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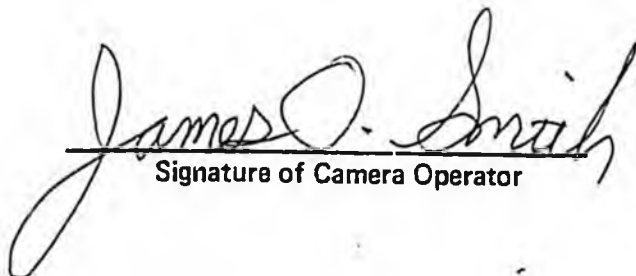
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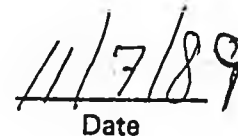
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Office of Management and Budget
Division of Strategic Planning
January 31, 1986

SUMMARY - - BUDGET RESERVE FUND

The basic principles of Governor Sheffield's proposed Budget Reserve Fund (BRF) may be summarized as follows:

- o The BRF replaces the Rainy Day Fund.
- o Potential sources of capitalization for the BRF include the balance of the Rainy Day Fund, windfall revenue, retained BRF earnings, and future revenue surpluses.
- o The BRF appropriation limit replaces the existing appropriation limit.
- o The BRF appropriation limit applies only to unrestricted general fund revenues, and defines "Base Year" as the calendar year preceding the start of a given fiscal year.
- o Annual appropriations are limited to 115 percent of total appropriations enacted during the Base Year.
- o If revenue receipts in a fiscal year fall below 95 percent of total appropriations enacted during the Base Year, the BRF pays out the lesser of two amounts for general fund appropriations: (a) enough to raise appropriations to the 95 percent level; or, (b) 25 percent of the BRF balance.
- o If revenue receipts in a fiscal year surpass 115 percent of total appropriations enacted during the Base Year, the surplus above the 115 percent level is transferred into the BRF.
- o If a transfer or any other event causes the BRF balance to exceed the BRF's capacity (annually set equal to total appropriations enacted during the Base Year), the excess is divided between the Permanent Fund (75 percent) and the General Fund (25 percent). The latter 25 percent may be appropriated without regard to the 115 percent appropriation limit, but is included in calculations for the next fiscal year's Base Year.
- o The balance of the BRF is accessible in cases of emergencies, as defined by law.

Office of Management and Budget
Division of Strategic Planning
March 5, 1986

ADVANTAGES OF A BUDGET RESERVE FUND

The main advantages of the Budget Reserve Fund proposed by Governor Sheffield may be summarized as follows:

- o As a cashflow management system for budgeting, it represents a key element in Governor Sheffield's overall fiscal plan.
- o It stabilizes annual budget levels, allowing smoother program operations and better planning.
- o It stabilizes Alaska's economy, mitigating the jolts and disruptions which result from jumps in annual State budget levels.
- o Insofar as it assures response to unexpected revenue fluctuations, it brings an additional amount of certainty to the annual budget process.
- o It provides a "middle ground", conceptually, between spending versus saving.
- o It provides an institutional mechanism for dealing with future revenue shortfalls, and for providing for the disposition of future revenue windfalls.
- o It serves as a "buffer" for the Permanent Fund.

BRIEFING MATERIALS

Budget Reserve Fund

January 1986

State of Alaska

Office of Management and Budget



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 1986

BUDGET RESERVE FUND

Governor Bill Sheffield

My concern for fiscal planning for the State of Alaska goes back to long before my campaign for Governor. Since coming to Juneau I have emphasized long-term fiscal considerations in my annual budgets and major legislative initiatives. This year I am proposing an amendment to the State constitution that creates a Budget Reserve Fund (BRF), designed to help stabilize State spending and provide a hedge or "buffer" against revenue shortfalls.

Basically, the BRF is an account used to save money in good years and augment spending in bad years. It is a device for managing our cash flow. This proposed constitutional amendment also can help protect the assets and earnings of the Alaska Permanent Fund, which will continue to be our permanent, long-term savings account.

If approved by the Legislature and ratified by the voters, the BRF would create a new spending limit. The existing spending limit has proven to be ineffective, and it should be replaced. Under my proposal, revenues in excess of the spending limit would be used first to replenish the BRF, and then to provide for permanent savings and additional spending if sufficient.

In years when revenues are down, a portion of the money in the BRF can be withdrawn to help support the budget. There is no guarantee that this amount will be enough to keep the budget at the level of our prior year, but it will help meet the shortfall.

This packet of briefing materials has been prepared by the Office of Management and Budget to explain the details of the BRF. I encourage the widest possible public discussion of the proposal, and we are available to answer questions that you may have.

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Budget Reserve Fund

*"The Budget Reserve Fund is a spending plan, a savings plan, and a spending limit ...
Moreover, by creating the Budget Reserve Fund, Alaskans are creating
a buffer -- between impulsive spenders and the Permanent Fund."*

Governor Bill Sheffield
January 16, 1986

BUDGET RESERVE FUND

This paper proposes a Budget Reserve Fund (BRF) for the State of Alaska. The BRF is a special reserve account designed to operate with a revised appropriation limit.

The BRF performs two functions. In years of sharp revenue declines, the BRF supplies additional funds for appropriation by transferring a portion of its balance into the General Fund. In years of sudden or sustained revenue increases, the BRF temporarily holds a portion of revenue surpluses for later use.

The flow of funds into and out of the BRF will buffer the year-to-year fluctuations in the State's revenue stream caused by petroleum price changes. The net effect will be a leveling or smoothing of the revenue amounts available to the State each year for appropriations. This smoothing will provide a greater degree of stability in annual State budget levels, increased certainty in the appropriations process, and mitigation of the budgetary and economic effects produced by annual revenue fluctuations.

If established, the BRF will replace the State's current Rainy Day Fund. Similarly, its accompanying appropriation limit will replace Alaska's existing constitutional limit on appropriations.

The BRF Proposal

Central to the BRF and its accompanying appropriation limit are the following provisions:

- ° The appropriation limit applies only to Unrestricted General Fund revenues.
- ° The BRF is separate from the State's General Fund.
- ° Appropriations for any given fiscal year are limited to 115 percent of the total appropriations made during the preceding calendar year (January-December).
- ° If revenue collections in any given fiscal year fall to a level below 95 percent of the total appropriations made during the preceding calendar year, funds are transferred from the BRF into the General Fund, to provide for appropriations for that fiscal year. The amount of funds transferred is the lesser of: (a) the amount necessary to bring appropriations up to the 95 percent level; or, (b) the maximum annual outlay from the BRF (25 percent of the BRF balance).

- ° The capacity (size limit) of the BRF for any given fiscal year is equal to the total amount of appropriations made during the preceding calendar year.
- ° If revenue collections in any given fiscal year exceed the 115 percent limit, the surplus (revenue collections above 115 percent of the previous calendar year appropriations) is transferred into the BRF. However, if transfer of the surplus would cause the BRF's capacity (size limit) for that fiscal year to be exceeded, only an amount of revenues sufficient to bring the BRF balance up to the fund's capacity is transferred into the BRF. Any excess surplus (surplus above the BRF's capacity) or spillover is distributed as follows: 25 percent remains in the General Fund and is available for appropriations for that fiscal year (effectively raising the 115 percent appropriation ceiling), and 75 percent is transferred into the Permanent Fund.
- ° The BRF retains its interest earnings.
- ° If the balance of the BRF at the close of a fiscal year exceeds the account's capacity for that fiscal year, the spillover (excess above capacity) is distributed as follows: 25 percent is transferred into the General Fund, and 75 percent is transferred into the Permanent Fund.
- ° The maximum outlay (disbursement for appropriations) from the BRF during any given fiscal year is 25 percent of the balance remaining in the account at the close of the preceding calendar year.
- ° All General Funds resulting from BRF spillover are available for appropriation without regard to the 115% limit and, once appropriated, become part of the succeeding fiscal year's base (total appropriations made in the preceding calendar year).

How the BRF and Appropriation Limit will Work

For each fiscal year's budget, the appropriation limit sets a 95 percent floor and a 115 percent ceiling for appropriations. These thresholds are based on the amount of total appropriations made during the preceding calendar year, so that they will be known with certainty by the start of legislative sessions.

If revenues for the fiscal year being budgeted are expected to fall below the 95 percent floor, legislators will make

appropriations on that basis. Because they will know the BRF balance and maximum possible outlay at the start of the session, legislators also will be able to estimate the amount of outlay likely to be forthcoming from the BRF, and incorporate that extra amount into their appropriations. If the shortfall materializes, the BRF outlay will be transferred into the General Fund at the close of the budgeted fiscal year. If revenue collections turn out not to fall below the 95 percent floor, no BRF money will be released.

Conversely, if revenues for the fiscal year being budgeted are expected to exceed the 115 percent ceiling, legislators will be able to make appropriations up to the ceiling. Knowing the BRF balance and capacity at the start of the session, as well as the expected surplus above the 115 percent ceiling, legislators also will be able to add to their appropriations an estimate of how much excess surplus is likely to be available for additional appropriations above the 115 percent ceiling level. The excess surplus for appropriations will then become available at the close of the budgeted fiscal year, if a revenue surplus materializes. If revenue collections turn out not to exceed the 115 percent ceiling, there will be no excess surplus for appropriations.

Under both sets of circumstances described above, legislators will retain their current flexibility in fine-tuning appropriations during the following legislative session, based on then-prevailing revenue forecasts.

Discussion: BRF

Regarding capitalization, it must be said that it would be possible to establish the BRF without any initial capitalization. Doing so would have the effect of activating the appropriation limit, and placing the BRF on the books. This would mean that the BRF would not be able to provide any budgetary assistance until such time as revenue surpluses might occur in the future.

If the BRF is to provide budgetary assistance during the coming years of expected revenue decline, however, it will need to be initially capitalized by the State.

The best level of initial capitalization for the BRF is ultimately a matter of judgement. Simulations conducted by the Office of Management and Budget (OMB), however, suggest that an initial capitalization of less than \$500 million could result in a steady draw-down of the account, particularly if current revenue forecasts prove accurate. The same simulations indicate that an initial capitalization of \$1 billion would go far towards avoiding that possibility, particularly if the BRF is allowed to retain its interest earnings.

The best size for the maximum annual outlay from the BRF is also a matter of judgement. The Office of Management and Budget simulations indicate, however, that (at a \$1 billion level of initial capitalization) restricting outlays to a maximum of 25 percent of the BRF's balance probably is sufficient to assure a continuing lifespan for the fund, yet still provide meaningful amounts of assistance in years when assistance is needed.

The BRF is not intended to serve as a State savings account, but rather as a kind of cash management account. Therefore, its capacity (maximum size) is limited in this proposal to a level equalling one calendar-year's appropriations. This is done to avoid the theoretical possibility of accumulating large cash balances in the BRF.

For the same reason, and to allow flexibility in making appropriations during periods of sudden or sustained revenue increases, this proposal also stipulates that a portion of large revenue surpluses be kept available for appropriations through the excess surplus (surplus above the BRF's capacity) provisions governing the BRF. Similar spillover provisions apply in cases where the BRF's interest earnings may cause the account's capacity to be exceeded. Both sets of provisions allow appropriations in excess of the 115 percent level.

Discussion: Appropriation Limit

Two general considerations need to be addressed regarding the proposed appropriation limit. One involves the scope of the appropriation limit; the other involves timing considerations underlying the limit's application.

The proposal restricts the scope of the appropriation limit to Unrestricted General Fund revenues. This restriction has been adopted in order to avoid situations where fiscal events beyond the State's control (e.g, fluctuations in federal funding) might affect the appropriation limit's floor and ceiling thresholds, or trigger BRF outlays. This allows the Legislature and the Governor to respond to such external fiscal events as they best see fit, rather than have their response dictated. In keeping with this purpose, the proposed appropriation limit also does not allocate or otherwise distinguish between operating and capital budget appropriations.

The proposal employs a calendar-year basis (i.e., the total appropriations made in the calendar year preceding any given fiscal year) to set the appropriation limit's floor and ceiling, as well as to set the capacity of the BRF. There are two reasons for adopting the calendar-year basis.

One reason is to provide clear budget planning guidelines: public officials will know by the start of a legislative session the relevant numbers and limits with which they will be working in setting the coming fiscal year's budget. If, for example, the appropriation limit's floor and ceiling for the fiscal year (FY) 1990 budget were based on fiscal year 1989 appropriations, instead of on calendar year 1989 appropriations, legislators convening in January 1989 would not know the appropriation ceiling or floor for the FY 1990 budget until after the 1989 session had ended (and the Governor had approved or vetoed FY 1989 supplemental and special appropriations made during the 1989 session). Nor, for the same reason, would legislators know the BRF's FY 1990 capacity, for purposes of estimating any excess surplus or spillover funds that might come available for appropriation.

The second reason for adopting the calendar-year basis is to preserve, without sacrificing certainty about budget floors and ceilings, the flexibility that public officials currently have in requesting and making supplemental and special appropriations during follow-up legislative sessions.

Attachments to the Proposal

To illustrate the operation of the BRF and its companion appropriation limit, three sets of figures and tables are attached to this proposal. All of the attachments assume that the BRF and the appropriation limit are first applied to the FY 1988 budget.

(For the sake of simplicity, all of the attachments also assume that all budget appropriations for a given fiscal year, including supplemental and special appropriations, occur during the same legislative session.)

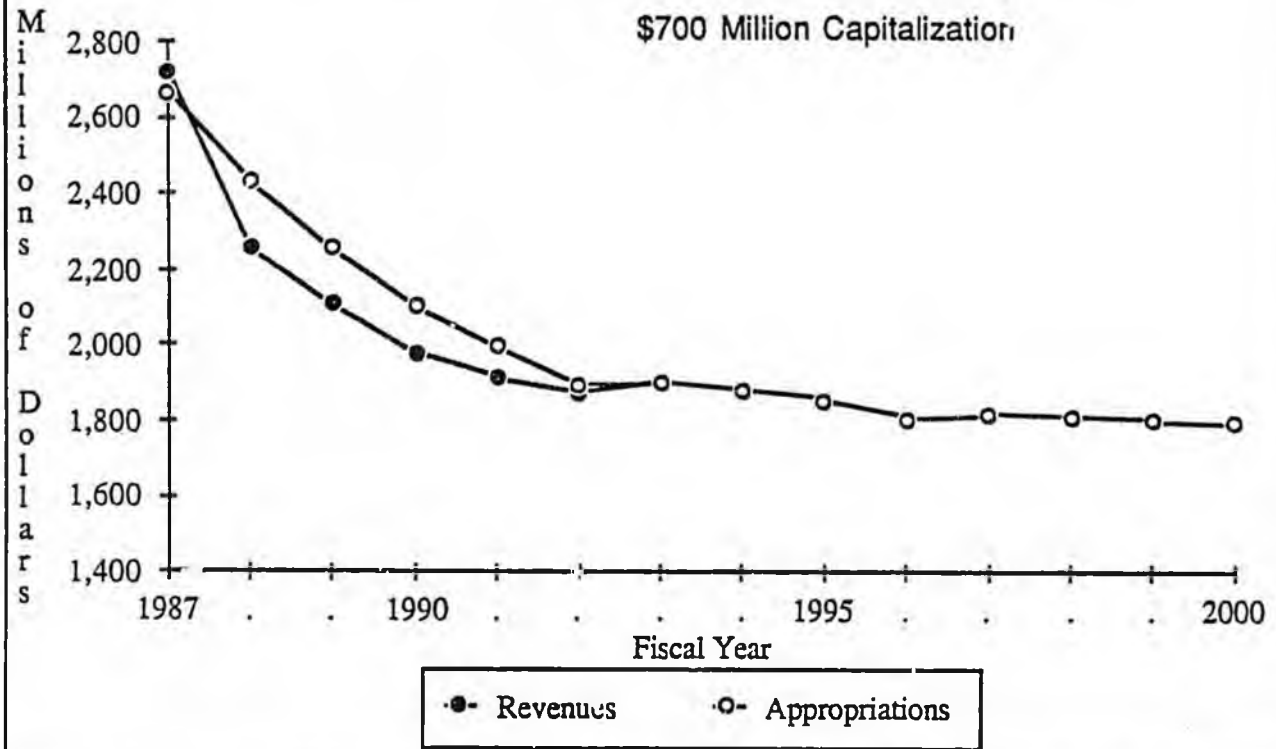
Note: In all of the attachments, the FY 1987 total appropriation amount of \$2.664 billion represents Governor Sheffield's preliminary FY 1987 Executive Budget proposal. Appropriation levels affected by the BRF and its appropriation limit begin in FY 1988.

Figure 1 is based on the Department of Revenue (DOR) December 1985 30th percentile forecast for Unrestricted General Fund revenues, for the period FY 1987-2000. The figure assumes an initial capitalization of \$700 million for the BRF, and indicates the appropriation levels that would result under the BRF proposal. As can be seen, the BRF would contribute a total of approximately \$550 million to the General Fund for appropriations between FY 1988 and FY 1992 in this scenario. Beyond FY 1992, the apparent flattening of revenues indicated by the forecast causes no triggering of BRF activity. (Table 1 is the accompanying spreadsheet, from which Figure 1 is generated.)

Figure 2 is based on DOR's December 1985 mean (mid-range) forecast for Unrestricted General Fund revenues, for the period FY 1987-2000. This figure also assumes an initial capitalization of \$700 million for the BRF account, and indicates the appropriation levels that would result under the BRF proposal. As can be seen, the BRF would be triggered only once in this scenario, contributing approximately \$27 million to the General Fund in FY 1988. The BRF would not be triggered again during the period of this forecast, as revenue collections remain above the 95% floor level through FY 2000. (Table 2 is the accompanying spreadsheet, from which Figure 1 is generated.)

Figure 3 represents a hypothetical version of Figure 1. Like Figure 1, Figure 3 is based on DOR's December 1985 30th percentile forecast for Unrestricted General Fund revenues, and assumes an initial capitalization of \$700 million for the BRF account. This hypothetical case assumes, however, that an unexpected \$600 million windfall occurs in FY 1992. As can be seen from Figure 3, the BRF functions the same way as it does in Figure 1 through FY 1991, but following FY 1992 spreads part of the surplus generated by the FY 1992 windfall across the period FY 1993-1994, contributing a total of approximately \$210 million to the General Fund during those two fiscal years. The relative stabilization of revenues beyond FY 1994 causes no triggering of BRF activity. (Table 3 is the accompanying spreadsheet.)

FIGURE 1 - BUDGET RESERVE FUND
30TH PERCENTILE REVENUES
\$700 Million Capitalization



Prepared by:
 Division of Strategic Planning, OMB

1/20/86

1/20/86

TABLE 1
BUDGET RESERVE FUND
\$700 MILLION CAPITALIZATION
30TH PERCENTILE UGF REVENUES, FY 1987 - 2000
DECEMBER 1985 FORECAST
(\$Millions)

CASE CONSTRAINTS:

Ceiling (+%):	15%	Capitalization:	700
Floor (-%):	5%	Maximum Outlay:	25%
Interest Rate:	8%	Spillover Spending:	25%

BRF Capacity = Previous Calendar Year's Appropriations

BRF Outlay Limit = 25% of FY Start Balance

BRF account retains its earnings.

Spending/PF Adjustment = year end adjustment to keep BRF balance under capacity limit; excess divided between spending and PF.

Model assumes that all fund transactions (deposits, outlays, and interest earnings) are recognized at close of fiscal year.

CONTRIBUTIONS TO PERMANENT FUND

FY	FY Start		PF		FY End	
	FY Balance	Earnings	Deposit	Balance	W	Z
1987						
1988	0	0	0	0		
1989	0	0	0	0		
1990	0	0	0	0		
1991	0	0	0	0		
1992	0	0	0	0		
1993	0	0	0	0		
1994	0	0	0	0		
1995	0	0	0	0		
1996	0	0	0	0		
1997	0	0	0	0		
1998	0	0	0	0		
1999	0	0	0	0		
2000	0	0	0	0		

TOTAL: 0 0

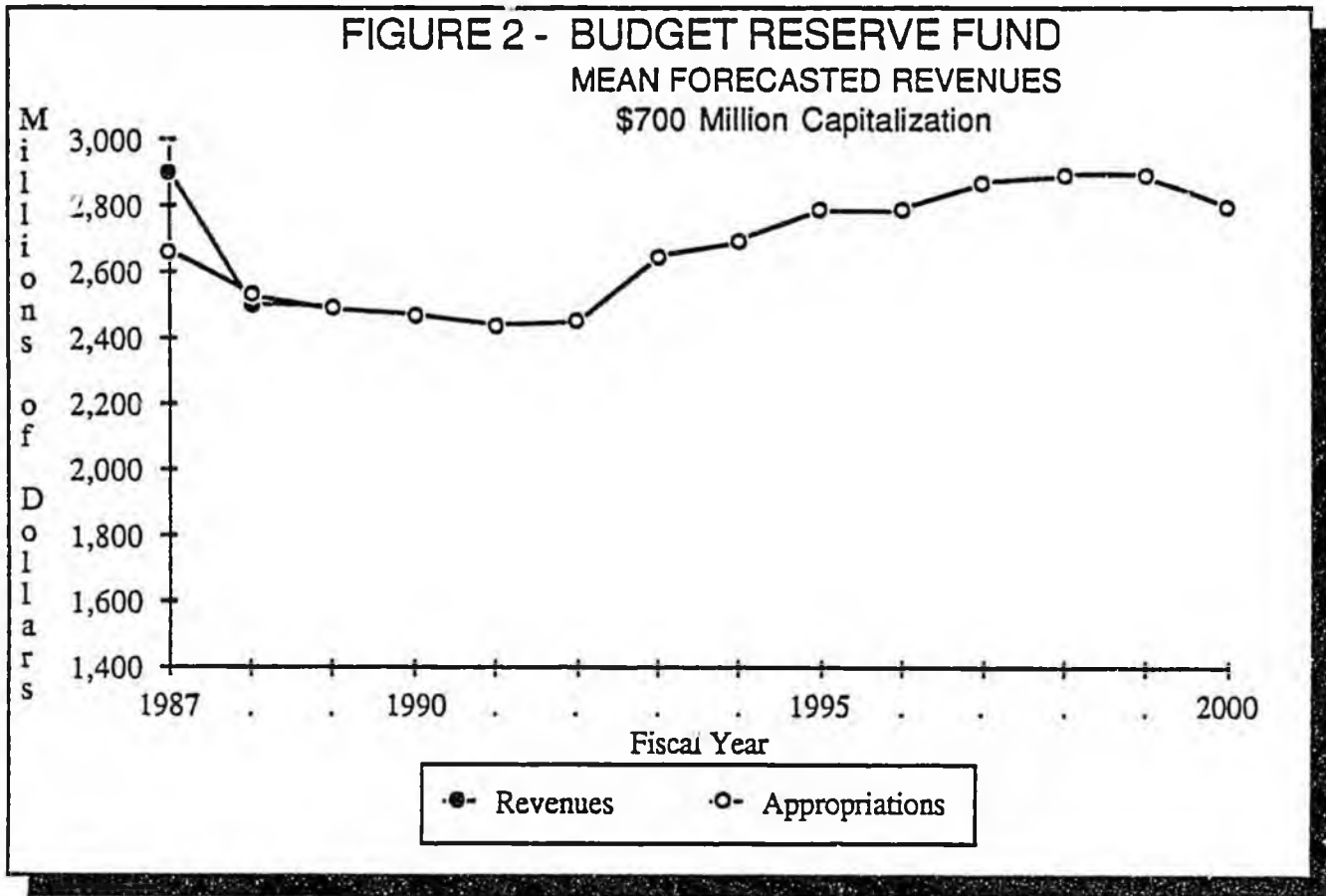
IF REVENUES ABOVE CEILING **IF REVENUES BELOW FLOOR**

FY	Revenues	Prev. CY	Ceiling	Floor	IF REVENUES ABOVE CEILING			IF REVENUES BELOW FLOOR			Total CV
					Surplus	BRF Deposit	Added Spending	Perm. Fund Deposit	Shortfall	BRF Outlay	
	B	C	D	E	F	G	H	I	J	K	L
1987	2,719				0	0	0	0	273	175	2,664
1988	2,257	2,664	3,064	2,531	0	0	0	0	202	147	2,432
1989	2,109	2,432	2,797	2,311	0	0	0	0	163	123	2,256
1990	1,980	2,256	2,595	2,143	0	0	0	0	83	83	1,999
1991	1,916	2,104	2,419	1,999	0	0	0	0	24	24	1,899
1992	1,875	1,999	2,298	1,899	0	0	0	0	0	0	1,904
1993	1,804	1,899	2,184	1,804	0	0	0	0	0	0	1,882
1994	1,882	1,904	2,189	1,809	0	0	0	0	0	0	1,855
1995	1,855	1,882	2,164	1,788	0	0	0	0	0	0	1,808
1996	1,808	1,855	2,133	1,762	0	0	0	0	0	0	1,821
1997	1,821	1,808	2,079	1,718	0	0	0	0	0	0	1,813
1998	1,813	1,821	2,094	1,730	0	0	0	0	0	0	1,804
1999	1,804	1,813	2,084	1,722	0	0	0	0	0	0	1,796
2000	1,796	1,804	2,075	1,714	0	0	0	0	0	0	
TOTAL:	24,819				0	0	0	0	553	25,372	

BUDGET RESERVE FUND

FY	FY Start Balance	Fund Capacity	Maximum Outlay	CONTRIBUTIONS TO PERMANENT FUND			Spend/PF Adjustment	FY End Balance
				Deposit	Outlays	Earnings		
	O	P	Q	R	S	T	U	V
1987								
1988	700	2,664	175	0	175	63	0	580
1989	588	2,432	147	0	147	53	0	494
1990	404	2,256	123	0	123	44	0	415
1991	415	2,104	104	0	83	37	0	369
1992	369	1,999	82	0	24	33	0	378
1993	378	1,899	85	0	0	34	0	412
1994	412	1,904	103	0	0	37	0	449
1995	449	1,882	112	0	0	40	0	490
1996	490	1,855	122	0	0	44	0	534
1997	534	1,808	133	0	0	48	0	582
1998	582	1,821	145	0	0	52	0	634
1999	634	1,813	159	0	0	57	0	691
2000	691	1,804	173	0	0	62	0	753
TOTAL:				0	553	606		

Source: Office of Management and Budget, Division of Strategic Planning



Prepared by:
Division of Strategic Planning, OMB

1/20/36

1/20/85

CASE CONSTRAINTS:

Ceiling (+%):	15%	Capitalization:	700
Floor (-%):	5%	Maximum Outlay:	25%
Interest Rate:	9%	Spillover Spending:	25%

BRF Capacity = Previous Calendar Year's Appropriations

BRF Outlay Limit = 25% of FY Start Balance

BRF account retains its earnings.

Spending/PF Adjustment = year end adjustment to keep BRF balance under capacity limit; excess divided between spending and PF.

Model assumes that all fund transactions (deposits, outlays, and interest earnings) are recognized at close of fiscal year.

TABLE 2
BUDGET RESERVE FUND
\$700 MILLION CAPITALIZATION
MEAN FORECASTED UGF REVENUES, FY 1987 - 2000
DECEMBER 1985 FORECAST
(\$Millions)

CONTRIBUTIONS TO
PERMANENT FUND

FY	FY Start	Earnings	PF	FY End
	Balance		Deposit	Balance
	W	X	Y	Z
1987				
1988	0	0	0	0
1989	0	0	0	0
1990	0	0	0	0
1991	0	0	0	0
1992	0	0	0	0
1993	0	0	0	0
1994	0	0	0	0
1995	0	0	0	0
1996	0	0	0	0
1997	0	0	0	0
1998	0	0	0	0
1999	0	0	0	0
2000	0	0	0	0

TOTAL: 0 0

-10-

IF REVENUES ABOVE CEILING IF REVENUES BELOW FLOOR

FY	Revenues	Prov. CY	Ceiling	Floor	IF REVENUES ABOVE CEILING			IF REVENUES BELOW FLOOR			Total CY
					Surplus	BRF Deposit	Added Spending	Perm. Fund Deposit	Shortfall	BRF Outlay	
	B	C	D	E	F	G	H	I	J	K	L
1987	2,904										2,664
1988	2,503	2,664	3,064	2,531	0	0	0	0	27	27	2,531
1989	2,491	2,531	2,910	2,404	0	0	0	0	0	0	2,401
1990	2,474	2,491	2,865	2,366	0	0	0	0	0	0	2,474
1991	2,441	2,474	2,845	2,350	0	0	0	0	0	0	2,441
1992	2,450	2,441	2,807	2,319	0	0	0	0	0	0	2,450
1993	2,648	2,450	2,817	2,327	0	0	0	0	0	0	2,648
1994	2,692	2,648	3,045	2,516	0	0	0	0	0	0	2,692
1995	2,787	2,692	3,096	2,558	0	0	0	0	0	0	2,787
1996	2,790	2,787	3,206	2,648	0	0	0	0	0	0	2,790
1997	2,868	2,790	3,208	2,650	0	0	0	0	0	0	2,868
1998	2,891	2,868	3,298	2,725	0	0	0	0	0	0	2,891
1999	2,890	2,891	3,325	2,747	0	0	0	0	0	0	2,890
2000	2,800	2,890	3,324	2,746	0	0	0	0	0	0	2,800
TOTAL:	34,726				0	0	0	0	27	27	34,753

BUDGET RESERVE FUND

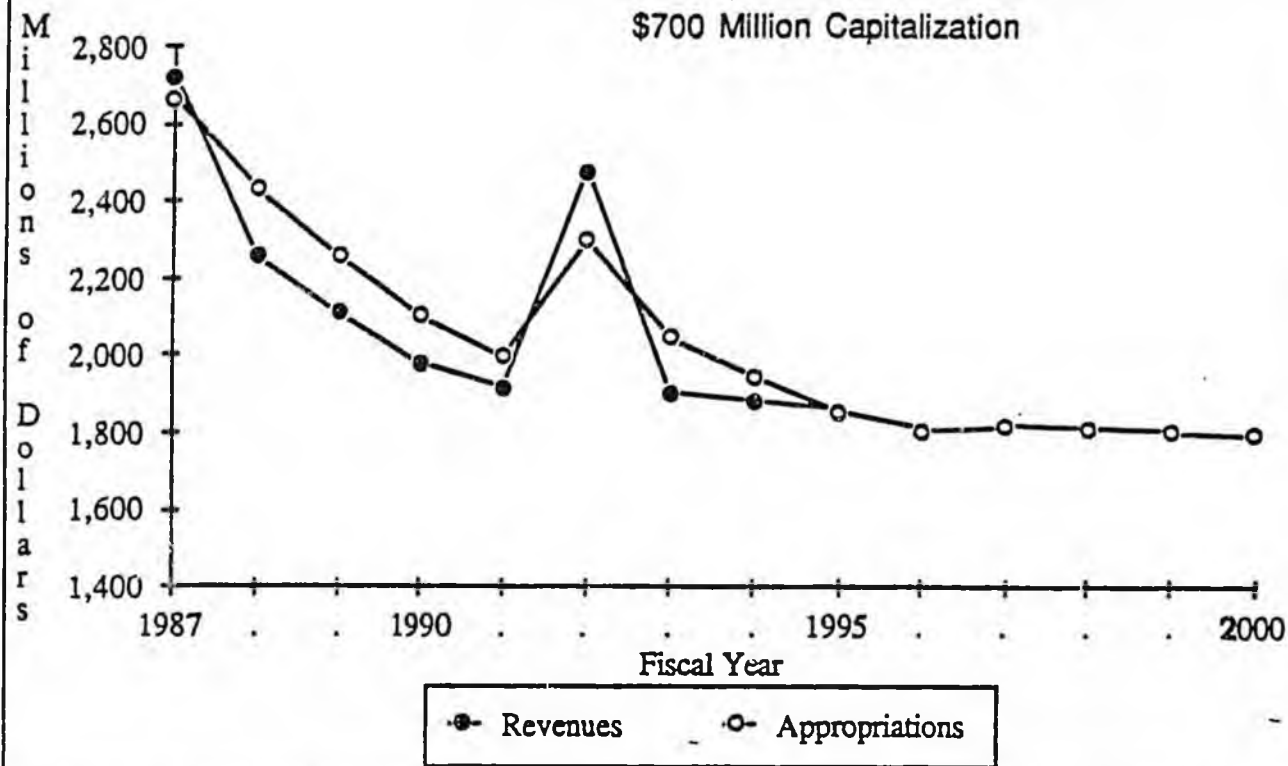
FY	FY Start	Fund	Maximum	CONTRIBUTIONS TO PERMANENT FUND			Spend/PF	FY End
				Deposit	Outlays	Earnings		
	O	P	Q	R	S	T	U	V
1987								
1988	700	2,664	175	0	27	63	0	736
1989	736	2,531	184	0	0	66	0	802
1990	802	2,491	206	0	0	72	0	874
1991	874	2,474	218	0	0	79	0	953
1992	953	2,441	238	0	0	86	0	1,038
1993	1,038	2,450	260	0	0	93	0	1,132
1994	1,132	2,648	283	0	0	102	0	1,234
1995	1,234	2,692	308	0	0	111	0	1,345
1996	1,345	2,787	336	0	0	121	0	1,466
1997	1,466	2,790	365	0	0	132	0	1,598
1998	1,598	2,868	399	0	0	144	0	1,741
1999	1,741	2,891	435	0	0	157	0	1,898
2000	1,898	2,890	475	0	0	171	0	2,069
TOTAL:				0	27	1,398		

Source: Office of Management and Budget, Division of Strategic Planning

FIGURE 3 - BUDGET RESERVE FUND

30TH % - \$600 MILLION WINDFALL

\$700 Million Capitalization



Prepared by:
Division of Strategic Planning, OMB

1/20/86

1/20/86

TABLE 3
BUDGET RESERVE FUND
\$700 MILLION CAPITALIZATION
30TH PERCENTILE UGF REVENUES, FY 1987 - 2000
DECEMBER 1985 FORECAST
ASSUMES \$600 MILLION WINDFALL IN FY1992

(\$Millions)

CASE CONSTRAINTS:

Ceiling (+%):	15%	Capitalization:	700
Floor (-%):	5%	Maximum Outlay:	25%
Interest Rate:	8%	Spillover Spending:	25%

BRF Capacity = Previous Calendar Year's Appropriations

BRF Outlay Limit = 25% of FY Start Balance

BRF account retains its earnings.

Spending/PF Adjustment = year and adjustment to keep BRF balance under capacity limit; excess divided between spending and PF.

Model assumes that all fund transactions (deposits, outlays, and interest earnings) are recognized at close of fiscal year.

CONTRIBUTIONS TO PERMANENT FUND

FY	FY Start	Earnings	PF	FY End
	Balance		Deposit	Balance
	—W—	—X—	—Y—	—Z—
1987				
1988	-	-	0	0
1989	0	0	0	0
1990	0	0	0	0
1991	0	0	0	0
1992	0	0	0	0
1993	0	0	0	0
1994	0	0	0	0
1995	0	0	0	0
1996	0	0	0	0
1997	0	0	0	0
1998	0	0	0	0
1999	0	0	0	0
2000	0	0	0	0
TOTAL:		0	0	

IF REVENUES ABOVE CEILING **IF REVENUES BELOW FLOOR**

FY	Revenues	Prev. CY	Ceiling	Floor	IF REVENUES ABOVE CEILING					IF REVENUES BELOW FLOOR		Total CY	BUDGET RESERVE FUND								
					Surplus	BRF	Added	Perm.	Shortfall	BRF	FY		FY Start	Fund	Maximum	Deposit	Outlays	Earnings	Spand/PF	FY End	
	—B—	—C—	—D—	—E—	—F—	—G—	—H—	—I—	—J—	—K—	—L—	—M—	—N—	—O—	—P—	—Q—	—R—	—S—	—T—	—U—	—V—
1987	2,719										2,664	1987									
1988	2,257	2,664	3,064	2,531	0	0	0	0	273	175	2,432	1988	700	2,664	175	0	175	63	0	588	
1989	2,109	2,432	2,797	2,311	0	0	0	0	202	147	2,256	1989	588	2,432	147	0	147	53	0	494	
1990	1,980	2,256	2,595	2,143	0	0	0	0	163	123	2,104	1990	494	2,256	123	0	123	44	0	415	
1991	1,916	2,104	2,419	1,999	0	0	0	0	83	83	1,999	1991	415	2,104	104	0	83	37	0	369	
1992	2,475	1,999	2,298	1,899	176	176	0	0	0	0	2,298	1992	369	1,999	92	176	0	33	0	578	
1993	1,904	2,298	2,643	2,184	0	0	0	0	280	145	2,048	1993	578	2,298	145	0	145	52	0	485	
1994	1,802	2,048	2,356	1,946	0	0	0	0	64	64	1,946	1994	486	2,048	121	0	64	44	0	465	
1995	1,855	1,946	2,238	1,849	0	0	0	0	0	0	1,855	1995	465	1,946	118	0	0	42	0	507	
1996	1,808	1,855	2,133	1,762	0	0	0	0	0	0	1,808	1996	507	1,855	127	0	0	46	0	653	
1997	1,821	1,808	2,079	1,718	0	0	0	0	0	0	1,821	1997	653	1,808	138	0	0	50	0	603	
1998	1,813	1,821	2,094	1,730	0	0	0	0	0	0	1,813	1998	603	1,821	151	0	0	54	0	657	
1999	1,804	1,813	2,084	1,722	0	0	0	0	0	0	1,804	1999	657	1,813	164	0	0	59	0	716	
2000	1,795	1,804	2,075	1,714	0	0	0	0	0	0	1,795	2000	716	1,804	179	0	0	64	0	781	
TOTAL:	25,419				176	0	0	0	737	25,980					176	737	642				

Source: Office of Management and Budget, Division of Strategic Planning

REVENUE INFORMATION

		(unrestricted GF; \$ millions)
FY 87 Revenue Available for Appropriation (excluding TAPS settlement increments)	2,698.9	1)
Executive Budget Proposal	(2,665.1)	2)
Estimated FY 87 Year-End Balance	33.8	3)
Revenue Available for Appropriation to BRF Account		
Rainy Day Fund (Estimated FY 87 year-end balance)	280.0	
TAPS Settlement Increments		4)
FY 1982-85 Refunds and Legal Fees	120.0	
FY 86 Income from Settlement	59.2	
FY 87 Income from Settlement	156.9	
	336.1	
8g Settlement	56.0	5)
ARCO Severance Tax Settlement	243.0	
 Total	 915.1	

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- 1) FY 87 Executive Budget Book, Table I-2., p. 8.
 - 2) FY 87 Executive Budget Book, Table I-1., p. 6.
 - 3) This amount is intended to cover FY 86 year-end accounting adjustments to the General Fund, and FY 86 and FY 87 supplemental appropriations.
 - 4) Department of Revenue, 30th percentile estimates 1/86. Unrestricted General Fund TAPS income received prior to March 1, 1986 will be deposited to the Rainy Day Fund according to Sec. 762, Ch. 105, SLA 1985.
 - 5) Whether efforts to achieve a Congressional settlement of this dispute will be successful remains to be seen. However, a distribution of the escrow account is possible in 1986. This would result in a payment to Alaska of about \$56 million.

THE BUDGET RESERVE FUND, FORWARD FUNDING,
AND CASH-BASED BUDGETING

A COMPARISON

The Budget Reserve Fund is not a forward funding proposal, or a cash-based budgeting proposal. It is instead very different from either of those two budget management approaches. How it differs, and how forward funding and cash-based budgeting themselves differ, are explained below.

Strictly speaking, forward funding and cash-based budgeting are not identical or even similar approaches to budgeting. Although the phrase "forward funding" is often applied to both, the two are in fact quite distinct.

"Forward funding" traditionally refers to a multi-year budgeting process, whereby all or some appropriations are made for several years at a time. This approach allows managers and program constituents to know ahead of time what their general level of program resources is likely to be in (e.g.) the coming two or three fiscal years, and thus plan accordingly. Although appropriations for future years are always subject to revenue availability and legislative change, forward funding nevertheless does provide a degree of certainty about future program operating levels. Usually, forward funding does not entail the build-up of any special fund or account, though such a mechanism may be used in some circumstances to forward-fund a particular program or group of programs.

"Cash-based budgeting", by contrast, does not entail multi-year appropriations and does not provide certainty about future program operating levels. What it does provide is certainty that annual appropriation levels will match available revenues. This is usually accomplished by establishing a cash fund or account whose starting balance roughly equals one fiscal year's worth of revenues. The amount of revenues in the fund then becomes the effective appropriation limit for setting the coming fiscal year's budget, and fund revenues are used to pay for budget expenditures incurred because of those appropriations. Revenues received during that coming fiscal year are used in turn to replenish the fund, with the fund's balance at the close of that fiscal year becoming the amount available for appropriation for the succeeding fiscal year. Same-year budget certainty under a cash-based budgeting system is thus assured, because annual appropriations are limited to the amount of cash on hand that is available to pay for them. (Conversely, cash-based budgeting provides no certainty about the level of appropriations in succeeding fiscal years, because annual appropriation levels simply track annual fluctuations in overall revenue receipts.)

The Budget Reserve Fund (BRF) represents yet a third approach to budgeting, and is different from forward funding and cash-based budgeting both in purpose and function. Where forward funding aims at multi-year certainty about funding levels, and cash-based budgeting aims at limiting appropriations to the amount of cash on hand, the BRF proposal aims at smoothing the fluctuations in annual budget levels. The goals of the BRF proposal are thus to eliminate the year-to-year budgetary and program disruptions caused by oscillating petroleum revenues; and, in doing so, to minimize the economic dislocations caused by widely varying annual State expenditure levels. The BRF and its accompanying appropriation limit, consequently, function to withhold surplus revenues when surpluses occur, and to use those withheld revenues to augment appropriations in other years when revenues fall. The end result is therefore not budgetary certainty of the kind provided by forward funding or by cash-based budgeting, but rather the providing of a hedge or "buffer" against future precipitous changes in State revenue flows.

In sum, where forward funded provides limited multi-year budgetary certainty (subject to revenue availability and legislative change), and where cash-based budgeting provides high same-year budgetary certainty (but no multi-year certainty, because of varying annual revenue flows), the BRF proposal serves to minimize the budgetary and economic disruptions caused by annual fluctuations in State revenues.

QUESTIONS AND ANSWERS ABOUT
THE BUDGET RESERVE FUND (BRF)

Why have a Budget Reserve Fund?

Alaskans face two fiscal management problems. The first is long-term decline in oil production and oil revenues. The second problem is that this decline may be marked by fluctuating revenues, higher in some years, with steep drops in others. The Budget Reserve Fund is designed to smooth out these variations in order to provide greater fiscal stability and, thereby, to lessen the economic and social consequences of revenue variability. This smoothing is, in part, accomplished by a spending limit which takes revenues from years of revenue increase in order to spend them during years of revenue decline.

What happens to the Rainy Day Fund (RDF)?

The proposed BRF enabling legislation calls for the repeal of the RDF and its replacement with the BRF. The central purpose of the RDF is to assure a flow of petroleum revenues when petroleum flow is interrupted. A special session is required to use RDF funds for that purpose. The BRF can augment petroleum revenues in those circumstance targeted by the RDF, as well as in a variety of other revenue shortfall situations. Unlike the RDF, no procedural difficulties will impede use of the BRF.

What happens to the Budget Reserve Fund if revenue forecasts change?

The Budget Reserve Fund is designed to function in a variety of revenue scenarios. The fund adapts to changes in Alaska's revenue stream. It can supplement declining revenues in order to cushion and smooth what might be too sharp and variable a revenue descent, or it can hold down budget growth in times of rising revenues.

What if we have a sustained revenue increase?

The Budget Reserve Fund is designed to function if Alaska experiences a dramatic, sustained upward change in petroleum revenues.

Several effects would be observed. Budgets would be prepared at the 115% level; thus spending would rise annually. Revenue amounts in excess of the 115% level would go into the BRF until its capacity was reached. Each year the capacity of the BRF would increase by the same amount as additionally appropriated in the preceding calendar year (capacity is based on appropriations made during the preceding calendar year). Each year, any "spillover" would be distributed to the Permanent Fund

(75%) and to the General Fund (25%), effectively increasing the 115% limit and, therefore, increasing the next year's 115% threshold calculation and BRF capacity calculation. At a point when revenues decline, the fund capacity would shrink, freeing as "excess" to capacity amounts that could be spent to moderate a downturn.

What do the "thresholds" mean?

The BRF attempts to keep appropriations from year to year within a range of variation. Thus, the BRF will supplement revenues to within 5% of the previous year's appropriations (if that supplementary amount is not more than 25% of fund balance) and will limit budget growth to no more than 15% greater than the previous year's appropriations (except as permitted by "spillover" provisions). This 20% spread, with most of the variance on the high side, should provide for a smoother and less disruptive spending pattern.

The 95% and the 115% are called "thresholds" or "triggers" because they signal either fund outlays or fund deposits.

How does the "spillover" provision work?

In times of rising revenues, the State may collect revenues in excess of the 115% appropriation limit. Any such excess funds would first go to the Budget Reserve Fund to replenish it to its capacity (previous calendar year's appropriations). Any revenues remaining after filling the BRF to capacity ("spillover"), would be distributed to the Permanent Fund (75%) and to the General Fund (25%). The 25% in the General Fund would be available for appropriation, even though in excess of the 115% limit. Any appropriations of General Fund "spillover" would be additional revenues calculated as part of the base for the next fiscal year.

What happens if we have a revenue windfall?

The effect of a revenue "spike" or "windfall" depends on its size. A spike may be small enough that it falls beneath the 115% ceiling and gets spent. In this case, the next year's spending ceiling is raised by the additional amount appropriated. Or the spike may be larger, exceeding the 115% ceiling. In this case, the additional windfall revenues would be placed in the fund, up to the capacity of the fund. Windfall revenues in excess of those replenishing the fund would be divided between the General Fund (25%) and the Permanent Fund (75%). Excess revenues transferred to the General Fund (the 25%) could be appropriated regardless of the 115% ceiling, and they would be included in the calculation of the next year's floor and ceiling thresholds.

How does the level of capitalization affect fund performance?

The ability of the fund to augment revenues during times of revenue decline is largely dependent on the level of capitalization of the fund: the larger the fund, the longer it will be able to significantly supplement declining revenues. Thus, capitalization of the fund, to the extent permitted by fund capacity (preceding calendar year's appropriations), influences both fund longevity and potential annual outlays.

Why does the Budget Reserve Fund retain its interest earnings?

The long-term ability of the fund to provide supplementary revenues in times of revenue decline depends on fund size. If drawn down, the initial capitalization of the fund can be replenished by interest earned on the fund balance and by deposits in times of rising revenues of sums over the 115% spending ceiling. The steady accumulation of interest earnings assures additional fund revenues, even in declining revenue times, and extends the effective "life" of the fund.

Why are federal and dedicated funds excluded?

The BRF proposal restricts, as does the current appropriations limit, the scope of the appropriation limit to Unrestricted General Fund revenues. This restriction has been adopted in order to avoid situations in which some fiscal events beyond the State's control (e.g., fluctuations in federal funding) might affect the appropriation limit's floor and ceiling thresholds, or trigger BRF outlays. Without an automatic response the Legislature and the Governor are free to respond to such external fiscal events as they best see fit.

Federal and dedicated funds are generally received for specific purposes, unlike Unrestricted General Funds which can be allocated by the Legislature and Governor to meet priority needs. The potentially chaotic effect of including federal funds is illustrated by a hypothetical case in which the State receives, for one year, a large increase in federal highway funds for a specific project. If the BRF included all revenues, including federal funds, then this federal expenditure would automatically raise the appropriation limit ceiling for the next fiscal year. If the federal government then failed to renew this highway grant, the BRF would be used to meet the inflated 95% floor created by the artificial raising of the 115% threshold.

Why is there a 25% annual outflow limit?

Without any outflow limitation, the BRF balance could be quickly expended during years of sharp revenue decline. Such rapid expenditure could too rapidly deplete the fund balance

and fail to provide for a smooth spending decline, since there would be a big drop in available revenues when the BRF fund balance is depleted.

The best size for the maximum annual outlay from the BRF can not be determined with accuracy. Office of Management and Budget (OMB) simulations indicate, however, that, at higher capitalization levels, restricting outlays to a maximum of 25 percent of the BRF's balance probably is sufficient to assure a continuing lifespan for the fund, yet still provide meaningful amounts of funding assistance in years when assistance is needed.

Why is fund size capped?

The BRF is intended to serve as a kind of cash management account. As such, it would be inappropriate for the BRF to accumulate large cash balances. Restricting fund size to a level equalling one calendar year's appropriations appears to provide a fund balance adequate to meet revenue demands when assistance is needed.

Why is a calendar year base used?

The BRF proposes that total appropriations made in the calendar year preceding any given fiscal year set the appropriation limit's floor and ceiling, as well as set the capacity of the BRF. There are two reasons for adopting the calendar-year basis.

One reason is to provide certainty, so that public officials know by the start of a legislative session the relevant numbers and limits with which they will be working in setting the coming fiscal year's budget. As a fiscal year is only half over when the Legislature convenes, full information about that fiscal year would only be possible after the session and the final tally of supplemental and special appropriations.

The second reason for adopting the calendar-year basis is related to the first--i.e., to preserve, without sacrificing certainty about budget floors and ceilings, the flexibility that public officials currently have in requesting and making supplemental and special appropriations during follow-up legislative sessions.

What happens to Permanent Fund Dividends?

The BRF excludes from the appropriation limit calculation all dedicated funds. The Dividend Fund from which per capita dividend payments are made is legally considered a dedicated fund. Therefore, Permanent Fund interest earnings that go into the Dividend Fund and payments made to individuals from the

Dividend Fund are excluded from calculation of the appropriation limit.

How is the Undistributed Income Account (UIA) treated?

The BRF bill includes the UIA under the appropriation limit, despite the UIA being an account within the Permanent Fund. It is considered important to include the UIA under the limit because UIA earnings will become an increasingly important revenue source which might be desired for the support of government functions. If not included now, later inclusion would radically alter thresholds. Inclusion in the appropriation limit also avoids the possibility of a large "off budget" budgeting process using PF earnings.

How are "Program Receipts" treated?

Money that is identified as "program receipts" purely for budgetary purposes (i.e., to show program income which is not dedicated) is included in the definition of "money from State sources" used in BRF legislation. This class of program receipts, consequently, is included in the BRF appropriation limit. Program receipts which are dedicated to a particular purpose (i.e., which are not deposited in the General Fund) are excluded from the BRF appropriation limit.

How are Supplemental Appropriations treated?

The process of making supplemental appropriations would not change under the BRF proposal. One of the supporting reasons for adopting a calendar-year basis for the BRF appropriation limit is, in fact, to preserve the flexibility which legislators currently have in making supplemental appropriations during follow-up legislative sessions. If, for example, the BRF appropriation limit for the FY 1988 budget were based on the level of appropriations made during the preceding fiscal year, i.e., FY 1987, legislators convening in January 1987 would first have to make supplemental appropriations for FY 1987 before they would know the level of the appropriation limit for the FY 1988 budget. Even that would be an estimate, as the Governor would likely not approve or veto supplemental appropriations until after the session had ended. Adoption of a calendar-year basis (discussed in another section) eliminates this problem.

How are Repeals and Reappropriations treated?

Repeals and reappropriations (R&R's) are treated in the BRF legislation as follows: reappropriation amounts that are explicitly coupled with specific statutory repeal citations in the same section of an appropriation bill are counted as reappropriations, and are excluded from the BRF appropriation

limit; all others are counted as new appropriations, and are not excluded from the limit.

Several reasons exist for adopting this approach. One reason is to avoid the double-counting that would be involved if all R&R's were treated as new appropriations. A second reason is to avoid the situation where, if R&R's are counted as new appropriations, the appropriation limit is reached or exceeded solely because of the existence of R&R's. A third reason is to avoid the accounting difficulties involved in attempting to track R&R dollar flows across fiscal years. Finally, a fourth reason is to avoid the incentive for increased R&R activity that would be created if all R&R's were considered to be appropriations already made in prior years and thus excluded from the 115 percent appropriation limit.

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 24, 1986

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a joint resolution proposing amendments to the Alaska Constitution relating to a budget reserve fund and an appropriation limit, and a bill to implement the joint resolution.

I am placing the bill implementing the proposed constitutional amendments before the legislature during this session to ensure that legislators and voters facing that proposal in the 1986 general election understand the scope, details, and implications of the amendments.

The bill would take effect following voter approval of the constitutional amendments. At that time, AS 37.05.159, establishing what is commonly known as the "rainy day fund," would be repealed and replaced by a new statute establishing the budget reserve fund. The balance of the money in the rainy day fund would follow the constitutional and statutory change and would be transferred to the budget reserve fund at that time. The budget reserve fund is designed to meet revenue contingencies contemplated by the rainy day fund as well as broader revenue stability needs.

At the outset, it must be emphasized that the budget reserve fund is very different in purpose and function from forward funding and cash-based budgeting proposals. We have carefully evaluated all these options, and we believe that the budget reserve fund is the fiscal management tool that is best suited to the State's situation. This fund seeks to

dampen annual budget swings. Neither forward funding nor cash-based budgeting protect us from annual budget fluctuations caused by volatility in world oil markets.

The budget reserve fund works in the following manner. In years of rising revenues, as specified in the constitutional amendments, appropriations are limited to 115 percent of appropriations made during the preceding calendar year. Any surplus money above the 115 percent limit is used first to replenish the budget reserve fund; any remaining surplus is then divided between deposits to the permanent fund and to the general fund. In years of revenue decline, as specified in the constitutional amendments and proposed statute, money is made available from the budget reserve fund in an amount that brings appropriations up to 95 percent of the appropriations in the preceding calendar year, or an amount that equals no more than 25 percent of the fund's balance, whichever is less.

These two operations of the budget reserve fund will provide a smoother expenditure pattern over the years than would result from the fluctuations of petroleum revenue alone. This is because, in high revenue years, revenue increases will flow into the budget reserve fund for subsequent appropriation during years of revenue decline, buffering fluctuations in the state's revenue stream caused by petroleum price variations. The upper limit to appropriations (the 115 percent level) will provide an effective appropriation limit, in contrast with the ineffective limit now in our constitution. We will therefore have a meaningful constitutional spending limit as desired by the people of Alaska.

Both the joint resolution and the bill specify that the appropriation limit applies only to unrestricted general fund money and to expenditures from the undistributed income account of the permanent fund (except for a deposit of that money to the permanent fund made in 1986). In turn, "money received" by the state includes only money in the undistributed income account and unrestricted general fund money. Excluded from both, for example, are federal receipts. The joint resolution and bill also specify that appropriations for a fiscal year are limited to 115 percent of appropriations made during the preceding calendar year. The calendar-year basis is used to ensure certainty in the determination of allowable appropriation levels for the coming fiscal year. It also avoids problems caused by supplemental appropriations late in a fiscal year.

New AS 37.05.156(c), in sec. 1 of the bill, addresses the question of how reappropriations should be treated for purposes of the appropriation limit. The intent of that provision is to distinguish between "old" and "new" money. This distinction is needed because it is sometimes difficult to determine whether a reappropriation consists entirely of money appropriated in a prior year, or exceeds the amount of money actually available from those prior appropriations, thereby entailing an appropriation of new money. Any reappropriation not clearly identifiable is also considered a new appropriation.

The maximum balance of the budget reserve fund in any fiscal year equals the amount of general fund appropriations enacted during the preceding calendar year. Money in excess of the 115 percent limit is used to bring the fund balance up to the fund's capacity. A portion of the money in excess of the budget reserve fund capacity must then be deposited in the permanent fund as savings. The bill specifies that that portion is 75 percent. The remaining excess (25 percent) must be deposited in the general fund, and is available for appropriation (effectively increasing the 115 percent limit). Any of that excess money subsequently appropriated from the general fund becomes part of the calculation of the base for the next fiscal year.

The bill specifies that if general fund revenue in a fiscal year falls to a level below 95 percent of appropriations made during the preceding calendar year, an amount may be transferred from the budget reserve fund into the general fund. That transferrable amount is limited to the lesser of (1) the amount needed to bring appropriations up to the 95 percent level, or (2) the maximum amount of the fund that may be spent in a fiscal year, which is 25 percent of the budget reserve fund balance.

As specified in the joint resolution, the budget reserve fund retains its income earnings to help ensure an adequate level of capitalization to meet appropriation demand in years of revenue decline.

The constitutional amendments permit expenditures from the fund beyond the 115 percent appropriation limit and the 25 percent fund expenditure limit to meet declared states of emergency. The bill cites existing statutory language to provide further clarification of "emergencies."

The constitutional amendments proposed in the joint resolution and the implementing statutory provisions together can

provide elected officials with the tools of sound fiscal management, and promise to the citizens of the state a means of avoiding the social and economic shocks that may result from extreme volatility in our revenue stream.

Article XV, sec. 27, of the Alaska Constitution now requires the lieutenant governor to place on the ballot in 1986 the proposition for the existing appropriation limitation, which was approved by the voters in 1982. Since that vote will occur at the same election as the vote on the attached proposal, there is the possibility that both constitutional provisions would be approved -- resulting in a direct conflict between them. To avoid confusion and to preclude legal questions arising as to this later amendment, while still having the lieutenant governor comply with art. XV, sec. 27, the attached bill (see sec. 2) requires the lieutenant governor to include an appropriate explanation on the ballot. It is expected that this explanation will be brief, with some amplification in the voter pamphlet.

Sincerely,



Bill Sheffield
Governor

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE JOINT RESOLUTION NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 the use and expenditure of state money.

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

9 * Section 1. Article IX, sec. 7, Constitution of the State of Alaska,
10 is amended to read:

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

18 * Sec. 2. Article IX, sec. 16, Constitution of the State of Alaska, is
19 repealed and readopted to read:

20 SECTION 16. APPROPRIATION LIMIT. Appropriations of money from
21 state sources for a fiscal year may not increase by more than 15
22 percent of the amount appropriated from state sources during the
23 preceding calendar year, except as authorized by sec. 17 of this
24 article.

25 * Sec. 3. Article IX, Constitution of the State of Alaska, is amended
26 by adding a new section to read:

27 SECTION 17. BUDGET RESERVE FUND. (a) Money received by the
28 state from state sources, which is not dedicated to the Alaska perman-
29 ent fund and which exceeds the appropriation limit imposed by sec. 16

1 of this article, must be deposited in the Alaska budget reserve fund
2 until the balance of the reserve fund equals the amount appropriated
3 from state sources during the preceding calendar year.

4 (b) A portion of the money received by the state, described in
5 (a) of this section, which exceeds the maximum balance of the fund
6 must be deposited in the Alaska permanent fund, as provided by law.
7 The remainder of any excess money must be deposited in the general
8 fund. Notwithstanding the appropriation limit imposed by sec. 16 of
9 this article, the excess money deposited in the general fund may be
10 appropriated.

11 (c) Money in the budget reserve fund must be invested so as to
12 yield competitive market rates to the fund. Income from investment of
13 the fund must be retained in the fund.

14 (d) If the governor determines that the money received by the
15 state from state sources in a fiscal year is less than the amount
16 appropriated from state sources during the preceding calendar year,
17 money may be spent from the budget reserve fund, as provided by law.
18 Except as otherwise provided in this section, not more than 25 percent
19 of the budget reserve fund balance may be spent for any fiscal year.

20 (e) Notwithstanding any spending limitations in this section or
21 in sec. 16 of this article, the governor may spend additional amounts
22 from the budget reserve fund to meet a state emergency declared by the
23 governor, as prescribed by law.

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

26 SECTION 29. FIRST YEAR OF 1986 REVISED APPROPRIATION LIMITATION.

27 In determining the limitation under art. IX, sec. 16, as amended in
28 1986, an appropriation to the permanent fund, made in calendar year
29 1986, is not to be included.

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* Sec. 5. 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.

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the constitutional appropriation
7 limitation and budget reserve fund; and providing for
8 an effective date."

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

10 * Section 1. AS 37.05 is amended by adding a new section to read:

11 Sec. 37.05.156. BUDGET RESERVE FUND; APPROPRIATION LIMIT. (a)

12 There is established as a separate fund in the state treasury the
13 budget reserve fund. The budget reserve fund consists of money ded-
14 icated to that fund by art. IX, sec. 17 of the Alaska Constitution.

15 (b) For the purposes of determining the appropriation limitation
16 amount under art. IX, sec. 16, of the Alaska Constitution, (1) an
17 appropriation is considered to be made in the calendar year in which
18 it is enacted, and (2) "appropriation" includes money received by the
19 state, described in art. IX, sec. 17(a), of the Alaska Constitution,
20 which exceeds the maximum balance of the fund and is subsequently
21 deposited in the general fund and appropriated. For the purposes of
22 art. IX, sec. 17, of the Alaska Constitution, the amount of money
23 received by the state includes any surplus carried forward from the
24 preceding fiscal year, or is reduced by any deficit from that preced-
25 ing fiscal year.

26 (c) A reappropriation of no more than the remaining balance of
27 the amount appropriated in a prior year is considered an appropriation
28 attributable to the calendar year in which the appropriation was first
29 enacted. Only if, within a single section of an appropriation bill,

1 there is an explicit repeal of an appropriation coupled with a new
2 appropriation is there a reappropriation for the purposes of this
3 subsection.

4 (d) If the governor determines that the money received by the
5 state from state sources in a fiscal year is less than 95 percent of
6 the amount appropriated from state sources during the preceding calen-
7 dar year, amounts may be transferred from the budget reserve fund to
8 the general fund, up to a limit of either 25 percent of the budget
9 reserve fund balance, or the difference between money received from
10 state sources in that fiscal year and 95 percent of appropriations
11 during the preceding calendar year, whichever is less. Determination
12 of the need for budget reserve fund expenditures for a fiscal year
13 must be made during the final quarter of that fiscal year.

14 (e) As authorized by art. IX, sec. 17(b), of the Alaska Consti-
15 tution, 75 percent of the money received by the state, described in
16 art. IX, sec. 17(a), of the Alaska Constitution, which exceeds the
17 maximum balance of the fund, must be deposited in the Alaska permanent
18 fund.

19 (f) In art. IX, sec. 17, of the Alaska Constitution, "emergency"
20 means the events set out in AS 26.23.220(1) or a reduction of the
21 revenue from nonstate sources which seriously impairs the ability of
22 the state to perform essential functions.

23 (g) In this section and art. IX, secs. 16 and 17, of the Alaska
24 Constitution, "state source" means (1) the undistributed income ac-
25 count in the permanent fund, and (2) all sources of money in the state
26 general fund except (A) federal sources, (B) bond proceeds, and (C)
27 sources from which money is received in trust for a specific purpose.

28 * Sec. 2. The lieutenant governor shall include on the ballot for the
29 1986 general election an explanation that an affirmative vote on the

1 constitutional amendment providing for the budget reserve fund and revising
2 the appropriation limit will supersede an affirmative vote on the reconsid-
3 eration, under art. XV, sec. 27, of the Alaska Constitution, of the 1982
4 amendment establishing the appropriation limit.

5 * Sec. 3. AS 37.05.159, reserve for emergency operating expenses ac-
6 count (the "rainy day fund"), is repealed, and the balance in that account
7 is transferred to the budget reserve fund.

8 * Sec. 4. Sections 1 and 3 of this Act take effect on the effective
9 date of a constitutional amendment establishing the budget reserve fund and
10 revising the appropriation limit.

11 * Sec. 5. Section 2 of this Act takes effect immediately in accordance
12 with AS 01.10.070(c).

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Introduced: 1/24/86
Referred: Judiciary
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE JOINT RESOLUTION NO. 34

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 the use and expenditure of state money.

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

9 * Section 1. Article IX, sec. 7, Constitution of the State of Alaska,
10 is amended to read:

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

18 * Sec. 2. Article IX, sec. 16, Constitution of the State of Alaska, is
19 repealed and readopted to read:

20 SECTION 16. APPROPRIATION LIMIT. Appropriations of money from
21 state sources for a fiscal year may not increase by more than 15
22 percent of the amount appropriated from state sources during the
23 preceding calendar year, except as authorized by sec. 17 of this
24 article.

25 * Sec. 3. Article IX, Constitution of the State of Alaska, is amended
26 by adding a new section to read:

27 SECTION 17. BUDGET RESERVE FUND. (a) Money received by the
28 state from state sources, which is not dedicated to the Alaska perman-
29 ent fund and which exceeds the appropriation limit imposed by sec. 16

1 of this article, must be deposited in the Alaska budget reserve fund
2 until the balance of the reserve fund equals the amount appropriated
3 from state sources during the preceding calendar year.

4 (b) A portion of the money received by the state, described in
5 (a) of this section, which exceeds the maximum balance of the fund
6 must be deposited in the Alaska permanent fund, as provided by law.
7 The remainder of any excess money must be deposited in the general
8 fund. Notwithstanding the appropriation limit imposed by sec. 16 of
9 this article, the excess money deposited in the general fund may be
10 appropriated.

11 (c) Money in the budget reserve fund must be invested so as to
12 yield competitive market rates to the fund. Income from investment of
13 the fund must be retained in the fund.

14 (d) If the governor determines that the money received by the
15 state from state sources in a fiscal year is less than the amount
16 appropriated from state sources during the preceding calendar year,
17 money may be spent from the budget reserve fund, as provided by law.
18 Except as otherwise provided in this section, not more than 25 percent
19 of the budget reserve fund balance may be spent for any fiscal year.

20 (e) Notwithstanding any spending limitations in this section or
21 in sec. 16 of this article, the governor may spend additional amounts
22 from the budget reserve fund to meet a state emergency declared by the
23 governor, as prescribed by law.

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

26 SECTION 29. FIRST YEAR OF 1986 REVISED APPROPRIATION LIMITATION.

27 In determining the limitation under art. IX, sec. 16, as amended in
28 1986, an appropriation to the permanent fund, made in calendar year
29 1986, is not to be included.

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

Introduced: 1/24/86
Referred: Judiciary
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE JOINT RESOLUTION NO. 34

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

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2 until the balance of the reserve fund equals the amount appropriated
3 from state sources during the preceding calendar year.

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5 (a) of this section, which exceeds the maximum balance of the fund
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7 The remainder of any excess money must be deposited in the general
8 fund. Notwithstanding the appropriation limit imposed by sec. 16 of
9 this article, the excess money deposited in the general fund may be
10 appropriated.

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12 yield competitive market rates to the fund. Income from investment of
13 the fund must be retained in the fund.

14 (d) If the governor determines that the money received by the
15 state from state sources in a fiscal year is less than the amount
16 appropriated from state sources during the preceding calendar year,
17 money may be spent from the budget reserve fund, as provided by law.
18 Except as otherwise provided in this section, not more than 25 percent
19 of the budget reserve fund balance may be spent for any fiscal year.

20 (e) Notwithstanding any spending limitations in this section or
21 in sec. 16 of this article, the governor may spend additional amounts
22 from the budget reserve fund to meet a state emergency declared by the
23 governor, as prescribed by law.

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

26 SECTION 29. FIRST YEAR OF 1986 REVISED APPROPRIATION LIMITATION.
27 In determining the limitation under art. IX, sec. 16, as amended in
28 1986, an appropriation to the permanent fund, made in calendar year
29 1986, is not to be included.

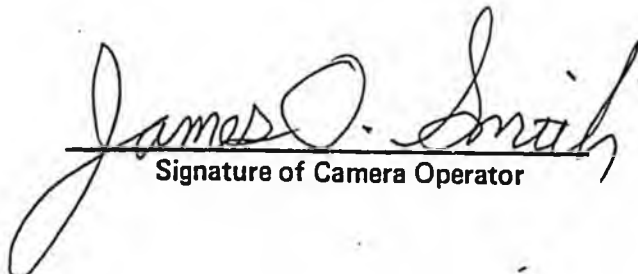
1 * Sec. 5. The amendments proposed by this resolution shall be placed
2 before the voters of the state at the next general election in conformity
3 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
4 tion laws of the state.

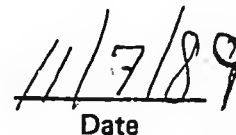


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Signature of Camera Operator


Date

SJR

39

Bradley
3/17/86

Original sponsors: Rodey, Abood,
Bennett, et al

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE JOINT RESOLUTION NO. 39 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 the right of a citizen to keep and bear
8 ~~fire~~arms.

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

10 * Section 1. Article I, sec. 19, Constitution of the State of Alaska,
11 is amended to read:

12 SECTION 19. RIGHT TO KEEP AND BEAR ARMS. The [A WELL-REGULATED
13 MILITIA BEING NECESSARY TO THE SECURITY OF A FREE STATE, THE] right of
14 each citizen of the state [THE PEOPLE] to keep and bear arms for
15 personal defense and for the defense of family, property, and the
16 state and for lawful hunting, recreation, and other lawful purposes,
17 shall not be infringed by the state or by a borough or city of the
18 state.

19 * Sec. 2. LEGISLATIVE INTENT. (a) In proposing the amendment to art.
20 I, sec. 19, Constitution of the State of Alaska, in sec. 1 of this resolu-
21 tion, the legislature intends only that the amendment proposed clarify the
22 Alaska Constitution by providing that the right to keep and bear arms is an
23 individual right rather than a collective right. The amendment, if adopt-
24 ed, should not be construed to preclude the regulation of the manner in
25 which arms may be borne, carried, or used. For example, the adoption of
26 this amendment should not be used to repeal or to render unconstitutional
27 existing statutes such as AS 11.41.200 or 11.61.200 or existing municipal
28 ordinances.

29 (b) In the preparation of its neutral summary under AS 15.58.020

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(6)(C), the Legislative Affairs Agency shall consider the statement of legislative intent contained in (a) of this section.

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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907.465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 18, 1986

SUBJECT: "Commentary on Proposed Amendment to Alaska
Right to Bear Arms Guarantee"
[CSSJR 39(Judiciary)]

TO: Senator Pat Rodey
Chair, Senate Judiciary Committee

FROM: Richard A. Bradley
Legislative Counsel

Suzanne LaPierre has asked that I comment on a "Commentary on Proposed Amendment to Alaska Right to Bear Arms Guarantee." While the lack of time has prevented a more thorough analysis, I have some few reservations about points made within the "commentary."

The commentary addresses SJR 39 in the form that it was introduced.

The commentary states that the provision "explicitly protects the traditional rights that gun owners in Alaska always assumed were guaranteed." The statement is problematical: I believe that the existing provision of the Constitution is entitled to that reading and I am concerned with the suggestion that a changed constitutional provision will be read as being more traditional than the existing provision.

The problem may be with the understanding of what is included in the "traditional rights of gun owners." While I am not a follower of that question, it seems that there have been numerous controversies over just what rights the constitutional provisions guaranteed.

I. To Whom the Right Belongs

The commentary notes that SJR 39 speaks in terms of "each citizen of the state." The commentary suggests that the

Senator Pat Rodey
Page 2
March 18, 1986

"full enjoyment" of the rights of citizenship is not enjoyed by "convicted felons, lunatics, and illegal aliens."

I accept the statement and even its relevance to SJR 39; I have come to doubt the suggestion that the constitutional provision should limit the right to citizens. While it is accurate to say that the group described does not have the "full enjoyment" of the "rights of citizenship", it does not follow that the right to bear arms may be limited to those enjoying the "full benefits" of citizenship. And, of course, the provision is not written in that framework: It does not limit the right to bear arms to those "enjoying the full benefits of citizenship."

I would like to pass quickly over the phrase regarding "convicted felons, lunatics, and illegal aliens." An individual convicted of a felony not involving moral turpitude may vote. Art. V, sec. 2, Alaska Constitution. Even a person convicted of a felony involving moral turpitude may sue. Bush v. Reid, 516 P.2d 1215 (Alaska 1973). The term "lunatic" is, for better or worse, in disuse. To deprive an individual of the right to vote in this context an affirmative judicial determination of "unsound mind" is required. But that even here, while the individual suffering from such a determination may not vote, the person retains citizenship and can probably own a weapon. AS 11.66.200 - 11.66.220.

Concepts of citizenship would exclude all aliens, legal as well as illegal. Since legal aliens have many of the protections of the U.S. and Alaska Constitution though not the right to vote, the provision may be overbroad. Both the due process clause of the U.S. Constitution (14th Amendment, sec. 1) and the equal protection clause of the Alaska Constitution (art. I, sec. 1) protect "persons" without regard to citizenship.

While I assume that the purpose is not to permit discrimination against nonresident or noncitizen hunters, I note that the provision, if adopted, would seem to authorize legislation to prevent nonresident hunters from hunting in the state because as noncitizens, they may not bear arms.

Finally, while I have not reviewed the law review article from Oklahoma cited, I believe that the suggested reliance on State v. Kessler, 289 Or. 359, 614 P.2d 94, 99 (1980) is misplaced since the analagous Oregon constitutional provision extends the privilege to "the people", without regard to citizenship, unlike SJR 39.

II. What Constitutes Arms.

Several points:

I have less information than the author of the Commentary on the arms that are kept by Alaskans. Others will have to determine whether Alaskans currently use machine guns, bazookas, and other more unusual weapons or only more "commonly" kept weapons.

Assuming that Alaskans do not use the less "commonly" used weapons, however, it seems clear that the basis for the understanding is something apart from the words of the resolution itself.

There does seem to be a legal history of such legislation going back to 1689, in England, according to State v. Kessler, 289 Or. 359, 614 P.2d 94 (Oregon 1980). The English Bill of Rights enacted in 1689 apparently contains the first instance of a legislature granting citizens the right "to have Arms for their Defence, suitable to their Conditions, and allowed by Law." See Kessler, 614 P.2d at 96.

There are, therefore, understandings regarding the meanings of similar provisions, at least when the language of the later provision was not inconsistent with the understandings. That is, these provisions are placed within the historical context unless the language in the particular provisions was so clear that there was no need to resort to the historical development of the idea.

The Kessler case as well as State v. Delgado, 692 P.2d 610 (Oregon 1984) present the problem. Oregon has a simple and direct provision: "The people have the right to bear arms for the defence [sic] of themselves, and the State, . . ." [Art. I, sec. 27, Oregon Const.] The two cases raise the question of the limits of the understanding of what is meant by "arms". The Kessler case was concerned with a "slugging weapon", a "billy".

The court noted that in the colonial and revolutionary war era, weapons used by militiamen and in defense of the person or the home were the same. The court noted that the historical analysis of the provision indicates that

the drafter intended "arms" to include the hand-carried weapons commonly used by individuals for personal

defense. The club is an effective, hand-carried weapon which cannot logically be excluded from this term. We hold that the defendant's possession of a billy club in his home is protected by Article I, section 27, of the Oregon Constitution. [614 P.2d at 100.]

The Delgado case presents the question of the possession of a "switchblade" knife.

The appropriate inquiry in the case at bar is whether a kind of weapon, as modified by its modern design and function, is of the sort commonly used by individuals for personal defense during either the revolutionary or postrevolutionary era, or in 1859 when Oregon's constitution was adopted. In particular, it must be determined whether the drafters would have intended the word "arms" to include the switch-blade knife as a weapon commonly used by individuals for self defense. [692 P.2d at 612.]

The court agreed that if the law sought to prescribe possession of the "jackknife" or "mere pocketknives", the statute would be unconstitutional.

The only difference is the presence of the spring-operated mechanism that opens the knife. We are unconvinced by the state's argument that the switch-blade is so "substantially different from its historical antecedent" (the jackknife) that it could not have been within the contemplation of the constitutional drafters. They must have been aware that technological changes were occurring in weaponry as in tools generally. [692 F.2d at 614.]

To a large extent, the language of the Oregon Constitution is identical in function to that contained within SJR 39 (apart from the "people"/"citizen" problem). It would, therefore, be reasonable to expect them to be construed similarly. The provisions of the Alaska Statutes now prohibit possession of a switchblade. AS 11.66.200(e)(1)(D).

It is fair to say that the reference in SJR 39 to "lawful" uses may well be adequate to authorize legislative regulation of an "unlawful" use of arms. I note simply that a constitutional provision granting the legislature the authority to characterize uses as unlawful may authorize

Senator Pat Rodey
Page 5
March 18, 1986

more regulation than was intended, notwithstanding several assurances in the commentary to the contrary.

III. The Right to Keep and Bear Arms

The comments seem generally accurate.

IV. The Right Shall Not be Infringed by the State or a Municipality

Much of what is suggested seems safe. I don't believe that much light is shed on the authority of a municipality under SJR 39 by the phrase stating that a municipality "could only enact legislation which was absolutely necessary and uniquely necessary" for the particular municipality; it does seem that this statement may be inconsistent with the suggestion of a required "uniformity throughout the state."

V. Conclusions

The commentary concludes with some generalities that may be accurate.

For my own part, I suspect that the Oregon legislature was probably advised that its bills regulating the use of billys and switchblades were within the ambit of possible legislation. The Supreme Court of Oregon disagreed. The cases point up the problems in predicting what a court will do in its construction of similar constitutional provisions.

With regard to the "individual"/"collective" question, I suggest that an individual right may be recognized by language granting the right to a "person" or an "individual". I suggest that the concept of the right of belonging to a "citizen" be abandoned as unnecessary and diversionary from your more basic goals.

If I may be of further assistance, please advise.

RAB:mkr
m4/015

A M E N D M E N T

#1

Offered in the SENATE

By the Judiciary Committee

TO: SJR 39

Section 2, page 1, line 22:

Add: "The Legislative Affairs Agency shall include
in the summary of the proposition required under AS
15.58.020 the following statement of legislative intent:

The legislature intends only for the proposed amend-
ment to clarify the Alaska Constitution in providing
that the right to keep and bear arms is an individual
rather than a collective right. Nothing in the pro-
posed language should be construed to preclude the
manner in which arms may be borne, carried or used.
For example, in the event this amendment is adopted
by the voters, its passage shall not be used to
repeal or render unconstitutional existing statutes
or ordinances such as those enumerated in AS 11.41.200
or AS 11.61.200.

1. The present language is ^{constitutive} constitutive

2. This will not affect central organs, ^{changing in appropriate places.}

3. The language has been carefully ^{what is being the experience of} the states that have most recently ^{attain their 2nd Amendment.}

4. The intent language remains that there ^{is the existing laws regarding me of} ^{programs is affected.}

Individual - Collective

Other language purposes - work today

independent - ^{Michigan law} Michigan law - ^{trial - kid} trial - kid -

person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President should be eligible to that of Vice President of the United States.²⁰

ARTICLE XIII.

§ 1. **Slavery abolished.** Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

§ 2. **Enforcement.** Congress shall have power to enforce this article by appropriate legislation.²¹

Privileges & Immunities Clause of U.S. Constitution
ARTICLE XIV.¹

§ 1. **Citizenship rights not to be abridged by states.** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

§ 2. **Apportionment of representatives in Congress.** Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such

20. Proposed by Congress on December 9, 1803, and declared ratified on September 25, 1804.

21. Proposed by Congress on January 31, 1865, and declared ratified on December 18, 1865.

SENATE AMENDMENT #1

By HALFORD

To: CS SENATE BILL No. SJR 39 (JUD)

To: _____ HOUSE BILL No. _____

PAGE: 1 LINE: 15

DELETE: personal INSERT: lawful

DELETE: and for the defense of INSERT: of self,

*would read "... for lawful defense of self,
family, property, and the state ..."*

March 25, 1986

FOR IMMEDIATE RELEASE

A resolution which would expand the language of article I, sec. 19 of the Alaska State Constitution addressing the right of individual ~~citizens~~ to keep and bear arms passed the State Senate today. The resolution - SJR 39 - which was sponsored by Senator Patrick Rodey (D-Anch), received the unanimous endorsement from his senate colleagues who joined in force as co-sponsors to the proposal.

"Considering nearly 70% of the households in Alaska possess at least one firearm, and that 22,000 Alaskans are members of the National Rifle Association who also support this effort, it seems quite clear that the right to keep and bear arms is highly guarded by a majority of Alaskans. Considering our subsistence form of lifestyle and the popularity of hunting and recreational activities in Alaska, I feel this individual right is cherished by our residents - perhaps more than in any other state", said Senator Rodey.

The Senator further commented, "This proposal is a positive step toward minimizing state and local interference so law abiding Alaskan citizens can fully enjoy their individual right to own and use firearms for protection of personal defense and property, as well as sporting purposes. By adopting this clarifying language, it will ensure that Alaska will remain unfettered by restrictive gun legislation and that individual liberties will be enhanced and safeguarded."

"While some contend our Constitution allows for a "collective" rather than an "individual" right, I firmly believe it was the intent of our Constitutional framers to uphold an individual's right to bear arms. The purpose of this amendment is to remove any existing ambiguity in the constitutional interpretation.

To paraphrase President Theodore Roosevelt:

"The American people have not surrendered to any set of men, regardless of their position or character, the final right to determine the fundamental questions upon which free self government ultimately depends. The people must be the ultimate makers of their own constitution, and where interpretations of the constitution differ, the people themselves should be given the chance - after full and deliberate judgment - to settle what interpretation their representatives shall adopt as binding."

" I am proud to take the first step forward to represent, what I believe, is the opinion held by a majority of Alaskans. Of course, the final episode will be written only after the proposal passes the House and goes before the voters," remarked the Senator.

The proposal must pass the House by a 2/3 majority, before it will go on the November ballot for a final decision by the voters.

CONSTITUTIONAL AMENDMENTS FOR
THE RIGHT TO KEEP AND BEAR ARMS

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

These words, from the Second Amendment of the Constitution of the United States, have been used both in defense of, and as an argument against, the individual American's right to keep and bear arms.

Strengthening of a state's constitutional protection of the right to keep and bear arms--or a first-statement of that right--is needed for the following reasons:

First, although it was clearly intended by the framers of the 14th Amendment that states would be precluded from infringing on the right to keep and bear arms, the 2nd Amendment's protections have not yet been incorporated by judges using the 14th Amendment. For the right to be protected from state and local interference, the guarantee must be in the state constitution.

Second, despite the clear intentions of the authors of state constitutions which include the right to keep and bear arms, some judges feel all too free to write their own views into the state constitution. Such judges too frequently take the view that the protection was not of an individual right (despite its listing among other personal rights) or is subject to almost any regulation which does not prohibit possession of all kinds of firearms by persons (even if the restriction is such that it is necessary to take time, effort, money, and even hire a lawyer in order to exercise a constitutionally recognized "right"); or judges just say times have changed, and the framers wouldn't really want widespread gun ownership. In short, they rewrite state constitutions according to their own ideologies, claiming that people really want "gun control" and that the state constitution wouldn't include such protection of the right to keep and bear arms were it being written today.

Thus, it is necessary to make it clear that people want the state constitutions to clarify matters for judges and localities. It must be re-emphasized that the right to keep and bear arms is an individual right (as recognized by seven-eighths of the public--DMI '75 and '78), one which is intended to restrict state and local interference with the ability of law-abiding citizens to own and use firearms for protection of person and property (as well as for the common defense) and for sporting purposes. As shown in public opinion surveys and state referenda and initiatives, the right is overwhelmingly by the people. The guarantees, their meaning, and their contemporaneity must be made clear to local legislative bodies and to the judiciary.

Thirty-nine states have constitutional amendments on the right to keep and bear arms. Most recently, the states of New Hampshire and Nevada approved of constitutional amendments which stressed an individual right to bear arms. Both states' provisions were approved by over seventy percent of the voters in those states during the 1982 election.

Senator Orrin Hatch's Sub-Committee on the Constitution report, completed this past year, has documented the right to keep and bear arms as a major individual right of American citizens. The Senate Sub-Committee, charged with the responsibility of interpreting the Constitution for the Senate, stated that: "The conclusion is thus inescapable that the history, concept, and wording of the Second Amendment to the Constitution of the United States, as well as its' interpretation by every major commentator and court in the first half-century after its ratification, indicates that what is protected is an individual right of a private citizen to own and carry firearms in a peaceful manner."

Some have argued that the Second Amendment applies only to the Federal Government, and the states can adopt gun laws without worrying about it.

The Sub-Committee points out that the Bill of Rights was originally intended to limit only federal actions. The Sub-Committee observed that the three Supreme Court decisions holding that the Second Amendment does not apply to the states come from the last century when most of the rights found in the Bill of Rights (including freedom of speech) were considered not to be restrictions on the states.

The case continually cited by "gun control" advocates as the Supreme Court's definitive ruling against the individual's right to keep and bear arms is U.S. v. Miller, 307 U.S. 174 (1939). In that case, the Supreme Court implicitly recognized that the rights guaranteed by the Second Amendment protected all individuals and not merely those who are members of the militia.

In more recent years, state courts, like the Supreme Courts of Colorado (City of Lakewood v. Pillow), Oregon (State v. Kessler), and Montana (State v. Nickerson), and the Courts of Appeals in Indiana (Schubert v. DeBard), Missouri (Taylor v. McNeal), and New Mexico (City of Las Vegas v. Moberg), in interpreting state constitutional provisions similar to the Second Amendment, have concluded that the right to keep arms guarantees the right to keep and bear arms, such as pistols and revolvers, for self-defense.

In some cases, members of the legislature have expressed concern that the absence of language providing for legislative regulation in a right to arms amendment would preclude regulation of the right of arms.

Old and new cases have shown that reasonable regulation is permissible although a state constitutional guarantee does not contain language authorizing regulation of right.

Article II of the Arkansas Constitution guarantees: "The citizens of this State shall have the right to keep and bear arms for their common defense." Authority to regulate the right was upheld in Haile v. State, 38 Ark. 564, 567 (1882). Article I of the Alabama Constitution guarantees: "That every citizen has a right to bear arms in defense of himself and the state." In Hyde v. Birmingham, 392 So. 2d 1225 (Ala. Crim. App. 1980), the court stated the right was subject to reasonable regulation. Article I of the Oregon Constitution guarantees: "The people shall have the right to bear arms for the defense of themselves, and the State, but the Military shall be kept in strict subordination to the civil power." The right to arms was held to be subject to reasonable regulation in State v. Kessler, 614 P. 2d 94, 99 (Or. 1980).

The Sub-Committee concluded that "given the legislative history of the Civil Rights Acts, and the Fourteenth Amendment, and the more expanded views of incorporation which have become accepted in our own century, it is clear that the right to keep and bear arms was meant to be, and should be, protected under the civil rights statutes and the Fourteenth Amendment against infringement of officials acting under color of state law."



NATIONAL RIFLE ASSOCIATION OF AMERICA
INCORPORATED 1871

1600 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

RUPE ANDREWS
FIELD REPRESENTATIVE
ALASKA

9416 LONGRUN DRIVE
JUNEAU AK 99801
907/789-7422

May 2, 1984

Senator Vic Fischer, Chairman
Alaska Senate State Affairs Committee
Alaska State Legislature

Dear Senator Fischer:

The following is testimony prepared for the official record
of the State Affairs Committee.

Mr. Chairman, members of the Senate State Affairs Committee,
my name is Rupe Andrews. I am the Alaska Field Representative
for the National Rifle Association of America and as such I
am expressing the collective concerns of 19,000 Alaska members.
My purpose today is to speak in favor of SJR 28 and to urge
your favorable consideration of this resolution.

The reasons for NRA support of SJR 28 are several, not the
least is the overwhelming desire of Alaskans to own and bear
arms for the defense of self, home and property and for the
lawful use of firearms for hunting, recreational shooting or
for other lawful purposes. As it stands now, the individual
right of Alaskans to bear firearms for the above purposes may
be endangered and/or ambiguous in light of recent legal opinions.

Our concern and interest in the passage of SJR 28 stems primar-
ily from the Alaska Attorney General's opinion released April
13, 1983 on the meaning of Article 1. Section 19 of the Alaska
Constitution.

The opinion, first sent to Senator Pat Rodey and Representative
Charlie Bussel noted that: "The modern judicial view has in-
creasingly found that the guaranteed right to keep and bear
arms is not an individually protected right, but rather a coll-
ective right which allows the people of the various states to
serve in a militia."

The very concept of a Declaration of Rights in Article 1 in
the Alaska Constitution is to protect individual liberties.

The Alaska arms guarantee was not enacted to grant the state the right to have a militia or to protect a nebulous collective right by the people to bear arms. The U.S. Supreme Court has held that the state's power to legislate on militia matters existed prior to the formation of the federal constitution and remains with the states. Houston v. Moore, 18 U.S., 16-17 (1820). Various Supreme Court cases decided long before Alaska became a state, clearly demonstrate that a state has the inherent power to have a militia and to train a militia. This power in no way depends on a state constitutional guarantee. The framers of the Alaska Constitution were undoubtedly aware of this jurisprudential principle and thus in our opinion would not have cluttered up the Alaska Declaration of Rights with an impotent and useless guarantee.

Research has revealed that in this instance there is no written history of intent by the Constitutional framers on the right to bear arms. It is therefore assumed that when the Constitution was framed, the framers and the people who voted approval of the Constitution took for granted what appeared to be obvious—that of the right to own and bear arms for all lawful purposes including hunting and recreational shooting. The constitutional framers some 26 years ago could hardly foresee the disturbing trend that is developing in several parts of the country and especially with the 1983 Alaska Attorney General's opinion. The conclusion reached by many Alaskans from reading the Attorney General's opinion and learning that there is no written intent pertaining to Article 1, Section 19; there is no individual guarantee for the right of self defense, hunting or recreational shooting provided by the constitution.

Alaska is not alone in having a constitutional provision that tracks the language of the federal constitution. Hawaii, Virginia North and South Carolina follow the 2nd Amendment. However, the constitutions of 39 other states contain a right to bear arms guarantee. These states wisely decided on a constitutional guarantee that removes any ambiguous decision making and state in language that the lay citizen can clearly understand as the individual right to bear arms for self defense of self, property, and recreational use for hunting and shooting.

Amending Article 1, Section 19 of the Alaska Constitution will ensure firearm owners in the future that their rights are protected as well as end any potential for ambiguity.



Field Representative, Alaska

Municipality of Anchorage



POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4545

TONY KNOWLES,
MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

February 25, 1986

TO: Members of the Senate Judiciary Committee

Re: Senate Joint Resolution No. 39

The proposed amendment to Article I, Section 19 of the State Constitution set forth in Senate Joint Resolution No. 39 could, in its original form, preclude the regulation of conduct which has traditionally been considered to be criminal. Of particular concern is the clause beginning on line 15 which specifies "...personal defense and for the defense of family, property...". This provision could be read to invalidate all existing state and municipal laws governing the use of firearms for self-defense and the defense of property. Historically, the right to use firearms to protect self, family, and property has been curtailed. The amendment in its present form would cast doubt on the viability of continued regulation of such items.

The amendment, in its present form, would also have the likely affect of nullifying state and municipalities laws regulating the possession of firearms. This is because of the deletion of provisions referencing a "well regulated militia." Historically, the courts have interpreted that phrase as creating not a personal right to bear arms, but rather a right of the state to maintain a militia. The deletion of that phrase would cast doubt on the validity of all previous court decisions pertaining to the interpretation of section 19, and a similar provision of the Federal Constitution. With the deletion of that body of law, the phrase "shall not be infringed" would take on a whole new meaning. Thus, the state and local governments could lose the ability to regulate such activities as the carrying of concealed weapons and the obliteration of serial numbers on firearms.

The provision could easily be amended so as to affirm the right of the individual to own and possess firearms (as opposed to the right of the state to maintain a militia) without precluding the Legislature's ability to prescribe certain conduct with respect

February 25, 1986

Page 2

to the use and possession of deadly weapons. First, I would propose a change to line 15 whereby the term "personal" would be replaced by "lawful" and the phrase "and for the defense" be replaced by the phrase "of self". In addition, line 17 should be changed by adding language after the term "city" which would read "...except that the manner in which arms are possessed may be subject to reasonable regulations designed to protect the public safety".

In addition, if the Committee's intent is merely to establish a personal right to the ownership and possession of firearms and not to overturn existing laws governing the use of firearms, then such intent should be plainly set forth in a permanent report that will serve in the future to guide the courts. Furthermore, if the additional language I have suggested is added to the amendment, the Committee report should clarify the Committee's intent by specifying that the ability of state and local government to impose reasonable regulations on the possession of firearms would include laws curtailing the possession of concealed weapons or weapons that have altered identification marks, but would not include the right of the state or local government to enact an outright ban on the ownership or possession of arms.

Very truly yours,

DEPARTMENT OF LAW



Jerry Wertzbaugher
Municipal Attorney

JW:gml

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

June 27, 1983

The Honorable Patrick M. Rodey
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SJR-28
A. G. #366-444-83

Dear Senator Rodey:

The Department of Law has completed a preliminary analysis of Senate Joint Resolution 28 regarding the proposed amendment to the Alaska Constitution pertaining to the right of a person to keep and bear arms.

You may wish to consider inserting the word "lawful" after the term "for" and before the word "defense". With this insertion, the new constitutional clause would read as follows:

The right of a person to keep and bear arms for lawful defense of self, home and property, or for lawful hunting and recreational use, or for other lawful purposes shall not be infringed.

I believe it would be wise to make explicit that the Constitution provides for lawful activities, which of course are established by the legislature. In the absence of the term "lawful", I can envision a situation where persons attempt to use the constitutional language as a defense to behavior which ordinarily would constitute a violation of the Alaska criminal statutes. Also, I'm not sure the explicit mention of lawful hunting, recreational use and other specific activities is necessary to insure that individuals have a guaranteed right to keep and bear arms, however, I realize this language may be reassuring to certain groups within our state.

* You may wish to review the language in other state Constitutions which relates directly to the right to keep and bear arms. In many instances this right is explicitly characterized as an individual right without mentioning specifically what constitutes appropriate use by an individual citizen. The

constitutional clauses relating to arms from the thirty-seven states which have such constitutional language are as follows:

Alabama: That every citizen has a right to bear arms in defense of himself and the state. ALA. CONST. art I, §26.

Alaska: A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. ALASKA CONST. art. I, § 19.

Arizona: The right of the individual citizen to bear arms in defense of himself or the State shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men. ARIZ. CONST. art. II, § 26.

Arkansas: The citizens of this State shall have the right to keep and bear arms for their common defense. ARK. CONST. art. II, § 5.

Colorado: The right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons. COLO. CONST. art. II, § 13.

Connecticut: Every citizen has a right to bear arms in defense of himself and the state. CONN. CONST. art. I, § 15.

Florida: The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law. FLA. CONST. art. I, § 8.

Georgia: The right of the people to keep and bear arms, shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne. GA. CONST. art I, § 1.

Hawaii: A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. HAWAII CONST. art I, § 15.

Idaho: The people have the right to keep and bear arms, which right shall not be abridged; but this provision shall not prevent the passage of laws to govern the carrying of weapons concealed on the person nor prevent passage of legislation

providing minimum sentences for crimes committed while in possession of a firearm, nor prevent the passage of legislation providing penalties for the possession of firearms by a convicted felon, nor prevent the passage of any legislation punishing the use of a firearm. No law shall impose licensure, registration or special taxation on the ownership or possession of firearms, except those actually used in the commission of a felony. IDAHO CONST. art. I, § 11.

Illinois: Subject only to the police power, the right of the individual citizen to keep and bear arms shall not be infringed. ILL. CONST. art. I, § 22.

Indiana: The people shall have a right to bear arms, for the defense of themselves and the State. IND. CONST. art I, § 32.

Kansas: The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power. KAN. CONST., Bill of Rights, § 4.

Kentucky: All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned: ...The right to bear arms in defense of themselves and of the State, subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons. KY. CONST. § 1.

Louisiana: The right of each citizen to keep and bear arms shall not be abridged, but this provision shall not prevent the passage of laws to prohibit the carrying of weapons concealed on the person. LA. CONST. art. I, § 4.

Maine: Every citizen has the right to keep and bear arms for the common defense; and this right shall never be questioned. ME. CONST. art1, § 16.

Massachusetts: The people have a right to keep and bear arms for the common defence. And as, in times of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it. MASS. CONST. pt. 1, art. 17.

Michigan: Every person has a right to keep and bear arms for the defense of himself and the state. MICH. CONST. art I, § 6.

Mississippi: The right of every citizen to keep and bear arms in defense of his home, person, or property, or in aid of the civil power where thereto legally summoned, shall not be called question, but the legislature may regulate or forbid carrying concealed weapons. MISS. CONST. art. III, § 12.

Missouri: That the right of every citizen to keep and bear arms in defense of his home, person and property, or when lawfully summoned in aid of the civil power, shall not be questioned; but this shall not justify the wearing of concealed weapons. MO. CONST. art I, § 23.

Montana: The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons. MONT. CONST. art II, § 12.

New Mexico: No law shall abridge the right of the citizen to keep and bear arms for security and defense, for lawful hunting and recreation use and for other lawful purposes, but nothing herein shall be held to permit the carrying of concealed weapons. N.M. CONST. art. II, § 6.

North Carolina: A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice. N.C. CONST. art. I, § 30.

Ohio: The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power. OHIO CONST. art I, § 4.

Oklahoma: The right of a citizen to keep and bear arms in defense of his home, person, or property, or in aid of the civil power, when thereunto legally summoned, shall never be prohibited; but nothing herein contained shall prevent the Legislature from regulating the carrying of weapons. OKLA. CONST. art. II, § 26.

Oregon: The people shall have the right to bear arms for the defense of themselves, and the State, but the Military shall be kept in strict subordination to the civil power. OR. CONST. art. I, § 27.

Pennsylvania: The right of the citizens to bear arms in defence of themselves and the State shall not be questioned. PA. CONST. art. I, § 22.

South Carolina: A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed. As, in times of peace, armies are dangerous to liberty, they shall not be maintained without the consent of the General Assembly. The military power of the State shall always be held in subordination to the civil authority and be governed by it. No soldier shall in time of peace be quartered in any house without the consent of the owner not in time of war but in the manner prescribed by law. S.C. CONST. art I, § 20.

South Dakota: The right of the citizens to bear arms in defense of themselves and the state shall not be denied. S.D. CONST. art. VI, § 24.

Tennessee: That the citizens of this State have a right to keep and to bear arms for their common defense; but the Legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime. TENN. CONST. art. I, § 26.

Texas: Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime. TEX. CONST. art. I, § 23.

Utah: The people have the right to bear arms for their security and defense, but the Legislature may regulate the exercise of this right by law. UTAH CONST. art. I, § 6.

Vermont: That the people have a right to bear arms for the defence of themselves and the State-and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should b kept under strict subordination to and governed by the civil power. VT. CONST. ch. 1, art. 16.

Virginia: That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state, therefore, the right of the

people to keep and bear arms shall not be infringed; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that all cases the military should be under strict subordination to, and governed by, the civil power. VA. CONST. art. I, § 13.

Washington: The right of the individual citizen to bear arms in defense of himself, or the state, shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men. WASH. CONST. art. I, § 24.

Wyoming: The right of citizens to bear arms in defense of themselves and of the state shall not be denied. WYO. CONST. art I, § 24.

In addition, thirteen states do not have express constitutional provisions related to the right to keep and bear arms.

I would be happy to discuss this matter with you in more detail.

Sincerely,



Norman C. Gorsuch
Attorney General

NCG:ml

Distribution of
identical letter: The Honorable Jalmar M. Kerttula
Alaska State Senate

The Honorable Rick Halford
Alaska State Senate

The Honorable Don Bennett
Alaska State Senate

DEPARTMENT OF PUBLIC SAFETY

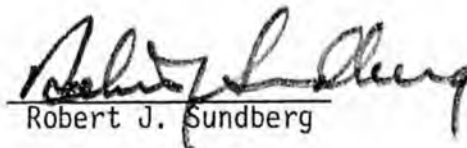
POSITION PAPER - SJR 39

Support

February 26, 1986

SJR 39 - "Proposing an amendment to the Constitution of the State of Alaska relating to the right of a citizen to keep and bear arms."

The Department supports the concept of this resolution but is concerned that the statement "shall not be infringed by the state or by a borough or city of the state" might be taken as abrogating existing laws related to firearms control and use, as well as possible future weapon laws needed for the protection and safety of the state populace.


Robert J. Sundberg

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SJR 39
 Title : "Proposing an amendment to the Constitution of the State of Alaska relating..right...to keep and bear arms."
 Sponsor : Rodev
 Requestor : S Judiciary
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : DPS Administration
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: *K. Niles* Kathy Niles, Admin Assistant Phone: 465-4336
 Division: Commissioner's Office Date: 2/26/86

Approved by Commissioner: *[Signature]* Date: 2/26/86
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

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

COMMITTEE REPORT
SENATE

FURTHER:

2/13/86

Date 3/18/86

Mr. President

The Committee on JUDICIARY considered SJR 39

proposing an amendment to the Constitution of the State of Alaska relating to the right of a citizen to keep and bear arms.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SJR 39 (JUDICIARY)
- new title
- same title and recommends _____
- and attached a 'LETTER OF INTENT' NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Tom Kelly
(as sub)
Rick Halford
(ziegler)

MEMBERS HAVING
OTHER RECOMMENDATIONS

Patrick R. Kelly

 Chairman

Chairman recommendation

CE CENTER
VA. 22645

Western
Union Mailgram



4-009522S110002 04/19/84 ICS IPMMTZZ CSP WHSR
1 2028286375 MGM TDMT WASHINGTON DC 04-19 1037A EST

NATIONAL RIFLE ASSN L HUBBARD
1600 RHODE ISLAND AVE NORTHWEST
WASHINGTON DC 20036

THIS IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

2028286375 TDMT WASHINGTON DC 432 04-19 1037A EST
PMS HONORABLE VIC FISCHER, ALASKA STATE LEGISLATURE
POUCH V (MS 3100)
JUNEAU AK 99811
DEAR SENATOR FISCHER,

WE WANTED TO TAKE THIS OPPORTUNITY TO DISCUSS THE PROPOSED
CONSTITUTIONAL AMENDMENT FOR THE RIGHT TO KEEP AND BEAR ARMS WHICH IS
CURRENTLY BEING CONSIDERED BY YOUR COMMITTEE.

SENATE JOINT RESOLUTION #28, SPONSORED BY SENATORS PAT RODEY, JAY
KERTTULA, DON BENNETT AND RICK HALFORD, WILL AFFIRM AN INDIVIDUAL
RIGHT TO KEEP AND BEAR ARMS AND WILL CLEARLY SPECIFY THAT THE RIGHT
TO KEEP AND BEAR ARMS EXTENDS TO: "THE DEFENSE OF SELF, HOME AND
PROPERTY, OR FOR LAWFUL HUNTING AND RECREATIONAL USE, OR FOR OTHER
LAWFUL PURPOSES.

AS ONE OF THE ORIGINAL FRAMERS OF THE ALASKAN CONSTITUTIONAL
PROVISION FOR THE RIGHT TO KEEP AND BEAR ARMS IN ALASKA, WE VERY MUCH
APPRECIATE YOUR EFFORTS IN THE 1955 CONSTITUTIONAL CONVENTION IN THE
LAST TERRITORIAL LEGISLATURE IN 1956.

OUR DESIRE TO ASSIST SENATORS RODEY, KERTTULA BENNETT AND HALFORD IN
STRENGTHENING THE "INDIVIDUALS" RIGHT TO BEAR ARMS PROVISION IS BASED
ON OUR CONCERN THAT SOME HAVE FORGOTTEN THE INTENTION OF YOUR
ORIGINAL PROVISION.

MANY OF OUR ALASKAN MEMBERS VOICE CONCERN WHEN ATTORNEY GENERAL
NORMAN C GORSUCH RELEASED AN APRIL 13, 1983, OPINION ON THE MEANING
OF ARTICLE 1, SECTION 19 OF THE ALASKA CONSTITUTION.

THE OPINION, FIRST SENT TO SENATOR PAT RODEY AND REPRESENTATIVE
CHARLIE BUSSELL NOTED THAT: "THE MODERN JUDICIAL VIEW HAS
INCREASINGLY FOUND THAT THE GUARANTEED RIGHT TO KEEP AND BEAR ARMS IS
NOT AN INDIVIDUALLY PROTECTED RIGHT, BUT RATHER A COLLECTIVE RIGHT
WHICH ALLOWS THE PEOPLE OF THE VARIOUS STATES TO SERVE IN A MILITIA."

THE EFFORTS OF OUR ALASKAN MEMBERS TO STRENGTHEN THE RIGHT TO KEEP
AND BEAR ARMS PROVISION OF THE CONSTITUTION WAS MOTIVATED BY THE
TO REPLY BY MAILGRAM MESSAGE, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS



NUMEROUS STATES THROUGHOUT THE UNITED STATES WHERE LAW-ABIDING GUN OWNERS HAVE SOUGHT TO EMPHASIZE THAT THE RIGHT TO BEAR ARMS IS AN INDIVIDUAL RIGHT.

AS MORE AND MORE COMMUNITIES ATTEMPT TO ENACT RESTRICTIVE GUN CONTROL ORDINANCES, LAW-ABIDING FIREARMS OWNERS ARE ATTEMPTING TO OFFSET THIS PATTERN THROUGH THE PASSAGE OF CONSTITUTIONAL REFORMS.

IDAHO PASSED SUCH REFORM LEGISLATION IN 1979. IN 1982 THE STATES OF NEW HAMPSHIRE AND NEVADA PASSED SIMILAR AMENDMENTS BY OVERWHELMING PERCENTAGES, AND UTAH VOTERS WILL BE VOTING ON A STRENGTHENED AMENDMENT THIS FALL.

THE ATTORNEY GENERAL'S OPIONION HAS CAUSED CONCERN AMONG OUR MEMBERSHIP WHO FELT THAT WE COULD HELP PROTECT THE RIGHTS WHICH ALASKANS HOLD DEAR TO THEM BY INCLUDING LANGUAGE WHICH SPECIFICALLY EXTENDS TO PROTECTION BY SELF-DEFENSE AND LAWFUL HUNTING/RECREATION USE AND OTHER LAWFUL PURPOSES,

WE HOPE THAT THROUGH THE AMENDATORY LANGUAGE CONTAINED IN SENATE JOINT RESOLUTION #28, THE RIGHTS WHICH YOU SOUGHT TO PROTECT IN 1955 WILL BE FURTHER PROTECTED FOR A FUTURE GENERATION OF ALASKANS.

SINCERELY,
LOUIS J BRUNE III STATE LIAISON

10:38 EST

MGMCOMP



NATIONAL RIFLE ASSOCIATION OF AMERICA
INCORPORATED 1871

1600 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

RUPE ANDREWS
FIELD REPRESENTATIVE
ALASKA

9416 LONGRUN DRIVE
JUNEAU AK 99801
907/789-7422

May 2, 1984

Senator Vic Fischer, Chairman
Alaska Senate State Affairs Committee
Alaska State Legislature

Dear Senator Fischer:

The following is testimony prepared for the official record of the State Affairs Committee.

Mr. Chairman, members of the Senate State Affairs Committee, my name is Rupe Andrews. I am the Alaska Field Representative for the National Rifle Association of America and as such I am expressing the collective concerns of 19,000 Alaska members. My purpose today is to speak in favor of SJR 28 and to urge your favorable consideration of this resolution.

The reasons for NRA support of SJR 28 are several, not the least is the overwhelming desire of Alaskans to own and bear arms for the defense of self, home and property and for the lawful use of firearms for hunting, recreational shooting or for other lawful purposes. As it stands now, the individual right of Alaskans to bear firearms for the above purposes may be endangered and/or ambiguous in light of recent legal opinions.

Our concern and interest in the passage of SJR 28 stems primarily from the Alaska Attorney General's opinion released April 13, 1983 on the meaning of Article 1. Section 19 of the Alaska Constitution.

The opinion, first sent to Senator Pat Rodey and Representative Charlie Bussel noted that: "The modern judicial view has increasingly found that the guaranteed right to keep and bear arms is not an individually protected right, but rather a collective right which allows the people of the various states to serve in a militia."

The very concept of a Declaration of Rights in Article 1 in the Alaska Constitution is to protect individual liberties.

The Alaska arms guarantee was not enacted to grant the state the right to have a militia or to protect a nebulous collective right by the people to bear arms. The U.S. Supreme Court has held that the state's power to legislate on militia matters existed prior to the formation of the federal constitution and remains with the states. Houston v. Moore, 18 U.S., 16-17 (1820). Various Supreme Court cases decided long before Alaska became a state, clearly demonstrate that a state has the inherent power to have a militia and to train a militia. This power in no way depends on a state constitutional guarantee. The framers of the Alaska Constitution were undoubtedly aware of this jurisprudential principle and thus in our opinion would not have cluttered up the Alaska Declaration of Rights with an impotent and useless guarantee.

Research has revealed that in this instance there is no written history of intent by the Constitutional framers on the right to bear arms. It is therefore assumed that when the Constitution was framed, the framers and the people who voted approval of the Constitution took for granted what appeared to be obvious—that of the right to own and bear arms for all lawful purposes including hunting and recreational shooting. The constitutional framers some 26 years ago could hardly foresee the disturbing trend that is developing in several parts of the country and especially with the 1983 Alaska Attorney General's opinion. The conclusion reached by many Alaskans from reading the Attorney General's opinion and learning that there is no written intent pertaining to Article 1, Section 19; there is no individual guarantee for the right of self defense, hunting or recreational shooting provided by the constitution.

Alaska is not alone in having a constitutional provision that tracks the language of the federal constitution. Hawaii, Virginia North and South Carolina follow the 2nd Amendment. However, the constitutions of 39 other states contain a right to bear arms guarantee. These states wisely decided on a constitutional guarantee that removes any ambiguous decision making and state in language that the lay citizen can clearly understand as the individual right to bear arms for self defense of self, property, and recreational use for hunting and shooting.

Amending Article 1, Section 19 of the Alaska Constitution will ensure firearm owners in the future that their rights are protected as well as end any potential for ambiguity.



Field Representative, Alaska

MEMORANDUM

TO: Theodore A. Lattanzio

FROM: Bob Dowlut

RE: Nebraska's Proposed Guarantee to Keep and Bear Arms

DATE: November 14, 1985

→ 6345
BD 202 828 6366 Lou Beune

I suggest the following language be employed:

The right of all citizens to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, shall not be infringed by the state or any subdivision thereof.

The above language tracks the North Dakota constitutional guarantee. I suggest that Nebraska follow the language of North Dakota's guarantee to keep and bear arms because following the language of a sister state assuages fears. There are two minor deviations from the North Dakota guarantee. The use of the term citizen means that the right is only guaranteed to persons who have the right to exercise all political and civil rights of citizenship, such as the right to vote, enter into a contract, and enjoy the liberty to travel. Prisoners, convicted felons, lunatics, and infants are not entitled to the full rights guaranteed to a citizen. This should fend off the usual alarmist rhetoric. Furthermore, the admonition that the right to keep and bear arms may not be infringed by the state or any subdivision thereof achieves the desired goal of preemption.

The right to keep and bear arms to defend property may cause a staccato of shrill shrieks from opponents who will claim that this sanctions the use of deadly force against trespassers and tricycle thieves. Therefore, the reference to property may be substituted with the word home in the event such a move becomes necessary or advantageous.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

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June 27, 1983

The Honorable Patrick M. Rodey
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SJR-28
A. G. #366-444-83

Dear Senator Rodey:

The Department of Law has completed a preliminary analysis of Senate Joint Resolution 28 regarding the proposed amendment to the Alaska Constitution pertaining to the right of a person to keep and bear arms.

You may wish to consider inserting the word "lawful" after the term "for" and before the word "defense". With this insertion, the new constitutional clause would read as follows:

The right of a person to keep and bear arms for lawful defense of self, home and property, or for lawful hunting and recreational use, or for other lawful purposes shall not be infringed.

I believe it would be wise to make explicit that the Constitution provides for lawful activities, which of course are established by the legislature. In the absence of the term "lawful", I can envision a situation where persons attempt to use the constitutional language as a defense to behavior which ordinarily would constitute a violation of the Alaska criminal statutes. Also, I'm not sure the explicit mention of lawful hunting, recreational use and other specific activities is necessary to insure that individuals have a guaranteed right to keep and bear arms, however, I realize this language may be reassuring to certain groups within our state.

* You may wish to review the language in other state Constitutions which relates directly to the right to keep and bear arms. In many instances this right is explicitly characterized as an individual right without mentioning specifically what constitutes appropriate use by an individual citizen. The