

**ALASKA LEGISLATURE**

**2461**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004**



7595  
GMB  
LO  
HB  
DD  
cc KR

March 28, 2004

Honorable Governor Frank Murkowski  
State of Alaska  
PO Box 110001  
Juneau, AK 99811-0001

RECEIVED

APR - 5 2004

GOVERNOR'S OFFICE

Dear Governor Murkowski:

In February 2004, the ATIA board of directors met in Juneau to discuss long-term funding and our proposed legislation. We also met with our state legislators at our annual industry fly-in to obtain support for the assessment from our elected leaders.

During the board meeting significant discussion took place to identify a context for supporting the assessment that addresses other significant concerns for your administration and all Alaskans. To that end, the ATIA board approved a motion to support:

- (1) The Administration and Legislature's efforts to identify and implement a long-term fiscal plan for the state with continued focus on budget discipline; and
- (2) The appropriation of a portion of the earnings from the Permanent Fund to help support state services. Furthermore, we strongly support the creation of a "percent of market value" structure for the Permanent Fund. Using some of the Permanent Fund earnings for state government should not preclude the Alaska Permanent Fund Dividend program from continuing and growing.

ATIA, as the official statewide tourism-marketing arm for Alaska, carries a continuing obligation to its membership to promote their businesses and the industry. The assessment is the most likely means to fulfilling that mandate by making our state's tourism marketing efforts competitive with other major destinations.

The revenue generated from the assessment is significant for marketing purposes but falls short of closing the fiscal gap. It is our belief that implementing the POMV structure to the Permanent Fund, combined with sound budget discipline, will provide both you and the legislature with a meaningful way to address our state's current budget situation.

Sincerely,

Ron Peck  
President & COO

RP:jf

2600 Cordova Street, Suite 201  
Anchorage, AK 99503-2745  
Tel: 907-929-ATIA (2842)  
Fax: 907-561-5727  
ATIA@alaskaia.org  
www.alaskaia.org

# Alaska State Hospital & Nursing Home Association

*We're helping people care for people!*

cc: Kris

7765  
OMBS  
LO

April 15, 2004

Honorable Frank Murkowski  
Governor, State of Alaska  
Office of the Governor  
P.O. Box 110001  
Juneau, Alaska 99811

RECEIVED

APR 16 2004

GOVERNOR'S OFFICE,

Dear Governor Murkowski:

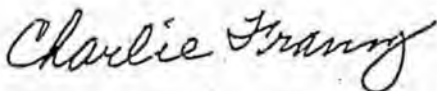
The Alaska State Hospital and Nursing Home Association membership wishes to go on record supporting your call for the Alaska Legislature to find a workable solution to the fiscal imbalance confronting the State. We stand ready to assist you and the Legislature in crafting a revenue solution that will serve Alaska well in the years ahead, and that will insure a quality of life that all Alaskans can agree is important to preserve for future generations.

Alaskans have shown a strong commitment to provide safety net programs that help low income families. Alaskans have also shown a long standing commitment to providing world class education to our children so they may compete more effectively in a global economy, and to provide a workforce that will attract employers to our State. Alaskans have supported state policies that ensure rural Alaskans have access to quality health care in hospitals and nursing homes close to home and family.

All of these programs directly impact quality of life, overall economic viability, and employment opportunities in our communities. We believe as an Association that the State cannot continue to ignore the revenue realities facing it. The recent Conference of Alaskans identified various solutions for addressing this problem. Conference participants and other Alaskans have advanced many good ideas for balancing the budget including use of permanent fund earnings, tobacco tax increases, and a host of other measures. We believe that some combination of these can be agreed upon by all to close the revenue gap that the State is now facing.

Unless bold and timely action is taken by the Legislature to work with your office to address this issue, we can only expect to see more erosion of critical state services and programs in the years ahead. The need for strong leadership is more critical than ever to chart the economic future of Alaska and we look forward to helping you and the Alaska Legislature accomplish that.

Sincerely,



Charlie Franz, Chairman  
Board of Directors *1/2/06*

426 Main Street, Juneau, Alaska 99801

Phone: 907 586 1700 • Fax: 907 463 3573 • Web: ashnhq.com



# CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 531, 99929 (907) 874-2381  
FAX: (907) 874-3952

June 18, 2004

Fax Received  
JUN 18 2004  
Office of the Governor

The Honorable Frank Murkowski  
Office of the Governor  
PO Box 11001  
Fax 907-465-3532  
Juneau, AK 99811-0001

Dear Governor Murkowski:

I am writing in support of the POMV and a Community Dividend.

I endorse the proposed 50:45:05 split, or hopefully a somewhat higher percentage being designated to municipal support.

It is my sincere hope that the upcoming Legislative Special Session will be very positive, and that our legislators approach the issues with the best interests of the state in their hearts and minds.

I want to personally thank you for your exemplary leadership in attempting to solve our state's financial crises.

Sincerely,

Robert S. Prunella  
City Manager

SPENDING  
LIMIT

FRANK H. MURKOWSKI  
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

June 21, 2004

The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a resolution relating to an appropriation or "spending" limit. This resolution gives voters the chance to directly voice their opinion on a spending limit at the ballot box. A spending limit is an integral part of the transition to a long-range fiscal plan for Alaska.

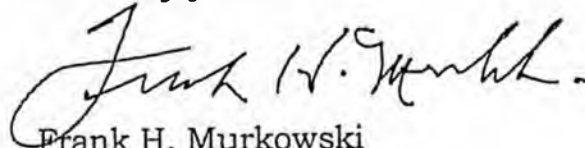
I have used as a model for this resolution the final Senate version of House Joint Resolution 9 (HJR 9), which was rejected by the Senate during the last regular session of the Legislature (SCS CS HJR 9(FIN)(fld S)). This joint resolution differs from SCS CS HJR 9(FIN)(fld S) in that it contains some technical changes that were recommended by the Department of Law. In the list of appropriations excluded from the appropriation limit, references to "state lease debt" have been changed to "capital leases" to more accurately reflect the description of these obligations in governmental accounting. Other technical language changes were made to more clearly provide that the "excluded" appropriations are to be excluded from the appropriation limit itself as well as from calculation of the appropriation limit.

The resolution presents the public with the opportunity to approve a spending limit with "teeth" in it. If approved by the Legislature and passed by the voters, it will control government spending. A leaner and more efficient state government will be produced. Passage of the resolution sends the signal the Legislature has heard the public's message and will allow Alaskans to vote on the issue.

The Honorable Gene Therriault  
June 21, 2004  
Page 2

I urge your prompt and favorable action on this resolution.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is written in a cursive style with a long horizontal stroke at the end.

Frank H. Murkowski  
Governor

Enclosure

FRANK H. MURKOWSKI  
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

June 21, 2004

The Honorable Pete Kott  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a resolution relating to an appropriation or "spending" limit. This resolution gives voters the chance to directly voice their opinion on a spending limit at the ballot box. A spending limit is an integral part of the transition to a long-range fiscal plan for Alaska.

The model for this resolution is the version of Committee Substitute House Joint Resolution 9 (CS HJR 9) as it passed the House in the regular session (CS HJR 9(FIN) am). There are some technical changes, which were recommended by the Department of Law. Specifically, in the list of appropriations excluded from the appropriation limit, references to "state lease debt" have been changed to "capital leases" to more accurately reflect the description of these obligations in governmental accounting. Other technical changes were made to more clearly provide that the "excluded" appropriations are to be excluded from the appropriation limit itself as well as from calculation of the appropriation limit.

The resolution presents the public with the opportunity to approve a spending limit with enough "teeth" in it to be effective. If approved by the Legislature and passed by the voters, it will prevent government spending from growing too large, too fast. Alaskans want spending controlled to produce a leaner, more efficient, effective state government. Passage of the resolution sends the signal the Legislature has heard the message and will allow Alaskans to vote on the issue.

I urge your prompt and favorable action on this resolution.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski".

Frank H. Murkowski  
Governor

Enclosure

BILL

HOUSE JOINT RESOLUTION NO. 103

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:

Referred:

A RESOLUTION

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

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

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

6 Section 16. Appropriation Limit. (a) Appropriations made for a current  
7 fiscal year shall not exceed the average amount appropriated for the earliest three of  
8 the four fiscal years immediately preceding that current fiscal year, increased or  
9 decreased by the lesser of

10 (1) seventy-five percent of the sum of the following:

11 (A) the percentage rate of change in the cost of living for the  
12 three calendar years preceding the calendar year during which the immediately  
13 preceding fiscal year began; plus

14 (B) the percentage rate of change in the State population for the  
15 three calendar years preceding the calendar year during which the immediately

1 preceding fiscal year began; or

2 (2) the percentage rate of change in the personal incomes of State  
3 residents for the three calendar years preceding the calendar year during which the  
4 immediately preceding fiscal year began.

5 (b) The legislature shall implement (a) of this section by law.

6 (c) An appropriation that exceeds the limit under (a) of this section by not  
7 more than two percent may be made for any public purpose upon affirmative vote of at  
8 least two-thirds of the members of each house of the legislature. An appropriation that  
9 exceeds the limit under (a) of this section by not more than four percent may be made  
10 for any public purpose upon affirmative vote of at least three-fourths of the members  
11 of each house. However, the total amount of appropriations under this subsection  
12 made for a fiscal year may not exceed the limit under (a) of this section by more than  
13 four percent. A bill making one or more appropriations under this subsection must be  
14 confined to appropriations made under this subsection.

15 (d) The following are excluded from the appropriation limits in (a) and (c) of  
16 this section and from the calculations made under (a) of this section:

17 (1) an appropriation to the Alaska permanent fund established in  
18 Section 15 of this article;

19 (2) an appropriation for payments of permanent fund dividends to State  
20 residents;

21 (3) an appropriation to meet a state of natural disaster declared by the  
22 governor as prescribed by law;

23 (4) an appropriation to a separate fund or account in the general fund  
24 from which expenditures may not be made without an additional appropriation from  
25 that separate fund or account;

26 (5) an appropriation of State general obligation and revenue bond  
27 proceeds or an appropriation of capital lease financing proceeds;

28 (6) an appropriation required to pay obligations under revenue or  
29 general obligation bonds issued by the State or payments owed by the State under a  
30 capital lease;

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

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

3 (9) an appropriation of money for expenditure by a State agency to  
4 provide services to part of that same agency or to another State agency if the other part  
5 or the other agency has also received an appropriation of the same money;

6 (10) an appropriation of money held in trust by the State for a  
7 particular purpose;

8 (11) an appropriation of money from tuition of the University of  
9 Alaska;

10 (12) an appropriation of money received by the state from a source  
11 other than the state or federal government that is restricted to a specific use by the  
12 terms of a gift, grant, bequest, or contract;

13 (13) an appropriation of money deposited into the budget reserve fund  
14 under Section 17(d) of this article back to the funds and accounts from which the  
15 money came;

16 (14) an appropriation of dedicated funds.

17 (e) An appropriation made under (c) of this section is excluded from the  
18 calculations made under (a) of this section.

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

21 Section 30. Application, Transition, and Repeal of Appropriation Limit.

22 (a) The 2004 amendment relating to an appropriation limit (art. IX, sec. 16) first  
23 applies to appropriations made for fiscal year 2006; however, for purposes of making  
24 calculations under the appropriation limit for fiscal years 2006 through 2008, it shall  
25 be assumed that, excluding appropriations listed under Section 16(d) of Article IX, the  
26 amount appropriated for

27 (1) fiscal year 2004 equals \$3,300,000,000; and

28 (2) fiscal year 2005 equals \$3,400,000,000.

29 (b) Section 16 of Article IX (appropriation limit) is repealed July 1, 2009.

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

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

SENATE JOINT RESOLUTION NO.  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:  
Referred:

A RESOLUTION

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

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

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

6 Section 16. Appropriation Limit. (a) Subject to (b) of this section,  
7 appropriations made for a current fiscal year shall not exceed the average amount  
8 appropriated for the earliest three of the four fiscal years immediately preceding that  
9 current fiscal year, increased or decreased by the lesser of

10 (1) seventy-five percent of the sum of the following:

11 (A) the percentage rate of change in the cost of living for the  
12 three calendar years preceding the calendar year during which the immediately  
13 preceding fiscal year began; plus

14 (B) the percentage rate of change in the State population for the  
15 three calendar years preceding the calendar year during which the immediately

1 preceding fiscal year began; or

2 (2) the percentage rate of change in the personal incomes of State  
3 residents for the three calendar years preceding the calendar year during which the  
4 immediately preceding fiscal year began.

5 (b) The legislature shall implement (a) of this section by law. If the  
6 appropriation limit calculated under (a) of this section, as implemented by law, for a  
7 current fiscal year is less than the appropriation limit amount calculated for the  
8 immediately preceding fiscal year, the appropriation limit amount for the immediately  
9 preceding fiscal year shall apply to the current fiscal year.

10 (c) An appropriation that exceeds the limit under this section by not more than  
11 two percent may be made for any public purpose upon affirmative vote of at least two-  
12 thirds of the members of each house of the legislature. An appropriation that exceeds  
13 the limit under this section by not more than four percent may be made for any public  
14 purpose upon affirmative vote of at least three-fourths of the members of each house.  
15 However, the total amount of appropriations under this subsection made for a fiscal  
16 year may not exceed the limit under this section by more than four percent. A bill  
17 making one or more appropriations under this subsection must be confined to  
18 appropriations made under this subsection.

19 (d) The following are excluded from the appropriation limits in (a) and (c) of  
20 this section and from the calculations made under (a) of this section:

21 (1) an appropriation to the Alaska permanent fund established in  
22 Section 15 of this article;

23 (2) an appropriation for payments of permanent fund dividends to State  
24 residents;

25 (3) an appropriation to meet a state of natural disaster declared by the  
26 governor as prescribed by law;

27 (4) an appropriation to a separate fund or account in the general fund  
28 from which expenditures may not be made without an additional appropriation from  
29 that separate fund or account;

30 (5) an appropriation of State general obligation or revenue bond  
31 proceeds or an appropriation of capital lease financing proceeds;

2 (6) an appropriation required to pay obligations under revenue or  
3 general obligation bonds issued by the State or payments owed by the State under a  
4 capital lease;

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

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

8 (9) an appropriation of money for expenditure by a State agency to  
9 provide services to part of that same agency or to another State agency if the other part  
10 or the other agency has also received an appropriation of the same money;

11 (10) an appropriation of money held in trust by the State for a  
12 particular purpose;

13 (11) an appropriation of money received as tuition, fees, contract  
14 receipts, or from other sources apart from the general fund by the University of  
15 Alaska;

16 (12) an appropriation of money received by the state from a source  
17 other than the state or federal government that is restricted to a specific use by the  
18 terms of a gift, grant, bequest, or contract;

19 (13) an appropriation of money deposited into the budget reserve fund  
20 under Section 17(d) of this article back to the funds and accounts from which the  
21 money came;

22 (14) an appropriation of dedicated funds.

23 (e) An appropriation made under (c) of this section is excluded from the  
24 calculations made under (a) of this section.

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

27 **Section 30. Application, Transition, and Repeal of Appropriation Limit.**

28 (a) The 2004 amendment relating to an appropriation limit (art. IX, sec. 16) first  
29 applies to appropriations made for fiscal year 2006; however, for purposes of making  
30 calculations under the appropriation limit for fiscal years 2006 through 2008, it shall  
31 be assumed that, excluding appropriations listed under Section 16(d) of Article IX, the  
amount appropriated for

1  
2  
3  
4  
5  
6

(1) fiscal year 2004 equals \$3,150,000,000; and

(2) fiscal year 2005 equals \$3,250,000,000.

(b) Section 16 of Article IX (appropriation limit) is repealed July 1, 2009.

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

# FISCAL NOTE

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: Law Log No. 0167  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: OOG  
Title Constitutional amendment relating RDU Elections  
to spending limits. \_\_\_\_\_ Component Elections  
Sponsor Rules  
Requester Governor Component No. 21

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

Prepared by: Lauri Allred Phone 465-5347  
Division Division of Elections Date/Time 6/7/04 2:46 PM  
Approved by: Laura A. Glaiser, Director Date 6/7/2004  
Agency Office of the Lt. Governor, Division of Elections

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: Law Log 0186  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Constitutional amendment relating to an RDU Elections  
appropriation limit. Component Elections  
Sponsor Rules  
Requester Governor Component No. 21

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

Prepared by: Lauri Allred Phone 465-5347  
Division: Division of Elections Date/Time 6/18/04 8:57 AM  
Approved by: Laura A. Glaiser, Director Date 6/18/2004  
Agency: Office of the Lt. Governor, Division of Elections

SECTIONAL

**Spending Limit – Proposal to the House  
Based on CSHJR 9 (FIN) am**

**Sectional Analysis**

**Section 1. Article IX, Appropriation Limit**

Repeals and replaces the existing Appropriation Limit in Article IX, Section 16 of the Alaska Constitution with the following:

(a) Establishes a moving three-year average as the base for the application of the limit. The intent is to smooth out year-to-year variations to provide a more predictable limit for long-range planning.

The base is tied to actual appropriations, which are generally available two years prior to the fiscal year being considered. Thus the moving average is based on the earliest three of the previous four fiscal years. Each year's limit is computed separately from the previous year limit.

(1) The rate of allowable annual change in the limit is determined by adding the two variables (inflation plus population growth) multiplied by 0.75.

(A) Establishes the average of the Anchorage Consumer Price Index (CPI) as one of the variables for determining the annual change in the spending. Like the base, the CPI used is a three-year average derived from the calendar years corresponding to the fiscal years upon which the base is determined.

(B) Sets the second variable in calculating the change in the spending limit as the average rate of annual population change for the same calendar years as the CPI variable.

(2) Further restricts the rate of allowable change in the limit to be not more than annual growth in personal incomes of state residents.

(b) Provides that the Legislature will implement by law the limit's calculation stipulated in (a).

(c) Allows the limit to be exceeded by:

- Up to two percent through an affirmative vote of two thirds of the members of each house of the legislature; and
- Up to four percent with a three-fourths vote.

- (d) Allows certain appropriations to remain exempt from the base limit calculation:
- (1) appropriations to the Permanent Fund
  - (2) appropriations of Permanent Fund dividends
  - (3) appropriations for a natural disaster declared by the Governor
  - (4) duplicated expenditures
  - (5) GO and revenue bond proceeds and capital lease financing proceeds
  - (6) GO and revenue bond debt service and capital lease finance obligations
  - (7) federal funds
  - (8) reappropriations
  - (9) reimbursable services agreements and interagency transfers
  - (10) monies held in trust
  - (11) University of Alaska tuition receipts
  - (12) gifts, grants, bequests or contracts
  - (13) deposits to the CBR and reverse sweep of GF accounts
  - (14) dedicated funds
- (e) Excludes from the limit's calculation the amount by which the limit was overridden by a supermajority of the legislature as provided in Section 1, Subsection 2 (c) above.

**Section 2. Amends Article XV. Schedule of Transitional Measures.**

- (a) Specifies that the constitutional limit first applies to FY 2006 appropriations and establishes artificial base year limits of \$3.3 billion in FY 04 and \$3.4 billion in FY 05 to feed into the 3 year average for purposes of calculating the FY 06 appropriation limit.
- (b) Sets a July 1, 2009 sunset date for the amendment.

**Section 3.**

Provides for the amendment to go before voters in the 2004 general election.

**Spending Limit – Proposal to the Senate  
Based on SCS CSHJR 9 (FIN) (fld S)**

**Sectional Analysis**

**Section 1. Article IX, Appropriation Limit**

Repeals and replaces the existing Appropriation Limit in Article IX, Section 16 of the Alaska Constitution with the following:

- (a) Establishes a moving three-year average as the base for the application of the limit. The intent is to smooth out year-to-year variations to provide a more predictable limit for long-range planning.

The base is tied to actual appropriations, which are generally available two years prior to the fiscal year being considered. Thus the moving average is based on the earliest three of the previous four fiscal years. Each year's limit is computed separately from the previous year limit.

- (1) The rate of allowable annual change in the limit is determined by adding the two variables (inflation plus population growth) multiplied by 0.75.

(A) Establishes the average of the Anchorage Consumer Price Index (CPI) as one of the variables for determining the annual change in the spending. Like the base, the CPI used is a three-year average derived from the calendar years corresponding to the fiscal years upon which the base is determined.

(B) Sets the second variable in calculating the change in the spending limit as the average rate of annual population change for the same calendar years as the CPI variable.

- (2) Further restricts the rate of allowable change in the limit to be not more than annual growth in personal incomes of state residents.

- (b) Provides that the Legislature will implement by law the limit's calculation stipulated in (a).

*Provides a "no ratchet-down" clause that stipulates if the calculated appropriation limit is less than the previous years' appropriation level, the default limit will be the previous year's appropriation level.*

- (c) Allows the limit to be exceeded by:
  - Up to two percent through an affirmative vote of two thirds of the members of each house of the legislature; and
  - Up to four percent with a three-fourths vote.
  
- (d) Allows certain appropriations to remain exempt from the base limit calculation:
  - (1) appropriations to the Permanent Fund
  - (2) appropriations of Permanent Fund dividends
  - (3) appropriations for a natural disaster declared by the Governor
  - (4) duplicated expenditures
  - (5) GO and revenue bond proceeds and capital lease financing proceeds
  - (6) GO and revenue bond debt service and *capital lease finance* obligations
  - (7) federal funds
  - (8) reappropriations
  - (9) reimbursable services agreements and interagency transfers
  - (10) monies held in trust
  - (11) University of Alaska tuition receipts, *fees, contract receipts, or other non-General Fund sources*
  - (12) gifts, grants, bequests or contracts
  - (13) deposits to the CBR and reverse sweep of GF accounts
  - (14) dedicated funds
  
- (e) Excludes from the limit's calculation the amount by which the limit was overridden by a supermajority of the legislature as provided in Section 1, Subsection 2 (c) above.

**Section 2. Amends Article XV. Schedule of Transitional Measures.**

- (a) Specifies that the constitutional limit first applies to FY 2006 appropriations and establishes artificial base year limits of \$3.15 billion in FY 04 and \$3.25 billion in FY 05 to feed into the 3 year average for purposes of calculating the FY 06 appropriation limit.
  
- (b) Sets a July 1, 2009 sunset date for the amendment.

**Section 3.**

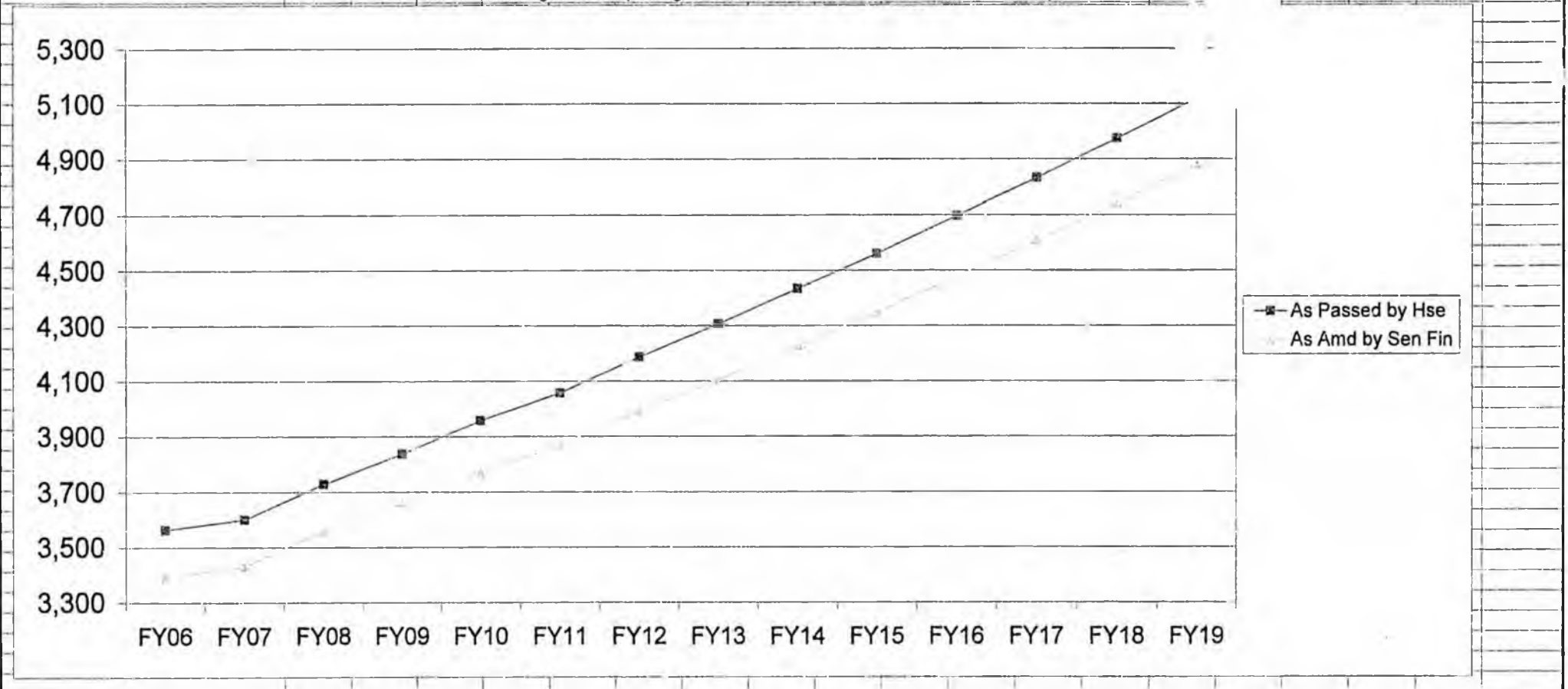
Provides for the amendment to go before voters in the 2004 general election.

BACK UP

Variables:		Spending Limit Comparison (As passed by House and amended by Sen Fin)																	
Inflation	3.0%																		
Population	1.0%																		
	4.0%																		
	9.0%																		
<b>CS HJR 9 (FIN) am</b> (as passed by House)	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	
	3,297	3,213	3,300	3,400	3,564	3,602	3,729	3,839	3,959	4,058	4,188	4,308	4,435	4,561	4,698	4,834	4,976	5,121	
annual growth				3,038	164	37	128	110	120	100	130	120	127	127	137	136	142	145	
annual % change				362		1.05%	3.54%	2.94%	3.12%	2.52%	3.20%	2.85%	2.94%	2.86%	3.00%	2.89%	2.93%	2.91%	
<b>SCS CS HJR 9 (FIN)</b> (as amended by Sen Fin)	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	
	3,143	3,046	3,150	3,250	3,393	3,432	3,558	3,661	3,773	3,870	3,994	4,107	4,228	4,349	4,479	4,608	4,744	4,882	
annual growth				2,861	143	39	126	102	112	97	124	113	121	121	130	129	135	138	
annual % change				389		1.14%	3.68%	2.88%	3.06%	2.58%	3.20%	2.83%	2.95%	2.87%	2.99%	2.88%	2.94%	2.92%	

← (Sunsets)

FY05 Conference Committee numbers after exemptions. The difference (\$362 or \$389) is to allow for all circumstances that may arise in the FY05 final budget and for expected growth such as PERS/TRS & medicaid in the next several years.



POMV

FRANK H. MURKOWSKI  
GOVERNOR

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June 21, 2004

The Honorable Pete Kott  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a joint resolution proposing amendments to the Alaska Constitution relating to and limiting appropriations from the Alaska Permanent Fund based on an averaged Percent of Market Value (POMV) approach. The question presented to legislators by the joint resolution is whether to allow Alaskans to decide if management of the Alaska Permanent Fund should be modernized to a POMV approach. The POMV approach limits annual spending to five percent of the Alaska Permanent Fund's market value.

If adopted by the voters, the constitutional amendments in this joint resolution would change the way in which amounts available for appropriation from the Alaska Permanent Fund are determined. The joint resolution contains the same provisions as CS House Joint Resolution 26(FIN), which passed the House of Representatives during the second session of this Legislature. Under the provisions of this joint resolution, the Legislature could appropriate an amount that would not exceed five percent of the averaged market values of the Alaska Permanent Fund for the first five of the six fiscal years immediately preceding the fiscal year in which the money is appropriated. The provisions do not allocate the amount available for appropriation for a specific purpose.

I remain convinced that Alaskans expect us to resolve the state's long-term fiscal problem this year. This resolution is an important part of what must be a bi-partisan solution to the state's fiscal gap.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in black ink that reads "Frank H. Murkowski".

Frank H. Murkowski  
Governor

BILL

HOUSE JOINT RESOLUTION NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:  
Referred:

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to and limiting  
2 appropriations from the Alaska permanent fund based on an averaged percent of the  
3 fund market value.

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

5 \* Section 1. Article IX, sec. 15, Constitution of the State of Alaska, is amended to read:

6 Section 15. Alaska Permanent Fund. (a) At least twenty-five per cent of all  
7 mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing  
8 payments and bonuses received by the State shall be placed in a permanent fund.  
9 Except as appropriated under (b) of this section, money in the permanent fund [  
10 THE PRINCIPAL OF WHICH] shall be used only for those income-producing  
11 investments specifically designated by law as eligible for permanent fund investments.  
12 [ALL INCOME FROM THE PERMANENT FUND SHALL BE DEPOSITED IN  
13 THE GENERAL FUND UNLESS OTHERWISE PROVIDED BY LAW.]

14 \* Sec. 2. Article IX, sec. 15, Constitution of the State of Alaska, is amended by adding a  
15 new subsection to read:

1 (b) Appropriations from the permanent fund for a fiscal year may not exceed  
2 five percent of the average of the market values of the fund on June 30 for the first  
3 five of the six fiscal years immediately preceding that fiscal year.

4 \* Sec. 3. Article XV, Constitution of the State of Alaska, is amended by adding a new  
5 section to read:

6 Section 30. Transition. (a) On the effective date of the 2004 amendment  
7 relating to the Alaska permanent fund (art. IX, sec. 15), the unencumbered,  
8 unappropriated balance of the earnings reserve account established under  
9 AS 37.13.145(a) is added to the balance in the Alaska permanent fund.

10 (b) The 2004 amendment relating to the Alaska permanent fund first applies to  
11 appropriations for fiscal year 2006. Appropriations from the permanent fund for fiscal  
12 year 2005 are subject to Section 15 of Article IX as that section read on June 30, 2004.

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

FISCAL  
NOTE

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: LL# 0168  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Constitutional Amendment RDU AK Permanent Fund Corporation  
Permanent Fund Income Component AK Permanent Fund Corporation  
 Sponsor Rules  
 Requester Governor Murkowski Component No. 109

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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						
Other (Specify Type—Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This resolution would ask voters in the next general election whether to approve a constitutional amendment that would limit annual appropriations to no more than 5% of the average year-end market value of the Fund for the preceding five years.  
  
 This resolution would not affect the budgeted costs to manage and invest the Permanent Fund, nor would it change the amount of income earned by Permanent Fund investments.  
  
 See the attached schedule for financial projections of the Fund comparing the "Status Quo" to a 5% POMV spending limit.

Prepared by: Robert D. Storer, Executive Director Phone 465-2047  
 Division Alaska Permanent Fund Corporation Date/Time 8/19/2004 /11:43:00 AM  
 Approved by: Steve Porter, Deputy Commissioner Date 8/19/2004  
 Agency Department of Revenue



**Alaska Permanent Fund Corporation**  
**Financial projection comparison of the Alaska Permanent Fund under**  
**current statutes versus POMV 5% lump sum payout, median case. All**  
**dollars in millions except per person dividend.**

	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY05-FY15</u>
<b>Current Statutes</b>												<b>Totals</b>
Contributions & appropriations (principal)	24,452	25,383	26,278	27,189	28,120	29,077	30,053	31,049	32,061	33,090	34,139	
Unrealized appreciation/depreciation on assets	1,683	1,913	2,160	2,425	2,702	2,893	3,304	3,624	3,965	4,317	4,684	
Realized earnings account ( REA, after payouts)	1,297	1,879	2,375	2,778	3,185	3,817	4,074	4,668	5,092	5,658	6,263	
<b>Total market value end of year (after payouts)</b>	<b>27,433</b>	<b>29,176</b>	<b>30,814</b>	<b>32,393</b>	<b>34,007</b>	<b>35,688</b>	<b>37,431</b>	<b>39,241</b>	<b>41,118</b>	<b>43,065</b>	<b>45,087</b>	<b>45,087</b>
Total lump sum dividend appropriation	512	576	750	924	1,002	1,058	1,114	1,170	1,228	1,288	1,350	10,972
Per person dividend under current statute	\$ 790	\$ 890	\$ 1,160	\$ 1,420	\$ 1,530	\$ 1,600	\$ 1,670	\$ 1,740	\$ 1,810	\$ 1,880	\$ 1,950	\$ 16,440
Transfer status quo inflation-proofing (REA to Principal)	620	643	666	689	713	737	762	787	812	939	865	8,132
<b>POMV - 5% (beginning in FY05)</b>												<b>Totals</b>
Contributions & appropriations (principal)	23,840	24,128	24,358	24,580	24,800	25,021	25,237	25,447	25,648	25,841	26,026	
Unrealized appreciation/depreciation on assets	1,683	1,892	2,103	2,322	2,548	2,781	3,026	3,274	3,532	3,793	4,059	
Realized earnings account ( REA, after payouts)	1,173	1,687	2,243	2,809	3,382	3,965	4,561	5,179	5,811	6,465	7,139	
<b>Total market value end of year (after payouts)</b>	<b>26,695</b>	<b>27,707</b>	<b>28,703</b>	<b>29,712</b>	<b>30,730</b>	<b>31,768</b>	<b>32,824</b>	<b>33,900</b>	<b>34,991</b>	<b>36,099</b>	<b>37,224</b>	<b>37,224</b>
5 year average market value lagged one year	25,851	25,902	26,508	27,614	28,846	30,012	31,066	32,140	33,234	34,344	35,472	
Total 5 % lump sum average market value available for appropriation	1,293	1,295	1,325	1,381	1,442	1,501	1,553	1,607	1,662	1,717	1,774	16,549

**Assumptions:**

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.

POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: Law Log 0168  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title: Constitutional amendment relating to and RDU: Elections  
limiting appropriations from the APF based on an averaged Component: Elections  
percent of the fund market value.  
Sponsor: Rules  
Requester: Governor Component No. 21

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Lauri Allred Phone: 465-5347  
Division: Division of Elections Date/Time: 6/18/04 8:44 AM  
Approved by: Laura A. Glaiser, Director Date: 6/18/2004  
Agency: Office of the Lt. Governor, Division of Elections

SECTIONAL



Alaska Permanent Fund Corporation  
801 West 10<sup>th</sup> Street, Suite 302 Juneau, AK 99801  
Tel: (907) 465-2047 Fax: (907) 586-2057

## Sectional Analysis of WD 0168

### Overview

The Resolution proposes changes to the Alaska Constitution Article IX, Section 15, which governs the Alaska Permanent Fund.

### Summary of Changes

- 1) Page 1, line 9. Adds a reference to the new subparagraph (b) being added to the constitution.
- 2) Page 1, line 10. Removes the words "the principal of which" from the constitution. This change removes the distinction between the principal and the earnings reserve. The Fund becomes one pool of money versus two.
- 3) Page 1, lines 12 & 13. Deletes the guidance for where income of the Fund should be deposited. The intent is for all income to remain in the Fund until appropriated by the Legislature.
- 4) Page 2, lines 1 - 3. Adds a new subparagraph (b) that establishes an annual payout limit of 5% of the total market value of the Fund. The market value will be based on a five-year average. This is to protect the Fund from inflation and preserve the real value over the long term. Additionally, this provision allows the legislature and the administration to know one year in advance the amount available for appropriation.
- 5) Page 2, lines 6 - 9. Adds a transitional provision that makes clear the balance in the Fund's earnings reserve remains in the Permanent Fund. Some have argued that the earnings reserve belongs in the General Fund.
- 6) Page 2, lines 10 - 12. States that the changes first apply to appropriations for fiscal year 2006.
- 7) Page 2, lines 13 - 15. States that the amendments will be placed before the voters at the next general election.

BACK UP



# Alaska Permanent Fund

## A Fund overview and discussion of POMV

ACCOUNTABILITY

1

TO ALASKANS, FOR ALASKANS



**"To benefit all generations..."**

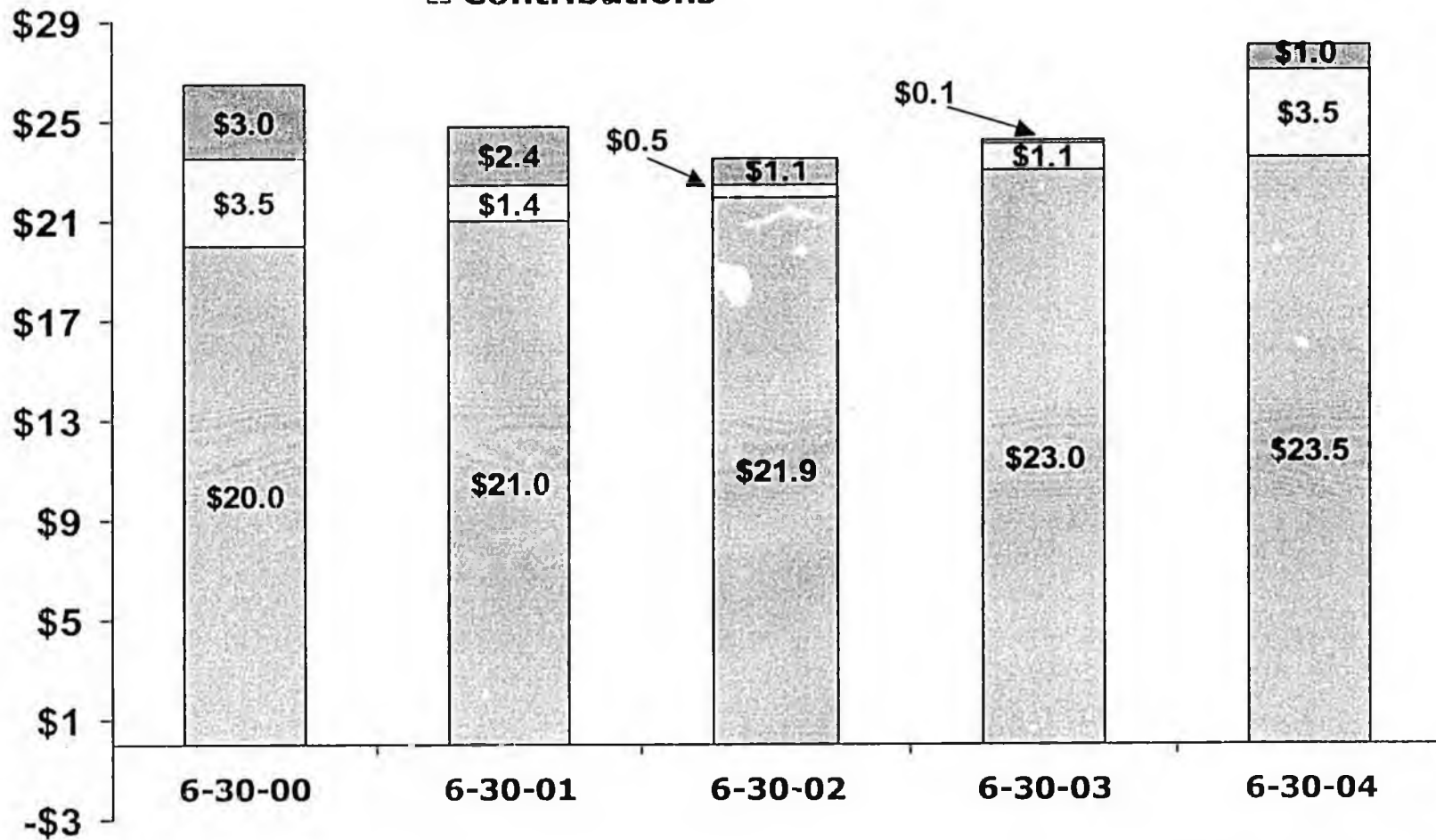
## **AS 37.13.020 (1)**

...the Fund should provide  
a means of conserving a portion  
of the state's revenue from mineral resources  
to benefit all generations of Alaskans.



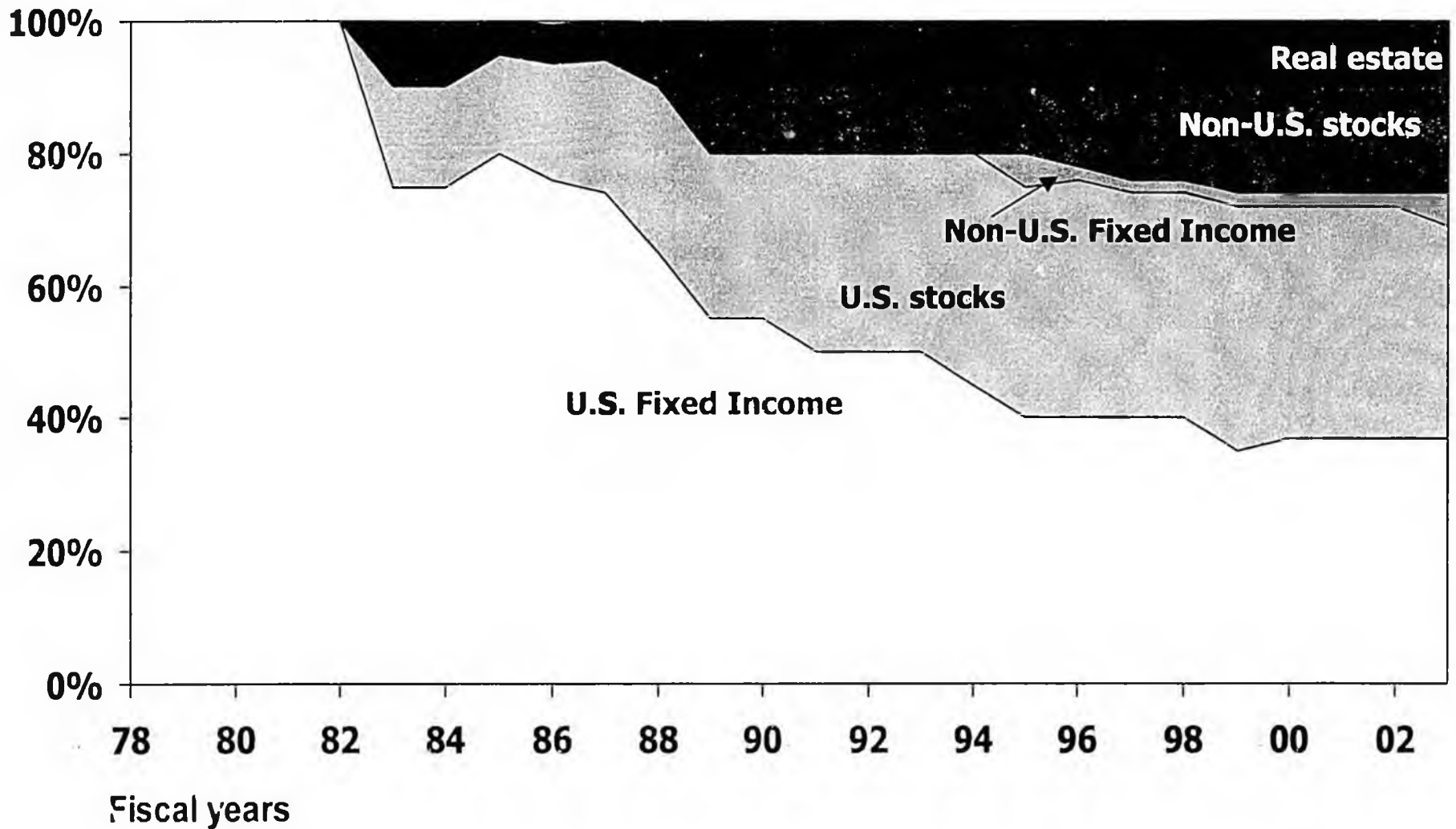
# Permanent Fund market value

- Realized income account
- Unrealized earnings
- Contributions





# Fund's historical asset allocation





# What is POMV?

**POMV is a spending limit for the Permanent Fund.**

**Under POMV, no more than five percent of the Fund's market value may be withdrawn each year.**

**Under the current system, all realized earnings are available for spending from the Fund.**



# Inflation Proofing

	<b>FY94 to FY03</b>	<b>FY05 to FY14</b>
<b>Total return</b>	<b>7.8%</b>	<b>7.6%</b>
<b>Inflation rate</b>	<b>2.5%</b>	<b>2.6%</b>
<b>Real rate of return</b>	<b>5.3%</b>	<b>5.0%</b>

If no more than 5% is withdrawn from the Fund each year, the gains that result from inflation will remain in the Fund. This will preserve the Fund's purchasing power for future generations.

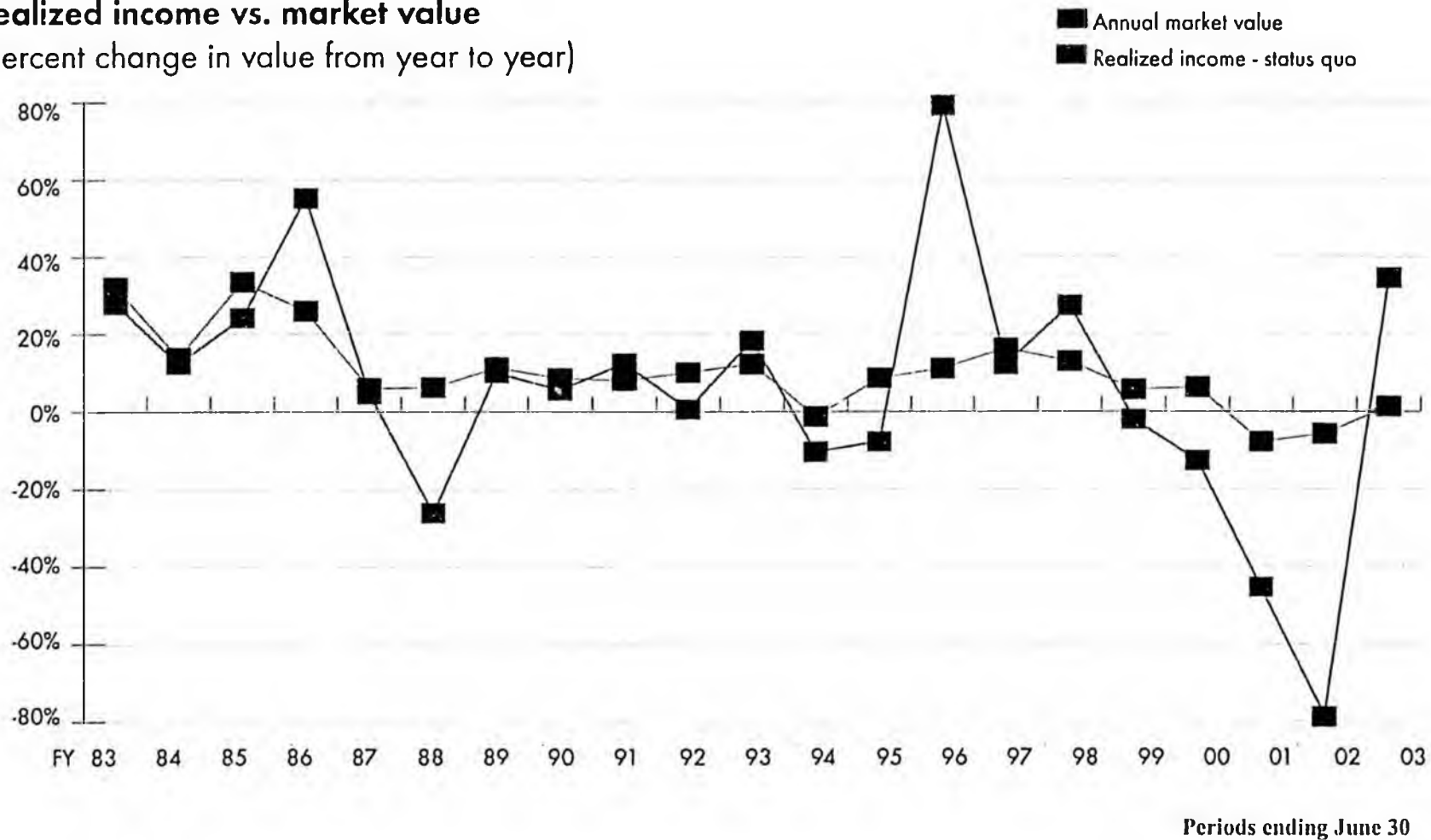


# Realized income v. market value

## Volatility

### Realized income vs. market value

(percent change in value from year to year)



ACCOUNTABILITY



# The dangers of overspending

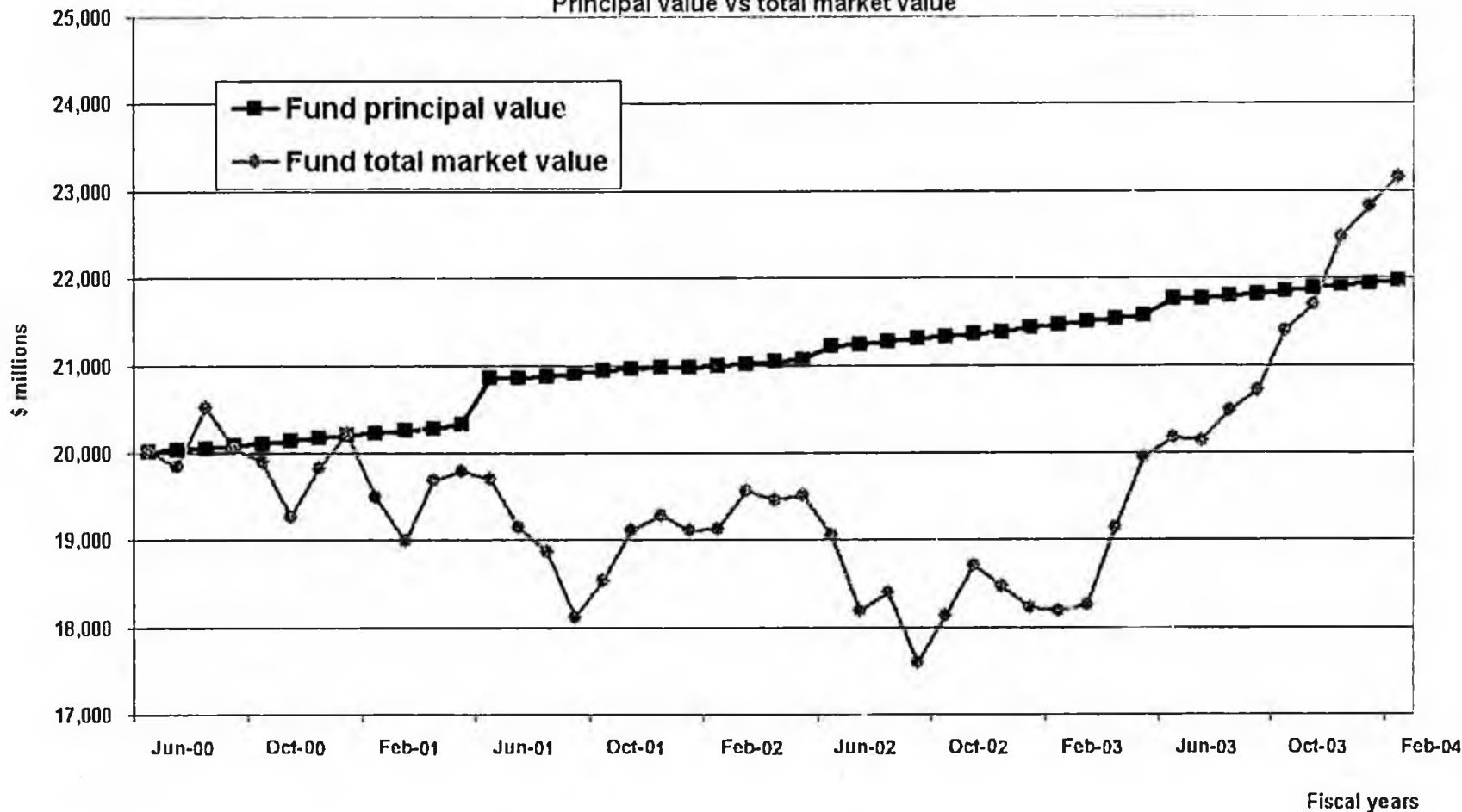
- Overspending in good years means there will be no cushion for down years, and funds may not be available for distribution.
- Overspending in the present decreases a fund's benefit to future generations.
- Overspending can cause recipients to become dependant on an inflated income stream. This will cause hard decisions in the down years, when income isn't as high.



# The dangers of overspending

## Alaska Permanent Fund

Principal value vs total market value



Assumption: June 30, 2000 all available earnings are paid out, total Fund value equals principal, all realized earnings are paid out in distributions and inflation proofing when possible.

ACCOUNTABILITY

9

TO ALASKANS, FOR ALASKANS



# Who uses POMV?

- Anchorage, Fairbanks, North Slope Borough and Sitka residents voted to use POMV for municipal trust accounts.
- Private foundations such as the Rasmuson Foundation and the Ford Foundation are required by the IRS to pay out at least 5% of their market value.
- 83% of colleges and universities polled by the National Association of College and University Business Officers use some form of a POMV payout method.



# Why do we need POMV?

## For the present

- Ensure the option of an annual payout
- Make payout amounts more stable from year to year
- Make payout method compatible with investment strategy

## For the future

- Prevent overspending in the good years
- Maintain purchasing power for the entire Fund



# What are Alaskans asking?

- **Will this change leave the principal unprotected?**
- **How will POMV affect my dividend?**
- **Is POMV a raid on the Permanent Fund?**
- **Why fix the Permanent Fund if it isn't broken?**

# STATUTORY DISTRIBUTION

FRANK H. MURKOWSKI  
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GOVERNOR@GOV.STATE.AK.US



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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

June 21, 2004

The Honorable Pete Kott  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the income of and appropriations from the Alaska permanent Fund under article IX, section 15(b), Constitution of the State of Alaska, and making conforming amendments. This bill is substantially the same as CS House Bill 298(FIN) am, which passed the House during the second regular session, but with a few new provisions.

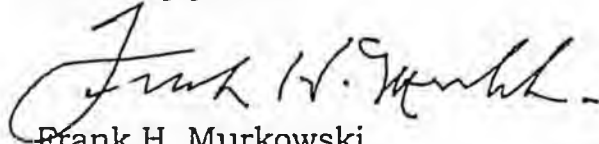
I have separately transmitted to you a joint resolution proposing a "Percent of Market Value" (POMV) amendment to the Alaska Constitution. This bill would make conforming amendments to the enabling act of the Alaska Permanent Fund Corporation necessary to implement that amendment. This bill also would make allocations of the amount available for appropriation from the Alaska Permanent fund after the POMV amendment is adopted. These allocations make provision for aid to municipalities and other communities, public education, and the Permanent Fund dividend. The allocation provisions would give moral force to the Legislature's intent to pay for these important public purposes. A new provision has been added that would adjust the allocation of amounts available for appropriation from the Alaska Permanent Fund so that the dividend will be kept at \$1,000 or more each year. The bill also contains provisions that will conform the Mental Health Trust fund revenue availability and accounting provisions to those proposed for the Alaska Permanent Fund. The Mental Health Trust fund is invested by the Alaska Permanent Fund Corporation and it will be more efficient if the computation of revenue available for appropriation is consistent for both funds.

The Honorable Pete Kott  
June 21, 2004  
Page 2

I believe that this bill provides a vehicle the Legislature can use to resolve how the POMV amendment would be implemented. By placing the implementing provisions in statute, the Legislature retains the power to make necessary adjustments to meet unforeseeable events.

I urge your prompt and favorable consideration of this bill.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski  
Governor

Enclosure

BILL

HOUSE BILL NO. 1003

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:  
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the income of and appropriations from the Alaska permanent fund  
2 under art. IX, sec. 15(b), Constitution of the State of Alaska, and making conforming  
3 amendments; relating to permanent fund dividend payments of at least \$1,000; relating  
4 to the determination of net income of the mental health trust fund; and providing for an  
5 effective date."

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

7 \* Section 1. AS 09.20.050(b) is amended to read:

8 (b) The jury list shall be based on a list prepared by the Department of  
9 Revenue of all persons who filed an application for a [DISTRIBUTION OF  
10 ALASKA] permanent fund dividend [INCOME] under AS 43.23 during the current  
11 calendar year that shows an Alaska [ALASKAN] address, and of all persons who  
12 volunteer for jury duty under (d) of this section. If considered necessary by the  
13 administrative director of the Alaska Court System, the jury list shall incorporate a list

1 prepared by the Department of Administration of all persons who hold a valid Alaska  
 2 driver's license. The departments shall submit their respective lists to the Alaska  
 3 Court System not later than September 30 of each year. To the extent that it is  
 4 available, the departments shall include on the lists they submit the following  
 5 information for each person: first name, middle initial, and last name; mailing address,  
 6 including the zip code; and birth date. The lists shall be recorded on magnetic tape  
 7 compatible with Alaska Court System data processing equipment.

8 \* Sec. 2. AS 24.20.206 is amended to read:

9 **Sec. 24.20.206. Duties.** The Legislative Budget and Audit Committee shall

10 (1) [REPEALED

11 (2)] annually review the long-range operating plans of all agencies of  
 12 the state that perform lending or investment functions;

13 (2) [(3)] review periodic reports from all agencies of the state that  
 14 perform lending or investment functions;

15 (3) [(4)] prepare a complete report of investment programs, plans,  
 16 performance, and policies of all agencies of the state that perform lending or  
 17 investment functions and notify the legislature within 30 days after the convening of  
 18 each regular session that the report is available;

19 (4) [(5)] in conjunction with the finance committee of each house,  
 20 recommend annually to the legislature the investment policy for the general fund  
 21 surplus and for the [INCOME FROM THE] permanent fund;

22 (5) [(6)] provide for an annual post audit and annual operational and  
 23 performance evaluation of the Alaska Permanent Fund Corporation investments and  
 24 investment programs;

25 (6) [(7)] provide for an annual operational and performance evaluation  
 26 of the Alaska Housing Finance Corporation and the Alaska Industrial Development  
 27 and Export Authority; the performance evaluation must include, but is not limited to, a  
 28 comparison of the effect on various sectors of the economy by public and private  
 29 lending, the effect on resident and nonresident employment, the effect on real wages,  
 30 and the effect on state and local operating and capital budgets of the programs of the  
 31 Alaska Housing Finance Corporation and the Alaska Industrial Development and

Export Authority;

2                    (7) ~~[(8)]~~ provide assistance to the trustees of the trust established in  
3 AS 37.14.400 - 37.14.450 in carrying out their duties under AS 37.14.415.

4 \* Sec. 3. AS 37.13 is amended by adding a new section to read:

5                    Sec. 37.13.143. Appropriations from the fund. (a) The total amount  
6 available for appropriation from the fund for a specific fiscal year is determined under  
7 art. IX, sec. 15(b), Constitution of the State of Alaska. However, if the annualized real  
8 rate of return of the fund during the first 10 of the 11 fiscal years immediately  
9 preceding the specific fiscal year was less than five percent, the amount available for  
10 appropriation for that specific fiscal year may not exceed that 10-year annualized real  
11 rate of return multiplied by the average of the fiscal year-end market values of the  
12 fund for the first five of the six fiscal years immediately preceding that specific fiscal  
13 year. For purposes of this subsection, "real rate of return" means the total rate of  
14 return of the fund's investments for the period measured, minus the rate of inflation for  
15 that period, stated on an annualized basis.

16                    (b) The legislature may appropriate from the fund for each fiscal year the  
17 amount for costs of the corporation associated with operating and investing the fund.

18                    (c) After the appropriation under (b) of this section, appropriations by the  
19 legislature for a specific fiscal year are limited as follows, based on the total amount  
20 remaining available for appropriation under (a) of this section:

21                    (1) not more than five percent may be appropriated for municipalities  
22 and other communities;

23                    (2) not more than 45 percent may be appropriated for public education;

24                    (3) not more than 50 percent may be appropriated to the dividend fund  
25 established under AS 43.23.045.

26                    (d) Notwithstanding (c) of this section, the amount of a dividend payment for  
27 residents of the state shall be no less than \$1,000 each year. If the appropriation made  
28 under (c)(3) of this section would be insufficient to pay that amount, the percentages  
29 specified in (c)(1) and (2) of this section are decreased for the applicable year, and the  
30 percentage specified in (c)(3) of this section is increased, by the amount necessary to  
31 fund the shortfall.

1 (e) The corporation shall transfer money appropriated under this section from  
2 the fund within 14 days after the effective date of the appropriation.

3 (f) For purposes of (a) of this section, the corporation shall calculate the rate  
4 of inflation using the annual year over year change in the Consumer Price Index for all  
5 urban consumers for the time period specified.

6 \* Sec. 4. AS 37.13.145(d) is amended to read:

7 (d) Income [NOTWITHSTANDING (b) OF THIS SECTION, INCOME]  
8 earned on money awarded in or received as a result of State v. Amerada Hess, et al.  
9 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement,  
10 summary judgment, or adjustment to a royalty-in-kind contract that is tied to the  
11 outcome of this case, or interest earned on the money, or on the earnings of the money  
12 shall be treated in the same manner as other income of the Alaska permanent fund,  
13 except that it is not available for distribution to the dividend fund [, AND SHALL BE  
14 ANNUALLY DEPOSITED INTO THE PRINCIPAL OF THE ALASKA  
15 PERMANENT FUND].

16 \* Sec. 5. AS 37.13 is amended by adding a new section to read:

17 Sec. 37.13.148. **Market value of the fund.** For the purposes of art. IX, sec.  
18 15(b), Constitution of the State of Alaska, the corporation shall determine the market  
19 value of the fund annually as of the close of business on June 30 in accordance with  
20 generally accepted accounting principles for the determination of fair value.

21 \* Sec. 6. AS 37.13.150 is amended to read:

22 Sec. 37.13.150. **Corporation budget.** The [REVENUE GENERATED BY  
23 THE FUND'S INVESTMENTS MUST BE IDENTIFIED AS THE SOURCE OF  
24 THE] operating budget of the corporation shall be included in the state's operating  
25 budget under AS 37.07 (Executive Budget Act). [THE UNEXPENDED BALANCE  
26 OF THE CORPORATION'S ANNUAL OPERATING BUDGET DOES NOT LAPSE  
27 AT THE END OF THE FISCAL YEAR BUT SHALL BE TREATED AS INCOME  
28 UNDER AS 37.13.140.]

29 \* Sec. 7. AS 37.14.031(c) is amended to read:

30 (c) The net income of the fund shall be determined by the Alaska Permanent  
31 Fund Corporation annually as of the last day of the fiscal year in accordance with

2 generally accepted accounting principles [IN THE SAME MANNER THE  
3 CORPORATION DETERMINES THE NET INCOME OF THE ALASKA  
4 PERMANENT FUND UNDER AS 37.13.140].

5 \* Sec. 8. AS 43.23.025(a) is amended to read:

6 (a) By October 1 of each year, the commissioner shall determine the value of  
7 each permanent fund dividend for that year by

8 (1) determining the total amount available for dividend payments,  
9 which equals

10 (A) the amount of money appropriated from [INCOME OF]  
11 the Alaska permanent fund [TRANSFERRED] to the dividend fund under  
12 AS 37.13.143 [AS 37.13.145(b)] during the current year;

13 (B) plus the unexpended and unobligated balances of prior  
14 fiscal year appropriations that lapse into the dividend fund under  
15 AS 43.23.045(d);

16 (C) less the amount necessary to pay prior year dividends from  
17 the dividend fund in the current year under AS 43.23.005(h) and under  
18 AS 43.23.055(3) and (7);

19 (D) less the amount necessary to pay dividends from the  
20 dividend fund due to eligible applicants who, as determined by the department,  
21 filed for a previous year's dividend by the filing deadline but who were not  
22 included in a previous year's dividend computation;

23 (E) less appropriations from the dividend fund during the  
24 current year, including amounts to pay costs of administering the dividend  
25 program and the hold harmless provisions of AS 43.23.075;

26 (2) determining the number of individuals eligible to receive a  
27 dividend payment for the current year and the number of estates and successors  
28 eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

29 (3) dividing the amount determined under (1) of this subsection by the  
30 amount determined under (2) of this subsection.

31 \* Sec. 9. AS 43.23.028(a) is amended to read:

(a) By October 1 of each year, the commissioner shall give public notice of

1 the value of each permanent fund dividend for that year and notice of the information  
2 required to be disclosed under (3) of this subsection. In addition, the stub attached to  
3 each individual dividend check and direct deposit advice must

4 (1) disclose the amount of each dividend attributable to [INCOME  
5 EARNED BY THE PERMANENT FUND FROM] deposits to that fund required  
6 under art. IX, sec. 15, Constitution of the State of Alaska;

7 (2) disclose the amount of each dividend attributable to all [INCOME  
8 EARNED BY THE PERMANENT FUND FROM] appropriations to that fund plus  
9 [AND FROM] amounts added to that fund before January 1, 2005, to offset the  
10 effects of inflation;

11 (3) disclose the amount by which each dividend has been reduced due  
12 to each appropriation from the dividend fund, including amounts to pay the costs of  
13 administering the dividend program and the hold harmless provisions of  
14 AS 43.23.075;

15 (4) include a statement that an individual is not eligible for a dividend  
16 when

17 (A) during the qualifying year, the individual was convicted of  
18 a felony;

19 (B) during all or part of the qualifying year, the individual was  
20 incarcerated as a result of the conviction of a

21 (i) felony; or

22 (ii) misdemeanor if the individual has been convicted of  
23 a prior felony or two or more prior misdemeanors;

24 (5) include a statement that the legislative purpose for making  
25 individuals listed under (4) of this subsection ineligible is to

26 (A) obtain reimbursement for some of the costs imposed on the  
27 state criminal justice system related to incarceration or probation of those  
28 individuals;

29 (B) provide funds for services for and payments to crime  
30 victims and for grants for the operation of domestic violence and sexual assault  
31 programs;

2 (6) disclose the total amount that would have been paid during the  
3 previous fiscal year to individuals who were ineligible to receive dividends under  
4 AS 43.23.005(d) if they had been eligible;

5 (7) disclose the total amount appropriated for the current fiscal year  
6 under (b) of this section for each of the funds and agencies listed in (b) of this section.

7 \* Sec. 10. AS 37.13.140, 37.13.145(a), 37.13.145(b), 37.13.145(c), and 37.13.300(c) are  
8 repealed.

9 \* Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 CONDITIONAL EFFECT. This Act takes effect only if an amendment to art. IX, sec.  
12 15, Constitution of the State of Alaska, relating to and limiting appropriations from the Alaska  
13 permanent fund based on an averaged percent of the fund market value, is approved by the  
14 voters during the 2004 general election and takes effect.

15 \* Sec. 12. If this Act takes effect under sec. 11 of this Act, it takes effect January 1, 2005,  
16 except as provided in sec. 13 of this Act.

\* Sec. 13. Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).

# FISCAL NOTE

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: LL#04- 0175  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Dist. Of Approps from PermFund RDU AK Permanent Fund Corporation  
 Component AK Permanent Fund Corporation  
 Sponsor Rules  
 Requester Governor Component No. 109

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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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						
Other (Specify Type—Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would change the Alaska statutes that address distributions from the Permanent Fund to conform to a Percent of Market Value payout limit. It would not change the management or the cost of operations of the Fund.

See the attached schedule for financial projections of the Fund comparing the "Status Quo" to a 5% POMV spending limit.

Prepared by: Robert D. Storer, Executive Director Phone 465-2047  
 Division Alaska Permanent Fund Corporation Date/Time 6/19/2004/1:09 PM  
 Approved by: Steve Porter, Deputy Commissioner Date 6/19/2004  
 Agency Department of Revenue



**Alaska Permanent Fund Corporation**  
**Financial projection comparison of the Alaska Permanent Fund under**  
**current statutes versus POMV 5% lump sum payout, median case. All**  
**dollars in millions except per person dividend.**

	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY05-FY15</u>
<b>Current Statutes</b>												<b>Totals</b>
Contributions & appropriations (principal)	24,452	25,383	26,278	27,189	28,120	29,077	30,053	31,049	32,061	33,090	34,139	
Unrealized appreciation/depreciation on assets	1,683	1,913	2,160	2,425	2,702	2,993	3,304	3,624	3,965	4,317	4,684	
Realized earnings account ( REA, after payouts)	1,297	1,879	2,375	2,778	3,185	3,617	4,074	4,568	5,092	5,658	6,263	
Total market value end of year (after payouts)	27,433	29,176	30,814	32,393	34,007	35,688	37,431	39,241	41,118	43,065	45,087	45,087
Total lump sum dividend appropriation	512	576	750	924	1,002	1,058	1,114	1,170	1,228	1,288	1,350	10,972
Per person dividend under current statute	\$ 790	\$ 890	\$ 1,160	\$ 1,420	\$ 1,530	\$ 1,600	\$ 1,670	\$ 1,740	\$ 1,810	\$ 1,880	\$ 1,950	\$ 16,440
Transfer status quo Inflation-proofing (REA to Principal)	620	643	666	689	713	737	762	787	812	839	865	8,132
	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY05-FY15</u>
<b>POMV - 5% (beginning in FY05)</b>												<b>Totals</b>
Contributions & appropriations (principal)	23,840	24,128	24,358	24,580	24,800	25,021	25,237	25,447	25,648	25,841	26,026	
Unrealized appreciation/depreciation on assets	1,683	1,892	2,103	2,322	2,548	2,781	3,026	3,274	3,532	3,793	4,059	
Realized earnings account ( REA, after payouts)	1,173	1,687	2,243	2,809	3,382	3,965	4,561	5,179	5,811	6,465	7,139	
Total market value end of year (after payouts)	26,695	27,707	28,703	29,712	30,730	31,768	32,824	33,900	34,991	36,099	37,224	37,224
5 year average market value lagged one year	25,851	25,902	26,508	27,614	28,846	30,012	31,066	32,140	33,234	34,344	35,472	
Total 5 % lump sum average market value available for appropriation	1,293	1,295	1,325	1,381	1,442	1,501	1,553	1,607	1,662	1,717	1,774	16,549

**Assumptions:**

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 08/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.

POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.



Alaska Permanent Fund Corporation

POMV payout, split 50% to the Dividend, 45% to public services and 5% to the municipal dividend

	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY05-FY15</u>
<b>POMV - 5% (beginning in FY05)</b>												<b>Totals</b>
Contributions & appropriations (principal)	23,840	24,128	24,358	24,580	24,800	25,021	25,237	25,447	25,648	25,841	26,028	
Unrealized appreciation/depreciation on assets	1,683	1,892	2,103	2,322	2,548	2,781	3,026	3,274	3,532	3,793	4,059	
Realized earnings account ( REA, after payouts)	1,173	1,687	2,243	2,809	3,382	3,965	4,581	5,179	5,811	6,465	7,139	
Total market value end of year (after payouts)	<u>26,695</u>	<u>27,707</u>	<u>28,703</u>	<u>29,712</u>	<u>30,730</u>	<u>31,768</u>	<u>32,824</u>	<u>33,900</u>	<u>34,991</u>	<u>36,099</u>	<u>37,224</u>	37,224
5 year average market value lagged one year	25,851	25,902	26,508	27,614	28,846	30,012	31,066	32,140	33,234	34,344	35,472	
Total available for appropriation	1,293	1,295	1,325	1,381	1,442	1,501	1,553	1,607	1,662	1,717	1,774	16,549
APFC management costs	(43)	(44)	(45)	(47)	(48)	(50)	(51)	(53)	(54)	(56)	(57)	(547)
payout 50% after APFC costs - lump sum dividend	625	620	640	667	697	726	751	777	804	831	858	8,001
payout 45% after APFC costs for government services	562	563	576	600	627	653	676	699	723	748	772	7,201
payout 5% after APFC costs for municipal dividend	62	63	64	67	70	73	75	78	80	83	86	800
Per person dividend	\$990	\$990	\$1,000	\$1,040	\$1,090	\$1,130	\$1,160	\$1,200	\$1,230	\$1,270	\$1,310	\$12,410
Total available for appropriation	1,293	1,295	1,325	1,381	1,442	1,501	1,553	1,607	1,662	1,717	1,774	16,549
APFC management costs	(43)	(44)	(45)	(47)	(48)	(50)	(51)	(53)	(54)	(56)	(57)	(547)
payout 50% after APFC costs - lump sum dividend	628	631	640	667	697	726	751	777	804	831	858	8,009
payout 45% after APFC costs for government services	559	558	576	600	627	653	676	699	723	748	772	7,193
payout 5% after APFC costs for municipal dividend	62	63	64	67	70	73	75	78	80	83	86	800
Guarantee \$1,000 minimum dividend	\$1,000	\$1,000	\$1,000	\$1,040	\$1,090	\$1,130	\$1,160	\$1,200	\$1,230	\$1,270	\$1,310	\$12,430

SECTIONAL

BACK UP

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at this time**

# TOBACCO TAX

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at this time**

FRANK H. MURKOWSKI  
GOVERNOR

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

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June 21, 2004

The Honorable Pete Kott  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18 of the Alaska Constitution, I am transmitting a bill that increases the cigarette excise tax by \$1.00 a pack and makes other changes in our current statutes. The tax on "other tobacco products" such as smokeless tobacco would be increased from 75 percent to 100 percent of the wholesale cost.

Passage of these tax increases is supported by the health benefits alone. Tobacco is the number one preventable cause of death, disability, and chronic illness in Alaska. It is public health enemy number one. I want these tax increases to reduce consumption of tobacco products in Alaska. Such a decrease will benefit adult smokers who decide to quit, teenagers and pre-teens who decide to quit or not start smoking, and Alaskans that choose not to smoke but suffer the ill effects of second hand smoke.

Current estimates are that passage of the cigarette tax should result in a 15 percent drop in illegal teen smoking. A 15 percent drop in youth smoking rates from current levels translates into 1,800 lives saved from premature death due to tobacco addiction. My hope is that even more Alaska teens decide not to try smoking or break their addiction to cigarettes.

Among current adult smokers, 3,500 will quit smoking because of the tax, and of those, 800 will be saved from a smoking-caused death. Smoking among expectant mothers would also be reduced significantly; resulting in 850 babies being spared from exposure to maternal smoking prior to delivery during the next five years.

Alaska Natives should particularly benefit from reduced smoking. While smoking rates are declining within the U.S. general population, the rate of smoking is unchanged among Alaska Native adults and, at 44 percent, is

The Honorable Pete Kott  
June 21, 2004  
Page 2 of 2

almost double that of non-Natives. Currently, 44 percent of Alaska Native high school students smoke almost four times the rate among non-Native students. Lung cancer, the leading cause of cancer deaths, is increasing at an alarming rate among Alaska Natives of both sexes. Cardiovascular disease, including heart disease and stroke, is also linked with tobacco use, and kills approximately 120 Alaska Natives each year.

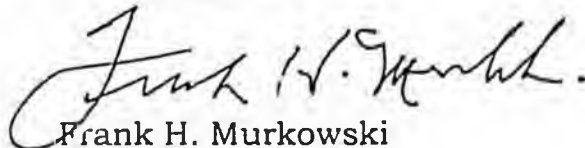
In order to ensure we achieve these health benefits, I have included language that earmarks part of the tax revenues for the smoking education, tobacco use prevention, and tobacco control program. At the level I have included, Alaska would become one of five states that fund tobacco cessation programs at or above the level recommended by the Centers for Disease Control.

I have also included a significant increase in the tax on smokeless tobacco. Other forms of tobacco such as chew or cigars also present serious risks to the health of users. For example, smokeless tobacco users may be up to twice as likely as non-users to die from heart disease and other cardiovascular conditions due to increased blood pressure.

There is also an important fiscal benefit in this bill. The new revenues generated by the tax increases will help reimburse a portion of the approximately \$270 million in annual costs for direct medical expenses and lost productivity attributed to tobacco use in Alaska. The financial burden all Alaskans are stuck with because some Alaskans smoke should be reduced. This bill targets users and asks them to pay a bit more of the costs they impose on all Alaskans. I believe many Alaskans would argue they should not be stuck with any costs for someone else's voluntary choice to use a dangerous product.

Given the health impact, cost savings, and revenue to be generated from the proposed tobacco tax, I urge your support for this legislation.

Sincerely yours,



Frank H. Murkowski  
Governor

Enclosure

BILL

HOUSE BILL NO. ( 008 )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:  
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to taxes on cigarettes and tobacco products, to tax stamps on  
2 cigarettes, to forfeiture of cigarettes and of property used in the manufacture,  
3 transportation, possession, or sale of unstamped cigarettes, to accounting for and use of  
4 part of the proceeds of the additional cigarette tax, and to licenses and licensees under  
5 the Cigarette Tax Act; relating to unfair cigarette sales; and providing for an effective  
6 date."

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

8 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
9 to read:

10 INTENT. It is the intent of the legislature to provide aggregate funding to meet the  
11 minimum amount of tobacco control programs recommended by the United States  
12 Department of Health and Human Services, Centers for Disease Control and Prevention, from  
13 tobacco taxes and other revenue sources accounted for in the tobacco use education and

1 cessation fund established in AS 37.05.580.

2 \* Sec. 2. AS 43.50.030(a) is amended to read:

3 (a) For each license issued to a manufacturer, and for each renewal, the fee is  
4 \$50 [\$5].

5 \* Sec. 3. AS 43.50.030(c) is amended to read:

6 (c) For each license issued to a vending machine operator, and for each  
7 renewal, the fee is \$50 [\$25].

8 \* Sec. 4. AS 43.50.030(d) is amended to read:

9 (d) For each license issued to a direct-buying retailer, and for each renewal,  
10 the fee is \$50 [\$25].

11 \* Sec. 5. AS 43.50.035 is repealed and reenacted to read:

12 **Sec. 43.50.035. Wholesaler-distributor license.** (a) A person outside of this  
13 state who sells or distributes cigarettes into this state and is not required to be licensed  
14 under AS 43.50.010 may apply for a wholesaler-distributor license.

15 (b) A person outside of this state who sells or distributes cigarettes into this  
16 state, who is not required to be licensed under AS 43.50.010, and who wishes to  
17 purchase stamps under this chapter is required to be licensed as a wholesaler-  
18 distributor.

19 (c) The department shall adopt reasonable regulations necessary for the  
20 collection of cigarette taxes on cigarette sales or distributions made by a wholesaler-  
21 distributor licensee into this state and standards for

22 (1) application and issuance of the license; and

23 (2) refusal to issue the license.

24 \* Sec. 6. AS 43.50.090(a) is amended to read:

25 (a) There is levied an excise tax of 38 mills on each cigarette imported or  
26 acquired in the state. The tax shall be paid through the use of stamps as provided in  
27 AS 43.50.500 - 43.50.700. A person who imports or acquires cigarettes in the  
28 state upon which a stamp required by this chapter has not been affixed in  
29 accordance with AS 43.50.500 - 43.50.700, who fails to apply to purchase stamps  
30 as required by AS 43.50.540(a), and who fails to pay the tax through the use of  
31 stamps is not relieved [THE FAILURE TO PAY THE TAX THROUGH THE USE

OF STAMPS DOES NOT RELIEVE A PERSON] of the obligation to pay taxes due under this chapter. The person shall still pay the tax, and the tax is due on or before the end of the month following the month in which cigarettes were manufactured, imported, acquired, or sold in this state. Cigarettes upon which the excise is imposed are not again subject to the excise when acquired by another person.

\* Sec. 7. AS 43.50.090(d) is amended to read:

(d) The tax imposed under (a) of this section does not apply to the first 400 cigarettes personally transported into the state by an individual for that individual's personal consumption [100 CIGARETTES IMPORTED BY AN INDIVIDUAL FOR PERSONAL CONSUMPTION] during the calendar month.

\* Sec. 8. AS 43.50.105(g) is amended to read:

(g) A person who violates the provisions of this section is guilty of a

- (1) class A misdemeanor if the person unlawfully ships, causes to be shipped, or transports at least one but fewer than 5,000 [1,000] cigarettes;
- (2) class C felony if the person unlawfully ships, causes to be shipped, or transports 5,000 [1,000] or more cigarettes.

\* Sec. 9. AS 43.50.105 is amended by adding a new subsection to read:

(i) A person who violates the provisions of this section is jointly and severally liable for the taxes imposed by AS 43.50.090 and 43.50.190. To the fullest extent permitted by the Constitution of the United States, a person who violates the provisions of this section is required to collect the taxes and pay them to the department.

\* Sec. 10. AS 43.50.170(1) is amended to read:

(1) "buyer" means a person who imports or acquires cigarettes for the person's own consumption from any source other than a manufacturer, distributor, direct-buying retailer, [OR] retailer, or wholesaler-distributor;

\* Sec. 11. AS 43.50.170(3) is amended to read:

(3) "direct-buying retailer" means a person who is engaged in the sale of cigarettes at retail in this state, and who brings cigarettes or causes cigarettes to be brought [CIGARETTES] into the state that are not purchased from a wholesaler-distributor;

1 \* Sec. 12. AS 43.50.170(4) is amended to read:

2 (4) "distributor" means a person who brings cigarettes that are not  
3 purchased from a wholesaler-distributor, or has cigarettes that are not purchased  
4 from a wholesaler-distributor brought into the state, and who sells or distributes at  
5 least 75 percent [PER CENT] of the cigarettes to others for resale in the state;

6 \* Sec. 13. AS 43.50.170(12) is amended to read:

7 (12) "wholesaler-distributor" means a person outside this state who  
8 sells or distributes cigarettes into this state, [AND] who is not required to be licensed  
9 under AS 43.50.010, and who is licensed under AS 43.50.035.

10 \* Sec. 14. AS 43.50.190(a) is amended to read:

11 (a) There is levied an excise tax of 62 [12] mills on each cigarette imported or  
12 acquired in this state.

13 \* Sec. 15. AS 43.50.190(c) is amended to read:

14 (c) The tax imposed under (a) of this section does not apply to the first 400  
15 cigarettes personally transported into the state by an individual for that  
16 individual's personal consumption [100 CIGARETTES IMPORTED BY AN  
17 INDIVIDUAL FOR PERSONAL CONSUMPTION] during the calendar month.

18 \* Sec. 16. AS 43.50.190 is amended by adding a new subsection to read:

19 (d) Notwithstanding (b) of this section, a portion of the annual proceeds of the  
20 tax levied under (a) of this section equal to 8.9 percent of the total proceeds of the tax  
21 shall be deposited into the tobacco use education and cessation fund established in  
22 AS 37.05.580. This deposit shall be in addition to any sums deposited into the fund  
23 under AS 37.05.580(a).

24 \* Sec. 17. AS 43.50.300 is amended to read:

25 Sec. 43.50.300. Excise tax levied. An excise tax is levied on tobacco  
26 products in the state at the rate of 130 [75] percent of the wholesale price of the  
27 tobacco products. The tax is levied when a person

28 (1) brings, or causes to be brought, a tobacco product into the state  
29 from outside the state for sale;

30 (2) makes, manufactures, or fabricates a tobacco product in the state  
31 for sale in the state; [OR]

1 (3) ships or transports a tobacco product to a retailer in the state for  
2 sale by the retailer or to an individual for personal consumption; or

3 (4) brings, or causes to be brought, a tobacco product into the state  
4 from outside the state for personal consumption.

5 \* Sec. 18. AS 43.50.320(a) is repealed and reenacted to read:

6 (a) Except as provided in (g) of this section, a person engaging in an activity  
7 described in AS 43.50.300(1) - (3) must be licensed by the department as a distributor,  
8 and a person engaging in an activity described in AS 43.50.300(4) must be licensed as  
9 a buyer.

10 \* Sec. 19. AS 43.50.320(b) is amended to read:

11 (b) The department, upon application and payment of a fee of \$50, shall issue  
12 a license for one year to a person who applies for a distributor license [UNDER (a)  
13 OF THIS SECTION]. The department, upon application and payment of a fee of  
14 \$25, shall issue a license for one year to a person who applies for a buver license.

15 \* Sec. 20. AS 43.50.320(d) is amended to read:

16 (d) A distributor license issued under this section must include the name and  
17 address of the licensee, the type of business to be conducted, and the year for which  
18 the license is issued.

19 \* Sec. 21. AS 43.50.320(e) is amended to read:

20 (e) The department may renew a distributor license issued under this section  
21 for a fee of \$50. The department may renew a buver license issued under this  
22 section for a fee of \$25.

23 \* Sec. 22. AS 43.50.330(a) is amended to read:

24 (a) On or before the last day of each calendar month, a licensee shall file a  
25 return with the department. The return must state the number or amount of tobacco  
26 products sold or imported for personal consumption by the licensee during the  
27 preceding calendar month, the selling price or purchase price of the tobacco  
28 products, and the amount of tax imposed on the tobacco products.

29 \* Sec. 23. AS 43.50.390(1) is amended to read:

30 (1) "distributor" means a person who

31 (A) brings, or causes to be brought, a tobacco product into the

1 state from outside the state for sale;

2 (B) makes, manufactures, or fabricates a tobacco product in the  
3 state for sale in the state; or

4 (C) ships or transports a tobacco product to a retailer in the  
5 state for sale by the retailer or to an individual for personal consumption;

6 \* Sec. 24. AS 43.50.390(2) is amended to read:

7 (2) "licensee" means a distributor or buyer who is

8 (A) licensed under AS 43.50.320; or

9 (B) exempted by AS 43.50.320(g) from licensing under  
10 AS 43.50.320;

11 \* Sec. 25. AS 43.50.390 is amended by adding a new paragraph to read:

12 (6) "buyer" means a person who imports tobacco products for the  
13 person's own consumption from any source other than a licensee.

14 \* Sec. 26. AS 43.50.540(f) is amended to read:

15 (f) Title to the stamps passes immediately to the licensee at the time the  
16 stamps are obtained in person or, if the stamps are shipped or transported, at the time  
17 the stamps are placed in the United States mail or received by the common or private  
18 carrier. The licensee bears all costs associated with shipping or transporting the  
19 stamps. The department may replace stamps lost or damaged in transit if the  
20 licensee provides proof acceptable to the department verifying that the loss or  
21 damage occurred while the stamps were in the possession of the shipping  
22 company and the shipping company substantiates the loss or damage. Damaged  
23 stamps must be returned to the department before the department may replace  
24 them [AND ALL RISKS OF POSSIBLE LOSS OR DAMAGE WHILE IN  
25 TRANSIT].

26 \* Sec. 27. AS 43.50.550(b) is amended to read:

27 (b) A licensee who submits an application for the purchase of stamps on a  
28 deferred-payment basis shall, as a condition of approval of the application, post a  
29 bond acceptable to the department in an amount equal to

30 (1) 200 percent of the maximum dollar amount of allowed monthly  
31 purchases under this section; or

1 (2) 100 percent of the maximum dollar amount of allowed monthly  
 2 purchases under this section if the licensee

3 (A) holds a license issued under AS 43.50.010 for a physical  
 4 location in this state; and

5 (B) has been in full compliance with the provisions of this  
 6 title and regulations adopted under this title during the preceding 60  
 7 months [AS A CONDITION OF APPROVAL OF THE APPLICATION].

8 \* Sec. 28. AS 43.50.580(b) is amended to read:

9 (b) A licensee may possess unstamped cigarettes in this state if

10 (1) the licensee posts a surety bond in an amount satisfactory to the  
 11 department to ensure performance of its duties under this chapter, and

12 (2) unstamped cigarettes are necessary for the conduct of the licensee's  
 13 business in making sales or distributions

14 (A) to an instrumentality of the federal government or an  
 15 Indian tribal organization authorized by law to possess cigarettes not taxed  
 16 under this chapter; or

17 (B) to customers outside the state and the licensee provides  
 18 proof acceptable to the department that the licensee is properly licensed in  
 19 the jurisdictions outside the state where the sales or distributions are  
 20 made.

21 \* Sec. 29. AS 43.50.590(a) is amended to read:

22 (a) The department shall adopt procedures for a refund or credit to a licensee  
 23 in the amount of the denominated value, less the discount given under AS 43.50.540,

24 . . .

25 (1) unused or damaged stamps; [OR]

26 (2) stamps affixed to cigarette packages that have become unfit for use  
 27 or sale, are destroyed, or are returned to the manufacturer for credit or replacement if  
 28 the licensee provides proof acceptable to the department that the cigarettes have not  
 29 been and will not be consumed in this state; or

30 (3) stamps affixed to cigarette packages that are sold or  
 31 distributed outside the state if the licensee provides proof acceptable to the

1 department that the cigarettes have not been and will not be consumed in this  
 2 state and the licensee is properly licensed in the jurisdictions outside the state  
 3 where the sales or distributions are made.

4 \* **Sec. 30.** AS 43.50 is amended by adding a new section to read:

5 **Sec. 43.50.625. Forfeiture of other property.** (a) Upon a showing of  
 6 probable cause that a person has committed the crime of misconduct involving  
 7 unstamped cigarettes or stamps in the first degree under AS 43.50.640, the following  
 8 are subject to forfeiture:

9 (1) material and equipment used in the manufacture, sale, offering for  
 10 sale, or possession for sale of cigarettes in this state in violation of AS 43.50.500 -  
 11 43.50.640 or 43.50.660 - 43.50.700;

12 (2) aircraft, vehicles, or vessels used to transport or facilitate the  
 13 transportation of cigarettes manufactured, sold, offered for sale, or possessed for sale  
 14 in this state in violation of AS 43.50.500 - 43.50.640 or 43.50.660 - 43.50.700;

15 (3) money, securities, negotiable instruments, or other things of value  
 16 used in financial transactions derived from activity prohibited under AS 43.50.500 -  
 17 43.50.640 or 43.50.660 - 43.50.700.

18 (b) Property subject to forfeiture under this section may be actually or  
 19 constructively seized under an order issued by the superior court upon a showing of  
 20 probable cause that the property is subject to forfeiture under this section.  
 21 Constructive seizure is effected upon posting a signed notice of seizure on the item to  
 22 be forfeited, stating the violation and the date and place of seizure. Seizure without a  
 23 court order may be made if

24 (1) the seizure is incident to a valid arrest or search;

25 (2) the property subject to seizure is the subject of a prior judgment in  
 26 favor of the state; or

27 (3) there is probable cause to believe that the property is subject to  
 28 forfeiture under (a) of this section; property seized under this paragraph may be held  
 29 for not more than 48 hours unless an order of forfeiture is issued by the court before  
 30 the end of that time period.

31 (c) Within 30 days after a seizure under this section, the Department of Public

1 Safety shall make reasonable efforts to ascertain the identity and whereabouts of any  
2 person holding an interest, or an assignee of a person holding an interest, in the  
3 property seized, including a right to possession, or a lien, mortgage, or conditional  
4 sales contract. The Department of Public Safety shall notify the person ascertained to  
5 have an interest in the seized property of the impending forfeiture, and, before  
6 forfeiture, the Department of Public Safety shall publish, once a week for four  
7 consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of  
8 general circulation in the judicial district in which the seizure was made, or if a  
9 newspaper is not published in that judicial district, in a newspaper published in the  
10 state and distributed in that judicial district.

11 (d) Property subject to forfeiture under (a) of this section may be forfeited

12 (1) upon conviction of a person for a violation of AS 43.50.640; or

13 (2) upon judgment by the superior court in a proceeding in rem that the  
14 property was used in a manner subjecting it to forfeiture under (a) of this section.

15 (e) The owner of property subject to forfeiture under (a) of this section is  
16 entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an  
17 action under (d) of this section, the owner shows that the owner

18 (1) was not a party to the violation;

19 (2) did not have actual knowledge or reasonable cause to believe that  
20 the property was used or was to be used in violation of the law; and

21 (3) did not have actual knowledge or reasonable cause to believe that  
22 the person committing the violation had, within the last 10 years,

23 (A) been convicted of violating this chapter; or

24 (B) committed other violations of this chapter.

25 (f) The court may allow the owner of property that is subject to forfeiture  
26 under (a) of this section to redeem the property by paying an amount determined by  
27 the court to be the fair market value of the property.

28 (g) A person other than the owner holding, or the assignee of, a lien,  
29 mortgage, or conditional sales contract on, or the right to possession of property  
30 subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in  
31 the nature of remission of the forfeiture if, in an action under (d) of this section, the

1 person shows that the person

2 (1) was not a party to the violation subjecting the property to  
3 forfeiture;

4 (2) did not have actual knowledge or reasonable cause to believe that  
5 the property was used or was to be used in violation of the law; and

6 (3) did not have actual knowledge or reasonable cause to believe that  
7 the person committing the violation had, within the last 10 years,

8 (A) been convicted of violating this chapter; or

9 (B) committed other violations of this chapter.

10 (h) It is not a defense in an in rem forfeiture proceeding brought under (d)(2)  
11 of this section that a criminal proceeding is pending or has resulted in conviction or  
12 acquittal of a person charged with violating AS 43.50.640.

13 (i) Property forfeited under this section shall be placed in the custody of the  
14 commissioner of public safety for disposition according to an order entered by the  
15 court. The court shall order destroyed any property forfeited under this section that is  
16 harmful to the public and may order any property forfeited under this section that was  
17 seized in a municipality to be transferred to the municipality in which the property was  
18 seized or to another municipality affected by the crime for which the property was  
19 forfeited. The Department of Public Safety shall notify all municipalities affected by  
20 the crime of the forfeiture proceeding. Other property shall be ordered sold and the  
21 proceeds used for payment of expenses of the proceedings for forfeiture and sale,  
22 including expenses of seizure, custody, and court costs. The remainder of the  
23 proceeds shall be deposited in the general fund.

24 (j) The title to a vehicle or vessel forfeited to the state under this section may  
25 be transferred by the state to a municipality or the local governing body of a village  
26 for official use by the municipality or village, on condition that the vehicle or vessel  
27 not be available for use by the defendant.

28 \* Sec. 31. AS 43.50.640(a) is amended to read:

29 (a) A person commits the crime of misconduct involving unstamped cigarettes  
30 or stamps in the first degree if the person

31 (1) with reckless disregard that the cigarettes are unstamped