitution. In State v. Alex, 646 P.2d 203 (Alaska 1982), the Alaska Supreme Court interpreted article IX, section 7 so that the dedication of any source of public revenue is prohibited. Certain exceptions to this prohibition are recognized, including pledges of revenue made to secure revenue bond financing. This type of dedication is enforceable because it is made by bond covenants which create a contractual relationship between the parties. For similar reasons, certain receipts from property held in trust may be segregated and expended only in accordance with terms of the trust. All other receipts of the university raised by operation of some general law become state public funds. Navajo Tribe v. Arizona Dept of Administration, 528 P.2d 623 (Ariz. 1974). Unless provided otherwise, these public funds should be promptly remitted to the state treasury where they are in the custody and under the control of the commissioner of revenue. AS 37.10.050; see also Opinion of the Justices, 134 N.E.2d 892 (Mass. 1956) (interpreting a state constitutional provision identical to the provisions of AS 37.10.050(a)).

Interest income earned from investment of university trust property may be appropriated as program receipts from a separate fund. Clearly, the university has the power to "invest ... money ... received from sources other than the state legislature or federal appropriations for the purpose of the University of Alaska, its adornment, or the aid or advantage of students or faculty" AS 14.40.250 (emphasis added). While the wording of the statute is ambiguous, we believe that the words "for the

Jay Hogan, Associate Director
Office of Management & Budget
366-588-83

January 12, 1983
Page #3

purpose of the University of Alaska, its adornment, or the aid or advantage of students or faculty" defines and limits the investment authority of the board of regents as to trust property. The exclusion of money received from the state legislature or federal appropriations probably applies to unrestricted revenue sources and is consistent with the provisions of AS 37.07 and AS 37.10. Investment of program receipts which are the source of appropriations made by the legislature is the responsibility of the Department of Revenue. AS 37.10.070.

The university may not deposit program receipts, which represent unrestricted revenues of the state, in interest bearing, federally insured accounts for safekeeping unless a statute is enacted which specifically provides for that power. The power of the university to manage its finances and property is subject to control by the legislature through the enactment of statutes. Alaska Const. art. VII, § 2; see also University of Utah v. Board of Examiners, 295 P.2d 348 (Utah 1956). The public finance laws of the state contemplate centralization of the investment of surplus state money in the Department of Revenue. AS 37.10.070(a). The legislature has specified by law certain institutions or instruments in which state money may be invested. In its defense, the university maintains that it is conservatively investing the cash "float" from various funding sources. However, nothing in law prevents this investment strategy from changing. A further expansion of the power to invest surplus state money without adequate provisions to govern this activity will increase the opportunity for diversion or mismanagement.

Unless AS 14.40.250 is amended to allow the university to retain and invest unrestricted revenues appropriated as program receipts, it must pay all cash earned by operation of general law directly to the Department of Revenue. The university must draw on appropriations of program receipts from the Department of Revenue in the same manner as other executive branch agencies. The request to expend interest income derived from receipts which are attributed to income earned from the investment of appropriated money should be denied. These receipts must be paid into the state treasury.

Finally, you have asked if provisions which set the rules for the lapse of appropriations apply to the university. We believe that AS 37.25.010 and 37.25.020 apply to the university in the same manner as other state agencies with one exception. Appropriations from segregated trust or custodial property of the university expire as provided by law but lapse into the separate funds of the university rather than the state treasury.

JLB/pjg

COMMITTEE REPORT
SENATE

FURTHER:

5/3/84

Date 5/22/84

Mr. President

The Committee on FINANCE considered HCR 56
appropriations for program receipts.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation *E Adams*
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
Alvin C. Jackson
Bob [Signature]
[Signature]
V. Fischer

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
Chairman

Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER:

5/3/84

Date

5/25/84

Mr. President

The Committee on FINANCE considered HCR 56

appropriations for program receipts.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation *S Adams*
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

Chairman

Chairman recommendation

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HCR 56

Title: Relating to appropriations for program receipts

Sponsor: House Finance

Requestor: Adams

Date of Request: _____

FISCAL DETAIL

Agency Affected: Governor's Office

Program Category Affected: OMR

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-				
CAPITAL						
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Rep. Al Adams
Division: House Finance Committee

Phone: 3706
Date: 4/22/84

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83

Introduced: 3/19/84
Referred: Finance

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 HCUSE CONCURRENT RESOLUTION NO. 56
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 Relating to appropriations for program
6 receipts.
7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:
8 WHEREAS Article IX, sec. 13, of the state constitution provides that
9 no money shall be withdrawn from the treasury except in accordance with
10 appropriations made by law; and
11 WHEREAS Article IX, sec. 7, of the state constitution provides that
12 the proceeds of any state tax or license shall not be dedicated to any
13 special purpose except as required by the constitution for the Alaska
14 permanent fund or when required to participate in federal programs; and
15 WHEREAS an opinion of the Alaska Attorney General of January 12, 1984,
16 questions the practice of labeling certain funds in the state budget "pro-
17 gram receipts" to indicate that the funds are being appropriated from a
18 funding source other than the general fund; and
19 WHEREAS there has been an extraordinary increase in the last several
20 years in funds in the state budget that are shown as being appropriated
21 from funding sources other than the general fund; and
22 WHEREAS the legislature finds no statutory basis for appropriating
23 many of these funds as anything other than appropriations from the general
24 fund;
25 BE IT RESOLVED by the Alaska State Legislature that the Governor is
26 respectfully requested to instruct the Office of Management and Budget,
27 division of budget review, to prepare the fiscal year 1986 state operating
28 and capital budgets to indicate as appropriations from the general fund
29 those funds which, in the opinion of the Attorney General, have no legal

1 basis under the state constitution or statutes to be called "program re-
2 ceipts."

Introduced: 3/19/84
Referred: Finance

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 HOUSE CONCURRENT RESOLUTION NO. 56
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 Relating to appropriations for program
6 receipts.

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

8 WHEREAS Article IX, sec. 13, of the state constitution provides that
9 no money shall be withdrawn from the treasury except in accordance with
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11 WHEREAS Article IX, sec. 7, of the state constitution provides that
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13 special purpose except as required by the constitution for the Alaska
14 permanent fund or when required to participate in federal programs; and

15 WHEREAS an opinion of the Alaska Attorney General of January 12, 1984,
16 questions the practice of labeling certain funds in the state budget "pro-
17 gram receipts" to indicate that the funds are being appropriated from a
18 funding source other than the general fund; and

19 WHEREAS there has been an extraordinary increase in the last several
20 years in funds in the state budget that are shown as being appropriated
21 from funding sources other than the general fund; and

22 WHEREAS the legislature finds no statutory basis for appropriating
23 many of these funds as anything other than appropriations from the general
24 fund;

25 BE IT RESOLVED by the Alaska State Legislature that the Governor is
26 respectfully requested to instruct the Office of Management and Budget,
27 division of budget review, to prepare the fiscal year 1986 state operating
28 and capital budgets to indicate as appropriations from the general fund
29 those funds which, in the opinion of the Attorney General, have no legal

1 basis under the state constitution or statutes to be called "program re-
2 ceipts."

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HCR 56
 Title: Relating to appropriations
for program receipts
 Sponsor: House Finance
 Requestor: Adams
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Governor's Office
 Program Category Affected: OMR
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-				
CAPITAL						
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Rep. Al Adams Phone: 3706
 Division: House Finance Committee Date: 4/22/84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HCR 56

Title: Relating to appropriations

for program receipts

Sponsor: House Finance

Requestor: Adams

Date of Request: _____

FISCAL DETAIL

Agency Affected: Governor's Office

Program Category Affected: OMB

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
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200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
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600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
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TOTAL OPERATING		-0-				
CAPITAL						
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Rep. Al Adams

Division: House Finance Committee

Phone: 3706

Date: 4/22/84

Approved by Commissioner: _____

Date: _____

Agency: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83



Official Business

Alaska State Legislature
House of Representatives

Al Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706
OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320
1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

January 13, 1984

Mr. Jay Hogan, Associate Director
Division of Budget Review
Office of Management & Budget
Office of the Governor

Dear Mr. Hogan:

Yesterday I received a copy of Assistant Attorney General James Baldwin's opinion of January 12, 1984 regarding interest income from investments made by the University of Alaska. It appears to me that in addition to calling into question current practices of the University, the opinion also raises serious questions regarding the treatment of program receipts in the state budget. Specifically, it appears that in the opinion of the Department of Law, many program receipts are, in fact, general funds.

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Your attention to this matter will be appreciated.

Sincerely,

Al Adams
Chairman
House Finance Committee

APA/el

cc: Senator John Sackett
Mr. Mike Greany

MEMORANDUM

State of Alaska

TO: Jay Hogan, Associate Director
Division of Budget Review
Office of Management & Budget
Office of the Governor


DATE: January 12, 1984

FILE NO: 366-588-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: University of Alaska
investment power re
interest income


By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

This memorandum responds to a request for opinion made by your predecessor dated April 19, 1983. Our advice was requested concerning the status of receipts earned by the University of Alaska, and the treatment of interest income earned by the University of Alaska through the deposit of those receipts in an interest bearing account. We believe that certain funds held by the university may be invested and the legislature may appropriate interest as a source of funding separate from the state general fund. However, the investment power of the university does not extend to money which represents unrestricted state revenue appropriated to the university.

Specifically, you have asked "what authority is there to treat interest income as a program receipt?" The term "program receipts" is not defined by law. That term has been used to describe a source for certain appropriations included in the executive budget. Generally, the money is paid to a state agency by a third party in trust, for a specific purpose, or as a custodian, or as a consequence of authorized activities of the agency. For most executive branch agencies, receipts are paid monthly into a program receipts account within the state treasury (also referred to as the "general fund"). Each fiscal year the legislature appropriates money based on estimates contained in the governor's budget. If program receipts exceed the estimates, the agency may expend the money only after it submits a revised program for approval by the office of management and budget. AS 37.07.080(h). These appropriations are considered made from a funding source other than the general fund. However, the designation of program receipts as a separate source of funding in the executive budget is not appropriate for all of that revenue. Rather, some of the revenue can properly be considered separate because it is held in trust or as a custodian. The remainder must be considered unrestricted revenue; that is, the money is not held by the state as custodian nor held in trust for a specific purpose but is available for appropriation for any purpose.

Generally, program receipts are accounted for as a separate funding source for either of the following two reasons:

(1) by doing so the amount of general fund expenditures appears to be reduced without reducing spending; and (2) an agency can be encouraged to capture program receipts which it might otherwise lose for lack of a proper incentive. Unrestricted revenue in the form of program receipts should not be considered to be a separate funding source from other unrestricted revenue because to do so creates the same conditions for which the dedicated fund prohibition (Alaska Const. art. IX, § 7) was adopted to prevent.

You next ask whether certain sources of cash payments to the university are "property of the university or under state control." The university apparently retains all receipts from tuition, dormitory fees, rental income earned on university land, and private endowments given to the university. The university deposits these receipts without segregation in an investment account established by the university. The university considers all receipts generated by the operation of its programs to be property which may be segregated from the state treasury.

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Interest income earned from investment of university trust property may be appropriated as program receipts from a separate fund. Clearly, the university has the power to "invest ... money ... received from sources other than the state legislature or federal appropriations for the purpose of the University of Alaska, its adornment, or the aid or advantage of students or faculty" AS 14.40.250 (emphasis added). While the wording of the statute is ambiguous, we believe that the words "for the

Jay Hogan, Associate Director
Office of Management & Budget
366-588-83

January 12, 1983
Page #3

purpose of the University of Alaska, its adornment, or the aid or advantage of students or faculty" defines and limits the investment authority of the board of regents as to trust property. The exclusion of money received from the state legislature or federal appropriations probably applies to unrestricted revenue sources and is consistent with the provisions of AS 37.07 and AS 37.10. Investment of program receipts which are the source of appropriations made by the legislature is the responsibility of the Department of Revenue. AS 37.10.070.

The university may not deposit program receipts, which represent unrestricted revenues of the state, in interest bearing, federally insured accounts for safekeeping unless a statute is enacted which specifically provides for that power. The power of the university to manage its finances and property is subject to control by the legislature through the enactment of statutes. Alaska Const. art. VII, § 2; see also University of Utah v. Board of Examiners, 295 P.2d 348 (Utah 1956). The public finance laws of the state contemplate centralization of the investment of surplus state money in the Department of Revenue. AS 37.10.070(a). The legislature has specified by law certain institutions or instruments in which state money may be invested. In its defense, the university maintains that it is conservatively investing the cash "float" from various funding sources. However, nothing in law prevents this investment strategy from changing. A further expansion of the power to invest surplus state money without adequate provisions to govern this activity will increase the opportunity for diversion or mismanagement.

Unless AS 14.40.250 is amended to allow the university to retain and invest unrestricted revenues appropriated as program receipts, it must pay all cash earned by operation of general law directly to the Department of Revenue. The university must draw on appropriations of program receipts from the Department of Revenue in the same manner as other executive branch agencies. The request to expend interest income derived from receipts which are attributed to income earned from the investment of appropriated money should be denied. These receipts must be paid into the state treasury.

Finally, you have asked if provisions which set the rules for the lapse of appropriations apply to the university. We believe that AS 37.25.010 and 37.25.020 apply to the university in the same manner as other state agencies with one exception. Appropriations from segregated trust or custodial property of the university expire as provided by law but lapse into the separate funds of the university rather than the state treasury.

JLB/pjg

Introduced: 3/19/84
Referred: Finance

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 HOUSE CONCURRENT RESOLUTION NO. 56
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 Relating to appropriations for program
6 receipts.

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

8 WHEREAS Article IX, sec. 13, of the state constitution provides that
9 no money shall be withdrawn from the treasury except in accordance with
10 appropriations made by law; and

11 WHEREAS Article IX, sec. 7, of the state constitution provides that
12 the proceeds of any state tax or license shall not be dedicated to any
13 special purpose except as required by the constitution for the Alaska
14 permanent fund or when required to participate in federal programs; and

15 WHEREAS an opinion of the Alaska Attorney General of January 12, 1984,
16 questions the practice of labeling certain funds in the state budget "pro-
17 gram receipts" to indicate that the funds are being appropriated from a
18 funding source other than the general fund; and

19 WHEREAS there has been an extraordinary increase in the last several
20 years in funds in the state budget that are shown as being appropriated
21 from funding sources other than the general fund; and

22 WHEREAS the legislature finds no statutory basis for appropriating
23 many of these funds as anything other than appropriations from the general
24 fund;

25 BE IT RESOLVED by the Alaska State Legislature that the Governor is
26 respectfully requested to instruct the Office of Management and Budget,
27 division of budget review, to prepare the fiscal year 1986 state operating
28 and capital budgets to indicate as appropriations from the general fund
29 those funds which, in the opinion of the Attorney General, have no legal

1 basis under the state constitution or statutes to be called "program re-
2 ceipts."

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

3/7/84

Date: 3/29/84

The Committee on FINANCE has had HJR 57

"Proposing an amendment to the Constitution of the State of Alaska creating a fund to finance the construction of capital projects."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends No Recommendation new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee 3/7/84

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ Milo Hitz (No Rec)

_____ Don Paul (No Rec)

_____ Alaska (No Rec)

_____ Ed [unclear] (No Rec)

_____ [unclear]

_____ John Duncan - Do Not

_____ John Linder Pass

_____ Walt Farris NO Rec

_____ T.H. Martin - Do Not Pass

_____ Albert P. [unclear]

_____ CHAIRMAN

_____ Albert P. [unclear] - No Rec

Introduced: 1/23/84
Referred: State Affairs,
Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE JOINT RESOLUTION NO. 57

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

Proposing an amendment to the Constitu-

6

tion of the State of Alaska creating a

7

fund to finance the construction of cap-

8

ital projects.

9

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

10

* Section 1. Article IX, Constitution of the State of Alaska, is amend-

11

ed by adding a new section to read:

12

SECTION 17. MAJOR PROJECTS FUND. (a) There is created in the

13

State treasury a major projects fund. The purpose of the major proj-

14

ects fund is to finance the construction of capital projects which

15

exceed \$100,000,000 in cost. Money in the fund may be invested in the

16

manner specified in section 15 of this article for the Alaska Perma-

17

nent Fund. The major projects fund consists of

18

(1) an annual deposit of ten percent of state revenue

19

earned during the period beginning July 1, 1984, and ending June 30,

20

1990, from the following sources:

21

(A) corporate income tax on oil and gas producers;

22

(B) severance tax;

23

(C) oil and gas production property tax;

24

(D) mineral lease rentals;

25

(E) royalties;

26

(F) royalty sale proceeds; and

27

(G) federal mineral revenue-sharing payments and

28

bonuses;

29

(2) interest earned each fiscal year from investment of

1 money in the major projects fund; and

2 (3) revenue dedicated to the major projects fund in accor-
3 dance with (c) of this section.

4 (b) No money may be expended from the major projects fund unless

5 (1) the expenditure is in accordance with an appropriation
6 bill passed by the affirmative vote of two-thirds of the membership of
7 each house of the legislature;

8 (2) the appropriation, together with any other money com-
9 mitted to finance the capital project, will provide for all costs of
10 constructing the capital project; and

11 (3) the capital project will earn enough revenue during the
12 life of the project to repay the money expended to finance the proj-
13 ect.

14 (c) The legislature shall dedicate by law sufficient revenue
15 earned by a capital project financed by the major projects fund so
16 that the amount expended from the fund to finance the project is re-
17 paid during the life of the project.

18 (d) Notwithstanding the dedication of revenue required by this
19 section, the legislature may appropriate revenue dedicated under this
20 section to meet a state of disaster declared by the governor as pre-
21 scribed by law.

22 * Sec. 2. Article IX, sec. 7, Constitution of the State of Alaska is
23 amended to read:

24 SECTION 7. DEDICATED FUNDS. The proceeds of any state tax or
25 license shall not be dedicated to any special purpose, except as pro-
26 vided in sections [SECTION] 15 and 17 of this article or when required
27 by the federal government for state participation in federal programs.
28 This provision shall not prohibit the continuance of any dedication
29 for special purposes existing upon the date of ratification of this

1 section by the people of Alaska.

2 * Sec. 3. Article IX, sec. 16, Constitution of the State of Alaska is
3 amended to read:

4 SECTION 16. APPROPRIATION LIMIT. Except for appropriations for
5 Alaska permanent fund dividends, appropriations from the major proj-
6 ects fund established by section 17 of this article, appropriations of
7 revenue bond proceeds, appropriations required to pay the principal
8 and interest on general obligation bonds, and appropriations of money
9 received from an non-State source in trust for a specific purpose, in-
10 cluding revenues of a public enterprise or public corporation of the
11 State that issues revenue bonds, appropriations from the treasury made
12 for a fiscal year shall not exceed \$2,500,000,000 by more than the
13 cumulative change, derived from federal indices as prescribed by law,
14 in population and inflation since July 1, 1981. Within this limit, at
15 least one-third shall be reserved for capital projects and loan appro-
16 priations. The legislature may exceed this limit in bills for appro-
17 priations to the Alaska permanent fund and in bills for appropriations
18 for capital projects, whether of bond proceeds or otherwise, if each
19 bill is approved by the governor, or passed by affirmative vote of
20 three-fourths of the membership of the legislature over a veto or item
21 veto, or becomes law without signature, and is also approved by the
22 voters as prescribed by law. Each bill for appropriations for capital
23 projects in excess of the limit shall be confined to capital projects
24 of the same type, and the voters shall, as provided by law, be in-
25 formed of the cost of operations and maintenance of the capital proj-
26 ects. No other appropriation in excess of this limit may be made ex-
27 cept to meet a state of disaster declared by the governor as pre-
28 scribed by law. The governor shall cause any unexpended and unappro-
29 priated balance to be invested so as to yield competitive market rates

1 to the treasury.

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

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HJR No. 57
 Title: Constitutional Amendment Capital Projects Fund
 Sponsor: Governor
 Requestor: Senate Resources
 Date of Request: March 7, 1984

FISCAL DETAIL

Agency Affected: All Agencies
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL		-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Note: Analysis of potential fiscal impacts discussed in attached memorandum.

ANALYSIS: Attach a separate page for analysis

Prepared By: Jay Madan, Associate Director Phone: 465-3568
 Division: Budget Review - OMB Date: March 7, 1984

Approved by Commissioner: Peter McDowell, Director Date: March 7, 1984
 Agency: Office of Management and Budget

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

OFFICE OF THE GOVERNOR

POUCH AD
JUNEAU, ALASKA 99811
PHONE: (907) 465-3568

OFFICE OF MANAGEMENT AND BUDGET

DIVISION OF STRATEGIC PLANNING

March 7, 1984

The Honorable Charlie Bussell
Alaska State House
Pouch V
Juneau, AK 99811

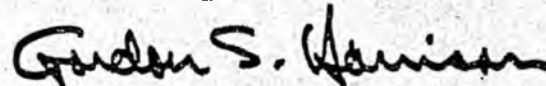
Dear Representative Bussell:

Attached to this letter are projections of State revenue and contributions to the Major Projects Fund as proposed in CSHJR 57. Contribution estimates are based on the assumption that ten percent of oil revenues, excluding corporate income tax on oil and gas producers and property tax on oil and gas production property, would be set aside in the Fund beginning in FY 1986.

These projections incorporate current royalty and severance tax revenue estimates published by the Department of Revenue. Other petroleum and non-petroleum revenue projections are those of OMB, but they are similar to the estimates used by the Department of Revenue internally.

We have analyzed the cash flow of the Major Projects Fund (CSHJR 57) with both 30th and 50th percentile estimates of severance tax and royalty income. Note that our estimates of unrestricted revenue are based on current law, and are not adjusted for deposits into the Fund.

Sincerely,



Gordon S. Harrison
Associate Director

mm/84I-57

50TH PERCENTILE
ROYALTIES, SEVERANCE TAXES,
AND FEDERAL MINERAL REVENUE SHARING PAYMENTS *
(\$ Million; Nominal)

FY	DOR	DOR	OMB	Total
	<u>50%</u>	<u>50%</u>	<u>Estimate</u>	
	Gross	Severance	Federal	
	Royalties	Taxes	Mineral	
			Revenue	
			Sharing	
1986	1,480	1,450	18	2,948
1987	1,670	1,630	18	3,318
1988	1,820	1,520	18	3,358
1989	2,080	1,730	18	3,828
1990	2,140	1,770	18	3,928
1991	1,950	1,540	18	3,508
1992	1,940	1,460	18	3,418
1993	1,940	1,430	18	3,388
1994	1,900	1,370	18	3,288
1995	1,770	1,270	18	3,058
1996	1,650	1,100	18	2,768
1997	1,700	1,140	18	2,858
1998	1,750	1,150	18	2,918

* The Major Projects Fund proposal for which this was prepared also specifies that ten percent of "mineral lease rentals" and "royalty sale proceeds" be set aside in the Fund. Estimates of royalty sale proceeds are included in the "Gross Royalties" reported above. Mineral lease rentals are a relatively minor source of income (less than Federal mineral revenue sharing payments) and long-range forecasts are not readily available.

OMB

3-7-84

**30TH PERCENTILE
ROYALTIES, SEVERANCE TAXES,
AND FEDERAL MINERAL REVENUE SHARING PAYMENTS ***
(\$ Million; Nominal)

FY	DOR <u>30%</u>	DOR <u>30%</u>	OMB <u>Estimate</u>	Total
	Gross Royalties	Severance Taxes	Federal Mineral Revenue Sharing	
1986	1,320	1,300	18	2,638
1987	1,470	1,440	18	2,928
1988	1,590	1,310	18	2,918
1989	1,770	1,460	18	3,248
1990	1,680	1,350	18	3,048
1991	1,560	1,150	18	2,728
1992	1,540	1,090	18	2,648
1993	1,470	990	18	2,478
1994	1,390	920	18	2,328
1995	1,300	880	18	2,198
1996	1,230	760	18	2,008
1997	1,260	770	18	2,048
1998	1,270	790	18	2,078

* The Major Projects Fund proposal for which this was prepared also specifies that ten percent of "mineral lease rentals" and "royalty sale proceeds" be set aside in the Fund. Estimates of royalty sale proceeds are included in the "Gross Royalties" reported above. Mineral lease rentals are a relatively minor source of income (less than Federal mineral revenue sharing payments) and long-range forecasts are not readily available.

OMB

3-7-84

CONTRIBUTIONS TO MPF
(\$ Million; Nominal)

<u>FY</u>	<u>At 50th Percentile</u>		<u>At 30th Percentile</u>	
	Total Royalties, Severance Taxes, and FMRS *	10% to MPF	Total Royalties, Severance Taxes, and FMRS *	10% to MPF
1986	2,948	295	2,638	264
1987	3,318	332	2,928	293
1988	3,358	336	2,918	292
1989	3,828	383	3,248	325
1990	3,928	393	3,048	305
1991	3,508	351	2,728	273
1992	3,418	342	2,648	265
1993	3,388	339	2,478	248
1994	3,288	329	2,328	233
1995	3,058	306	2,198	220
1996	2,768	277	2,008	201
1997	2,858	286	2,048	205
1998	2,918	292	2,078	208
TOTAL		4,261		3,332

* FMRS = Federal mineral revenue sharing payments.

OMB

3-7-84

CONTRIBUTIONS TO PERMANENT FUND
(\$ Million; Nominal)

FY	<u>At 50th Percentile</u>			<u>At 30th Percentile</u>		
	Non-Tax. Pet. Rev. (Excl. Bonuses)	Perm. Fund Contribution Rate	Perm. Fund Contributions	Non-Tax. Pet. Rev. (Excl. Bonuses)	Perm. Fund Contribution Rate	Perm. Fund Contributions
1986	1,498	.25	375	1,338	.25	335
1987	1,688	.25	422	1,488	.25	372
1988	1,838	.25	460	1,608	.25	402
1989	2,098	.25	525	1,788	.25	447
1990	2,158	.25	540	1,698	.25	425
1991	1,968	.25	492	1,578	.25	395
1992	1,958	.27	529	1,558	.27	421
1993	1,958	.27	529	1,488	.27	402
1994	1,918	.28	537	1,408	.28	394
1995	1,788	.28	501	1,318	.28	369
1996	1,668	.29	484	1,246	.29	362
1997	1,718	.30	515	1,278	.30	383
1998	1,768	.30	530	1,288	.30	386

OHB

3-7-84

UNRESTRICTED GENERAL FUND REVENUE: 50TH PERCENTILE
(\$ Million)

FY	50th Percentile Pet. Rev. * Minus P.F. Contr.	OMB	OMB	Unrestricted Gen. Fund Revenue	Unrestricted Gen. Fund Revenue (1985 dollars)
		<u>Estimate</u>	<u>Estimate</u>		
		Investment Income	Other (Non-Pet.) Revenue		
1986	3,124	250	272	3,646	3,440
1987	3,505	250	237	4,042	3,609
1988	3,518	250	303	4,071	3,421
1989	3,964	250	320	4,534	3,598
1990	4,042	250	337	4,629	3,454
1991	3,662	250	356	4,268	3,006
1992	3,557	250	376	4,183	2,789
1993	3,546	250	397	4,193	2,637
1994	3,444	250	420	4,114	2,434
1995	3,252	250	443	3,945	2,204
1996	2,945	250	469	3,664	1,928
1997	3,056	250	495	3,801	1,891
1998	3,120	250	524	3,894	1,828

* Includes corporate income tax on oil and gas producers and oil and gas production property tax, in addition to royalties, severance taxes, and federal mineral revenue sharing payments.

OMB

3-7-84

UNRESTRICTED GENERAL FUND REVENUE: 30TH PERCENTILE
(\$ Million)

FY	30th Percentile Pet. Rev. * Minus P.F. Contr.	OMB	OMB	Unrestricted Gen. Fund Revenue	Unrestricted Gen. Fund Revenue (1985 dollars)
		<u>Estimate</u> Investment Income	<u>Estimate</u> Other (Non-Pet.) Revenue		
1986	2,854	250	272	3,376	3,185
1987	3,165	250	287	3,702	3,305
1988	3,136	250	303	3,689	3,100
1989	3,462	250	320	4,032	3,200
1990	3,277	250	337	3,864	2,884
1991	2,979	250	356	3,585	2,525
1992	2,895	250	376	3,521	2,347
1993	2,763	250	397	3,410	2,145
1994	2,627	250	420	3,297	1,951
1995	2,524	250	443	3,217	1,797
1996	2,307	250	469	3,026	1,593
1997	2,378	250	495	3,123	1,554
1998	2,424	250	524	3,198	1,501

* Includes corporate income tax on oil and gas producers and oil and gas production property tax, in addition to royalties, severance taxes, and federal mineral revenue sharing payments.

OMB

3-7-84

MPF CUMULATIVE BALANCE: 50TH PERCENTILE
(\$ Million)

<u>Deposit Date</u>	<u>Deposit Amount</u>	<u>9% Interest</u>	<u>Balance</u>	<u>Balance Date</u>	<u>Balance in \$ 1985 (6% inflation)</u>
1-1-86	295	27	322	12-31-86	304
1-1-87	332	59	713	12-31-87	637
1-1-88	336	94	1,143	12-31-88	961
1-1-89	383	137	1,163	12-31-89	1,320
1-1-90	393	185	2,241	12-31-90	1,672
1-1-91	351	233	2,825	12-31-91	1,989
1-1-92	342	285	3,452	12-31-92	2,301
1-1-93	339	341	4,132	12-31-93	2,599
1-1-94	329	401	4,862	12-31-94	2,877
1-1-95	306	465	5,633	12-31-95	3,147
1-1-96	277	532	6,442	12-31-96	3,391
1-1-97	286	606	7,334	12-31-97	3,549
1-1-98	292	686	8,312	12-31-98	3,902

Assumptions: 1) No expenditures from the fund.

2) MPF lump sum deposit in the middle of the fiscal year.

OMB

3-7-84

MPF CUMULATIVE BALANCE: 30TH PERCENTILE
(\$ Million)

<u>Deposit Date</u>	<u>Deposit Amount</u>	<u>9% Interest</u>	<u>Balance</u>	<u>Balance Date</u>	<u>Balance in \$ 1985 (6% inflation)</u>
1-1-86	264	24	288	12-31-86	272
1-1-87	293	52	633	12-31-87	565
1-1-88	292	83	1,008	12-31-88	847
1-1-89	325	120	1,453	12-31-89	1,153
1-1-90	305	156	1,916	12-31-90	1,430
1-1-91	273	197	2,386	12-31-91	1,680
1-1-92	265	239	2,890	12-31-92	1,927
1-1-93	248	282	3,420	12-31-93	2,151
1-1-94	233	329	3,982	12-31-94	2,356
1-1-95	220	378	4,580	12-31-95	2,559
1-1-96	201	430	5,211	12-31-96	2,743
1-1-97	205	487	5,903	12-31-97	2,937
1-1-98	208	550	6,661	12-31-98	3,127

OMB

3-7-84

Rep. DUNCAN

**REVENUE AND EXPENDITURE FORECAST
FOR THE STATE OF ALASKA**
(in millions of dollars)

(1) FISCAL YEAR	(2) UNRESTR REVENUE +PFCONT	(3) PERM FUND CONTRIB	(4) PROPOSED MAJPROJ CONTRIB	(5) SUM DEDICAT REVENUE	(6) BALANCE AVAIL FOR APPROP	(7) OPER BUDGET	(8) AVAIL BALANCE
1984	3,552.2	319.2	0.0	319.2	3,233.0	2,291.6	941.4
1985	3,538.9	319.6	253.3 253.3	572.8 572.8	2,946.9	2,360.7	605.4 587
1986	3,700.2	335.3	244.1 244.1	599.4 599.4	3,346.8 3,346.8	2,548.1	552.6 498
1987	4,103.2	374.1	294.3 294.3	668.4 668.4	3,325.9	2,747.5	607.3 628
1988	4,113.3	402.2	292.6 292.6	694.9 694.9	3,322.5	2,966.9	451.5 391
1989	4,531.9	463.6	325.7 325.7	739.3 739.3	3,622.6	3,201.3	541.3 476
1990	4,319.7	439.6	305.2 305.2	744.8 744.8	3,576.0	3,455.0	119.9 55
1991	3,993.4	411.1	274.0	685.1	3,308.3	3,722.4	-414.1
1992	3,949.2	413.4	265.9	679.3	3,270.0	4,013.7	-743.7
1993	3,806.8	402.2	248.8	651.0	3,155.8	4,352.5	-1,196.7
1994	3,681.7	391.6	234.5	626.1	3,055.6	4,705.3	-1,649.7
1995	3,567.5	372.8	221.7	594.5	2,973.0	5,114.7	-2,141.7
1996	3,395.1	362.4	201.8	564.2	2,830.9	5,562.5	-2,731.6
1997	3,466.9	375.3	205.7	581.0	2,885.9	6,047.7	-3,161.8
1998	3,548.2	388.9	208.7	597.6	2,950.6	6,579.6	-3,629.1
1999	3,611.3	398.7	210.1	608.9	3,002.5	7,157.7	-4,155.2
2000	3,648.3	403.4	209.1	612.5	3,035.8	7,787.3	-4,751.5

EXPLANATORY NOTES

- COLUMN (2): UNRESTRICTED REVENUES AND PERMANENT FUND CONTRIBUTIONS ARE FROM JANUARY 1984 DEPARTMENT OF REVENUE PROJECTIONS. THE FIGURES INCLUDE INFLATION AT 6% PER YEAR.
- COLUMN (3): SOURCE: JANUARY 1984 DEPARTMENT OF REVENUE PROJECTIONS.
- COLUMN (4): CONTRIBUTIONS TO THE PROPOSED MAJOR PROJECTS FUND ARE BASED ON CS HJR 57 (RESOURCES), WHICH SPECIFIES THAT 10% OF SEVERANCE TAXES, MINERAL LEASE RENTALS, ROYALTIES, ROYALTY SALE PROCEEDS AND FEDERAL MINERAL REVENUE-SHARING PAYMENTS AND BONUSES SHALL BE DEPOSITED IN THE FUND.
- COLUMN (5): THE SUM OF DEDICATED REVENUES EQUALS CONTRIBUTIONS TO THE PERMANENT FUND AND TO THE MAJOR PROJECTS FUND.
- COLUMN (6): THE BALANCE AVAILABLE FOR APPROPRIATION EQUALS COLUMN (2) LESS COLUMN (5).
- COLUMN (7): THE OPERATING BUDGET IS BASED ON THE MULTIPLICATIVE FORMULA OF CS HB 524. FY 84 AND FY 85 FIGURES ARE BASED ON A JANUARY 31, 1984 MEMORANDUM FROM LEGISLATIVE FINANCE TO REPRESENTATIVE AL ADAMS. THE OPERATING BUDGET LIMIT IS ASSUMED TO BE TWO-THIRDS OF THE SPENDING LIMIT. THE LIMIT IS INCREASED BY 6% PER YEAR FOR INFLATION AND BY 2.84% PER YEAR FOR POPULATION GROWTH. THE OPERATING BUDGET INCLUDES GENERAL OBLIGATION AND 50% OF SCHOOL BOND DEBT SERVICE BUT ASSUMES THAT NO ADDITIONAL BONDS ARE ISSUED.
- COLUMN (8): THE AVAILABLE BALANCE EQUALS COLUMN (2) LESS COLUMN (7).

MEMORANDUM

Revenue projections under Senate
State of Alaska Resolution

TO: The Honorable Bettye M. Fahrenkamp DATE: March 6, 1984
Alaska State Senate

FILE NO: 84E-3

TELEPHONE NO: 465-3568

FROM: Gordon S. Harrison (ash)
Associate Director
Division of Strategic Planning
Office of Management and Budget

SUBJECT: Revenue Projections for
CSSJR 32

In response to a request from your staff, we are providing long-term revenue projections which may be useful to the work of your committee on CSSJR 32. These projections incorporate current royalty and severance tax revenue estimates published by the Department of Revenue. Other petroleum and non-petroleum revenue projections are those of OMB, but they are similar to the estimates used by the Department of Revenue internally.

We have analyzed the cash flow of the Major Projects Fund with both 30th and 50th percentile estimates of severance tax and royalty income. Note that our revenue estimates are based on current law, and do not take account of potential future new State revenue sources such as a personal income tax, Permanent Fund dividends, etc.

mm

PETROLEUM REVENUE: 50TH PERCENTILE
(\$ Million; Nominal)

FY	<u>DOR</u> <u>50%</u>	<u>DOR</u> <u>50%</u>	<u>OMB</u> <u>Estimate</u>	<u>OMB</u> <u>Estimate</u>	<u>OMB</u> <u>Estimate</u>	Total Petroleum Revenue
	Gross Royalties	Severance Taxes	Corporate Petroleum Income Tax	Property Tax (Oil/Gas)	Federal Mineral Revenue Sharing	
1985	1,370	1,370	300	222	17	3,279
1986	1,480	1,450	325	226	18	3,499
1987	1,670	1,630	350	259	18	3,927
1988	1,820	1,520	363	257	18	3,978
1989	2,080	1,730	384	277	18	4,489
1990	2,140	1,770	374	280	18	4,582
1991	1,950	1,540	361	285	18	4,154
1992	1,940	1,460	359	309	18	4,086
1993	1,940	1,430	350	337	18	4,075
1994	1,900	1,370	341	352	18	3,981
1995	1,770	1,270	331	364	18	3,753
1996	1,650	1,100	322	339	18	3,429
1997	1,700	1,140	325	388	18	3,571
1998	1,750	1,150	327	405	18	3,650

OMB

3-6-94

PETROLEUM REVENUE: 30TH PERCENTILE
(\$ Million; Nominal)

FY	<u>DOR</u> 30%	<u>DOR</u> 30%	<u>OMB</u> <u>Estimate</u>	<u>OMB</u> <u>Estimate</u>	<u>OMB</u> <u>Estimate</u>	Total Petroleum Revenue
	Gross Royalties	Severance Taxes	Corporate Petroleum Income Tax	Property Tax (Oil/Gas)	Federal Mineral Revenue Sharing	
1985	1,260	1,250	300	222	17	3,049
1986	1,320	1,300	325	226	18	3,189
1987	1,470	1,440	350	259	18	3,537
1988	1,590	1,310	363	257	18	3,538
1989	1,770	1,460	384	277	18	3,909
1990	1,680	1,350	374	280	18	3,702
1991	1,560	1,150	361	285	18	3,374
1992	1,540	1,090	359	309	18	3,316
1993	1,470	990	350	337	18	3,165
1994	1,390	920	341	352	18	3,021
1995	1,300	880	331	364	18	2,893
1996	1,230	760	322	339	18	2,669
1997	1,260	770	325	388	18	2,761
1998	1,270	790	327	405	18	2,810

OMB

3-6-84

UNRESTRICTED GENERAL FUND REVENUE: 50TH PERCENTILE
(\$ Million)

FY	50th Percentile Pet. Rev. Minus P.F. Contr.	OMB	OMB	Unrestricted Gen. Fund Revenue	Unrestricted Gen. Fund Revenue (1985 dollars)
		<u>Estimate</u>	<u>Estimate</u>		
		Investment Income	Other (Non-Pet.) Revenue		
1985	2,932	250	253	3,435	3,435
1986	3,124	250	272	3,646	3,440
1987	3,505	250	287	4,042	3,609
1988	3,518	250	303	4,071	3,421
1989	3,964	250	320	4,534	3,598
1990	4,042	250	337	4,629	3,454
1991	3,662	250	356	4,268	3,006
1992	3,557	250	376	4,183	2,789
1993	3,546	250	397	4,193	2,637
1994	3,444	250	420	4,114	2,434
1995	3,252	250	443	3,945	2,204
1996	2,945	250	469	3,664	1,928
1997	3,056	250	495	3,801	1,891
1998	3,120	250	524	3,894	1,828

OMB

3-6-84

UNRESTRICTED GENERAL FUND REVENUE: 30TH PERCENTILE
(\$ Million)

FY	³ 30th Percentile Pet. Rev. Minus P.F. Contr.	OMB	OMB	Unrestricted Gen. Fund Revenue	Unrestricted Gen. Fund Revenue (1985 dollars)
		<u>Estimate</u> Investment Income	<u>Estimate</u> Other (Non-Pet.) Revenue		
1985	2,730	250	253	3,233	3,233
1986	2,854	250	272	3,376	3,185
1987	3,165	250	287	3,702	3,305
1988	3,136	250	303	3,689	3,100
1989	3,462	250	320	4,032	3,200
1990	3,277	250	337	3,864	2,884
1991	2,979	250	356	3,585	2,525
1992	2,895	250	376	3,521	2,347
1993	2,763	250	397	3,410	2,145
1994	2,627	250	420	3,297	1,951
1995	2,524	250	443	3,217	1,797
1996	2,307	250	469	3,026	1,593
1997	2,378	250	495	3,123	1,554
1998	2,424	250	524	3,198	1,501

OMB

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CONTRIBUTIONS TO MPF
(\$ Million; Nominal)

<u>FY</u>	<u>At 50th Percentile</u>		<u>At 30th Percentile</u>	
	<u>Total Petroleum Revenue</u>	<u>10% to MPF</u>	<u>Total Petroleum Revenue</u>	<u>10% to MPF</u>
1985	3,279	328	3,049	305
1986	3,499	350	3,189	319
1987	3,927	393	3,537	354
1988	3,978	398	3,538	354
1989	4,489	449	3,909	391
1990	4,582	458	3,702	370
1991	4,154	415	3,374	337
1992	4,086	409	3,316	332
1993	4,075	408	3,165	317
1994	3,981	398	3,021	302
1995	3,753	375	2,893	289
1996	3,429	343	2,669	267
1997	3,571	357	2,761	276
1998	3,650	365	2,810	281
TOTAL		5,446		4,494

OMB

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CONTRIBUTIONS TO PERMANENT FUND
(\$ Million; Nominal)

FY	<u>At 50th Percentile</u>		Perm. Fund Contributions	<u>At 30th Percentile</u>		Perm. Fund Contributions
	Non-Tax. Pet. Rev. (Excl. Bonuses)	Perm. Fund Contribution Rate		Non-Tax. Pet. Rev. (Excl. Bonuses)	Perm. Fund Contribution Rate	
1985	1,387	.25	347	1,277	.25	319
1986	1,498	.25	375	1,338	.25	335
1987	1,688	.25	422	1,488	.25	372
1988	1,838	.25	460	1,608	.25	402
1989	2,098	.25	525	1,788	.25	447
1990	2,158	.25	540	1,698	.25	425
1991	1,968	.25	492	1,578	.25	395
1992	1,958	.27	529	1,558	.27	421
1993	1,958	.27	529	1,488	.27	402
1994	1,918	.28	537	1,408	.28	394
1995	1,788	.28	501	1,318	.28	369
1996	1,668	.29	484	1,248	.29	362
1997	1,718	.30	515	1,278	.30	383
1998	1,768	.30	530	1,288	.30	386

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MPF CUMULATIVE BALANCE: 50TH PERCENTILE
(\$ Million)

<u>Deposit Date</u>	<u>Deposit Amount</u>	<u>9% Interest</u>	<u>Balance</u>	<u>Balance Date</u>	<u>Balance in \$ 1985 (6% inflation)</u>
1-1-85	328	30	358	12-31-85	358
1-1-86	350	64	772	12-31-86	728
1-1-87	393	105	1,270	12-31-87	1,134
1-1-88	398	150	1,818	12-31-88	1,528
1-1-89	449	204	2,471	12-31-89	1,961
1-1-90	458	264	3,193	12-31-90	2,383
1-1-91	415	325	3,933	12-31-91	2,770
1-1-92	409	391	4,733	12-31-92	3,155
1-1-93	408	463	5,604	12-31-93	3,525
1-1-94	398	540	6,542	12-31-94	3,871
1-1-95	375	623	7,540	12-31-95	4,212
1-1-96	343	709	8,592	12-31-96	4,522
1-1-97	357	805	9,754	12-31-97	4,853
1-1-98	365	911	11,030	12-31-98	5,178

- Assumptions: 1) No expenditures from the fund.
- 2) MPF lump sum deposit in the middle of the fiscal year.

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3-6-84

MPF CUMULATIVE BALANCE: 30TH PERCENTILE
(\$ Million)

<u>Deposit Date</u>	<u>Deposit Amount</u>	<u>9% Interest</u>	<u>Balance</u>	<u>Balance Date</u>	<u>Balance in \$ 1985 (6% inflation)</u>
1-1-85	305	27	332	12-31-85	332
1-1-86	319	59	710	12-31-86	670
1-1-87	354	96	1,160	12-31-87	1,036
1-1-88	354	136	1,650	12-31-88	1,387
1-1-89	391	184	2,225	12-31-89	1,766
1-1-90	370	234	2,829	12-31-90	2,111
1-1-91	337	285	3,451	12-31-91	2,430
1-1-92	332	340	4,123	12-31-92	2,749
1-1-93	317	400	4,840	12-31-93	3,044
1-1-94	302	463	5,605	12-31-94	3,317
1-1-95	289	530	6,424	12-31-95	3,589
1-1-96	267	602	7,293	12-31-96	3,838
1-1-97	276	681	8,250	12-31-97	4,104
1-1-98	281	768	9,299	12-31-98	4,366

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3-6-84

Alaska State Legislature



Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

March 29, 1984

To: Representative Bob Bettisworth
Vice Chairman, House Finance

From: Representative Joe Hayes
House Speaker

A handwritten signature in dark ink, appearing to be "J. Hayes", written over the printed name of Representative Joe Hayes.

Per our recent telephone conversation, I am sending a copy of Governor Sheffield's letter dated March 29, 1984, proposing a formula to the solution of the 4-Dam Pool problem.

Would you please check out the disposition of various pieces of legislation relating to "the package". I believe most or all of them may be in House Finance. I would appreciate your suggestions for a resolution to the Governor's requirements.

Please feel free to discuss this with the Governor and his staff.

DRAFT
Law

DRAFT

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 57 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the
6 Constitution of the State of Alaska
7 creating a fund to provide a source of
8 financing for capital projects and to
9 provide assistance to equalize power
10 costs.

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

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

14 SECTION 17. MAJOR PROJECTS FUND. (a) There is created in the
15 state treasury a major projects fund. The purpose of the major
16 projects fund is to finance the construction of capital projects that
17 exceed \$100,000,000 in cost, and to provide money to equalize power
18 costs of consumers. The unexpended balance of the fund shall be
19 invested in the manner specified in section 16 of this article for the
20 general fund. The major projects fund consists of

21 (1) an annual deposit of ten percent of state revenue
22 earned after June 30, 1985 from the following sources:

- 23 (A) corporate income tax on oil and gas producers;
24 (B) severance tax;
25 (C) oil and gas production property tax;
26 (D) mineral lease rentals;
27 (E) royalties;
28 (F) royalty sale proceeds; and

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Law

1 bonuses;

2 (2) appropriations made by the legislature;

3 (3) interest earned each fiscal year from investment of
4 money in the major projects fund; and

5 (4) revenue dedicated to the fund in accordance with (c) of
6 this section.

7 (b) Money shall not be expended from the major projects fund for
8 a capital project unless

9 (1) a plan for financing the project has been approved by
10 the governor and the legislature that identifies the source of all
11 money necessary to complete construction of the project;

12 (2) the expenditure is authorized by the affirmative vote
13 of two-thirds of the membership of each house of the legislature;

14 (3) the capital project is estimated to earn enough revenue
15 during the useful life of the project to repay the money appropriated
16 from the major projects fund and other money used to finance the
17 project; and

18 (4) the capital project is owned by the state.

19 (c) The legislature may dedicate by law to the major projects
20 fund revenue earned by a capital project financed by the major
21 projects fund to repay the amount expended from the fund to finance
22 the project during the life of the project.

23 (d) Ten percent of the annual revenue paid into the fund is
24 reserved to provide assistance to equalize power costs to consumers in
25 the state. Money reserved under this subsection shall be appropriated
26 from the fund by an affirmative vote of a majority of the members of
27 each house of the legislature and shall be distributed as provided by
28 law.

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Law

1 section to meet a state of disaster declared by the governor as
2 prescribed by law.

3 * Sec. 2. Article IX, sec. 7, Constitution of the State of Alaska is
4 amended to read:

5 SECTION 7. DEDICATED FUNDS. The proceeds of any state tax or
6 license shall not be dedicated to any special purpose, except as
7 provided in sections [SECTION] 15 and 17 of this article or when
8 required by the federal government for state participation in federal
9 programs. This provision shall not prohibit the continuance of any
10 dedication for special purposes existing upon the date of ratification
11 of this section by the people of Alaska.

12 * Sec. 3. Article IX, sec. 16, Constitution of the State of Alaska is
13 amended to read:

14 SECTION 16. APPROPRIATION LIMIT. Except for appropriations for
15 Alaska permanent fund dividends, appropriations from the major
16 projects fund established by section 17 of this article,
17 appropriations of revenue bond proceeds, appropriations required to
18 pay the principal and interest on general obligation bonds, and
19 appropriations of money received from a non-state source in trust for
20 a specific purpose, including revenues of a public enterprise or
21 public corporation of the state that issues revenue bonds,
22 appropriations from the treasury made for a fiscal year shall not
23 exceed \$2,500,000,000 by more than the cumulative change, derived from
24 federal indices as prescribed by law, in population and inflation
25 since July 1, 1981. Within this limit, at least one-third shall be
26 reserved for capital projects and loan appropriations. The
27 legislature may exceed this limit in bills for appropriations to the
28 Alaska permanent fund and in bills for appropriations for capital

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Law

1 approved by the governor, or passed by affirmative vote of
2 three-fourths of the membership of the legislature over a veto or item
3 veto, or becomes law without signature, and is also approved by the
4 voters as prescribed by law. Each bill for appropriations for capital
5 projects in excess of the limit shall be confined to capital projects
6 of the same type, and the voters shall, as provided by law, be
7 informed of the cost of operations and maintenance of the capital
8 projects. No other appropriation in excess of this limit may be made
9 except to meet a state of disaster declared by the governor as
10 prescribed by law. The governor shall cause any unexpended and
11 unappropriated balance to be invested so as to yield competitive
12 market rates to the treasury.

13 * Sec. 4. Article XV, Constitution of the State of Alaska is amended by
14 adding a new section to read:

15 SECTION 29. APPROVAL OF EXPENDITURE FROM THE MAJOR PROJECTS
16 FUND. If the amendment creating the major projects fund (art. IX,
17 sec. 17) is adopted by a majority of those voting on the question at
18 the 1984 general election, the first expenditure for a capital project
19 from the major projects fund shall be for the hydroelectric project
20 which

21 (1) has had a license application accepted by the Federal
22 Energy Regulatory Commission by December 31, 1983;

23 (2) will serve the greatest percentage of the state's
24 population;

25 (3) will produce the greatest amount of kilowatt hours per
26 month; and

27 (4) has been authorized in accordance with art. IX, sec.
28 17(b) of the Constitution of the State of Alaska.