

ALASKA LEGISLATURE

1457

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

**Open letter on COS PROCESS to all State
Representatives**

**As one Governor involved has REVEALED
COS: "con-con of sorts": COS is accomplished
by Enactment Process language of the
Participation clauses: As another Governor
involved acknowledges these. COS "POWER IS
IN THE PROCESS": UNLESS YOU STOP IT!**

United States Constitution Threatened

**UNITED NATION'S 50 YEAR PHILADELPHIA EVENT
OCT. 24, AS (ACIR- CSG PLOTTERS) SORTED CON-
CON GROUP MEETS TO FORMALIZE THE REVISIONS
BY PROCESS THAT IS BEING DONE BY THE
LANGUAGE IN THE PARTICIPATION RESOLUTIONS
IF APPROVED BY THE STATE LEGISLATURES. A
CAREFUL STUDY REVEALS THE ENTIRE AARON
BURRESQUE SCHEME IS TO DERIVE POWER WHICH
RESULTS WHEN A STATE PASSES PARTICIPATION
LANGUAGE. THE POWER IS IN THE PROCESS. THE
BATTLES IN EACH STATE IS OVER THE SURRENDER
OF CITIZEN SOVEREIGNTY TO APPOINTED PARTY
LEADERS AS HEADS OF PARTY PARLIAMENTARY
STATES. THE CON-CON OF SORTS WOULD BE A
CONVENTION OF SOVEREIGN GOVERNORS THAT
HAD BEEN APPOINTED BY THE VIOLATION OF THE
PEOPLES LIBERTIES. THUS, THE U.N. CONVENTION
PARTICIPANTS WOULD NO LONGER BE
DELEGATIONS OF SOVEREIGN CITIZENS BUT
AARON BURRESQUE POLITICAL LEADERS OF BOTH
PARTIES. THIS GATHERING OF PARTY LEADERS IF
ALLOWED TO SUCCEED WOULD CREATE A PARTY**

**LEADERS CONSTITUTION AS DID PARTY LEADER-
ADOLPH IN GERMANY. YOU MUST ACT NOW TO
PROTECT YOUR SOVEREIGN RIGHTS UNDER THE
CITIZENS U.S. CONSTITUTION. PARLIAMENTARY
GOVERNORS CONVENTION OCT. 22-25, 1995 NEEDS
MANY MORE AARON BURRS BEFORE CLAIMING TO
SPEAK FOR ALL THE STATES. LET'S STOP THEM!
STOP THE PARTICIPATION RESOLUTION IN YOUR
STATE. HERE IS SOME INFORMATION THAT MAY
HELP. Jo Hindman identified the ACIR as a U.N. cell
placed inside the federal branch by Public Law in 1959. The
White House appointed Mike Leavitt to the ACIR. In 1988
this agency recommended that the states create a
COMMITTEE ON CONSTITUTIONAL REVISION.
ACIR MEMBER Mike Leavitt is acting as CLINTON-
CUTLER pointman to pass a "package of Constitutional
amendments" prepared by this White House federal agency
and by Clinton's former White House counsel Lloyd Cutler
and his associates in the CCS. The package is designed to
destroy the present U.S. Constitution in a massive super-
fraud scheme to "turn the founders upside down"! There is
incredible power in Art. 10 in the protection from
unconstitutional acts and actions of would be dictators and
metrocrats. Art. 10 totally stops at the present time, more
than 250,000 pages of "executive orders" for a federal
dictatorship published. Americans are protected from this
ACIR CREATURE by our BILL of RIGHTS Art. 10.
Consolidation of our State POWER under a CLINTON
ACIR APPOINTEE with the FIRST AGENDA to TRY TO
GRAB ALL THE POWER RESERVED TO THE STATES
AND TO THE PEOPLE KNOWN AS THE BILL OF
RIGHTS Art. 10, and place it under Supreme Court
INTERPRETATION!**

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February 6, 1995

OPINION LETTER RE: CONFERENCE OF THE STATES

To: HONORABLE MEMBERS OF THE COLORADO SENATE & HOUSE OF REPRESENTATIVES

I have been requested by certain Members of both the Senate and House to prepare an opinion letter regarding The Conference of the States and Senate Joint Resolution 95-9.

I. THE PROCEDURE FOR AMENDING THE U.S. CONSTITUTION:

It is worth reviewing the amendment procedure set forth in Article V of the U.S. Constitution in order to insure the proper context is established for analyzing the matters addressed in this opinion.

Article V establishes a two step process for amending the U.S. Constitution:

1. Methods of proposing amendments; and
2. Procedures for ratifying amendments.

Proposing Amendments:

Article V provides two methods for proposing amendments: (1) by two-thirds vote of both houses of Congress; or (2) on application of the Legislatures of two-thirds of the States to Congress to call a constitutional convention. My research indicates that all amendments made thus far have been pursuant to the first method and that no amendment has been proposed by a constitutional convention.

Ratifying Proposed Amendments:

Article V provides that proposed amendments can only become effective by either of two procedures: (1) by ratification of the Legislatures of three-fourths of the States; or (2) by conventions of three-fourths of the States. It is in Congress' sole discretion to decide which method of ratification is required. Both methods of ratification, by Legislatures or conventions, call for action by deliberative assemblages representative of the people, which it was assumed would voice the will of the people.

II. THE CONFERENCE OF THE STATES:

The Conference of the States has been proposed by the Council of State Governments (the "Council"), whereby legislatures of the States adopt resolutions that commit them to participate in the Conference of the States. The purported object of the Council and The Conference of the States is to "enhance excellence in state government through leadership" and "compete for power in the federal system."¹ The Council also contends that the Conference of the States will produce a result that "has no force of law or binding authority."

In a Pictorial Summary the Council provides an overview of the six steps that comprise convening and conducting the Conference of the States. The following is a brief summary and critique of each of those six steps.

Step 1: Each state legislature passes a "Resolution of Participation," which provides that a state will participate in a Conference of the States. In addition, each state legislature is to appoint a bipartisan delegation of four legislators (presumably two from each house, assuming a bi-cameral legislature) and the governor.

This step immediately raises the question: why must each state take legislative action (i.e., pass a Resolution of Participation) in order to attend a Conference that does not result in anything that has the "force of law or binding authority?" As will be demonstrated below, it is my opinion that the Conference of the States is intended to result in something that will have legal effect.

¹ See "The Conference of the States An Action Plan For Balanced Competition in the Federal System" and "The Council of State Governments Fact Sheet."

Step 2: After a "significant" majority of states have passed *Resolutions of Participation* a Conference of the States will be held in an "historical city" such as Philadelphia. The term "significant" majority means, in reality, a constitutional majority, i.e. wit: two-thirds of the States. This is made clear in Step 6. The question then becomes: Why must a constitutional majority of states pass *Resolutions of Participation*? It is my opinion that the answer is simple: if constitutional action is decided upon at the Conference of the States, then there will be the necessary constitutional majority present to take such action.

For all practical purposes once a constitutional majority of states have passed *Resolutions of Participation* the remaining states will want to be represented at the Conference. Accordingly, it is my opinion that all states will pass *Resolutions of Participation* and attend the Conference, thus presenting a number of states that exceed a constitutional majority.

Step 3: The Conference of the States is held and solutions to problems are "discussed, refined, and voted upon."

First, the use of the term "Conference" is troubling because it is my opinion that the Council was careful not to use the term "convention." In the context in which the Conference of States is being convened, the term "conference" is synonymous with "convention." This is true because the Constitutional Convention of 1787 was comprised of a group of delegates who were sent by the legislatures of the several States to propose recommendations to Congress regarding amending the Articles of Confederation.

Second, there is no precise agenda prior to convening the Conference; nor are there any restraints on the subject matters that can be raised at the Conference. Although the Council makes an oblique reference to the balance of power between the States and federal government, for all practical purposes any problem can be framed in those terms. Accordingly, it is probable, if not inevitable, that the Conference will raise, debate, and vote on issues never contemplated or debated by legislatures that passed *Resolutions of Participation*.

Third, the Conference will make its own rules and procedures, which were not approved by the legislatures.

Fourth, and most alarming, there is no guarantee that the Conference will not make "application" to Congress to call a constitutional convention. As mentioned above, there is no case law concerning the second method of proposing amendments to the Constitution. If the Conference decides that it wants to turn itself into a constitutional convention it need only make "application" to Congress. As will be discussed below, the Supreme Court has interpreted Article V to place

complete discretion in Congress when the amendment procedures set forth in Article V are invoked. Furthermore, and as will be discussed below, there is Supreme Court authority to support the proposition that the courts will not intervene in or interfere with the amendment process. If the Conference decides to become a constitutional convention that action might not be reviewable by the courts; thus no way to stop it once commenced.

Step 4: The Conference of the States will produce a written document entitled: "States' Petition." The Council indicates that the Petition is "a new instrument in American democracy" and "constitutes the highest form of communication between the states and Congress."

Presently, the highest form of communication between the States and the Congress is an "application" to convene a constitutional convention (see Article V). Does the Council mean to say that the Petition would be supreme to Article V? or, more likely, does it mean to say that the Petition is tantamount to an "application" to Congress pursuant to Article V? Whichever is the case, the Council is not being honest with its use of terms, nor with its intentions.

Step 5: A copy of the Petition is taken back by the delegates to their respective legislatures for approval, including ones that contain constitutional amendments. As mentioned above in Step 2, the document produced by the Conference clearly contemplates one that has "force of law" and "binding authority." In our constitutional form of government, there is nothing with greater force of law or binding authority than the Constitution and its amendments.

Step 6: After passed by a constitutional majority (i.e., two-thirds) of the legislatures of the States, the Petition is presented to Congress. Here the Council declares that "ignoring a constitutional majority of states would signal an arrogance on the part of Congress." It is obvious that one consequence of the Conference can be a Petition that calls for a constitutional convention. Thus if the Conference does not convert itself into a constitutional convention during Step 3, it can still accomplish that end in Step 6.

III. DANGERS OF THE CONFERENCE OF STATES:

The predominate danger mentioned above is that in Step 3 the Conference will decide to make "application" to Congress to convert itself into a constitutional convention. Alternatively, there is a danger that the *Petition* will serve as an "application" to Congress to call a constitutional convention.

The hidden danger of all of this is raised by the question: what is the remedy if any of these events takes place? The answer to this question proves most disturbing. In order to completely understand the import of the Conference of the States, a review of U.S. Supreme Court decisions interpreting Article V is necessary. It is important to again note that all Supreme Court decisions have dealt exclusively with the first method of proposing an amendment (i.e., the Congress proposes the amendment); whereas no case has addressed the situation where the Legislatures of the several States have made application to Congress to call a constitutional convention.

The first controversy over Article V occurred rather early in our history with the adoption of the Eleventh Amendment. In the case of *Hollingsworth v. Virginia*, 378 U.S. (Dall.) 378 (1798), the issue was: when Congress proposes an amendment must the president of the United States provide approval? The Supreme Court answered this question in the negative, reasoning that Article V is not a typical piece of legislation coming within Article I's law making power but rather is a specific procedure to amend the Constitution:

"There can, surely, be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation. He has nothing to do with the proposition, or adoption, of amendments to the Constitution."

The next controversy occurred with ratification of the 18th Amendment, which concerned prohibition. In 1917 Congress passed a joint resolution proposing the prohibition amendment. In its resolution, Congress included a proviso that the amendment must be ratified by the necessary number of states within seven years. The controversy arose in the case of *Hawke v. Smith*, 253 U.S. 221 (1920), which concerned an Ohio statute that submitted approval of constitutional amendments to the people of Ohio through the referendum process. The Supreme Court concluded that Article V required approval of amendments not by the people directly but by three-fourths of either the legislatures of the several States or of conventions of the several States.

Another example of Congress' discretion under Article V is illustrated in *Dillon v. Glass*, 256 U.S. 368 (1921)(the 18th Amendment), where the Supreme

Court held that Congress has complete discretion under Article V to fix specific time limits for ratification of proposed amendments.

The case that provides the Conference of States with the tools by which to harness the amendment process is *Coleman v. Miller*, 307 U.S. 433 (1939). In June, 1924, Congress proposed an amendment to the Constitution known as the Child Labor Amendment. In January, 1925, the Kansas Legislature passed a resolution rejecting that amendment. Twelve years later in January, 1937, the Kansas Senate re-introduced the amendment. Twenty senators voted in favor, and a like number voted against. The tie was broken by the lieutenant governor, who voted in favor of the amendment, which was subsequently passed by the Kansas House of Representatives.

A suit was filed in the Kansas Supreme Court by the twenty senators who voted against the amendment and members of the House of Representatives requesting the court to nullify the endorsement of the amendment. The senators and representatives contended that the lieutenant governor was not part of the Kansas Legislature for Article V purposes and, therefore, he could not cast the tie-breaking vote; that the previous rejection in 1925 served to kill the amendment in the state of Kansas; and that the amendment was not ratified in a reasonable time (i.e., the thirteen year hiatus between Congress' proposing and Kansas' ratification of the amendment). The Kansas Supreme Court would not nullify the approval of the amendment. The senators and representatives sought review in the U.S. Supreme Court.

In *Coleman* the Supreme Court concluded that the dispute was political in nature and, therefore, the courts should not interfere. Specifically, the Supreme Court concluded that:

"The previous rejection (in 1924 and subsequent ratification in 1937) should be regarded as a political question pertaining to the political departments, with ultimate authority in Congress in the exercise of its control over the promulgation of the adoption of the amendment."

In short, in *Coleman* the Supreme Court concluded that if there was any impropriety in the manner in which a state ratified an amendment the remedy rests not in the courts but in Congress. In other words, if there is some perceived or actual irregularity in the proposal or ratification process the objections can be raised only in Congress. Accordingly, the hidden danger of the Conference of States is that if the Conference decides to convert itself into a constitutional convention or to treat the *Petition* as an "application" to Congress, then pursuant to *Coleman* the Conference's actions cannot be challenged in court (i.e., it cannot be stopped).

The political question doctrine is designed to remove controversies from the courts that are purely political in nature. It is my opinion that the Conference of the States and the methods used to facilitate it would be interpreted to be political in nature thus shielding it from judicial scrutiny. What follows are possible scenarios that might occur.

Scenario One: During Step 3, the Conference decides that it wants to make "application" to Congress to call a constitutional convention. Congress has two choices: one, it could determine that the Conference has no authority to make "application" under Article V; or two, it could accept the "application" and call a constitutional convention, whereby the Conference could be converted into such a convention. It appears that pursuant to *Coleman* Congress would be exercising its political discretion and exclusive power under Article V. Accordingly, no judicial review could be sought.

This is not far fetched if one recalls that the delegates sent to Philadelphia in 1787 went there with strict guidelines to consider only amendments to the Articles of Confederation. Once convened, however, the delegates converted into a constitutional convention, tossed the Articles of Confederation, and drafted a new document. It is my opinion that what occurred in Philadelphia from May through September, 1787, was guided by Divine Providence and will not occur again in the history of this Country. Accordingly, a constitutional convention must be avoided.

Scenario Two: Upon completion of Step 4, the Conference could send the Petition to the Congress as an "application." Similar to Scenario One, Congress would have complete discretion under Article V to decide upon accepting or rejecting the Petition as an "application."

Scenario Three: In Step 6, the Petition is transmitted to the Congress. Similar to Scenario Two, Congress could accept the Petition as an "application" and call a convention.

One might argue that limiting provisions in the "Resolution of Participation" could serve to provide a basis for a court challenge. While this might work, it should not be considered 100% fall safe because *Coleman* could be applied to prevent a court challenge.

HJR

29

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 8, 1995

FURTHER REFERRALS:

Date of Committee Action: 2/13/95

The FINANCE Committee considered:

HJR 29

HOUSE JOINT RESOLUTION NO. 29

SUPPORT FEDERAL BALANCE BUDGET AMENDMENT

Relating to the federal balanced budget amendment.

recommends it be replaced with the following committee substitute CS HJR 29 (Fin) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) Governor ~~zero~~ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Richard Foster</i>	FOSTER			<input checked="" type="checkbox"/>	
<i>Mark Hanley</i>	Hanley	<input checked="" type="checkbox"/>			
<i>Gordon Mulder</i>	Mulder	<input checked="" type="checkbox"/>			
<i>Jerry Martin</i>	Martin	<input checked="" type="checkbox"/>			
<i>Sean Parnell</i>	Parnell	<input checked="" type="checkbox"/>			
<i>Vic Kohring</i>	Kohring	<input checked="" type="checkbox"/>			
<i>Ben Grussendorf</i>	Grussendorf			<input checked="" type="checkbox"/>	
<i>Mike Navarre</i>	Navarre	<input checked="" type="checkbox"/>			
<i>Tom Brown</i>	Brown			<input checked="" type="checkbox"/>	
<i>Kate Kelly</i>	Kelly	<input checked="" type="checkbox"/>			
<i>Gene Thernault</i>	Thernault	<input checked="" type="checkbox"/>			

CO-CHAIR'S SIGNATURE

Mark Hanley
CO-CHAIR Hanley

Richard Foster
CO-CHAIR FOSTER

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 29

Revision Date: _____ Dept. Affected: All Departments
 Title: Relating to the federal balanced budget BRU: _____
amendment Component: _____
 Sponsor: Parnell
 Requester: House Finance Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

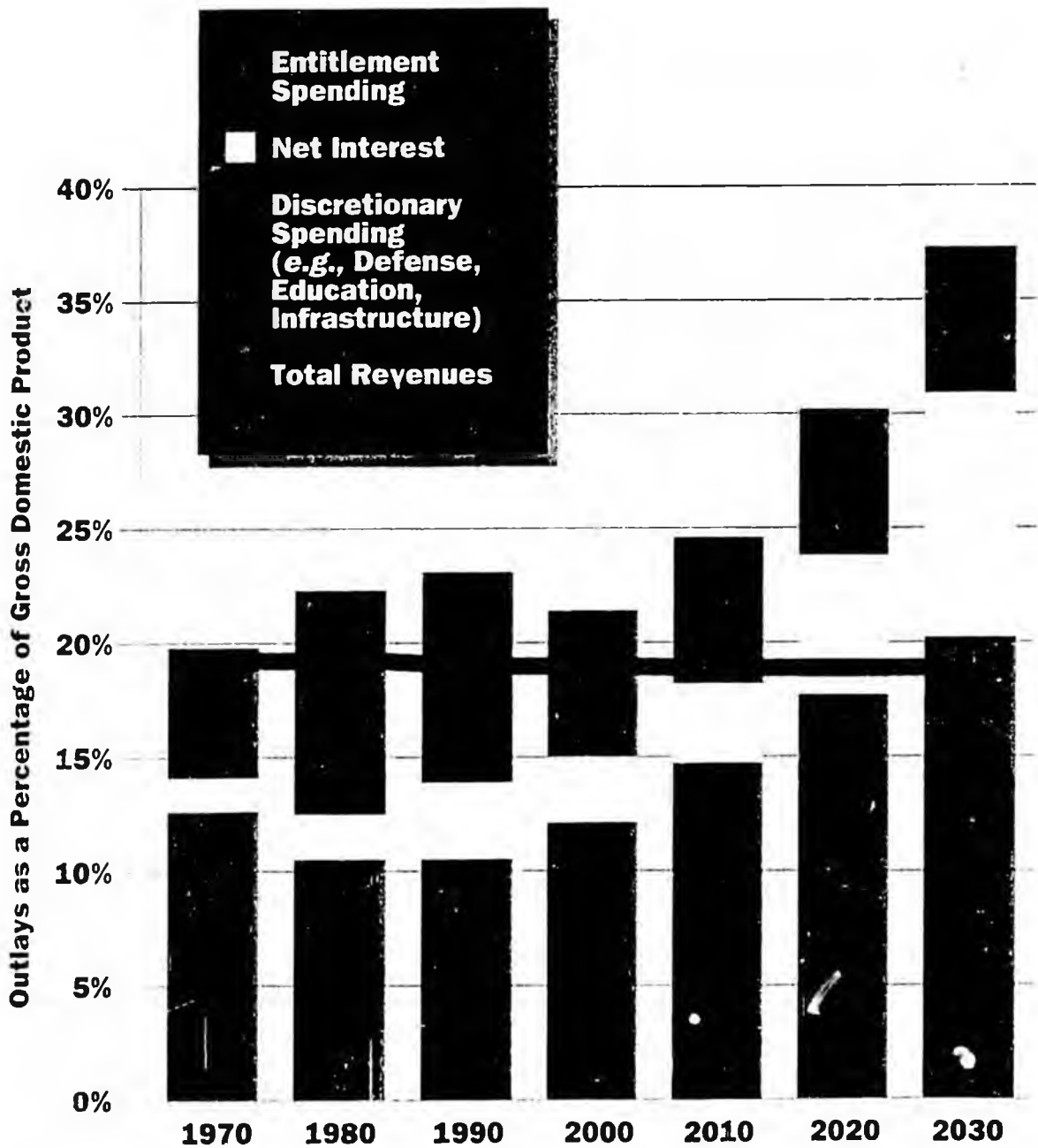
Prepared by: Annalee McConnell, Director Phone: 465-4660
 Division: Office of Management and Budget Date: 2/9/95
 Approved by Commissioner: Jim Ayers, Chief of Staff Date: 2/9/95
 Agency: Office of the Governor

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THE PRESENT TREND IS NOT SUSTAINABLE

The gap between Federal spending and revenues is growing rapidly. Absent policy changes, entitlement spending and interest on the national debt will consume almost all Federal revenues in 2010. In 2030, Federal revenues will not even cover entitlement spending.

4



AMENDMENT 1

Adopted

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HJR 29

Page 1, line 7 after "WHEREAS":

Insert "the goal of"

Page 1, line 8 after "spending":

Delete "could be accomplished"

Insert "may be advanced"

Shan

Please

call

for

final

Jon

Alaska State Legislature

REPRESENTATIVE
SEAN R. PARNELL



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HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT House Joint Resolution 29

"Relating to the federal balanced budget amendment."

The federal deficit has grown from \$51 billion in 1941 to an estimated **\$4 trillion** in 1992. Federal government overspending has become the rule and not the exception over the years. It is clear that change is needed and the federal government can no longer handle the responsibility of creating our national budget without new guidelines.

Our nation must learn to live within its means, just as each individual must. Passing a balanced budget amendment will bring discipline to our national spending; without this discipline we face economic chaos. It is for these reasons I urge the United States Congress, the President of the United States and each State of our Union to support the balance budget amendment to the Constitution.



Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE 103^d CONGRESS, SECOND SESSION

Vol. 140

WASHINGTON, FRIDAY, FEBRUARY 25, 1994

No. 18

Highlights

Mr. STEVENS.

I think it will be a total, total disaster for a State such as mine to come under a balanced budget amendment.

The administration has told us—and these are the Department of Treasury's estimates, not mine—that if the balanced budget goes into effect, defense could face nationwide cuts up to \$270 billion between 1995 and 1999.

In order to achieve that we will lose at least Fort Richardson and Eielson Air Force Base, and maybe one other.

We estimate under this balanced budget amendment that—and this is the Coalition for Budget Integrity which gave us the figures extrapolating them to Alaska—by the year 2000 if the budget is balanced by raising \$1 in taxes and \$2 of spending cuts, Alaska will lose 94,000 jobs; there will be 24 percent less personal income in Alaska; the rate of unemployment, which is already the Nation's highest, will increase by 6.4 percent; and our Alaska economy will be negatively impacted for at least 10 years.

If this balanced budget amendment is adopted, 44,000 elderly people in our State will see their average Social Security benefits cut by \$1,259 a year.

Native Alaskans in remote villages could see their community health aid cut; the Indian Health Service, which provides their health delivery service, will be cut; fishermen in coastal villages will see driftnet monitoring by the North Pacific Council cut, and the coverage to prevent illegal fishing on the high seas; we will see our fish stock assessment money—two of these are in this budget right now—fish stock assessments and ocean research are already slated for cuts; Federal loans to fishermen to help them modernize their vessels will be gone; 5,000 Federal and private sector timber jobs will be lost; and the education programs that are provided to our Indian people, our native people and to the military schools will go down; public works projects such as the Bethel seawall that I have been working on now for 10 years and finally got on the schedule, it will go. The Dillingham erosion control project, the Ketchikan Visitor Center, where people who come into the State on ferry or cruise ship, come and see what they want to see; harbor maintenance for Nome, Seward, Sitka, and Kodiak we feel will be eliminated; the \$25 million Federal match of State matching money to provide water and sewer projects for those 176 villages I told you about, would be cut or eliminated. The State puts up half, the Federal Government puts up half, it will have to go.

FAA is part of the discretionary spending that will have to be cut. As I said, it is already being cut. If the balanced budget amendment passes further dramatic cuts will be required. We already have to shut down almost all of the flight service stations in Alaska. One of these days, you will be landing in Unalakleet, AK, and someone in Denver will say, "It's all right, the runway is clear." But they will not be there. We are removing everything in the system and losing the safety requirement.

will we attack the Coast Guard, will we attack the USGS, will we attack the Forest Service? That is what this balanced budget amendment will attack.

They will cut everything from search and rescue in our State, to Coast Guard protection for our fisheries, to those who outline the areas of the national forest that we can cut—and even that is shrinking every year.

the net result of a balanced budget amendment is going to be that the West will suffer.

The impact of this is going to be, how will I ever get a waiver of the balanced budget amendment to try and get special money to meet special problems in Alaska? Do you think I can do that, Mr. President? We had the largest earthquake that has hit the United States in this century. God forbid we have another one. But will I be able to get a waiver for one State? Will we get a waiver if we have another great flood in Alaska?

I do not believe that we ought to saddle our people with a concept that is so inflexible that it would not permit us to meet the economic difficulties we may face in the future without having to go through the process, the constitutional process, of waiving or even eliminating a constitutional balanced budget amendment.

I think this is wrong. I think it is basically wrong.

Incidentally, the Department of Defense tells us the most likely scenario to cut the \$270 billion between 1996 and 2000 would require a reduction of 275,000 military people, one out of five. We would lay off 170,000 National Guard, one out of three. We would discharge 125,000 civilian workers. We would close—in addition to those we were already going to close by 1996—we would close half of the remaining 22 major bases in the United States. We would close nine logistics depots, terminate the F-18, terminate the C-17. And after the turn of the century we will have no other transport but the C-17. The 141's are wearing out, the 130's are wearing out. There is nothing left. But we would have to terminate it because it is too large an expenditure. We would have to cancel the nuclear aircraft carriers. We would have to cancel the next submarine, SSN-23, cancel the attack submarine, cancel the M-1 tank upgrades.

I say we do not need to live in a straitjacket in this country to deal with the problems of the country. Yet, that is what is going to happen if this occurs.

We do not need a restriction in the Constitution as far as a balanced budget amendment to deal with this in order to prevent and cure the problems that exist in the economy today.

a constitutional amendment is not necessary. We do not need a constitutional amendment to give Congress the authority to do the things that must be done to correct our economic imbalance. Powers that the Congress already possesses.

a correct around the economy of the United States.

this is the wrong amendment at the wrong time to address the wrong problem.

Calendar No. 18

104TH CONGRESS
1ST SESSION

H. J. RES. 1

IN THE SENATE OF THE UNITED STATES

JANUARY 27 (legislative day, JANUARY 10), 1955

Received; read twice and placed on the calendar

JOINT RESOLUTION

Proposing a balanced budget amendment to the Constitution
of the United States.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid to all*
6 *intents and purposes as part of the Constitution when*
7 *ratified by the legislatures of three-fourths of the several*
8 *States within seven years after the date of its submission*
9 *to the States for ratification:*

1 "ARTICLE —

2 "SECTION 1. Total outlays for any fiscal year shall
3 not exceed total receipts for that fiscal year, unless three-
4 fifths of the whole number of each House of Congress shall
5 provide by law for a specific excess of outlays over receipts
6 by a rollcall vote.

7 "SECTION 2. The limit on the debt of the United
8 States held by the public shall not be increased, unless
9 three-fifths of the whole number of each House shall pro-
10 vide by law for such an increase by a rollcall vote.

11 "SECTION 3. Prior to each fiscal year, the President
12 shall transmit to the Congress a proposed budget for the
13 United States Government for that fiscal year in which
14 total outlays do not exceed total receipts.

15 "SECTION 4. No bill to increase revenue shall become
16 law unless approved by a majority of the whole number
17 of each House by a rollcall vote.

18 "SECTION 5. The Congress may waive the provisions
19 of this article for any fiscal year in which a declaration
20 of war is in effect. The provisions of this article may be
21 waived for any fiscal year in which the United States is
22 engaged in military conflict which causes an imminent and
23 serious military threat to national security and is so de-
24 clared by a joint resolution, adopted by a majority of the
25 whole number of each House, which becomes law.

1 "SECTION 6. The Congress shall enforce and imple-
2 ment this article by appropriate legislation, which may rely
3 on estimates of outlays and receipts.

4 "SECTION 7. Total receipts shall include all receipts
5 of the United States Government except those derived
6 from borrowing. Total outlays shall include all outlays of
7 the United States Government except for those for repay-
8 ment of debt principal.

9 "SECTION 8. This article shall take effect beginning
10 with fiscal year 2002 or with the second fiscal year begin-
11 ning after its ratification, whichever is later."

Passed the House of Representatives January 26,
1995.

Attest:

ROBIN H. CAPLE,

Clerk

Legislative Finance Papers
LFP #96

Amending the Federal Constitution to Require a Balanced Budget

National Conference of State Legislatures
Fiscal Affairs Program

**AMENDING THE FEDERAL CONSTITUTION
TO REQUIRE A BALANCED BUDGET**

Legislative Finance Paper Number 96

by

Ronald K. Snell and Scott R. Mackey

Fiscal Affairs Program

National Conference of State Legislatures
William T. Pound, Executive Director

1560 Broadway, Suite 700
Denver, Colorado 80202

444 North Capitol Street, N.W., Suite 515
Washington, D.C. 20001

December, 1994

CORRECTION

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Amending the Federal Constitution to Require a Balanced Budget

National Conference of State Legislatures
Fiscal Affairs Program



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- To improve the quality and effectiveness of state legislatures.
- To foster interstate communication and cooperation.
- To ensure states a strong, cohesive voice in the federal system.

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**AMENDING THE FEDERAL CONSTITUTION
TO REQUIRE A BALANCED BUDGET**

Legislative Finance Paper Number 96

by

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Executive Summary

The federal Constitution gives states the decisive voice over amendments because 38 state legislatures must approve an amendment for it to become part of the Constitution. Neither Congress nor a national constitutional convention has the authority to amend the Constitution without state action.

It is likely that in 1995 Congress will submit to the states an amendment requiring a balanced federal budget. Doing so would force Congress to consider seriously how to begin the process of balancing the budget. Fiscal Year (FY) 2002 has been suggested as the target year. According to current projections of federal revenues and expenditures for FY 2002, the cut for that year would have to be \$319 billion, or 17 percent across the board. Reaching that objective between 1995 and 2002 could be done by cuts of an additional \$45 billion each year beginning with FY 1996, according to current revenue and expenditure forecasts.

Even before the states approve a balanced budget amendment—if they ever do—Congress will have to begin consideration of balancing the budget. Postponing action until an amendment might be enacted could impose an overwhelming problem of budget reduction in the future.

The National Conference of State Legislatures supports actions to balance the federal budget, but has repeatedly expressed its opposition to doing so by shifting the costs of existing federal programs to the states. Many of the possible approaches to federal budget reduction could place serious fiscal burdens on the states.

Cost shifting through imposing more unfunded mandates, program elimination, reductions in matching rates, or caps in entitlement spending would each place new fiscal burdens on the states. These would not solve, but only displace, the national crisis of deficit and debt. Likewise, many kinds of potential federal tax increases could burden the states by eroding their tax bases--increases in consumption or excise taxes for example. NCSL urges the federal government not to change federal sources of revenue in any way that would impair the ability of the states to raise revenue.

This report examines the potential consequences for states of a federal balanced budget amendment, cites NCSL policy on balancing the federal budget and related issues, and presents the arguments for and against a constitutional amendment to require a balanced budget.

AMENDING THE FEDERAL CONSTITUTION TO REQUIRE A BALANCED BUDGET

The 1994 congressional elections have brought a balanced budget amendment back to the federal agenda. This paper discusses:

- The federal amendment process, including the role of state legislatures;
- Efforts to call a constitutional convention in the 1970s and 1980s;
- The balanced budget proposals Congress voted on in early 1994;
- The current outlook for the federal deficit and the federal debt;
- Effects on federal, state and local governments; and
- Key arguments from proponents and opponents.

The Federal Amendment Process

There are two possible ways to initiate an amendment to the federal Constitution. They differ in the way the amendment originates; both of them require the approval of three-quarters of the state legislatures—38 at present—for an amendment to be ratified. Governors have no formal role in the process. The two ways that an amendment may be written and submitted to the states are by a constitutional convention and by Congress.

No national constitutional convention has been called since 1787. The Constitution prescribes a method for calling a convention, but it has never been used. It provides that Congress is to call a constitutional convention when it receives resolutions from two-thirds (34) of the states directing it to do so. (The process involves filing a joint resolution with the presiding officer or clerk of one or both Houses of Congress. The resolutions are referred to the judiciary committees, which have responsibility for deciding when there are enough valid resolutions to require Congress to call a convention.) A convention would be able only to submit amendments for state approval; it could not amend the Constitution directly. Nonetheless, worries about how freely such a convention might act have always prevented a convention from being called.

All constitutional amendments adopted so far have arisen in Congress. Two-thirds of the membership of each house of Congress may pass a joint resolution containing the text of an amendment and submit it to the states. There is no formal role for the president, who has neither power of approval or veto over such a joint resolution. The Constitution allows Congress to specify whether legislatures may consider an amendment or whether special state conventions must be called for the purpose. The standard method has been legislative consideration.

Congressional Action on a Balanced Budget Amendment

Congress has made several attempts in recent years to send the states a constitutional amendment requiring a balanced federal budget. The most recent of those efforts was in early 1994. Concern about the level of the federal deficit, general dissatisfaction with government, and anti-incumbent sentiment created what appeared to be a favorable climate for passage. Leaders in both chambers expressed their expectation that an amendment would pass. Although various proposals circulated, the principal competing resolutions were similar and included these provisions:

- The president would have to submit a balanced budget to Congress.
- Total outlays could not exceed total receipts without the agreement of a two-thirds majority of the membership of each house on a roll call vote. This would have required 67 votes in the Senate and 290 in the House.
- "Total receipts" would mean all revenues except those derived from borrowing. This was designed to prevent borrowed money being counted as revenue. Payments of the principal of debt would not count as outlays, although interest payments would. The two provisions taken together would allow the Treasury to refinance debt.
- The amendment would be waived in any year in which a declaration of war was in effect.
- A majority of the membership of the Senate (51) and of the House (218) would have to approve tax or other revenue increases.

These provisions would have taken effect in the second fiscal year that began after ratification. Various proposals added or changed details. The last version the House considered in 1994, for example, made the amendment effective for FY 2001 and required approval of three-fifths of each house to increase the limit on the debt. On March 17, 1994, this version died in the House of Representatives, 12 votes short of the needed two-thirds majority. Two weeks before, a similar measure died in the Senate on a vote of 63-37 (four votes short of two-thirds). The votes were heavily partisan, with Republicans in favor and Democrats largely opposed.

This failure to submit a proposed amendment to the states followed even closer votes in earlier years. In 1990, the House of Representatives fell only seven votes short of the number needed for passage of an amendment. In 1986 a Senate proposal fell only one vote short of the 67 needed there.

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AMENDING THE FEDERAL CONSTITUTION TO REQUIRE A BALANCED BUDGET

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Efforts to Call a Constitutional Convention in the 1970s and 1980s

Efforts to call a constitutional convention to propose a balanced budget amendment to the states began in the 1970s. The federal deficit grew from \$6.1 billion in 1974 to \$73.7 billion in 1976, or from 0.4 percent of gross domestic product (GDP) to 4.4 percent of GDP in 1976. Some politicians and economists blamed the federal deficit for the high inflation rates prevalent in the 1970s, and called for a balanced budget amendment as the best way to control inflation.

Congressional inaction led five states to pass resolutions in 1975 calling for a constitutional convention. Thirty did so by 1980, but the drive then stalled as concern grew that a convention would not be limited to the budget issue and might instead open the entire Constitution to revision. Thirty-two states have adopted resolutions calling for a convention, but Congress has not ruled on their validity. Nor has it ruled on the validity of the action of three states in rescinding their calls (see Table 1).

Table 1. States Whose Legislatures Have Passed a Resolution Calling For a Constitutional Convention on a Balanced Federal Budget Amendment

<u>State</u>	<u>Year Passed</u>	<u>State</u>	<u>Year Passed</u>
Alabama ¹	1976	Nevada	1979,1977
Alaska	1982	New Hampshire	1979
Arizona	1979,1977	New Mexico	1976
Arkansas	1979	North Carolina	1979
Colorado	1978	North Dakota	1975
Delaware	1975	Oklahoma	1976
Florida ²	1976	Oregon	1977
Georgia	1976	Pennsylvania	1976
Idaho	1979	South Carolina	1978,1976
Indiana	1979	South Dakota	1979
Iowa	1979	Tennessee	1977
Kansas	1978	Texas	1978,1977
Louisiana ³	1979,1978,1975	Utah	1979
Maryland	1975	Virginia	1976
Mississippi	1975	Wyoming	1977
Missouri	1983		
Nebraska	1976		

1. Alabama voted to rescind in April 1988.

2. Florida voted to rescind in May 1988.

3. Louisiana voted to rescind in July 1990.

Source: National Taxpayers Union.

Congressional Action on a Balanced Budget Amendment

Congress has made several attempts in recent years to send the states a constitutional amendment requiring a balanced federal budget. The most recent of those efforts was in early 1994. Concern about the level of the federal deficit, general dissatisfaction with government, and anti-incumbent sentiment created what appeared to be a favorable climate for passage. Leaders in both chambers expressed their expectation that an amendment would pass. Although various proposals circulated, the principal competing resolutions were similar and included these provisions:

- The president would have to submit a balanced budget to Congress.
- Total outlays could not exceed total receipts without the agreement of a two-thirds majority of the membership of each house on a roll call vote. This would have required 67 votes in the Senate and 290 in the House.
- "Total receipts" would mean all revenues except those derived from borrowing. This was designed to prevent borrowed money being counted as revenue. Payments of the principal of debt would not count as outlays, although interest payments would. The two provisions taken together would allow the Treasury to refinance debt.
- The amendment would be waived in any year in which a declaration of war was in effect.
- A majority of the membership of the Senate (51) and of the House (218) would have to approve tax or other revenue increases.

These provisions would have taken effect in the second fiscal year that began after ratification. Various proposals added or changed details. The last version the House considered in 1994, for example, made the amendment effective for FY 2001 and required approval of three-fifths of each house to increase the limit on the debt. On March 17, 1994, this version died in the House of Representatives, 12 votes short of the needed two-thirds majority. Two weeks before, a similar measure died in the Senate on a vote of 63-37 (four votes short of two-thirds). The votes were heavily partisan, with Republicans in favor and Democrats largely opposed.

This failure to submit a proposed amendment to the states followed even closer votes in earlier years. In 1990, the House of Representatives fell only seven votes short of the number needed for passage of an amendment. In 1986 a Senate proposal fell only one vote short of the 67 needed there.

The Federal Deficit and the Federal Debt

The federal *deficit* is the amount by which federal expenditures in a fiscal year exceed available revenues. Table 2 shows the Congressional Budget Office's estimates of annual deficits for FY 1994 through FY 2004. The table indicates that under law as it existed in August 1994 (when the estimates were published) the deficit is expected to fall sharply from FY 1994 to FY 1995, and will not exceed the FY 1994 level until the end of the century.

**Table 2. The Federal Budget Outlook:
Fiscal Year 1994 through Fiscal Year 2004**

In Billions of Dollars

Fiscal Year	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Revenues	\$1,265	\$1,363	\$1,433	\$1,492	\$1,562	\$1,632	\$1,713	\$1,799	\$1,891	\$1,988	\$2,091
Outlays	1,467	1,525	1,609	1,684	1,758	1,863	1,970	2,086	2,209	2,343	2,488
Deficit	202	162	176	193	197	231	257	287	319	355	397

As a Percentage of Gross Domestic Product

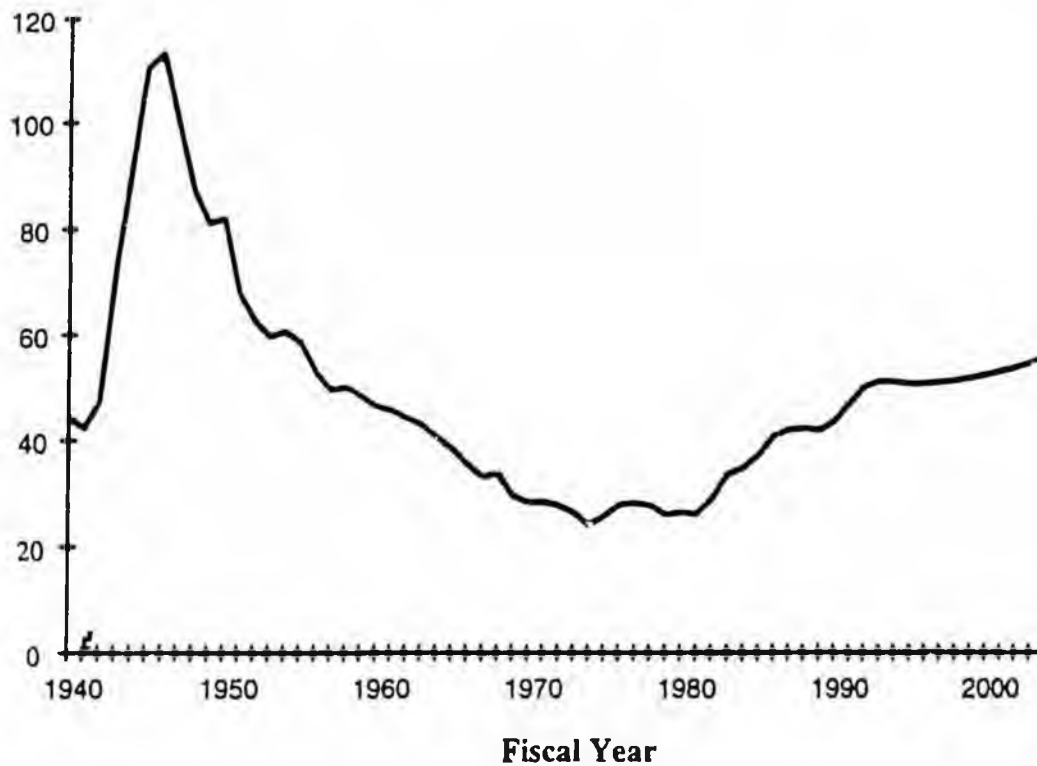
Fiscal Year	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Revenues	19.0%	19.3%	19.3%	19.1%	19.1%	19.0%	19.0%	19.0%	19.0%	19.0%	18.9%
Outlays	22.0	21.6	21.6	21.6	21.5	21.7	21.8	22.0	22.2	22.3	22.5
Deficit	3.0	2.3	2.4	2.5	2.4	2.7	2.9	3.0	3.2	3.4	3.6

Source: Congressional Budget Office, August, 1994.

The federal *debt* is the sum of accumulated annual deficits. The gross federal debt consists of the amount held by the public plus the amount held internally, for example, by the Social Security trust fund. In 1940, the gross federal debt was \$51 billion. It quintupled by 1945 to \$260 billion, but then stabilized. Fifteen years later, in 1960, it had grown only to \$290 billion. Lately its progress has been dramatic. (See Figure 1.) The debt in 1982 was \$1.1 trillion, and in 1992 it was \$4 trillion.

Because the value of the dollar has fallen since 1940 and the wealth of the United States has grown, it is useful to compare the debt to the gross domestic product (GDP), thus measuring the debt against the resources that stand behind it. The debt in 1940 represented 45 percent of GDP. It rose to 111 percent of GDP in 1945; fell to 47 percent in 1960, and stood at 51 percent in 1992. By this measure, the debt fell to its lowest level since the New Deal in 1974, when it was 24 percent of GDP (see Figure 1).

Figure 1. Federal Debt as a Percent of GDP



Source: Office of Management and Budget for 1940-1992; Congressional Budget Office projections, 1993-2004.

Deficits will increase in size after FY 1995, according to Congressional Budget Office projections, because of the costs of entitlement programs and interest on the increasing national debt. Table 3 identifies the major areas of federal expenditures and shows CBO annual appropriations process, like defense, foreign aid, and many grants to state and local governments. A partial list appears in Table 4. Mandatory programs are entitlements where spending occurs automatically unless Congress changes eligibility guidelines. A partial list of mandatory federal programs appears in Table 5.

**Table 3. Federal Spending Forecasts and Deficits Under Current Law:
Selected Fiscal Years, FY 1994 through FY 2004**

In Billions of Dollars

Fiscal Year:	1994	1995	1996	1998	2000	2002	2004
Discretionary Outlays	\$545	\$546	\$550	\$547	\$585	\$626	\$669
Mandatory Outlays							
Social Security	317	333	350	388	430	476	528
Medicare	158	177	195	238	290	354	434
Medicaid	84	96	108	135	168	206	250
Retirement	63	65	68	74	83	91	100
Other	<u>172</u>	<u>175</u>	<u>176</u>	<u>197</u>	<u>213</u>	<u>227</u>	<u>243</u>
Subtotal, Mandatory Outlays	794	847	898	1,032	1,183	1,354	1,555
Deposit insurance	-5	-17	-12	-5	-2	-2	-2
Net interest	202	226	245	264	290	325	368
Offsetting receipts	<u>-68</u>	<u>-77</u>	<u>-72</u>	<u>-80</u>	<u>-86</u>	<u>-94</u>	<u>-103</u>
Total	\$1,467	\$1,525	\$1,609	\$1,758	\$1,970	\$2,209	\$2,488
Deficit	\$202	\$162	\$176	\$197	\$257	\$319	\$397
Deficit as a Percent of GNP	3.0%	2.3%	2.4%	2.4%	2.9%	3.2%	3.6%

Source: Congressional Budget Office, August, 1994.

Table 4. Components of Federal Spending: Discretionary Programs

DEFENSE PROGRAMS

All defense spending is considered discretionary spending: Congress has control over the level of spending.

DOMESTIC DISCRETIONARY PROGRAMS.

The level of spending for such programs is determined each year anew. They are different from entitlement programs in that the beneficiaries do not have a continuing legal right to a benefit. Examples are listed below; this is far from the entire list.

- *Department of Agriculture*
Emergency Food Assistance
Women, Infants, and Children (WIC)
Rural Water and Waste Disposal Grants
- *Department of Education*
Compensatory Education
Education Reform Initiative
Drug-Free Schools and Communities
Special Education Grants
Vocational and Adult Education Grants
- *Health and Human Services*
Substance Abuse Block Grant
Mental Health Block Grant
Community Services Block Grant
Head Start
Child Care and Development Block Grants
Refugee Assistance
- *Department of Justice*
Crime Control Initiative
- *Department of Labor*
Adult and Youth Training Grants
School to Work
Employment Services State Administration
- *Department of Transportation*
Highway Aid
Mass Transit Aid

INTERNATIONAL PROGRAMS

Military aid to foreign countries
Foreign aid generally

Source: Congressional Budget Office, August, 1994

Table 5. Components of Federal Spending: Mandatory and Entitlement Programs

Mandatory and entitlement programs provide their beneficiaries with a legal right to a benefit. These rights are provided for in statute, and statutes must be amended to alter the nature or amount of a person's benefit, but additional people are entitled to receive benefits as they become eligible. Thus the federal obligation for such programs is open-ended. Programs like Medicaid and AFDC also impose costs upon state governments.

Major mandatory and entitlement programs are as follows:

- Social Security, Supplemental Security Income, and Disability programs under FICA
- Medicare
- Medicaid
- Food Stamps
- Aid to Families with Dependent Children (AFDC)
- Child Support Enforcement
- Foster Care, Adoption Assistance, and Independent Living
- Vocational Rehabilitation State Grants

Source: Congressional Budget Office, August, 1994

Under current law, discretionary spending is expected to stay nearly unchanged through FY 1998, and then to grow fairly rapidly for a cumulative total of 21 percent growth from FY 1994 through FY 2004. Spending on mandatory programs will almost double in the same period. The most rapid growth will be in Medicaid, which will triple in expense by FY 2004, and in Medicare, which will almost triple. Together they will cost \$442 billion more in FY 2004 than in FY 1994. By contrast, the mandatory programs that Table 3 groups as "other" (including welfare programs) will grow by 41 percent.

The third area of important federal spending is net interest, primarily interest on the federal debt. The current projection is that interest payments will grow from \$202 billion in FY 1994 to \$368 billion in FY 2004, an increase of 80 percent in annual outlays. These are significant components of federal outlays; net interest payments exceed the amount of the annual deficit until after FY 2002 (Table 3).

How Can the Federal Budget Be Balanced?

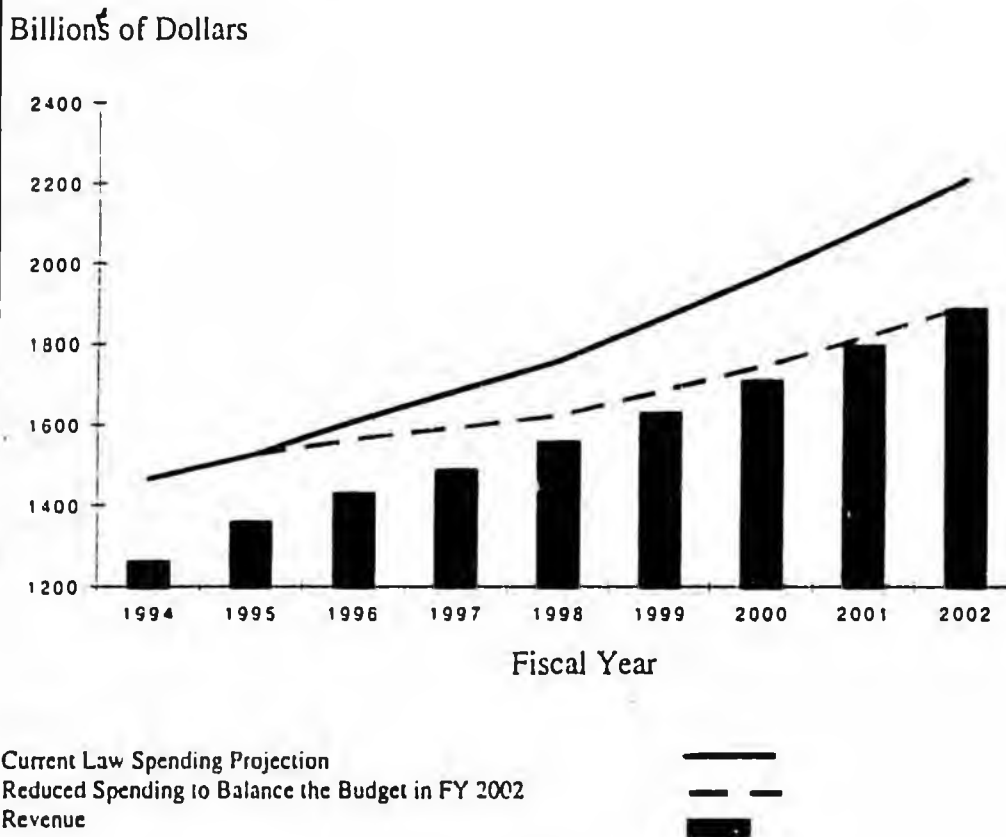
If Congress sends the states a balanced budget amendment, it will need to turn its attention to implementing its provisions immediately on the assumption that states are likely to adopt the amendment. Failure to do so would imply that Congress did not expect

the amendment to be ratified because failing to begin budget cuts at once could mean extreme difficulty in bringing the budget into balance later on.

Some proponents have said that the proposal will require a balanced budget in FY 2002, providing seven years for transition (FY 1996 through FY 2002). The budget for FY 2002 would have to be cut \$319 billion below the amount that is now forecast to be spent that year, if revenues remain as forecast. Omitting interest payments from the amounts that could be cut, this would require the equivalent of an across-the-board cut of 17 percent in that year's program spending.

Expenditure Cuts Without Revenue Increases. One way to reach a balanced budget in FY 2002 would be larger cuts each year from the level of spending that is currently forecast in Table 2. Figure 2 shows how the \$319 billion reduction could be reached by cutting \$45 billion from the now-projected outlays for FY 1996; \$90 billion from the currently projected level for FY 1997, \$135 billion for FY 1998 and so on.

Figure 2. Alternative Federal Budget Outlooks: FY 1994 - FY 2002



Source: NCSL calculation based on Congressional Budget Office data.

As Figure 2 shows, spending would swing away from the current long-term projection to match revenue forecasts by FY 2002. The columns represent revenue collections in each fiscal year. The solid line represents the current forecast for federal outlays, using the numbers in Table 2. The lower, broken line shows the effect on total spending if current forecasts were to be cut by an additional \$45 billion per year until revenues and expenditures meet in FY 2002.

Where would such cuts be made? One possibility would be to cut only discretionary spending—defense programs and non-mandatory domestic programs of the sort listed in Table 5. Reducing discretionary spending by an additional \$45 billion annually until the budget becomes balanced would mean an 8 percent cut for FY 1996, about 16.5 percent for FY 1997, and so on through FY 2002 (see Table 3).

By that time, total discretionary spending would have fallen to about half the figure shown for FY 2002 in Table 3. Defense currently makes up about 50 percent of discretionary spending. If domestic discretionary spending is to be protected, defense would have to be cut hard. If these cuts in discretionary spending spared defense, domestic discretionary spending would virtually disappear in FY 2006. This particular scenario would mean an end to the programs listed in Table 4, many of which are state and local aid programs.

An alternative would be to spread cuts over the entire federal budget except for interest on the national debt. Cutting \$45 billion from the projected level of expenditures for FY 1996 would mean cuts from a base of \$1,364 billion (total spending as shown in Table 3 except for net interest). That would be a cut of 3.3 percent from the currently projected spending level, depicted in Figure 2. This would allow for very slight growth in the amount of spending from FY 1995, but after the cuts, spending growth would not cover inflation.

For FY 1996, that would mean freezing current programs at or near FY 1995 levels of expenditure, without full allowance for growth in caseloads or inflation. It is likely that some entitlements would have to be reduced or eliminated if caseload growth or COLAs provided by current law were to continue. Unless revenue growth in out years exceeded the levels the CBO has forecast, average program growth would have to stay below inflation and, for social and entitlement programs, below projected caseload growth.

Making no allowance for inflationary cost increases or caseload growth in federal spending levels would raise major issues for the states. Would the federal government reduce the level of entitlement benefits to match expenditures—cut its coat to fit its cloth, so to speak? Or would states be expected to make up the difference so that entitlement benefits could continue to grow while federal spending stayed flat? Would the federal government terminate domestic programs in the expectation that public demands would force states to pick up programs? An adverse answer to these questions would make state

budgets even less manageable in the future than they were during the recession and its aftermath at the beginning of the 1990s.

The cuts from the baseline expenditure forecast shown in Figure 2 would increase in following years—to 5.3 percent for FY 1997, 7.7 percent in FY 1997, and 14.2 percent in FY 2002. But from one year to the next, the reduction would have about the same effect as a decision not to increase spending to make allowances for inflation. From FY 1995 through FY 2002, federal expenditures would grow by about \$370 billion instead of the \$684 billion forecast in Tables 2 and 3.

NCSL Policy on Deficit Reduction:

- The federal deficit must be reduced over a period of time and eventually eliminated. Nothing less is at stake than our viability as a nation.
- The deficit should be reduced on a gradual but certain schedule.
- All federal spending programs, including defense, entitlements, domestic discretionary, and international, should be scrutinized for deficit reduction. Domestic discretionary programs should not be subject to disproportionate spending cuts.

Adopted at the 1994 NCSL Annual Meeting

Expenditure Cuts with Revenue Increases. The size and increasing magnitude of the required cuts raise the possibility that tax increases might be part of a budget-balancing strategy. Although tax increases do not appear likely at present, in the future Congress might find a combination of tax increases and spending cuts to be a more palatable way to balance the budget than budget cuts alone. If the intention were to reduce the deficit through equal use of revenue increases and budget cuts, a permanent tax increase of about \$23 billion would be needed for FY 1996. A further tax increase would have to occur the next year and in each successive year to continue to narrow the budget gap.

Options for additional federal revenue include an income tax surcharge, higher personal income tax rates for middle income or upper income filers, the elimination of the mortgage interest deduction, elimination of deductions for state and local income and property taxes, higher motor fuel or other excise taxes, a national sales tax, or even a value-added tax. Some of these are obviously less politically acceptable than others, but voters are not likely to welcome any of them.

A large tax increase at the federal level would make it much more difficult for states to meet their own revenue requirements. Federal consumption taxes would reduce the level of consumption of the items they tax, and so reduce state tax collections. States could be forced to increase their own taxes to meet their balanced budget requirements.

Unlike the federal government, states might have to cope with tax revolts and tax limitation measures placed on the ballot by voter petition. Such revolts could place new constraints on state and local revenue sources at a time when new burdens are placed upon them. Any additional federal consumption taxes—excise tax increases, a national sales tax, or a value-added tax—would seriously erode state sales tax revenues by reducing consumption and could limit states' ability to increase their own taxes.

NCSL Policy on Federal Tax Increases to Cut the Deficit:

- Federal revenue decisions for purposes of reducing the deficit should not impair the ability of states to raise revenue.
- The federal government should avoid increases in excise and gasoline taxes.
- It should protect the deductibility of state income taxes.
- It should reject any effort to impose a federal consumption-based tax.
- The tax exempt status of state and local government bonds should be maintained.

Adopted at the 1994 NCSL Annual Meeting

Implications for the States

Moving toward a balanced federal budget could mean more unfunded mandates for the states, if Congress decided not to reduce program services to match reduced expenditures. Reduced federal matches for state spending on Medicaid or AFDC would be a simple way to do this. It would also be possible for Congress to require states to pay all the costs of new programs, for example, in the areas of the environment or social initiatives. Another possibility would be for the federal government simply to discontinue programs, leaving it for states to decide whether or not to continue the services that federal programs formerly had provided.

Unfunded Mandates and the Budget

One possible way for Congress to balance the budget would be to increase the use of unfunded mandates—requiring states to pay for mandatory federal programs. Many proponents of a federal balanced budget amendment hope to avoid more mandates by attaching a prohibition or limit of them to any balanced budget amendment. Another way would be for Congress to submit a separate amendment to the states.

Even without a Constitutional amendment, prospects look bright for mandate relief from the 104th Congress. In 1994, committees in both houses sent mandate relief legislation to the floor, the result of years of effort by NCSL and other state and local government organizations. Although there was no floor action in 1994, the outlook is favorable for 1995.

Grants-in-aid to state and local governments could be cut. After suffering cuts in 1982 and 1987 and experiencing slow growth in the rest of the decade, federal aid has bounced back in the 1990s. It increased from \$125.8 billion in FY 1989 to \$179.2 billion in FY 1992, but most of the growth has been in Medicaid and other income-maintenance programs mandated by the federal government, so it has not increased state and local budgeting flexibility. This growth has not replaced lost federal funding for infrastructure, urban development, environmental, and education programs, where states have tended to replace lost federal funding with revenue from their own sources. Any reductions in the federal share of funding for mandated programs would seriously increase the fiscal burdens on the states.

NCSL Policy on Shifting Costs to the States:

- Too often in the past decade, the federal government has responded to its budget problems by simply shifting costs to the states and intruding on state revenue systems. Exporting the federal deficit to the states is no solution. It stifles the creativity and responsiveness of state and local governments, exacerbates fiscal pressures, and further erodes the confidence of the American public in government.
- The federal government should not attempt to accomplish national goals through unfunded mandates on state and local governments. Federal mandates should be fully funded.
- The responsible reform of entitlement programs is necessary. However, NCSL opposes capping federal entitlement spending while retaining the legal entitlement obligation of the states. Reform of federal entitlement programs must not transfer their cost to the states.
- The federal government should maintain its matching rate for programs for which it shares responsibility with state governments.

Adopted at the 1994 NCSL Annual Meeting

Arguments Against a Balanced Budget Amendment

Opponents contend that:

- The tax increases and spending cuts required by the amendment could, in the short run, slow economic growth.
- A balanced budget amendment would hamper the federal government's ability to provide counter-cyclical relief in times of recession.
- The federal government's capacity to respond to emergencies would be hampered.
- The federal government will shift costs to state and local governments through mandates to continue social welfare programs at federally mandated levels, elimination of some federal programs, reductions in federal matching rates, or caps on entitlement spending.
- Numerous domestic programs would be cut drastically, hurting the poor and the elderly the most. States would be under significant pressure to increase their own spending on infrastructure, social programs, and other programs likely to face federal cuts. Even without federal mandates or explicit cost shifting, states would be pressured to carry a major new burden.
- States could also find it more difficult to raise revenue to meet growing needs if the federal government hikes income taxes or encroaches on state revenue bases such as consumption taxes.
- The amendment is unnecessary and possibly detrimental to the Constitution. If Congress and the president had the will to balance the federal budget, they would do so. A constitutional amendment will only force them to find strategies to evade it. Such evasive behavior would make Americans more cynical about government, and do nothing to solve the deficit problem.

Arguments for the Amendment

Proponents contend that:

- Over the long term, federal deficit spending will erode the nation's standard of living.
- Continued federal borrowing will keep long-term interest rates high, hampering long-term economic growth.
- The federal government already has lost its ability to use counter-cyclical fiscal policy to help the economy. In the last recession, Congress and the president could not agree on legislation to help the economy.
- The amendment will give Congress and the president time to eliminate the deficit, avoiding the sudden shock that opponents fear could throw the economy into recession.
- A balanced budget amendment will force Congress to do what it has been unwilling to do—put entitlement spending on the table and deal with health care reform in a comprehensive manner.
- The costs of not acting are high and will get exponentially higher the longer hesitation continues. Mandatory spending and interest expense will continue to squeeze out all discretionary spending. Therefore, even if the amendment is not adopted, states will face many pressures to assume the federal role in domestic programs. The balanced budget amendment will create a foundation for long-term stability, rather than allowing the deficit slowly to erode federal discretionary programs and undermine the American economy.
- The emergency clause allows Congress to cope with unforeseen emergencies with a supermajority.

FURTHER READING

Congressional Budget Office, *The Economic and Budget Outlook: An Update, August 1994* (Washington, D.C.: U. S. Government Printing Office, 1994).

Congressional Budget Office, *The Economic and Budget Outlook: Fiscal Years 1995-1999* (Washington, D.C.: U. S. Government Printing Office, 1994).

Congressional Budget Office, *Federal Debt and Interest Costs: A CBO Study* (Washington, D.C.: U. S. Government Printing Office, 1993).

Congressional Budget Office, *Reducing the Deficit: Spending and Revenue Options* (Washington, D.C.: U. S. Government Printing Office, 1994).

The Library of Congress, Congressional Research Service, "A Balanced Budget Constitutional Amendment: Procedural Issues," *CRS Issue Brief* (Washington, D.C., Congressional Research Service, December 7, 1993).

National Conference of State Legislatures, *Goals for State-Federal Action: 1993-1994* (Denver, Colo: NCSL, 1993).

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Federal Deficits and Debt in Perspective

It took 205 years for the U.S. Federal government debt to reach \$1 trillion. It took 5 years to reach \$2 trillion. By the end of 1992, six years later, it will reach \$4 trillion!

Each baby born in the United States today enters the world owing \$16,000 on the federal debt.

With each passing second, the United States goes \$20,000 further into debt.

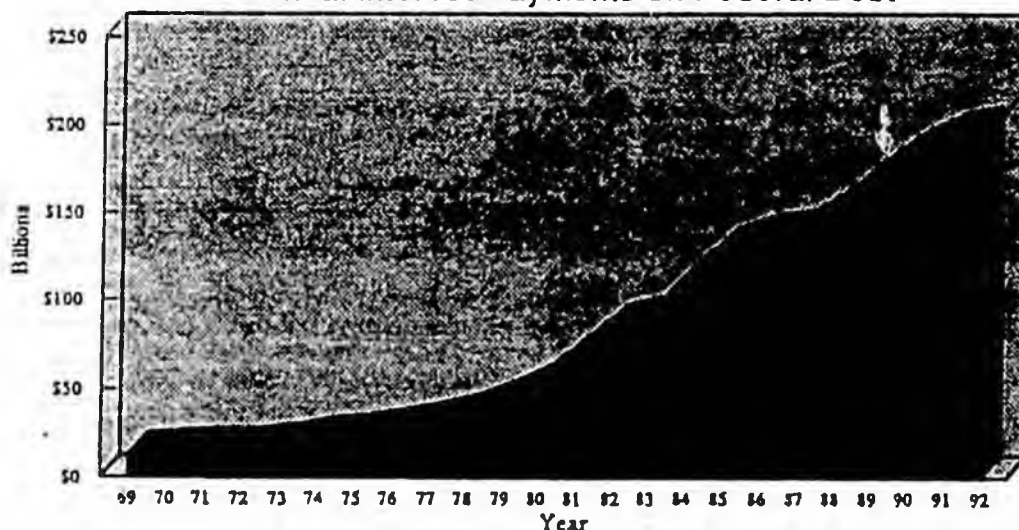
Sixty-two cents out of every personal income tax dollar paid will go towards financing the interest on the debt. This portion of your tax dollars buys you absolutely nothing!

This year the average family of four will pay \$3,300 in taxes just to cover the interest owed on 1992's federal debt.

The current budget deficit means that the federal government spends \$1 for every 73 cents that it raises. This twenty-seven cent gap, plus interest, will be handed down to future generations.

The interest payment on the federal debt was the fastest growing major component of the federal budget in the 1980's (the major components are entitlements, national defense, non-defense

Annual Interest Payments on Federal Debt



discretionary, and interest). In FY '93, interest on the federal debt will exceed defense outlays, an unprecedented phenomenon.

The federal budget has reached an all-time high of \$1.475 trillion in fiscal year 1992. Interest payments in 1992 will compose 14% of the total budget.

America had to borrow to emerge from the Great Depression and win World War II. By the mid-1950's, the annual interest cost on this debt was \$7 billion. This year the annual interest on the debt is \$200 billion. This generation of leaders has left its children with a debt 10 times larger than it inherited from the preceding generation.

Washington's Largest Monument: The National Debt

It is certainly not a happy new year for government finance in America. A whopping \$3.33 trillion national debt, nearly quadruple its 1980 level, represents a \$13,298 debt for every man, woman, and child in the U.S.

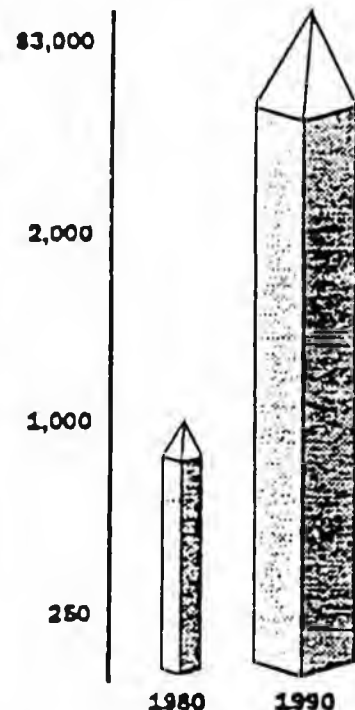
Anticipating higher indebtedness in the coming year, the federal government has raised its 1991 debt ceiling to a record \$4.14 trillion. Even this \$810 billion increase in the legal limit may not be adequate as we quickly approach this ceiling. The culprit is faster government spending, especially higher interest payments, the growing cost of the savings and loan bailout, the estimated \$30 billion cost of Operation Desert Shield and \$50 billion in lost federal revenue due to the recession.

The Statutory Debt Limit

The debt limit, or debt ceiling, is an amount written into law as a legal limit to the federal government's indebtedness. It was revised an average of 2.3 times per year in the eighties, four times in 1987 alone for a total of \$500 billion, the largest annual increase of the eighties. Of the decade's 21 increases, ten were quick solutions, after the federal government had surpassed its spending authority.

Growth of the National Debt in the 1980s

(\$Billions)



Source: Tax Foundation

The Deficit and the Debt

The trend of our national debt from 1940 to 1980 showed an increase of nearly \$21.5 billion a year, a troublesome rate of increase to budget officials at the time. But in the last decade, the debt has skyrocketed. In 1980 it stood at just over \$900 billion, but by 1991 it had doubled to over \$1.8 trillion. Far from slackening in the second half of the decade, the debt grew to \$2.9 trillion over the next four years.

Interest Cost of the Debt

Interest payments on our debt continue to climb steadily as our annual deficits pile up. Payment of interest on the debt is currently the third largest federal government expenditure, following income security and defense. For fiscal year 1991, the estimated annual interest on the public debt is \$2.7 billion, \$29 million for every hour of the day, or \$495,580 dollars per minute.

The net interest (interest paid out minus interest received) has even risen as a percentage of total outlays, despite rising total outlays. From 1955 to 1971, the percentage hovered around 7.3 percent. During the eighties, it shot up from 8.9 percent to 14.8 percent of outlays. See table below for detail.

Trends in Federal Debt, Deficits, and Related Measures

Selected Fiscal Years 1940-1989

(\$Billions Except Per Capita)

Year	Debt Outstanding (a)			Net Interest				Deficit	
	Total	Per Capita	% of GNP	Total	Per Capita	% of Outlays	% of GNP	Total	% of GNP
1940	850.7	834.1	62.9%	8.8	8.7	8.8%	8.9%	-82.8	-1.0%
1945	260.1	2,889	122.8	3.9	28	8.4	1.8	-47.8	-21.4
1950	266.9	2,687	96.3	4.8	32	11.3	1.8	-3.1	-1.1
1955	274.4	2,684	71.0	4.9	30	7.1	1.3	-3.0	-0.8
1960	290.5	2,608	57.3	6.9	38	7.5	1.4	-	-
1965	322.3	2,658	47.9	8.6	44	7.2	1.3	-1.4	-0.2
1970	380.9	2,858	38.8	14.4	70	7.4	1.8	-2.8	-0.3
1975	641.9	2,509	35.8	23.2	107	7.0	1.8	-53.2	-3.8
1980	908.8	3,369	34.0	32.8	231	8.8	2.0	-73.8	-2.8
1981	994.3	4,320	33.3	68.7	299	10.1	2.3	-78.9	-2.6
1982	1,138.8	4,889	38.2	85.0	368	11.4	2.7	-127.9	-4.1
1983	1,371.2	8,840	41.3	89.8	382	11.1	2.7	-207.8	-6.3
1984	1,564.1	8,600	42.4	111.1	469	13.0	3.0	-188.2	-6.0
1985	1,827.8	7,638	48.2	129.4	641	13.7	3.3	-212.3	-6.4
1986	2,129.5	8,778	60.9	138.0	860	13.7	3.3	-221.2	-6.3
1987	2,354.3	9,609	63.1	138.6	866	13.8	3.1	-149.7	-1.4
1988	2,614.6	10,567	64.6	152.7	813	14.3	3.2	-188.1	-1.2
1989	2,881.1	11,928	65.9	169.1	877	14.8	3.3	-181.9	-1.9
1990	3,230.7	13,298	61.6	183.8	724	14.7	3.4	-220.4	-4.1

(a) End of fiscal year.

Sources: Treasury Department; Office of Management and Budget; House Budget Committee; and Tax Foundation computations.

ISSUE BRIEF

TAX FOUNDATION ♦ JUNE 1990

A Decade of Budget Summitry

by Paul G. Merski

The FY1991 budget summit will be the fifth time in nine years the White House and Congress have conducted special negotiations to try to reduce the federal deficit. Unfortunately, despite these negotiations, the budget deficit has averaged well over \$160 billion each year during this same period (see table 1). In the first six months of the current fiscal year, the deficit already exceeded \$150 billion even though the full-year target is \$100 billion. In light of these results, summits allegedly convened to lower deficits may have done more harm than good.

Talk Is Expensive

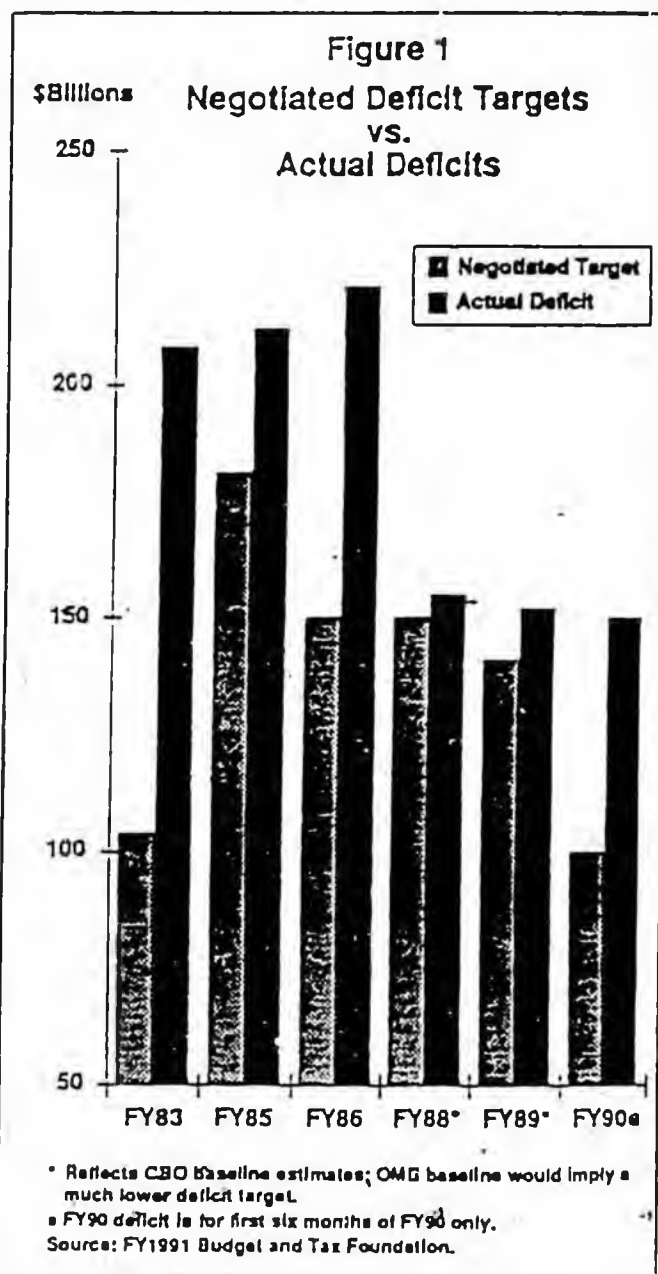
For many years now the White House and Congress have generally been locked in a budgetary stalemate which has impeded any significant deficit reductions. The high-level budget talks held in 1982, 1984, 1985, 1987 and 1989 all fell far short of their stated goals (see figure 1 and table 2). Consequently,

each year's deficit has been fueling a national debt that has reached \$3 trillion. This debt represents more than \$12,500 for every man, woman, and child

Table 1
Budget Summary
Fiscal Years 1980-1990
(\$Billions)

Fiscal Year	Receipts	Outlays	Deficit
1980	517.1	590.9	-73.8
1981	599.3	678.2	-78.9
1982	617.8	745.7	-127.9
1983	600.6	808.3	-207.8
1984	666.5	851.7	-185.3
1985	734.1	946.3	-212.3
1986	769.1	990.3	-221.2
1987	854.1	1,003.8	-149.7
1988	909.0	1,064.0	-155.1
1989	990.7	1,142.6	-152.0
1990 ^a	458.3	609.2	-150.9

^a First six months of fiscal year only.
Source: FY1991 Budget and Tax Foundation.



Paul G. Merski is Director of Fiscal Affairs at the Tax Foundation.

Table 2
Negotiated Deficit Targets
vs.

Actual Deficits			
Negotiation Year	Fiscal Year	Negotiated Target (\$bil)	Actual Deficit (\$bil)
1982	FY83	-104	-208
1984	FY85	-181	-212
1985	FY86	-150	-221
1987 ^a	FY88	-150 ^b	-155
	FY89	-141 ^b	-152
1989	FY90	-100	-150 ^c

^a Reflects CBO baseline estimates; OMB baseline would imply a much lower deficit target.

^b Two-year agreement.

^c First six months of FY90 only.

Source: Tax Foundation.

in the U.S., triple the amount of just ten years ago. Little has been done to control the persistently escalating costs of entitlement programs. Mandated payments for individuals together with interest charges now comprise well over 60 percent of total outlays and are the fastest growing segments of federal spending.

The Irony of Budget Summitry

Ironically, the fiscal years that were not preceded by budget summits actually resulted in the most real deficit reduction (see figure 2). In FY1984, the deficit dropped \$23 billion when spending was held to 5.4 percent — half the rate of revenue growth for that same year. In FY1987 spending grew only 1.4 percent and the budget deficit fell a record \$71.5 billion. Conversely, the fallout in fiscal years with negotiated deficit reductions was higher taxes and higher deficits.

The Budget Summit Lesson of 1982

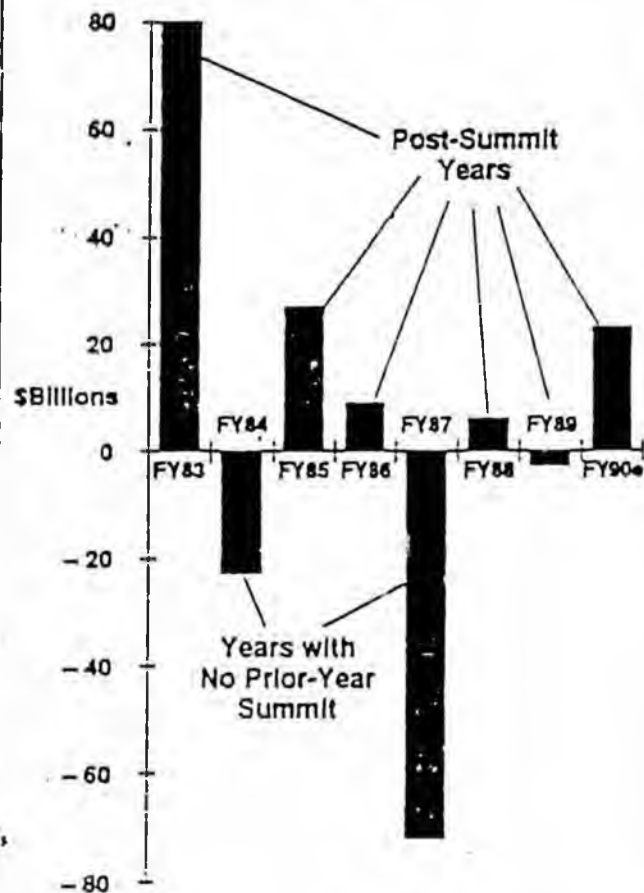
High-level budget talks over the past decade have usually been conducted in times of fiscal crisis. April of 1982 was such a time: interest rates were climbing and unemployment was high as the recession dragged on. President Reagan initiated deficit reduction talks with congressional leaders but the parties found their positions on raising taxes and reducing Social Security benefits irreconcilable, so Congress pushed through an alternative package. That three-year plan called for \$98 billion in tax

increases with \$31 billion in proposed spending reductions. One year later, the \$208 billion deficit was double the negotiated target of \$104 billion.

1982 Summit at a Glance

- FY1982 deficit: \$128 billion
- 1982 Summit Agreement:*
- Three-year plan
- Revenue increases: \$98 billion
- Spending reductions: \$31 billion
- FY1983 deficit target: \$104 billion
- Actual FY1983 deficit: \$208 billion

Figure 2
Change in Deficit: Post-Summit Years
vs.
Years with No Prior-Year Summit



^a First six months comparison of FY1989 and FY1990.
Source: Tax Foundation.

Replay in 1984

With the budget deficit topping \$200 billion, President Reagan once again called congressional leaders together in an attempt to trim the deficit. Disagreements over defense cuts and tax increases were the impasse this time, but several months later, new negotiations culminated in the "Rose Garden" plan unveiled at the White House. The three-year plan was intended to reduce the deficit \$150 billion, and the ensuing budget resolution envisioned a \$131 billion deficit in FY1985. Only a year later the bloom was off the rose with a \$212 billion deficit.

The result was a replay of the 1982 scenario in which taxes were raised with the proviso that for each \$1 in higher taxes, there would be \$3 in spending cuts. The tax increases went into effect immediately, but the spending cuts went the way of so many good intentions.

Between FY1982 and FY1985, receipts grew a hefty 19 percent, but spending grew even faster at 27 percent — yielding a 1985 deficit that was \$84 billion larger than in 1982. Any plan that promises to balance today's tax hike with tomorrow's spending cuts is unsound. Taxes once enacted into the code are collected, but long-term spending cuts demand constant discipline.

1984 Summit at a Glance

- FY1984 deficit: \$185 billion
- 1984 Summit Agreement:*
- Three-year plan
- Revenue increases: \$49 billion
- Spending reductions: \$110 billion
- FY1985 deficit target: \$181 billion
- Actual FY1985 deficit: \$212 billion

1985: Enter Gramm-Rudman-Hollings

Frustration with persistent budget deficits was vented with the passage of the Gramm-Rudman-Hollings law in 1985. Earlier that year, Congress and the President had reached a budget accord with the intention of bringing the FY1986 deficit down to

around \$150 billion. The plan was to reduce spending in defense, Social Security, and other domestic programs by \$52 billion. Most of these spending restraints never took place, and the FY1986 deficit weighed in at a record \$221 billion.

1985 Summit at a Glance

- FY1985 deficit: \$212 billion
- 1985 Summit Agreement:*
- Spending restraint: \$52 billion
- FY1986 deficit target: \$150 billion
- Actual FY1986 deficit: \$221 billion

1987: Response to the Stock Market

Crisis was again the cue for high-level deficit reduction talks in 1987. The October 19 stock market crash and the looming \$23 billion in automatic spending cuts under Gramm-Rudman-Hollings inspired another round of deficit dialogue. After weeks

"Any plan that promises to balance today's tax hike with tomorrow's spending cuts is unsound. Taxes once enacted into the code are collected, but long-term spending cuts demand constant discipline."

of closed-door negotiations, the 1987 summit implemented \$28 billion in tax increases and was to reduce spending by \$49 billion. These actions were to trim the deficit \$76 billion over the next two years. What resulted was a \$5.4 billion increase in the deficit in FY1988 and a FY1989 deficit \$11 billion over the summit target.*

That year we also witnessed the rewriting of the Gramm-Rudman-Hollings deficit targets. The new targets postponed the attainment of a balanced budget

* Reflects CBO baseline estimates; OMB baseline would imply a much lower deficit target.

to 1993 instead of 1991 as originally planned. The sound and fury of the National Economic Commission (NEC) was heard throughout the year as it carried out its mandate to recommend ways to reduce the federal budget deficit. The repeatedly delayed release of its final report, and the failure of participants to achieve a consensus is symptomatic of the government's problems with the deficit.

1987 Summit at a Glance

- FY1987 deficit: \$150 billion
 - 1987 Summit Agreement:*
 - Two-year plan
 - Revenue increases: \$28 billion
 - Spending reductions: \$49 billion
 - FY1988 deficit target: \$150 billion*
 - FY1989 deficit target: \$141 billion*
-
- Actual FY1988 deficit: \$155 billion
 - Actual FY1989 deficit: \$152 billion
- * Reflects CBO baseline estimates; OMB baseline would imply a much lower deficit target.

1989: The Bite in Gramm-Rudman-Hollings

While in the usual budgetary stalemate, the President and Congress got their first real taste of Gramm-Rudman when the across-the-board spending cuts (sequester) kicked in. The sequester would have produced the needed \$16 billion in spending restraints, but the President and Congress preferred budget summitry to the sequester.

After working more than two months on budget negotiations, the President and a bipartisan contingent of House and Senate leaders gathered in the Rose Garden to declare their agreement to cut \$28 billion from the FY1990 deficit. Proposed spending cuts were to save \$13.8 billion with \$14.2 billion in

increased revenues. The real Gramm-Rudman-Hollings deficit cuts were eventually cancelled out by the bipartisan budget resolution that claimed \$15 billion in deficit reductions. The result was \$6 billion in new taxes and one-time savings gimmicks designed to hit a \$99.4 billion FY1990 deficit target. Most of the claimed deficit reduction came from such devices as accelerating tax collections, shifting spending into the following year, removing losses from the deficit calculations, and stretching out payments to federal retirees. Examination of the first half of the fiscal year shows a deficit already \$50 billion over the full-year target.

1989 Summit at a Glance

- FY1989 deficit: \$152 billion
 - 1989 Summit Agreement:*
 - Revenue increases: \$14.2 billion
 - Spending reductions: \$13.8 billion
 - FY1990 deficit target: \$100 billion
-
- Actual FY1990 6-mo. deficit: \$150 billion

1990: Will History Repeat Itself?

Once again, in 1990, a sticky situation — fears of a slowing economy and possibly \$100 billion in across-the-board spending cuts — sparked deficit negotiations between the White House and Congress. Hopefully, these new talks will not be the "triple crown" of summits — resulting in higher taxes, higher spending, and higher deficits. Only 10 of the last 62 budgets paid their own way without deficit spending, and in none of the last 21 years has the budget been balanced. By the light of recent summit history, any current deficit reduction "deal of the century" could be a bad deal for taxpayers.

The Tax Foundation is a nonprofit, nonpartisan research and public education organization founded in 1937 to monitor tax and fiscal activities at all levels of government.

STATES HAVE LEGITIMATE ROLE IN BALANCED BUDGET DEBATE

It is no secret that most Americans want the federal government to balance the budget. In May of 1987, a CBS/*New York Times* survey on constitutional issues found that 85 percent of all Americans favored a constitutional amendment mandating a balanced budget. Yet Congress has resisted every opportunity to propose such an amendment for ratification to the states. Most recently, in March 1986, the Senate failed by a single vote to pass a balanced budget amendment.

Surely we need to ask why a proposal with such overwhelming public support has had such a tough time in Congress. I believe that part of the answer is found in the realization that Congress as an institution does not believe that it is in its interest to limit its own power to tax and spend.

The framers of our Constitution well understood that there might be times when Congress would fight attempts to limit its own prerogatives. In order to get around that problem, they provided in Article 5 a way for the states to directly initiate constitutional reform on a topic chosen by the states. That method is the petition for a constitutional convention.

While it's true that this method has never resulted in a successful call for a convention, it is not true that the method itself has had no impact on the evolution of our Constitution. In several cases, the mere prospect of a successful convention call has been enough to force Congress to act. The very real prospect of a convention call in 1912 on the issue of direct election of U.S. senators, for instance, was critical in getting the Senate to finally pass an amendment that had been approved by the House many times and eventually was ratified as the 17th Amendment. Thirty-one of the required 32 states had approved measures calling for the convention, even though it meant that state legislatures would surrender their power to appoint members of the U.S. Senate.

In 1975, I introduced a resolution in the Mississippi House of Representatives calling on Congress to convene a convention for the exclusive purpose of drafting a balanced budget amendment, which would then come back to the states for ratification. Our successful petition was joined that year by calls from Maryland, Louisiana, Dela-



ware and North Dakota.

By 1983, 32 of the necessary 34 states had joined the call. But in the early 1980s, a chorus of constitutional scaremongers from both liberal and conservative points on the political spectrum had joined forces in an effort to block the convention call. Their allies in Washington, primarily in the U.S. House Judiciary Committee, stopped a convention procedures bill, which would have provided the mecha-

nisms for an orderly convention if 34 states acted. Apparently those opponents realized that with a procedures bill in place, it would be far more difficult for them to cry wolf about a "runaway" convention.

Critics of the balanced budget convention drive even decried the right of state legislators to exercise their duty under the second section of Article 5. They falsely implied that the framers of the Constitution did not really intend for state legislatures to have a role in initiating amendments, only one in the ratification process. On the contrary, the weight of historical evidence shows that the framers intended to give state legislatures precisely the power granted in the second section of Article 5.

Those who oppose the very idea of a convention often paint themselves as champions of the existing document who want to protect it from special interests that might "run wild" at a convention. But it is a strange champion indeed who would make a dead letter out of an Article 5 provision drafted by those same wise framers we all admire.

The Constitution is and always should be a living document, subject to change as needs warrant. In the years before World War II, Congress was far less inclined to abuse its power to tax and spend. But the increasing unwillingness or inability of Congress to control its fiscal excesses requires that the state legislatures avail themselves of the powers granted to them under the Constitution. For performing that duty, we in the states who back the balanced budget amendment make no apologies.

If the worst fears of critics were realized and somehow an amendment not germane to the call of the states were to be transmitted back to us for ratification, I would be the first to argue that Mississippi refuse to ratify it.

It is time for the states to reassert their full partnership with Washington in all aspects of our unique federal system. As long as Article 5 is not changed, that partnership includes the right of states to initiate ideas for constitutional reform through the convention process. □

Mississippi state Rep. David Halbrook, a Democrat, is a member of the national board of directors of the American Legislative Exchange Council.

A L A S K A



National Federation of Independent Business

Statement of Support

of

HJR 29

A Resolution in Support of the Federal
Balanced Budget Amendment

February 13, 1995

The National Federation of Independent Business has 4,590 Alaska members. NFIB/Alaska is the state's largest small-business advocacy organization.

The Legislative agenda of NFIB is determined by ballot. The ballot is our poll of members on a series of issues deemed critical to small and independent business.

Small business owners have voted overwhelmingly for a balanced budget in several NFIB issue ballots. In addition, they have voted repeatedly for deficit reduction. Small businesses believe that the balanced budget amendment is necessary to force Congress to make responsible decisions on deficit reduction.

Attached to this statement, you will find a summary of the NFIB testimony on the Balanced Budget Amendment before the Senate Judiciary Committee in Washington DC on January 5, 1995.

Submitted by Thyres Shaub on behalf of NFIB/Alaska.

TESTIMONY SUMMARY
BALANCED BUDGET AMENDMENT
Senate Committee on the Judiciary
January 5, 1995

The National Federation of Independent Business appreciates the opportunity to submit testimony on a balanced budget amendment to the Constitution. If the past election sent one unequivocal message to Washington, it was that the business of the federal government should not be conducted as usual. President Clinton's informal campaign slogan was right on target -- It is the economy.

While the current economic picture is relatively rosy, it is inconceivable that this will always be the case. And when the nation faces high inflation, high interest rates, or other economic problems, high federal deficits only exacerbate them and reduce fiscal flexibility. The federal deficit as of December 1994 was \$255 billion. The federal debt now stands at \$4.66 trillion.

Small business owners view the federal government as a major source of economic uncertainty. They don't just want a quick fix; they want stability. They don't simply want an economy that may be healthy on any given day; they demand long-term sustainable growth that provides reasonable assurance that jobs, business activity and their families' well-being are secure.

Large businesses have faced major (and sometimes repeated) cutbacks in employment. The economy has relied on small business to pick up the job creation slack, and it has managed to sustain employment levels for more than two decades of economic ups and downs. However, as deficits loom ever larger, we should not take for granted the ability of the small business sector to absorb the impact during the ever-changing economic cycles.

Small business owners believe that the federal government should learn to live within its means. Ever-growing deficits imperiled our financial security. As deficits increase, the availability and/or cost of capital increase. Large deficits absorb a significant portion of the available capital. As a result, private enterprises are crowded out of the pool of available capital for financing, and small businesses feel the impact even more since they have fewer financing alternatives.

When small businesses cannot obtain capital to improve facilities, purchase equipment and vehicles, and expand their operations, fewer jobs are created and less revenue is sent to the Treasury. Similarly, when federal borrowing forces interest rates to increase even in low amounts, it is small businesses who first feel the pinch, resulting in less investment to start up, modernize, or expand.

Another negative effect of our current inability to get the deficit under control is the uncertainty it creates in terms of tax fluctuations. The 1974 Budget Act, Gramm-Rudman-Hollings, and various steps since have intended to curb deficits and keep taxes from increasing.

They have all failed.

The heart of the problem is that the current budget system provides incentives for wanton spending. The incentives are to increase taxes and ignore the deficit because the benefits (in terms of political goodwill back home) are large whereas the pain is small, relatively speaking. Small business owners have come to believe that unless the structure is changed, Congress will not make the hard decisions to keep spending in check.

To force Congress to act responsibly, small business owners have voted overwhelmingly for a balanced budget in several NFIB issue ballots. In addition, they have voted repeatedly for deficit reduction.

Small business owners believe that the balanced budget amendment is necessary to force Congress to make responsible decisions on deficit reduction. They are strongly supportive of the requirement that a supermajority (3/5s) vote in each House is necessary to unbalance the budget or increase the debt limit. They also strongly support such a supermajority vote to increase taxes. However, they have indicated to us that in this case, the best solution should not become the enemy of the good solution. Small business owners would support a constitutional majority vote to increase taxes if that is the only way to get enough support to pass the amendment in the Senate. However, if a 3/5's tax limitation provision can be passed, it should be done.

To sum up, small business owners are frustrated and angry that their government officials cannot restrain their spending impulses. Therefore, the balanced budget is necessary to force federal officials to act responsibly.

HJR

29

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FILE

FISCAL NOTE

N 1

Bill Version: CS HJR 29(FIN)

(H) Publish Date: 2/15/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: All Departments
 Title: Relating to the federal balanced budget BRU: _____
amendment Component: _____
 Sponsor: Parnell
 Requester: House Finance Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Annalee McConnell, Director
 Division: Office of Management and Budget
 Approved by Commissioner: Jim Ayers, Chief of Staff
 Agency: Office of the Governor

Phone: 465-4660
 Date: 2/9/95
 Date: 2/9/95

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HJR

49

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 29, 1996

FURTHER REFERRALS:

Date of Committee Action: 4/18/96

The FINANCE Committee considered:

HJR 49

HOUSE JOINT RESOLUTION NO. 49

DEDICATED HIGHWAY FUND

Proposing amendments to the Constitution of the State of Alaska creating a highway fund.

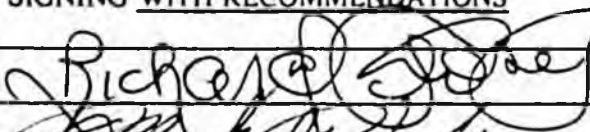
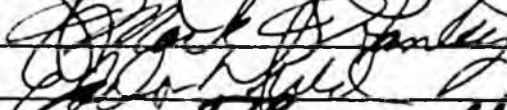
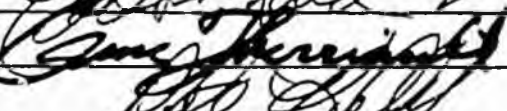
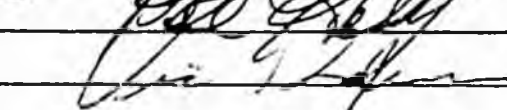
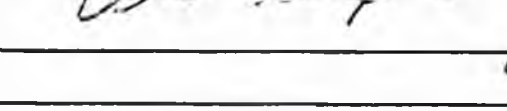

recommends it be replaced with the following committee substitute CS HJR 49 (FN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

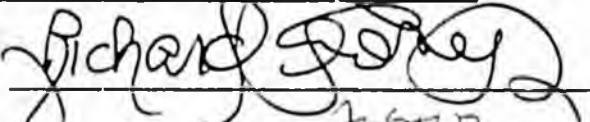
ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) DOTPF fiscal note(s) _____

zero fiscal note(s) Revenue zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	FOSTER	X			
	Hanley	X			
	Mulder	X			
	Therriault			X	
	Kelly	X			
	Kohring	X			

CO CHAIR'S SIGNATURE  HANLEY

 FOSTER

Revision Date: April 22, 1996 Dept. Affected: Revenue
 Title: Dedicated Highway Fund BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Rep. James
 Requestor: (H) FIN COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	\$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/F.ogram Receipts						
1037 GF/Mental Health						
Transportation Fund						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This resolution would require that highway fuel taxes collected after June 30, 1997 be deposited into a dedicated transportation fund. From this fund, the legislature may appropriate funds for highway maintenance and construction. Based on FY 96 projected motor fuel tax revenues, Department of Revenue estimates that approximately \$17.2 million in taxes would be deposited in the dedicated transportation fund. The proposed legislation also dedicates gross revenues collected from operation of the Alaska Marine Highway System. DOR is not involved in revenue collections for marine highways so amounts related to that activity are not included in our fiscal note.

* The Impact on revenues are: General Fund - (loss) (17,200,000)
 Transportation Fund - Gain 17,200,000
0

Prepared by: Paul E. Dick Phone: 465-2320
 Division: Income and Excise Audit Division Date: 4/22/96
 Approved by Commissioner: Wilson L. Condon Date: 4/22/96
 Agency: Department of Revenue

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHJR 49 (FIN)

Revision Date: 4/22/96 Dept. Affected: DOT&PF
 Title: Dedicated Highway and Marine Highway Funds BRU: Stwd Maintenance & Operations (Hwys):
Marine Operations (AMHS)
 Component: Highways & Aviation (Central, Northern & SE)
SE/SW Vessels, AMHS Support Services
 Sponsor: Rep. James
 Requester: House Finance COMPONENT SERIAL NO. 564, 2068, 603
630, 631, 1224

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		102.0	182.0	182.0	182.0	182.0
TRAVEL						
CONTRACTUAL		0.6	0.6	0.6	0.6	0.6
SUPPLIES		0.2	0.2	0.2	0.2	0.2
EQUIPMENT		5.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	187.8	182.8	182.8	182.8	182.8
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		(17,012.2)	(17,017.2)	(17,017.2)	(17,017.2)	(17,017.2)
1076 Marine Hwy Fund		(42,000.0)	(42,000.0)	(42,000.0)	(42,000.0)	(42,000.0)
Marine Highway Fund		42,000.0	42,000.0	42,000.0	42,000.0	42,000.0
Highway Fund		17,200.0	17,200.0	17,200.0	17,200.0	17,200.0
TOTAL	0.0	187.8	182.8	182.8	182.8	182.8

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This fiscal note assumes: 1) The amount of the funding from the proposed Highway Fund is based on the FY96 estimated net highway fuel taxes collected by the Department of Revenue.
 2) The Highway Fund does not include off-highway revenues (est. \$3.2 million in FY96).
 3) Dedicated Highway funds are used to offset current general fund expenditures resulting in a net zero switch from G.F. for the Highway portion because the amount of fuel tax revenue currently collected is significantly less than the department's highway maintenance and operations (M&O) budget.
 4) The amount of funding from the proposed Marine Highway Fund is based on the AMHS revenue projections for FY98. This amount is offset by a reduction in the current Marine Highway Fund 1076 (sub-fund of the General Fund). FY98 may actually have a different mix of funding between Fund Source 1076 and the new dedicated Marine Highway Fund as FY98 revenue collections are deposited into the new fund.
 5) It is assumed that administrative and accounting requirements will increase significantly with the creation of a separate dedicated Marine Highway Fund and the provision that this dedicated funding will be used only on ship and terminal operations and maintenance. It is estimated that it will require three new positions and increase GF expenditures by \$187,800. If the dedicated funding was instead available for any costs of operation of the Marine Highway System, it would greatly reduce the additional accounting requirements. It is assumed the G.F. funding for AMHS would still be appropriated to the existing Alaska Marine Highway Fund 1076.
 6) These estimates do not include any interest which may be earned on these funds.

Prepared by: Robin Smith Phone: 465-3911
 Budget Analyst
 Division: Statewide Administrative Services Date: 4/22/96
 Approved by: [Signature] Date: 4/23/96
 Commissioner
 Agency: Department of Transportation and Public Facilities

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Revision Date: March 19, 1996 Dept. Affected: Revenue
 Title: Dedicated Highway Fund BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Rep. James
 Requestor: (H) FIN COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	\$0.0 *	\$0.0 *	\$0.0 *	\$0.0 *	\$0.0 *	\$0.0 *
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Transportation Fund						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This resolution would require that highway and marine fuel taxes collected after June 30, 1997 be deposited into a dedicated transportation fund. From this fund, the legislature may appropriate funds for highway maintenance and construction, and improvement of harbor facilities. Based on FY 96 projected motor fuel tax revenues, Department of Revenue estimates that approximately \$25 million in taxes would be deposited in the dedicated transportation fund comprised of the following sources: highway taxes \$17.2 million; and marine taxes \$7.7 million.

* The impact on revenues are: General Fund - (loss) (24,900,000)
 Transportation Fund - Gain 24,900,000
0

Prepared by: Poul E. Dick Phone: 465-2320
 Division: Income and Excise Audit Division Date: 3/19/96
 Approved by Commissioner: Wilson L. Condon Date: 3/19/96
 Agency: Department of Revenue

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHJR 49 (TRA)

Revision Date: <u>3/18/96</u>	Dept. Affected: <u>DOT&PF</u>
Title: <u>Dedicated Highway Maintenance Fund</u>	BRU: <u>Swd Maintenance & Operations (Hwys);</u> <u>Capital Budget (harbors)</u>
	Component: <u>Highways & Aviation (Central, Northern & Southeast); N/A capital budget</u>
Sponsor: <u>Rep. James</u>	COMPONENT SERIAL NO. <u>564, 2068, 603</u>
Requester: <u>House Finance</u>	

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	6,700.0	6,700.0	6,700.0	6,700.0	6,700.0
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		(18,200.0)	(18,200.0)	(18,200.0)	(18,200.0)	(13,200.0)
1005 GF/Program Receipts						
Transportation Fund (Harbor)		7,700.0	7,700.0	7,700.0	7,700.0	7,700.0
Transportation Fund (Highway)		17,200.0	17,200.0	17,200.0	17,200.0	17,200.0
TOTAL	0.0	6,700.0	6,700.0	6,700.0	6,700.0	6,700.0

Estimate of any current year (FY96) cost: \$ 0.0

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 fiscal note assumes: 1) The amount of the funding from the proposed Transportation Fund (Highway) is based on the FY96 estimated net highway fuel taxes and the amount shown for the Transportation Fund (Harbor) is based on the FY96 estimated net marine fuel taxes collected by the Department of Revenue.

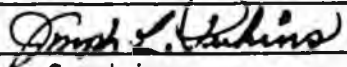
2) The fund does not include off-highway revenues (est. \$3.2 million in FY96).

3) Dedicated funds available are first used to offset current general fund expenditures. For the Highway funds this is a net zero switch from G.F. because the amount of fuel tax revenue currently collected is significantly less than the department's highway maintenance and operations (M&O) budget.

4) The full amount in the Transportation Fund (Harbor) is assumed to be appropriated to DOT&PF in the capital budget to be utilized to construct or improve harbor facilities. This is an increase in capital expenditures of \$6.7 million, assuming a \$1 million switch from the current GF capital harbor program. This \$1 million "current" capital harbor program is an estimate based on a portion of the current Corps of Engineers GF match and small appropriations for harbors in FY96 and in the FY97 Governor's request.

5) It is assumed that administrative and accounting requirements will not increase significantly and so will not require additional positions or funding.

6) These estimates do not include any interest which may be earned on these funds.

Prepared by: <u>Robin Smith</u>	Phone: <u>465-3911</u>
Division: <u>Statewide Administrative Services</u>	Date: <u>3/18/96</u>
Approved by:  Commissioner	Date: <u>3/20/96</u>
Agency: <u>Department of Transportation and Public Facilities</u>	

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9-LS1178R
Chenoweth
3/22/96

CS FOR HOUSE JOINT RESOLUTION NO. 49()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JAMES

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska creating a
2 highway fund and a marine highway fund.

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

4 * Section 1. Article IX, sec. 7, Constitution of the State of Alaska, is repealed and readopted
5 to read:

6 SECTION 7. DEDICATED FUNDS. The proceeds of any State tax or license
7 shall not be dedicated to any special purpose. This provision shall not prohibit the
8 continuance of any dedication for special purposes existing on April 24, 1956, and shall
9 not prohibit the dedication of revenue under Sections 15, 18, or 19 of this article, or
10 when required by the federal government for State participation in federal programs.

11 * Sec. 2. Article IX, Constitution of the State of Alaska, is amended by adding new sections
12 to read:

13 SECTION 18. HIGHWAY FUND. (a) The revenue received after June 30,
14 1997, from State taxes on fuel used for the propulsion of motor vehicles designed for and
15 ordinarily used on highways or roads, less refunds, credits, and the costs of collection
16 of that tax as provided by law, shall be placed in a highway fund. Except as provided

1 in (d) of this section, the legislature may appropriate money from the fund only for the
2 maintenance costs of roads and highways used for vehicular travel that are maintained
3 by the State or a local government.

4 (b) This section does not apply to revenue received from taxes that the State
5 collects on behalf of a local government.

6 (c) The legislature shall provide by law for the management and investment of
7 the highway fund balance. The income earned from the management and investment of
8 the fund shall be deposited into the fund.

9 (d) An appropriation from the highway fund for a public purpose other than one
10 described in (a) of this section may be made upon an affirmative vote of four-fifths of
11 the members of each house of the legislature.

12 SECTION 19. MARINE HIGHWAY FUND. (a) The gross revenue received
13 by the State after June 30, 1997, from the operation of the vessels of a marine highway
14 system and the use of marine highway system facilities, less refunds and credits as
15 provided by law, shall be placed in a marine highway fund. Except as provided in (c)
16 of this section, the legislature may appropriate money from the fund only for the
17 expenses incurred by the State for operating and maintaining the vessels and facilities
18 of the marine highway system.

19 (b) The legislature shall provide by law for the management and investment of
20 the marine highway fund balance. The income earned from the management and
21 investment of the fund shall be deposited into the fund.

22 (c) An appropriation from the marine highway fund for a public purpose other
23 than one described in (a) of this section may be made upon an affirmative vote of four-
24 fifths of the members of each house of the legislature.

25 • **Sec. 3.** The amendments proposed by this resolution shall be placed before the voters of
26 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State
27 of Alaska, and the election laws of the state.

9-L51178\O
Chenoweth
3/20/96

adopted

CS FOR HOUSE JOINT RESOLUTION NO. 49()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JAMES

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska creating a
2 highway fund.

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

4 * Section 1. Article IX, sec. 7, Constitution of the State of Alaska, is repealed and readopted
5 to read:

6 SECTION 7. DEDICATED FUNDS. The proceeds of any State tax or license
7 shall not be dedicated to any special purpose. This provision shall not prohibit the
8 continuance of any dedication for special purposes existing on April 24, 1956, and shall
9 not prohibit the dedication of revenue under Section 15 or Section 18 of this article, or
10 when required by the federal government for State participation in federal programs.

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

13 SECTION 18. HIGHWAY FUND. (a) The revenue received after June 30,
14 1997, from State taxes on fuel used for the propulsion of motor vehicles designed for and
15 ordinarily used on highways or roads, less refunds, credits, and the costs of collection
16 of that tax as provided by law, shall be placed in a highway fund. Except as provided

1 in (d) of this section, the legislature may appropriate money from the fund only for the
2 maintenance costs of roads and highways ^{EXCEPT THE} and of marine highways by the State or a local
3 government.

4 (b) This section does not apply to revenue received from taxes that the State
5 collects on behalf of a local government.

6 (c) The legislature shall provide by law for the management and investment of
7 the highway fund balance. The income earned from the management and investment of
8 the fund shall be deposited into the fund.

9 (d) An appropriation from the highway fund for a public purpose other than one
10 described in (a) of this section may be made upon an affirmative vote of four-fifths of
11 the members of each house of the legislature.

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

CITY OF UNALASKA

P.O. BOX 610
UNALASKA, ALASKA 99685-0610
(907) 581-1251 FAX (907) 581-1417



March 21, 1996

The Honorable Mark Hanley, Co-Chair
The Honorable Richard Foster, Co-Chair
House Finance Committee
Alaska State Legislature
Juneau, Alaska 99801-1182

RE: **HJR 49**

Dear Representative Hanley and Representative Foster:

The City of Unalaska supports the goals of CSHJR 49(TRA), amending the Constitution of the State of Alaska creating a transportation fund. Specifically, we support the establishment of a special fund for the revenue derived from marine fuel taxes to be used for paying the costs of constructing and maintaining harbor facilities.

As you may be aware, Alaska is unique among all states in its dependence upon marine transportation systems and facilities. Communities throughout Alaska are inextricably dependent on port and port-related infrastructure. Over 90 percent of Alaska's population lives within ten miles of the coast or along a major river. The 140 ports and harbors in Alaska represent community-based service hubs that support a variety of resource-related industries, commerce, transportation activities, and recreational opportunities. Because of the importance of port-related facilities to Alaska's communities it is important that any such constitutional dedication of motor fuel tax include a special fund for the revenue derived from marine fuel.

We have a concern with the bill as written regarding the use of marine fuel tax revenues. The wording of Section 2(a)(2) appears to restrict the use of funds to "construction and improvement" of harbor facilities. We suggest that the word "maintenance" be added, similar to the provision concerning roads and highways. In addition to construction and improvements, maintenance of harbor facilities should be an authorized use of marine fuel tax funds.

The Honorable Brian Porter
The Honorable Joseph Green
March 21, 1996
Page 2

With declining State revenues, the proposed special fund for revenue derived from marine fuel taxes represents the only real hope for supporting the maintenance, repair, and development of port and harbor facilities in Alaska. Certainly without this mechanism, marine-dependent communities in Alaska will remain hard pressed, or unable, to address the capital and maintenance needs of their harbor facilities.

A marine fuel tax special fund would establish a predictable and stable annual funding program for developing and expanding port and harbor facilities. It would allow for revenues generated by port and harbor user activities to be used for port and harbor development purposes. Appropriations from this fund, along with local matching funds, would provide local governments with a reliable mechanism for securing federal participation in and encouraging private financing of port and harbor development projects. The marine fuel tax special fund would also provide an incentive to local governments in Alaska for acquiring title to state-owned port and harbor facilities. Additionally, the establishment of a special fund for the revenue derived from marine fuel taxes to be used for paying the costs of constructing and maintaining harbor facilities would result in broader appeal for the proposed constitutional amendment in an election.

Again, the City of Unalaska supports the establishment of a special fund for the revenue derived from marine fuel taxes to be used for paying the costs of constructing and maintaining harbor facilities. Thank you for your consideration of our position regarding this important legislation.

Very truly yours,

CITY OF UNALASKA



Mark Earnest
City Manager

The Honorable Brian Porter
The Honorable Joseph Green
March 21, 1996
Page 3

cc: Representative Eldon Mulder
Representative Sean Parnell
Representative Pete Kelly
Representative Gene Therriault
Representative Terry Martin
Representative Vic Kohring
Representative Kay Brown
Representative Ben Grussendorf
Representative Mike Navarre

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES
P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-4271



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House Of Representatives

House District 34

SPONSOR STATEMENT

3/12/96

HJR49 DEDICATED HIGHWAY FUND

HJR49 proposes amendments to the Alaska State Constitution creating a dedicated transportation fund. The amendments would be placed before the voters of Alaska at the next general election.

This bill does not address an amount of motor fuel tax increase, it merely provides a mechanism for allocating the proceeds from collection of fuel taxes.

Not only has this resolution received wide support relative to the current level of fuel taxes, but Alaska's citizens will be much more likely to accept a necessary increase in their motor fuel taxes if they know the money will be utilized to address the desperate need for improved maintenance of Alaska's roads and highways.

HEC

Revision Date: _____ Dept. Affected Revenue _____
 Title: Dedicated Highway Fund BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Rep. James
 Requestor: (H) FIN COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	\$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						
1037 GF/Mental Health						
Transportation Fund						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This resolution would require that highway and marine fuel taxes collected after June 30, 1997 be deposited into a dedicated transportation fund. From this fund, the legislature may appropriate funds for highway maintenance and construction and improvement of harbor facilities. Based on FY 96 projected motor fuel tax revenues, Department of Revenue estimates that approximately \$28 million in taxes would be deposited in the dedicated transportation fund comprised of the following sources: highway taxes \$20.4 million; and marine taxes \$7.6 million.

* The impact on revenues are: General Fund (28,000,000)
 Transportation Fund 28,000,000
 0

Prepared by: Paul E. Dick Phone: 465-2320
 Division: Income and Excise Audit/Division Date: 3/13/96
 Approved by Commissioner: Wilson L. Condon Date: 3/13/96
 Agency: Department of Revenue

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HFC

Revision Date: _____ Dept. Affected: Revenue
 Title: Dedicated Highway Fund BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Rep. James
 Requestor: (H) FIN COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		(28,000.0)	(28,000.0)	(28,000.0)	(28,000.0)	(28,000.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Transportation Fund		28,000.0	28,000.0	28,000.0	28,000.0	28,000.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This resolution would require that highway and marine fuel taxes collected after June 30, 1997 be deposited into a dedicated transportation fund. From this fund, the legislature may appropriate funds for highway maintenance and construction and improvement of harbor facilities. Based on FY 96 projected motor fuel tax revenues, Department of Revenue estimates that approximately \$28 million in taxes would be deposited in the dedicated transportation fund comprised of the following source: highway taxes \$20.4 million; and marine taxes \$7.6 million.

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 Division: Income and Excise Audit Division Date: 3/11/96
 Approved by Commissioner: Wilson L. Condon Date: 3/11/96
 Agency: Department of Revenue

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