

ALASKA LEGISLATURE

945

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

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regional development fund AS 44.33.026(d) (((repealed July 1,  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

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

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# Representative Kay Brown

ALASKA STATE LEGISLATURE

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

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

November 19, 1992

## SECTIONAL ANALYSIS

### 11/18/92 Work Draft

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

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

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

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

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

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

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

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

#### DISTRICT 12

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

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

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF REVENUE**

OFFICE OF THE COMMISSIONER

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

December 2, 1992

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


DEC 7 1992

Dear Representative Brown:

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

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

Sincerely,



Darrel J. Rexwinkel  
Commissioner

DJR:BCA:ml  
92-154

cc: Shelby Stastny, Director  
Office of Management & Budget

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

Fall 1992 - Dept. of Revenue Mid Scenario

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

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

## DIVISION OF LEGAL SERVICES

### LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

#### MEMORANDUM

January 12, 1993

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

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

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

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

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

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

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

Representative Ron Larson  
January 12, 1993  
Page 2

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

TBC:pl:gc  
93-014.plm

Enclosure

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

February 23, 1993

WALTER J. HICKEL, GOVERNOR

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

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

Dear Representative Brown:

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

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

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

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

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

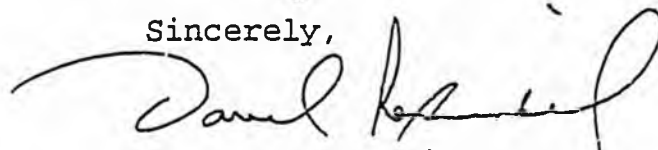
The summary below shows the balance in each of the accounts by fiscal year for amounts collected after an assessment notice was issued. For FY 93 the balance shown is for payments received as of January 31, 1993. The unallocated amount in the general fund represents receipts prior to a request for hearing.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

(in thousands)

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

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

Sincerely,



Darrel J. Rexwinkel  
Commissioner

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

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

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

February 26, 1993

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

Dear Representative Brown:

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

A reconciliation of the two letters is as follows:

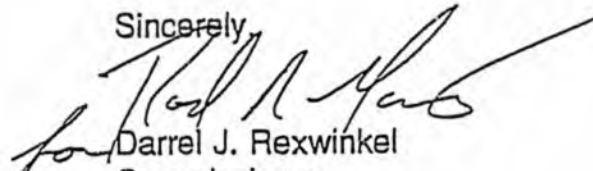
Principal balance only as of January 31	\$215,910,883
February 17 settlement deposited to AS	50,273,236
Interest calculated as of February 22 by Treasury Division	<u>13,560,299</u>
Total in Mr. Wanie's letter	<u>\$279,744,418</u>

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

The Honorable Kay Brown  
February 26, 1993  
Page 2

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

Sincerely,



Darrel J. Rexwinkel  
Commissioner

93-051

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

MEMORANDUM

TO: Representative Ramona L. Barnes  
Speaker of the House

FROM: Douglas A. Wooliver  
Staff Attorney

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

DATE: March 9, 1993

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

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

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

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

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

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

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

#### PLAIN MEANING

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

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

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

## LEGAL MEANING

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

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

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

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

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

## VOTER UNDERSTANDING

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

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

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

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

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

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

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

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

## LEGISLATIVE INTENT

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

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

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

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

## CONCLUSION

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

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

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

## STATE OF ALASKA

## THE LEGISLATURE

1990

Source  
HCS CSSSSJR 5(Fin) am H

Legislative  
 Resolve No.

129



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

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

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

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

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

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

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

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

**HB**

**58**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/18/94

FURTHER:

DATE TURNED INTO OFFICE: 2-22-94

Finance Committee considered CS FOR HOUSE BILL NO. 58(FIN) am(efd fld)

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

and recommends:

- replace with 5 CS CS HB 58 (FINANCE)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts \_\_\_\_\_ Letter of Intent
- further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
<u>DOA</u>	<u>2-10-94</u>	<u>0</u>	
<u>DOA</u>	<u>2-10-94</u>	<u>0</u>	

Appropriation No Fiscal Note

DO PASS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

OTHER RECOMMENDATIONS:

Constitution  
of Alaska Do not pass, violate  
Constitution  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

1. \_\_\_\_\_  
 Co-Chair Signature/Recommendation

2. \_\_\_\_\_  
 Co-Chair Signature/Recommendation

# FISCAL NOTE

No. 2

Bill Version: CSHB 58 (FIN)

(H) Publish Date: 2/11/94

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO.

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

**Expenditures/Revenues** (Thousands of Dollars)

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

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of current year (FY94) cost: none

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary)

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

Approved by Commissioner: Nancy Bear Usara Date: 2/10/94  
 Agency: Administration

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FISCAL NOTE

No. 3  
 Bill Version: CSHB 58 (FIN  
 (H) Publiish Date: 2/11/94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

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

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

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

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

POSITIONS:

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

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

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

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

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JFC 2-22-94  
SR - Adopted  
#1

AMENDMENT

TO: CSHB 58 (FIN)

BY Senator Rieger

Page 1, line 13 Delete: "and"

Page 2, line 2: After "Alaska;" insert:

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

Page 2, Line 4 After "from" insert:

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

SENATE FINANCE  
COMMITTEE  
Amendment Number: ①  
Bill Number: NB 58  
Sponsor: Rieger Date: 2/22/94  
Logged In By: Rieger

FISCAL NOTE

No. 3  
 Bill Version: CSHB 58 (FIN  
 (H) Publish Date: 2/11/94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

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

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

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

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

POSITIONS:

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

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

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

*Richard I. Peques*

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: February 10, 1994

Date: February 10, 1994

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 58 (FIN)

ANALYSIS CONTINUATION:

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

JFC 2-22-94  
SR - Adopted  
#1

AMENDMENT

TO: CSHB 58 (FIN)

BY Senator Rieger

Page 1, line 13 Delete: "and"

Page 2, line 2: After "Alaska;" insert:

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

Page 2, Line 4 After "from" insert:

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

(B)"

SENATE FINANCE  
COMMITTEE  
Amendment Number: \_\_\_\_\_  
Bill Number: HB 58  
Sponsor: Rieger Date: 2/22/94  
Logged In By: (Signature)

SFC 2-22-94  
BS-3  
Adopted  
5-1  
#3

SENATE AMENDMENT  
House Bill 58  
By Senator Bert Sharp

Amendment #3

AS 37.10 is amended by adding a new section to read:

Article 6. BUDGET RESERVE FUND.

Sec. 37.10.410. ADMINISTRATIVE PROCEEDINGS INVOLVING TAXES.

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

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

(2) past due taxes that are received by the state after a request for a formal hearing under AS 43.05.240(b)(1) is made to the Department of Revenue, together with penalties and interest on the taxes.

(B) Money received by the state under the following conditions is not considered to be received as the result of the termination of an administrative proceeding for purposes of applying art. IX, sec. 17(a), Constitution of the State of Alaska;

(1) taxes that are not due at the time the request for the proceeding was made under AS 43.05.240(a) or (b)(1);

(2) taxes set out in a return not audited by the department at the date of collection; or

(3) taxes collected for a tax year for which the taxpayer did not give notice of appeal of an assessment made by the department.

CS HB 58 (Jud)  
conforms to Supreme Court interpretation

New Ground Issues yet to be argued in court.

SENATE FINANCE COMMITTEE  
Amendment Number: 3  
Bill Number: HB-58  
Sponsor: \_\_\_\_\_ Date: 2/27/94  
Logged In By: (Bm)

SFC- 2-22-94  
Amendment  
# 4  
SR-3  
6  
Adopted

SENATE AMENDMENT

By Rieger

To: CSHB 58 (FIN) SENATE BILL No. \_\_\_\_\_ :

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE:

LINE:

Page 2 Line 7 after "made" insert:

"from sources identified in (2) of  
this subsection."

58(FIN) ~~am(efd fld)~~

*JCS for* CS FOR HOUSE BILL NO. 58(FIN) ~~am(efd fld)~~

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 2/16/94

Offered: 2/11/94

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

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

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

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

5 ARTICLE 6. BUDGET RESERVE FUND.

6 Sec. 37.10.420. MONEY AVAILABLE FOR APPROPRIATION. (a) For  
7 purposes of applying art. IX, sec. 17(b), Constitution of the State of Alaska,

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

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

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

13 and

14 (C) the unreserved, undesignated general fund balance carried

1 forward from the preceding fiscal year that is not subject to the repayment  
2 obligation imposed by art. IX, sec. 17(d), Constitution of the State of Alaska;

3 (2) "the amount appropriated for the previous fiscal year" means the  
4 amount appropriated from the same revenue sources used to calculate the money  
5 available for appropriation for the current fiscal year; and

6 (3) "the amount of appropriations made in the previous calendar year  
7 for the previous fiscal year" means appropriations made for a fiscal year that were  
8 enacted during the calendar year that ends on December 31 of that same fiscal year.

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

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

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

25 \* Sec. 2. The provisions of sec. 1 of this Act are declaratory of existing law and represent  
26 the intent of the legislature when the Sixteenth Alaska State Legislature passed Senate  
27 Joint Resolution No. 5 (HCS CSSSSJR 5(FIN) am H), proposing an amendment to art.  
28 IX, Constitution of the State of Alaska, creating the budget reserve fund in 1990.

A M E N D M E N T

TO: CSHB 58 (FIN)

BY:

page 2, line 3: after "from " insert the following new material to read:

- "(A) the statutory budget reserve fund established in AS 37.05.540;
- (B) the constitutional budget reserve fund under the authority granted in art. IX, sec. 17(b) Constitution of the State of Alaska; and
- (C) "

Effect of amendment: This amendment would add appropriations from the statutory budget reserve fund and majority-approved appropriations from the constitutional budget reserve fund to the non restricted fund appropriations that, added together, make up the "amount appropriated for the previous fiscal year." Access to the constitutional budget reserve fund is determined by measuring amount appropriated in the previous fiscal against the amount available in the target fiscal year.

Extra  
Copy

AMENDMENT

TO: CSHB 58 (FIN)

BY Senator Rieger

Page 1, line 13 Delete: "and"

Page 2, line 2: After "Alaska;" insert:

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

Page 2, Line 4 After "from" insert:

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

SENATE FINANCE  
COMMITTEE  
Amendment Number: ①  
Bill Number: NB 58  
Sponsor: Rieger Date: 2/22/91  
Logged In By: [Signature]

2-22-94

Rewritten into  
Amendment #3  
BS — y. ) of  
Withdrawn

SENATE AMENDMENT  
House Bill 58  
By Senator Bert Sharp

Amendment #2

AS 37.10 is amended by adding a new section to read:

Article 6. BUDGET RESERVE FUND.

Sec. 37.10.410. ADMINISTRATIVE PROCEEDINGS INVOLVING TAXES.

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

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

(2) past due taxes that are received by the state after a request for a formal hearing under AS 43.05.240(b)(1) is made to the Department of Revenue, together with penalties and interest on the taxes.

(b) To the extent that an administrative proceeding involves taxes that are not due at the time the request for the proceeding was made under AS 43.05.240(a) or (b)(1), taxes set out in a return not audited by the department at the date of collection, or taxes collected for a tax year for which the taxpayer did not give notice of appeal of an assessment made by the department, money received ~~as a result of~~ <sup>by the state</sup> the termination of an administrative proceeding for purposes of applying art. IX, sec. 17(a), Constitution of the State of Alaska.  
*for these reasons (Baldwin proposal) the proceeding is not considered to be received as a result of*

SENATE FINANCE COMMITTEE  
Amendment Number: 2  
Bill Number: HB 58  
Sponsor: Sharp Date: 2/5/94  
Logged In By: (Signature)

2-22-94  
Rewritten into  
Amendment #3

**SENATE AMENDMENT**  
**House Bill 58**  
**By Senator Bert Sharp**

**Amendment #2**

AS 37.10 is amended by adding a new section to read:

**Article 6. BUDGET RESERVE FUND.**

**Sec. 37.10.410. ADMINISTRATIVE PROCEEDINGS INVOLVING TAXES.**

(A) The following money received by the state is considered to be received as a result of the termination of an administrative proceeding for purposes of applying ~~art.~~ <sup>art.</sup> IX, sec. 17(a), Constitution of the State of Alaska;

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

(2) past due taxes that are received by the state after a request for a formal hearing under AS 43.05.240(b)(1) is made to the Department of Revenue, together with penalties and interest on the taxes.

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

by the state

the proceeding is not considered to be received as a result of

SENATE FINANCE  
COMMITTEE  
Amendment Number: 2  
Bill Number: HB 58  
Sponsor: Sharp Date: 2/5/94  
Logged In By: [Signature]

**SENATE AMENDMENT**  
**House Bill 58**  
**By Senator Bert Sharp**

**Amendment #2**

AS 37.10 is amended by adding a new section to read:

**Article 6. BUDGET RESERVE FUND.**

**Sec. 37.10.410. ADMINISTRATIVE PROCEEDINGS INVOLVING TAXES.**

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

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

(2) past due taxes that are received by the state after a request for a formal hearing under AS 43.05.240(b)(1) is made to the Department of Revenue, together with penalties and interest on the taxes.

(b) Money received by the state as a result of the termination of an administrative proceeding for purposes of applying art. IX, sec. 17(a), Constitution of the State of Alaska does not include:

(1) taxes that are not due at the time the request for the proceeding was made under AS 43.05.240(a) or (b)(1);

(2) taxes set out in a return not audited by the department at the date of collection; or

(3) taxes collected for a tax year for which the taxpayer did not give notice of appeal of an assessment made by the department. *S*

SENATE FINANCE  
COMMITTEE  
Amendment Number: *REVISED #2*  
Bill Number: *NB 58*  
Sponsor: *Sharp* Date: *2/22/94*  
Logged In By: *[Signature]*

2-22-94  
5 Fin  
Jim Baldwin

A M E N D M E N T

(Rewritten into  
Amendment #1)

TO: CSHB 58 (FIN)

BY:

page 2, line <sup>4</sup> after "from " insert the following new material to read:

- ~~(A)~~ the statutory budget reserve fund established in AS 37.05.540;
- (2) ~~(B)~~ the constitutional budget reserve fund under the authority granted in art. IX, sec. 17 ~~(b)~~ Constitution of the State of Alaska; and
- (C) "

*delete SR*

Effect of amendment: This amendment would add appropriations from the statutory budget reserve fund and majority-approved appropriations from the constitutional budget reserve fund to the non restricted fund appropriations that, added together, make up the "amount appropriated for the previous fiscal year." Access to the constitutional budget reserve fund is determined by measuring amount appropriated in the previous fiscal against the amount available in the target fiscal year.

# MEMORANDUM

*Budget Reserve Fund*  
State of Alaska

Office of the Governor  
Division of Policy

TO: Doug Baily  
Attorney General

DATE: May 22, 1990

and Hugh Malone  
Commissioner, Revenue

FROM: *M. Max* Mary Halloran  
Director, Policy

PHONE: 465-3568

SUBJECT: SJR 5: Budget Reserve Fund

FILE NO:

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

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

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

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

A description of SJR5, by subsection, follows.

B: 17(a):

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 17(b):

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

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

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

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

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

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

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

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

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

B 17(c):

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

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

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

β 17(d):

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

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

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

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

Page 7

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

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

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

Attachment: HCSCSSS SJR 5 - Finance, am H

# BALLOT MEASURE NO. 1

## Budget Reserve Constitutional Amendment

[HCS CSSSSJR 5 (Fin) am H]

### BALLOT LANGUAGE

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

Should this constitutional amendment be adopted?

Yes  No

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

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

### LEGISLATIVE AFFAIRS AGENCY SUMMARY

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

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

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

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

### FULL TEXT OF PROPOSED LAW

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

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

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

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

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

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

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

### STATEMENT IN SUPPORT

Cut the budget.

Reduce state spending.

Get state spending under control.

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

# BALLOT MEASURE NO. 1

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

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

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

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

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

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

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

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

Senator Jan. Faiks  
Representative Kay Brown  
Representative Randy Phillips

## STATEMENT IN OPPOSITION

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

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

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

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

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

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

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

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

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

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

Representative Terry Martin

**HB**

**59**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)  
Date Referred: March 24, 1993

FURTHER REFERRALS:

Date of Committee Action: 4/3/93

The FINANCE Committee considered:

HB 59

HOUSE BILL NO. 59

APPROP: VETS' LAND DISCOUNT REFUND

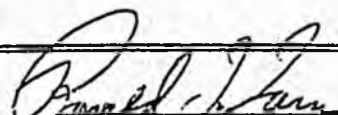
"A.1 Act making a special appropriation to the Department of Natural Resources for refunds to certain veterans who purchased state land and for reimbursement to the University of Alaska for the veterans' land discount applied to land transferred to the University of Alaska; and providing for an effective date."

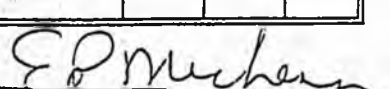
RECOMMENDATIONS: [ ] the same title  
 be replaced with CS HB 59 (MLV) [ ] a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

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

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal impact \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Richard J. Larson</i> Larson	X	<i>Edna P. MacLean</i> MacLean		✓	
<i>Larry Mann</i> Mann	X	<i>Lay Brown</i> Brown		✓	
<i>Richard Parnell</i> Parnell	X				
<i>Ben Grussendorf</i> Grussendorf	X				
<i>Lynn Hoffman</i> Hoffman	X				
<i>Mike Navarre</i> Navarre	X				
<i>Richard Joseph</i> Joseph	X	<i>John</i>			

  
 Co-CHAIRMAN'S SIGNATURE  
 LARSON

  
 MACLEAN

FISCAL NOTE

No. 1

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: CSHB 59 (MLV)

(H) Publish Date: 3/1/93

Revision Date: \_\_\_\_\_ Department Affected: Natural Resources  
 Title: "Making a special appropriation for refunds to the Veteran's Land Discount" BRU: Resource Management  
 Components: Land Management  
 Sponsor: House Military and Veterans  
 Requestor: House Military and Veterans Component Serial No. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE fund source:	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY93) Impact: \$ No fiscal impact anticipated

ANALYSIS: (Attach a separate page if necessary)  
 See Attached

Prepared by: Ron Swanson Phone: 762-2692  
 Division: Land Management Date: 27-Jan-93  
 Approved by Commissioner: Glenn A. Olds Date: 1/28/93  
 Agency: Department of Natural Resources

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## Department of Natural Resources

## Bill Analysis on HB 59

HB 134 enacted in 1991 allowed eligible veterans who were not permitted to claim a veteran's land discount between April 1, 1983 and July 6, 1984 to retroactively claim that discount. Veterans purchasing state land had been denied the discount during the period between the court's invalidation of the old discount law and the enactment of a new discount law. According to the terms of HB 134, the department credited the veteran's discount against the remaining amount owed on the land. However, in cases where the land contract is paid off we are required to issue a refund to the veteran for the discount amount. We are also required to reimburse the University of Alaska for discounts credited to University land. No funds have yet been appropriated for these purposes. Attached is a status report on HB 134 discounts that have been approved. The opportunity to apply for a veterans' discount expired on June 27, 1992. This bill would allow the department to fulfill the conditions of HB 134, enacted in 1991. The exact refund amounts are attached and match the requested appropriation.

**CSHB 59 (MLV)  
SPONSOR STATEMENT**

**OVERVIEW**

In 1978, the Land Discount Program was created by the Tenth Legislature. This program granted eligible persons a discount on the purchase price of land sold for residential use. The discount amounted to a rate of five percent of the price of the land for each full year that the purchaser had been a resident of the state. The discount was limited to 50% or \$25,000, whichever was less. To be eligible, a person must have been physically present in the state for at least 12 months.

This program was amended in 1979 to increase the discount for eligible veterans. Under the amended program, a veteran could receive a discount which was limited to 75% or \$37,500, whichever was less.

In *Gilman v. Martin*, 62 P. 2d 120 (Alaska 1983), the Alaska Supreme Court considered the granting of a land discount by a municipal ordinance based on the applicant's length of residence. Applying the decision from *Zobel v. Williams*, 457 U.S. 55 102 S.Ct. 2309, 72 L.Ed.2d 672 (1982), the court ruled that the municipal ordinance was unconstitutional as it violated the equal protection clauses of the U.S. and Alaska Constitutions. The decision was published on April 1, 1983.

The state land discount program had not been examined in *Gilman v. Martin*, but considering its comparability to the municipal ordinance in question, the Department of Natural Resources stopped the implementation of the state land discount program. Subsequently, during the First Session of the Thirteenth Legislature, the land discount program (AS 38.05.058) was eliminated effective July 16, 1983.

The Second Session of the Thirteenth Legislature established the current veterans' land discount benefit, AS 38.05.940, effective July 6, 1984. This benefit program differed from the original in two major ways. One, an eligible veteran purchasing state land under this program was entitled to a flat 25% discount. Two, an eligible veteran is not allowed to use this discount toward the purchase of land offered under a restricted sale under AS 38.05.067 (the previous program allowed this).

A problem lied with veterans who had purchased land from the state between April 1, 1983 and July 6, 1984. These veterans had not been granted any discount at all, due to the fact that the program was not being implemented from April 1, 1983, was repealed on July 16, 1983 and the new program did not go into effect until July 6, 1984.

In an effort to correct this inequity, the Sixteenth Legislature passed CSHB 134(RES) which made the current veterans land benefit effective retroactively to April 1, 1983, when DNR stopped the implementation of the former discount program. CSHB 134(RES) did not contain any appropriation language, in effect it only authorized the payment of discounts to affected veterans. House Bill 176, introduced in the Seventeenth Legislature, contained the appropriation for the Veterans Land Discounts. This legislation passed the House and was referred to the Senate, where it passed the Senate Resources and Finance Committees. HB 176 died in the Senate Rules Committee when the Seventeenth Legislature adjourned.

#### **WHAT HOUSE BILL 59 DOES**

House Bill 59 makes a special appropriation to the Department of Natural Resources for refunds to veterans who purchased state land between April 1, 1983 and July 6, 1984. It also reimburses the University of Alaska for the veterans' land discount that applied to land that was transferred to the University of Alaska. This bill would allow DNR to fulfill the conditions of CSHB 134 (RES), enacted in 1991.

The Department of Natural Resources has expressed their support for HB 59 with some suggested technical amendments (Amendments were made in the Military & Veterans Affairs Committee).

# TIMELINE OF VETERANS' LAND DISCOUNT PROGRAM

<b>JULY, 1978</b>	Land Discount Program created by Tenth Legislature
<b>JULY, 1979</b>	Land Discount Program amended to increase maximum discount for eligible veterans to 75% or \$37, 500
<b>APRIL 1, 1983</b>	Gilman v. Martin decision. DNR stops the implementation of Land Discount Program
<b>JULY 16, 1983</b>	13th Legislature repeals AS 38.05.058, eliminating Land Discount Program
<b>JULY 6, 1984</b>	13th Legislature establishes current Veterans Land Discount Benefit (AS 38.05.940)
<b>JULY 28, 1991</b>	16th Legislature passes HB 176, making the Veterans Land Discount Benefit effective retroactively to April 1, 1983.

***Veterans who purchased land during this period did not receive discounts and are affected by HB 59***

# MEMORANDUM

DNR - Division of Land

## State of Alaska

TO: Ron Swanson  
Director

DATE: July 1, 1992

FILE NO:

THRU:

TELEPHONE NO: 2244

SUBJECT: Status Report  
Retroactive Veteran's  
Discount Pursuant to  
Chapter 82, SLA 1991

FROM: Robert A. Baker <sup>RAB</sup>  
Natural Resource Manager

The following is a status report on the retroactive veteran's land discounts received to date and how monies have been applied to those accounts approved.

Approved	36
Denied	6
Pending	0
Total Apln. Received	42

### Financial Status:

Total amount approved (non-University)	\$ 75,761.99
Total amount approved (University)	\$ 49,925.00
Total amount approved	\$125,686.99
Total excess credit (refund due)	\$ 24,605.13
Total University reimbursement	\$ 49,925.00
Total funds needed as of <sup>5/31/92</sup> <sub>6/30</sub>	\$ 74,530.13

If additional data is required to support legislative appropriation to fund University reimbursement and excess credit to title holders, please let us know.

A spreadsheet is attached which details how monies were applied to individual accounts.

cc: Sharon Barton, DNR, Division of Management  
Marty Epstein, University of AK, Office of Statewide Land Mgmt

## CHAPTER 82 SLA 1991

7/1/92

ADL #	NAME	DATE APLN RECD	STATUS	APPROVAL DATE	CREDIT APPLIED TO ACCT	EXCESS CREDIT (REFUND)	TOTAL DISCOUNT AMOUNT	UNIV	COMMENTS	
16600	Stafford, Bruce	11-Jul-91	Approved	30-Sep-91			8000.00	U	8000.00	Was subj to default
16634	Johnson, Bernard	18-Jul-91	Approved	24-Jul-91	0.00	5050.00	5050.00			
16514	Vail, Mark A.	29-Jul-91	Approved	29-Aug-91			2575.00			Discount used to bring current
16568	Allison, Danny R.	02-Aug-91	Approved	22-Aug-91	730.00	0.00	730.00			
56	Brown, Delon A.	07-Aug-91	Approved	22-Aug-91	0.00	803.00	803.00			
16739	Musgrove, John W.	07-Aug-91	Approved	22-Aug-91	0.00	3160.99	3160.99			
16593	Malette, David J.	20-Aug-91	Approved	30-Sep-91	0.00	6125.00	6125.00	U		
03704	Gross, Harvey B.	21-Aug-91	Approved	22-Aug-91	4141.40	0.00	4141.40			
16586	Sisson, Glen S.	28-Aug-91	Approved	30-Sep-91			6625.00	U	6625.00	Was subj to default
10017	Wilcox, Theodore C.	04-Sep-91	Approved	16-Sep-91	1711.23	0.00	1711.23			Was subj to default
03670	Lewis, James F.	15-Oct-91	Approved	13-Nov-91	3276.79	0.00	3276.79			
04463	Richardson, William	01-Oct-91	Approved	8-Nov-91	840.72	0.00	840.72			Was subj to default
10330	Weaver, Clay J.	06-Sep-91	Denied	26-Sep-91						
10332	Keltner, Tom R.	06-Sep-91	Denied	26-Sep-91						
16574	Unserfer, Hayden A.	09-Sep-91	Approved	16-Sep-91	1702.50	0.00	1702.50			
03569	Carpenter, George R.	11-Sep-91	Approved	20-Sep-91	7034.05	0.00	7034.05			
16625	Umlauf, Paul	12-Sep-91	Approved	30-Sep-91			5750.00	U	5750.00	
03582	Nordmark, William D.	23-Sep-91	Approved	25-Sep-91	7227.61	0.00	7227.61			
03894	Lockhart, Greg	27-Sep-91	Denied	9-Oct-91						
03891	Ballentine, George	30-Sep-91	Approved	25-Nov-91	2336.24	0.00	2336.24			Was subj to default & on MH Land
06761	Christie, Chris	09-Oct-91	Approved	11-Oct-91	2025.00	0.00	2025.00			
16589	Hartley, Robert G.	08-Oct-91	Approved	8-Nov-91			6750.00	U	6750.00	Was subj to default
10333	Cool, Jack G.	10-Oct-91	Denied	15-Oct-91						
13	Novy, Michael E.	10-Oct-91	Approved	24-Oct-91	1354.88	0.00	1354.88			
03565	McFarland, James	21-Oct-91	Approved	13-Nov-91	0.00	6534.57	6534.57			
08086	Ambush, Fred	24-Oct-91	Approved	3-Dec-91	523.46	0.00	523.46			
16630	Mundy, Wayne	01-Nov-91	Approved	22-Nov-91			5750.00	U	5750.00	Was subj to default
20912	Davis, Gordon	04-Nov-91	Denied	21-Nov-91						
03584	Cotman, Brian G.	21-Nov-91	Approved	22-Nov-91	7045.91	0.00	7045.91			
16642	Okuley, Marcus	12-Dec-91	Approved	19-Dec-91			10050.00	U	10050.00	Was subj to default
39826	Robinson, Benjamin P.	02-Jan-92	Approved	11-Mar-92	0.00	545.88	545.88	U		
36419	Holland, Bernard G.	09-Jan-92	Approved	29-Jan-92	948.75	0.00	948.75			Was subj to default

CHAPTER 82 SLA 1991

ADL #	NAME	DATE APLN RECD	STATUS	APPROVAL DATE	CREDIT APPLIED TO ACCT	EXCESS CREDIT (REFUND)	TOTAL DISCOUNT AMOUNT	UNIV	COMMENTS
216601	Schwochert, John E.	17-Jan-92	Approved	6-Mar-92			7000.00	U	7000.00 Was subj to default
103710	Schweizer, Jeffrey L.	22-Jan-92	Approved	29-Jan-92	744.86	0.00	744.86		Was subj to default
103874	Franks, Dennis W.	05-Feb-92	Denied	25-Feb-92					See ADL 406830
213726	Soderstrom, Gary	13-Feb-92	Approved	2-Mar-92	0.00	1060.38	1060.38		
.706	Stokes, Richard L.	07-Feb-92	Approved	25-Feb-92	3719.29	0.00	3719.29		Received by Assgn - Was orig owner
103547	Hillis, Donald G.	31-Mar-92	Approved	8-Apr-92	0.00	1208.53	1208.53		
215864	Mallett, Eric S.	09-Apr-92	Approved	15-Apr-92	0.00	116.78	116.78		
216585	Kern, Edward D.	09-Apr-92	Approved	15-Apr-92	1071.02	0.00	1071.02		Was subj to default
409935	Plaskett, David C.	11-May-92	Approved	12-May-92	1749.39	0.00	1749.39		Was subj to default
406539	Flaharty, Richard R.	22-May-92	Approved	10-Jun-92	398.76	0.00	398.76		Was subj to default
					48581.86	24605.13	125686.99		49925.00

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FACSIMILE: (907) 586-2754

January 29, 1993

The Honorable Richard Foster, Chair  
House Military and Veterans' Affairs Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Foster:

Subject: HB 59, Appropriation bill for veterans' discount.

The Department of Natural Resources supports this bill. HB 134, enacted in 1991, allowed eligible veterans who were not permitted to claim a veteran's land discount between April 1, 1983 and July 6, 1984 to retroactively claim that discount. Veterans purchasing state land had been denied the discount during the period between the court's invalidation of the old discount law and the enactment of a new discount law.

According to the terms of HB 134, the department credited the veteran's discount against the remaining amount owed on the land. However, in cases where the land contract is paid off we are required to issue a refund to the veteran for the discount amount. We are also required to reimburse the University of Alaska for discounts credited to University land. No funds have yet been appropriated for these purposes. Attached is a status report on HB 134 discounts that have been approved. The opportunity to apply for a veterans' discount expired on June 27, 1992.

This bill would allow the department to fulfill the conditions of HB 134, enacted in 1991. The exact refund amounts are attached and match the requested appropriation.

Technical amendments are proposed on lines 9 and 10 to clarify that the opportunity to apply for a discount has expired. On line 9 change qualify to qualified and on line 10 delete "may" and change apply to applied.

Cordially,



Glenn A. Olds  
Commissioner

enclosure

cc: Ron Swanson, Director, Division of Land  
Janet Burleson, Division of Land

**HB**

**59**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/2/94

FURTHER:

DATE TURNED INTO OFFICE: 2-23-94

The Finance Committee considered CS FOR HOUSE BILL NO. 59(MLV)

Special appropriation to the Department of Natural Resources for refunds to certain veterans who purchased state land and for reimbursement to the University of Alaska for the veterans' land discount applied to land transferred to the University of Alaska; efd.

and recommends:

- replace with 5 CS CS HB 59 (FINANCE)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
<u>DNIR</u>	<u>1-24-94</u>	<u>0</u>	

Appropriation No Fiscal Note

**DO PASS:**

\_\_\_\_\_  
*Bruce Stachler*  
 \_\_\_\_\_  
*Tom Kelly*  
 \_\_\_\_\_  
*Steve Kim*  
 \_\_\_\_\_

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

1. Do Pass  
 Co-Chair: Signature/Recommendation

2. Tranference 10/2/94  
 Co-Chair: Signature/Recommendation

# FISCAL NOTE

No. 2  
 Bill Version: CSHB 59 (MLV)  
 B (S) Publish Date: 1-31-94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

Revision Date: 24-Jan-94 Dept Affected: Natural Resources  
 Title: "An Act making a special appropriation to the BRU: Resource Development  
Department of Natural Resources for refunds to certain veterans..." Component: Land Development  
 Sponsor: Committee on Military and Veterans Affairs  
 Requestor: Senate Resources Committee Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY94) cost: \$ None

POSITIONS

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

**ANALYSIS:** (Attach a separate page if necessary)

This bill allows the department to fulfill the conditions of HB134, enacted in 1991. The exact refund amounts are attached and match the requested appropriation.

Prepared by: Ron Swanson, Director Phone: 762-2692  
 Division: Land Date: 24-Jan-94  
 Approved by Commissioner: Harry A. Noah Date: 24-Jan-94  
 Agency: Natural Resources

Phoned legal  
10:15am

8-LS0379E

CS FOR HOUSE BILL NO. 59(MLV)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

Offered: 3/1/93

Referred: State Affairs, Finance

Funding Information: General Fund \$74,500  
Other Funds -0-  
\$74,600

Sponsor(s): HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS  
A BILL

FOR AN ACT ENTITLED

1 "An Act making a special appropriation to the Department of Natural Resources  
2 for refunds to certain veterans who purchased state land and for reimbursement  
3 to the University of Alaska for the veterans' land discount applied to land  
4 transferred to the University of Alaska; ~~and providing for an effective date."~~

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

6 \* Section 1. The sum of \$74,600 is appropriated from the general fund to the Department  
7 of Natural Resources for

8 (1) refunds of excess payments made by certain veterans who retroactively  
9 qualified for the veterans' land discount of AS 38.05.940 and who, after March 31, 1983, and  
10 before July 6, 1984, purchased land from the state for which the discount applied; and

11 (2) reimbursement to the University of Alaska under sec. 3(d)(2), ch. 82, SLA  
12 1991.

13 \* Sec. 2. The appropriation made by this Act lapses June 30, 1994. <sup>5</sup>

14 ~~\* Sec. 3. This Act takes effect immediately under AS-01-10:070(e).~~

CSHB 59 (MLV)  
SPONSOR STATEMENT

OVERVIEW

In 1978, the Land Discount Program was created by the Tenth Legislature. This program granted eligible persons a discount on the purchase price of land sold for residential use. The discount amounted to a rate of five percent of the price of the land for each full year that the purchaser had been a resident of the state. The discount was limited to 50% or \$25,000, whichever was less. To be eligible, a person must have been physically present in the state for at least 12 months.

This program was amended in 1979 to increase the discount for eligible veterans. Under the amended program, a veteran could receive a discount which was limited to 75% or \$37,500, whichever was less.

In *Gilman v. Martin*, 62 P. 2d 120 (Alaska 1983), the Alaska Supreme Court considered the granting of a land discount by a municipal ordinance based on the applicant's length of residence. Applying the decision from *Zobel v. Williams*, 457 U.S. 55 102 S.Ct. 2309, 72 L.Ed.2d 672 (1982), the court ruled that the municipal ordinance was unconstitutional as it violated the equal protection clauses of the U.S. and Alaska Constitutions. The decision was published on April 1, 1983.

The state land discount program had not been examined in *Gilman v. Martin*, but considering its comparability to the municipal ordinance in question, the Department of Natural Resources stopped the implementation of the state land discount program. Subsequently, during the First Session of the Thirteenth Legislature, the land discount program (AS 38.05.058) was eliminated effective July 16, 1983.

The Second Session of the Thirteenth Legislature established the current veterans' land discount benefit, AS 38.05.940, effective July 6, 1984. This benefit program differed from the original in two major ways. One, an eligible veteran purchasing state land under this program was entitled to a flat 25% discount. Two, an eligible veteran is not allowed to use this discount toward the purchase of land offered under a restricted sale under AS 38.05.067 (the previous program allowed this).

A problem lied with veterans who had purchased land from the state between April 1, 1983 and July 6, 1984. These veterans had not been granted any discount at all, due to the fact that the program was not being implemented from April 1, 1983, was repealed on July 16, 1983 and the new program did not go into effect until July 6, 1984.

In an effort to correct this inequity, the Sixteenth Legislature passed CSHB 134(RES) which made the current veterans land benefit effective retroactively to April 1, 1983, when DNR stopped the implementation of the former discount program. CSHB 134(RES) did not contain any appropriation language, in effect it only authorized the payment of discounts to affected veterans. This allowed the DNR to credit the accounts of those veterans who were still making payments, but did not allow DNR to pay refunds to any veterans who had paid their land off prior to this legislation. House Bill 176, introduced in the Seventeenth Legislature, contained the appropriation for the Veterans Land Discounts that would allow the payment of these refunds. This legislation passed the House and was referred to the Senate, where it passed the Senate Resources and Finance Committees. HB 176 died in the Senate Rules Committee when the Seventeenth Legislature adjourned.

#### WHAT HOUSE BILL 59 DOES

House Bill 59 makes a special appropriation to the Department of Natural Resources for refunds to veterans who purchased state land between April 1, 1983 and July 6, 1984. It also reimburses the University of Alaska for veterans' land discounts that applied to land that was transferred to the university as the result of a lawsuit settlement with the state. In this settlement, the state transferred land and land sale contracts of equal value to the university. Some of these transfers were affected by the discount and therefore the university did not receive the full amount of the contract value granted under the terms of the settlement. This bill would allow DNR to pay the university to make them whole and refund veterans who have paid their contracts in full, fulfilling the conditions of CSHB 134 (RES), enacted in 1991.

The Department of Natural Resources has expressed their support for HB 59 with some suggested technical amendments (Amendments were made in the House Special Committee on Military & Veterans Affairs).

Back-up

A	NAME	DATE APLN RECD	STATUS	APPROVAL DATE	CREDIT LIED CCT	EXCESS CREDIT INCFUND)	TOTAL DISCOUNT AMOUNT	UNIV	CO	
210600	Stafford, Bruce	11-Jul-91	Approved	30-Sep-91			0000.00	U	8000.00	Was subj to default
216634	Johinson, Bernard	18-Jul-91	Approved	24-Jul-91	0.00	6050.00	6050.00			
210514	Vail, Mark A.	29-Jul-91	Approved	29-Aug-91			2575.00			Discount used to bring current
216500	Allison, Danny R.	02-Aug-91	Approved	22-Aug-91	730.00	0.00	730.00			
216550	Brown, Delan A.	07-Aug-91	Approved	22-Aug-91	0.00	803.00	803.00			
216739	Murphy, John W.	07-Aug-91	Approved	22-Aug-91	0.00	3160.99	3160.99			
216593	Maletta, David J.	20-Aug-91	Approved	30-Sep-91	0.00	6126.00	6125.00	U		
103704	Grass, Harvey D.	21-Aug-91	Approved	22-Aug-91	4141.40	0.00	4141.40			
216506	Sisson, Gini S.	20-Aug-91	Approved	30-Sep-91			6625.00	U	6025.00	Was subj to default
410017	Wilcox, Theodore C.	04-Sep-91	Approved	16-Sep-91	1711.23	0.00	1711.23			Was subj to default
103670	Lewis, James F.	15-Oct-91	Approved	13-Nov-91	3276.79	0.00	3276.79			
204463	Richardson, William	01-Oct-91	Approved	8-Nov-91	840.72	0.00	840.72			Was subj to default
410330	Weaver, Clay J.	00-Sep-91	Denied	26-Sep-91						
410332	Kalmer, Tom R.	06-Sep-91	Denied	26-Sep-91						
216574	Unsdeler, Hayden A.	09-Sep-91	Approved	16-Sep-91	1702.50	0.00	1702.50			
103569	Carpenter, George R.	11-Sep-91	Approved	20-Sep-91	7034.05	0.00	7034.05			
216625	Un. ul, Paul	12-Sep-91	Approved	30-Sep-91			5750.00	U	6750.00	
103582	Non mark, William D.	23-Sep-91	Approved	25-Sep-91	7227.61	0.00	7227.61			
103894	Lockhart, Greg	27-Sep-91	Denied	9-Oct-91						
103891	Dallantine, George	30-Sep-91	Approved	25-Nov-91	2336.24	0.00	2336.24			Was subj to default & on Mill Land
206761	Chilata, Chris	09-Oct-91	Approved	11-Oct-91	2025.00	0.00	2025.00			
216589	Hartley, Robert G.	08-Oct-91	Approved	8-Nov-91			8760.00	U	6750.00	Was subj to default
410333	Cool, Jack G.	10-Oct-91	Denied	15-Oct-91						
103543	Navy, Michael E.	10-Oct-91	Approved	24-Oct-91	1354.88	0.00	1354.88			
103565	McFarland, James	21-Oct-91	Approved	13-Nov-91	0.00	6534.57	6534.57			
400080	Ambush, Fred	24-Oct-91	Approved	3-Dec-91	523.40	0.00	523.46			
216630	Mundy, Wayne	01-Nov-91	Approved	22-Nov-91			5750.00	U	5760.00	Was subj to default
220912	Davis, Gordon	01-Nov-91	Denied	21-Nov-91						
103584	Cotman, Brian G.	21-Nov-91	Approved	22-Nov-91	7045.91	0.00	7045.91			
216642	Okuley, Marcus	12-Dec-91	Approved	19-Dec-91			10050.00	U	10050.00	Was subj to default
409026	Robinson, Benjamin P.	02-Jan-92	Approved	11-Mar-92	0.00	545.89	545.89	U		
400419	Holland, Bernard G.	00-Jan-92	Approved	29-Jan-92	940.75	0.00	940.75			Was subj to default

ADL #	NAME	DATE APLN RECD	STATUS	APPROVAL DATE	CREDIT AMOUNT	DISCOUNT AMOUNT	UNIV	COMMENTS
216601	Schwochert, John E.	17-Jan-92	Approved	6-Mar-92		7000.00	U	7000.00 Was subj to default
103710	Schweizer, Jeffrey L.	22-Jan-92	Approved	29-Jan-92	744.00	0.00		744.00 Was subj to default
103074	Franks, Dannie W.	05-Feb-92	Denied	25-Feb-92				See ADL 406030
213720	Soderstrom, Gary	13-Feb-92	Approved	2-Mar-92	0.00	1060.38		1060.38
103706	Stokas, Richard L.	07-Feb-92	Approved	25-Feb-92	3719.29	0.00		3719.29 Received by Assgn - Was orig owner
103547	Hillis, Donald G.	31-Mar-92	Approved	8-Apr-92	0.00	1208.53		1208.53
215864	Mallett, Eric S.	09-Apr-92	Approved	15-Apr-92	0.00	116.78		116.78
216505	Karn, Edward O.	09-Apr-92	Approved	15-Apr-92	1071.02	0.00		1071.02 Was subj to default
409935	Mazetti, David C.	11-May-92	Approved	12-May-92	1749.39	0.00		1749.39 Was subj to default
406539	Fleaharty, Richard R.	22-May-92	Approved	10-Jun-92	390.76	0.00		390.76 Was subj to default
					48581.00	24606.13		125686.99
								49325.00

# TIMELINE OF VETERANS' LAND DISCOUNT PROGRAM

<b>JULY, 1978</b>	Land Discount Program created by Tenth Legislature
<b>JULY, 1979</b>	Land Discount Program amended to increase maximum discount for eligible veterans to 75% or \$37,500
<b>APRIL 1, 1983</b>	Gilman v. Martin decision. DNR stops the implementation of Land Discount Program
<b>JULY 16, 1983</b>	13th Legislature repeals AS 38.05.058, eliminating Land Discount Program
<b>JULY 6, 1984</b>	13th Legislature establishes current Veterans Land Discount Benefit (AS 38.05.940)
<b>JULY 28, 1991</b>	16th Legislature passes HB 176, making the Veterans Land Discount Benefit effective retroactively to April 1, 1983.

***Veterans who purchased land during this period did not receive discounts and are affected by HB 59***

... sheet:

## Veterans' Retroactive Land Discount



Alaska Department of  
**NATURAL  
RESOURCES**

Division of Land • November, 1991

### Background

The 1979 Alaska legislature created a residency discount program for state land sales. That program gave Alaskan residents a 5 percent discount for every year they had lived in the state, up to 50 percent of the land sale price or \$25,000, whichever was less. Veterans could get an additional discount if they had lived in the state more than ten years. The total discount for veterans could equal 75 percent or \$37,500, whichever was less.

The Kenai Peninsula Borough adopted a similar land discount program, which was challenged in court and found to be unconstitutional. On advice from the Attorney General's Office, the Department of Natural Resources discontinued the state's land discount program on April 1, 1983.

The Veterans' Land Discount program, created by the legislature the following year, went into effect on July 6, 1984. This law, AS 38.05.940, allows an eligible veteran to receive a 25 percent discount on the purchase of state land.

The 1991 legislature recognized that there was a period between the two programs when there was no land discount for veterans. In order to put all veterans who purchased state land on equal footing, it passed HB 134 (Ch 82, SLA 1991). That law allows eligible veterans who purchased state land during the period between the two discount programs to retroactively receive the veterans' land discount established in 1984.

### Who qualifies under this program?

First, you must be a qualified military

other than commercial or industrial use after March 31, 1983 and before July 6, 1984. You must not have received a land residency or other veteran's land discount either directly or by assignment. You are not eligible if you have relinquished your state land sale contract or it has been foreclosed upon.

At the time you purchased the land you must have been:

- a) a state resident for at least one year;
- b) previously on active duty for at least 90 days, unless tenure was shortened due to disability or early overseas separation and;
- c) honorably discharged from military service or have a general discharge under honorable circumstances.

### Can I get the discount if I obtained the land by assignment?

No. This discount only applies to the original purchaser.

### When can I apply?

You must submit a completed application together with a document showing the character of your discharge and the length of your active duty (for example, a "DD 214" form) by June 27, 1992 to:

*Department of Natural Resources  
Division of Land  
Contract Administration Unit  
P.O. Box 107005  
3601 C. St. Suite 1030  
Anchorage, Alaska 99510-7005  
Attn: Ginger Gallus or Art Goldberg*

**What happens after I apply?**

Your application will be processed, and the Department of Natural Resources will tell you if you qualify. Your notice from the department will tell you how this will affect the status of your account.

**What if I don't owe any more money on my contract?**

If you owe less than the amount of the discount, you may be entitled to a refund. However, the legislature did not fund the law, and any refund is dependent on a future appropriation by the legislature.

**My contract was transferred to the University of Alaska. Am I still eligible?**

Yes. The law states that the University will provide credit to those persons who qualify for it. Your application should still be sent to the Department of Natural Resources' office listed above for processing. However, the law also states that the Department of Natural Resources will reimburse the University, but the legislature provided no funds to do so. These discounts will be delayed until funding is provided.

**Where can I get more information?**

Applications are available at the Division of Land's regional offices listed below. If you need further information, contact Ginger Gallus at 762-2235 or Art Goldberg at 762-2237. Both Ginger and Art are located in Anchorage at the address listed above.

*Department of Natural Resources  
Division of Land*

*Southcentral Regional Office  
3601 C Street, Suite 1034  
P.O. Box 107005  
Anchorage, AK 99510-7005  
(907) 762-2492  
Fax: 561-0221*

*Mat-Su Area Office  
Cottonwood Creek Center  
1830 E. Parks Highway, Suite 116A  
Wasilla, Alaska 99687-9006  
(907) 376-4595  
Fax: -376-1612*

*Southeast Regional Office  
400 Willoughby Avenue, 4th Floor  
Juneau, AK 99801  
(907) 465-3400  
Fax: 586-2954*

*Northern Regional Office  
3700 Airport Way  
Fairbanks, AK 99709  
(907) 451-2700  
Fax: 451-2751*

COMMISSIONER  
DIVISION OF LAND

NOV 1 2 1991

DEPARTMENT OF  
NATURAL RESOURCES

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FACSIMILE: (907) 586-2754

March 22, 1993

The Honorable Al Vezey  
Alaska House of Representatives  
Room 102, State Capitol  
Juneau, AK 99801-1182

Subject: House Bill 59, Veterans' Land Discount Refund

Dear Representative Vezey:

I understand that at the House State Affairs Committee meeting on March 16, 1993 there were a number of questions raised concerning HB 59 (Veterans' Land Discount Refund). Therefore, I have prepared this letter which I hope will answer the questions posed at the hearing last week. Furthermore, I attach for your information a Fact Sheet used by the department to explain the program.

The committee requested additional information on how the department has administered Chapter 82, SLA 1991. The following is a summary report on the applications DNR received and how monies have been applied to those accounts that were approved. A detailed spread sheet, which was provided to the committee previously, is attached again for your information.

### Applications:

Approved	36
Denied	6
Pending	0
Total Applications Received	42

### Financial Status:

Total amount approved (non-university)	\$ 75,761.99
Total amount approved (university)	\$ 49,925.00
Total amount approved	\$125,686.99
Total in excess of credits - refund due:	\$ 24,605.13
Total University reimbursement	\$ 49,925.00
Total funds needed	\$ 74,530.13

In applying the discounts, all contracts had to be current before the discount was granted. If the contract was in default or had been foreclosed by the state or the university no discount was given. However, in the case of ADL 216514, the application of the discount is currently in dispute between Mr. Vail and DNR.

The Honorable Al Vezey  
March 22, 1993  
Page Two

The money due the university was the result of a lawsuit settlement commonly referred to as "uni/muni". This case came about when the state transferred land to the Municipality of Anchorage to fulfill an obligation created by the Municipal Land Act of 1978. In the settlement the state transferred land and land sale contracts of equal value to the university. Given the application of the veterans' discount program, enacted by the legislature in 1991, the university did not receive what it was entitled to with respect to the land sale contracts it was granted under the terms of the uni/muni settlement. Thus, the money in HB 59 is simply to make the university whole.

With respect to the accuracy of the information provided to the committee, all of the figures were computed to exact amounts. The formula for computing veteran land sale discounts is:

Appraised Price - Nonallowable Costs x 25% = Discount Amount

The reason some figures are "round" is that those contracts did not involve any non-allowable survey costs. The appraised price is typically a "round" number so the application of the 25 percent discount results in a "round" number. Many university parcels, in particular, compute out evenly because many of the university parcels were lots near Lake Louise which were previously surveyed by the federal government and thus the state had no survey costs associated with them. For your information, the contracts owned by the university are those denoted on the attached spread sheet by a "U" in the narrow column between the columns entitled "Total Discount Amount" and "Univ".

To further assist you and the committee in interpreting the spread sheet which we have provided, the discount amount is always listed in the column entitled "Total Discount Amount". In addition, this figure is listed again in another column depending on the status of the contract. If the contract is completely paid off, then the veteran is due a refund which is reflected in the column entitled "Excess Credit (Refund)". In the event the contract is held by the university, the veteran will either receive the discount directly from DNR or by way of the university, depending on how the money is appropriated by the legislature. But in either case, the veteran will ultimately receive the funds.

If the contract is still active, then the contract principal will be reduced, and in the cases where the contract is held by the university the university is due to be reimbursed pursuant to the uni/muni settlement.

Finally, to my knowledge all of the contracts assumed by the university have been paid in full or are current, and thus none of the land sale contracts received by the university have been

The Honorable Al Vezey  
March 22, 1993  
Page Three

foreclosed upon. In any event, the State has already transferred title to the lands in question to the university, subject to the encumbrance of the land sale contracts. These transfers took place in 1988 as part of the university/municipality settlement.

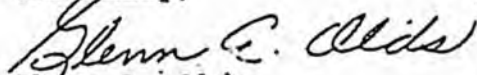
The university, therefore, is already in title to these properties and the veterans' discounts have been applied to the contracts encumbering the properties. Accordingly, reimbursements for the veterans' discounts should be paid directly to the university. Should the university subsequently foreclose on one of these contracts, the discount should not be revoked.

The State transferred these contracts to the university as part of the lawsuit settlement referenced above. Compensation to the university was based on the outstanding principal value of the contracts, not the value of the land encumbered. If the State had applied the discounts in 1983-84, when the contracts were executed, these veterans' contract values would have been smaller at the time of the 1988 settlement, and the university would have therefore received other land or contract compensation in order to replace the total value of the municipal lands lost.

I hope this information is helpful to the committee. The department supports passage of HB 59 as a means of assuring fair and equitable treatment of all veterans in terms of the discount program.

I appreciate your scheduling of the bill for the committee's consideration. My Special Assistant, Raga Elim, will attend the committee meeting on Tuesday, March 23, in order to answer any additional questions the committee may have. Please let me know if you need any additional information before the committee meeting.

Cordially,

  
Glenn A. Olds  
Commissioner

cc: House State Affairs Committee Members  
Representative Eldon Mulder  
Martin Epstein, Director of Land Management,  
University of Alaska  
Kris Lethin, Legislative Liaison, Office of the Governor  
Ron Swanson, Director, Division of Land



VETERANS OF FOREIGN WARS OF THE U.S.  
DEPARTMENT OF ALASKA  
P.O. Box 141988  
Anchorage, Alaska 99514

March 17, 1993

Representative Al Vezey  
Capitol Room 102  
House of Representatives,  
Juneau, Alaska 99801-1182

Dear Representative Vezey,

House bill 59 makes a special appropriation to the Department of Natural Resources for refunds to veterans who purchased state land between April 1, 1983 and July 6, 1984. It also reimburses the University of Alaska for the veteran's land discount that applied to land that was transferred to the University of Alaska. This bill will allow DNR to fulfill the conditions of CSHB 134 (RES), enacted in 1991.

The Veterans of Foreign Wars, Department of Alaska supports this bill to appropriate \$74,600 to give those veterans who had purchased land from the state without receiving any discounts, due to the fact the program was repealed April 1, 1983 and the new program did not go into effect until July 6, 1984.

I would appreciate your support in resolving this long standing veterans issue.

Yours in Comradeship,

A handwritten signature in cursive script, appearing to read "Larry U. Patch".

Larry U. Patch  
Commander

cc: Eldon Mulder

BILL: HB 59

SHORT TITLE: APPROP: VETS' LAND DISCOUNT REFUND

BILL VERSION: CSHB 59 (MLV)

SPONSOR(S): SPECIAL CMTE MILITARY & VETERANS AFFAIRS

CURRENT STATUS: (S) FIN

STATUS DATE: 02/02/94

HEARING: (S) FIN FEB 23 09:00 AM SENATE FINANCE 518

TITLE: "An Act making a special appropriation to the Department of Natural Resources for refunds to certain veterans who purchased state land and for reimbursement to the University of Alaska for the veterans' land discount applied to land transferred to the University of Alaska; and providing for an effective date."

HB 59 Bill/Resolution Floor Action Page 2 of 3

Current Status: (S) FIN

Jrn-Date	Jrn-Page	Action
1 01/15/93	72	(H) READ THE FIRST TIME - REFERRAL(S)
2 01/15/93	72	(H) MLV, STATE AFFAIRS, FINANCE
3 03/01/93	483	(H) MLV RPT CS(MLV) 4DP
4 03/01/93	483	(H) DP: MULDER, WILLIS, FCSTER, NAVARRE
5 03/01/93	484	(H) -ZERO FISCAL NOTE (DNR) 3/1/93
6 03/24/93	753	(H) STA RPT C3(MLV) 6DP 1NR
7 03/24/93	754	(H) DP: VEZEY, ULMER, B.DAVIS, G.DAVIS
8 03/24/93	754	(H) DP: SANDERS, KOTT
9 03/24/93	754	(H) NR: OLBERG
10 03/24/93	754	(H) -PREVIOUS ZERO FN (DNR) 3/1/93
11 04/05/93	972	(H) FIN RPT CS(MLV) 8DP 2NR
12 04/05/93	973	(H) DP: LARSON, MARTIN, PARNELL, GRUSSENDORF
13 04/05/93	973	(H) DP: HOFFMAN, NAVARRE, THERRIAULT, FOSTER
14 04/05/93	973	(H) NR: MACLEAN, BROWN
15 04/08/93	1111	(H) RULES TO CALENDAR 4/8/93
16 04/08/93	1111	(H) READ THE SECOND TIME
17 04/08/93	1111	(H) MLV CS ADOPTED UNAN CONSENT
18 04/08/93	1111	(H) ADVANCED TO THIRD READING UNAN CONSENT

HB 59 Bill/Resolution Floor Action Page 3 of 3

Current Status: (S) FIN

Jrn-Date	Jrn-Page	Action
1 04/08/93	1111	(H) READ THE THIRD TIME CSHB 59 (MLV)
2 04/08/93	1112	(H) PASSED Y29 N- E10 A1
3 04/08/93	1112	(H) EFFECTIVE DATE VOTE SAME AS PASSAGE
4 04/08/93	1137	(H) TRANSMITTED TO (S)
5 04/12/93	1299	(S) READ THE FIRST TIME - REFERRAL(S)
6 04/12/93	1299	(S) STATE AFFAIRS, RESOURCES, FINANCE
7 04/22/93	1650	(S) STA RPT 2DP 1NR
8 04/22/93	1650	(S) PREVIOUS H ZERO FN (DNR)
9 02/02/94	2659	(S) RES RPT 4DP
10 02/02/94	2660	(S) UPDATED ZERO FN (DNR)
11 02/02/94	2660	(S) REFERRED TO FINANCE

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	SUBJ	EXIT	MENU	TEXT	PRINT	BWD	FWD	CMT/JRNL	FIRST	LAST	QUIT