

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5847 HOUSE JUDICIARY

25

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Office of the Governor
 Title: "Proposing amendments to the BRU: Office of Management and Budget
Constitution...relating to an appropriation
 Sponsor: Finance Committee limit." Components: Operations
 Requestor: House Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No administrative impact.

Prepared by: Michael A. Nizich, Director Phone: 465-3616
 Division: Division of Administrative Services Date: 1/31/90

Approved by Commissioner: Garvey Peska, Chief of Staff Date: 1/31/90
 Agency: Office of the Governor

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

MEMORANDUM

State of Alaska
Office of the Governor
Division of Policy

TO: Kay Brown
Representative
Alaska State Legislature

DATE: March 14, 1990

FROM: *MARY* Mary Halloran
Director, Policy

PHONE: 465-3568

SUBJECT: HJR 66: Spending Limit
& Federal Mandates

As you look at possible changes in HJR 66, we would appreciate your consideration of an exclusion from the spending limit of federally mandated entitlement programs, i.e. Medicaid and AFDC. Including these programs, over which we have virtually no control, under the limit has certain adverse implications. The legislature tends to make cuts on an agency by-agency basis. Thus, if Medicaid continues to grow by leaps and bounds, the necessary reductions under the spending limit to allow for Medicaid growth are quite likely to come at the expense of other DHSS programs, also targeted to Alaska's less fortunate.

Attachment 1 is a table illustrating a ten-year history of state AFDC and Medicaid appropriations. Attachment 2 puts Attachment 3's general fund amounts into current (real 1990) dollars. It shows that AFDC has increased by fifty percent over inflation over the last ten years, from \$20.8 million for FY81 to \$31.8 million for FY91. Medicaid tripled in amount in real dollars. The program's general fund cost was \$28.6 million in 1990 dollars in FY81, contrasted with an estimated \$95.1 million cost for FY91.

Projected Medicaid and AFDC growth through FY 95 is detailed on Attachment 3. FY92 is the first year of full coverage for Unemployed Parent coverage in AFDC, so the increase in AFDC costs from FY91 to FY92 is estimated to be 13% total. For FY93 on, AFDC costs are estimated to increase at about 6% annually, or slightly above inflation for the same period.

The Dept. of Health & Social Services estimates that Medicaid, in contrast to AFDC, will continue to increase much more rapidly than inflation. For estimating purposes, they have chosen an annual increase rate of 21.7%.

Kay Brown
March 14, 1990
Page 2

Since Medicaid has actually grown at a 31.7% average annual rate over the last ten years, the DHSS estimate is well within the range of probability.

As you know, there is one other federally-mandated entitlement program, Family Support Act Child Care. It's estimated FY91 state general fund amount is \$2 million.

We would do well to make sure that those federally-mandated costs which we cannot control and which are sharply escalating, do not dictate our program policies in other areas.

The language necessary to provide this exclusion is as follows:

"appropriations for state participation in federally funded entitlement programs"

Table 1

DHSS AFDC & MEDICAID HISTORICAL

3/9/90

	32,144.0	0.0	16,072.0	32,144.0	48,809.1	0.0	22,119.6	48,809.1
	41,520.3	0.0	20,760.2	41,520.3	46,519.9	0.0	21,523.6	46,519.9
	41,690.4	0.0	20,845.2	41,690.4	57,612.8	0.0	28,310.8	57,612.8
	41,190.2	0.0	20,595.1	41,190.2	61,306.8	0.0	31,998.8	61,306.8
	38,661.4	3,967.0	22,159.9	42,628.4	66,655.5	0.0	35,142.3	66,655.5
	48,281.1	770.0	24,526.1	49,051.1	71,840.6	0.0	36,125.4	71,840.6
	53,199.3	1,778.0	27,488.6	54,977.3	77,554.6	0.0	37,759.1	77,554.6
	59,821.3	0.0	27,474.2	59,821.3	84,158.6	18,434.6	49,729.0	102,593.2
	63,217.0	0.0	28,775.2	63,217.0	109,030.2	5,025.7	53,906.9	114,055.9
	67,322.0	0.0	30,794.0	67,322.0	133,749.3	24,472.2	76,051.5	158,221.5
	72,608.7	U/K	33,215.2	72,608.7	204,341.5	U/K	99,281.8	204,341.5

GF = GF, GFM, & GF/PGM

Source: DHSS, Division of Administrative Services

FILE: I:\LOTUS\SETPLO\AFDCMED

AFDC/Medicaid

Table 2
AFDC and Medicaid General Fund Appropriations

Fiscal Year	AFDC Nominal Appropriations (\$ thousands)	AFDC Real (1990) Appropriations	Medicaid Nominal Appropriations	Medicaid Real (1990) Appropriations	CPIU Anchorage
1981	16,072.0	20,822.3	22,119.6	28,657.3	85.6
1982	20,760.2	24,970.8	21,523.6	25,889.0	92.2
1983	20,845.2	23,398.1	28,310.8	31,778.0	98.8
1984	20,595.1	22,931.7	31,998.8	35,629.2	99.6
1985	22,159.9	23,813.3	35,142.3	37,764.4	103.2
1986	24,526.1	25,587.4	36,125.4	37,688.7	106.3
1987	27,488.6	28,410.9	37,759.1	39,025.9	107.3
1988	27,474.2	28,133.8	49,729.0	50,922.9	108.3
1989	28,775.2	29,438.8	53,906.9	55,150.1	108.4
1990	30,794.0	30,794.0	76,051.5	76,051.5	110.9
1991	33,215.2	31,815.3	99,281.8	95,097.5	115.8

Office of the Governor, Division of Policy 3/9/90.

	AUTH FY90	AGENCY FY91	PROJECTED FY92	PROJECTED FY93	PROJECTED FY94	PROJECTED FY95
AFDC	30794.0	33215.2	37400.0	39644.0	42022.6	44543.9
GENERAL RELIEF	1863.4	1500.4	1575.4	1654.1	1736.8	1823.9
ADULT PA	18541.1	20744.1	21988.7	23308.0	24706.5	26188.8
OAA-ALB HH	3400.0	4714.8	5422.0	6072.6	6679.9	7347.9

ASSUMPTIONS USED IN MAKING THE PROJECTIONS:

AFDC: AFDC-Unemployed Parent (UP) coverage will be implemented on October 1, 1990 for nine months of program operation in FY91. The AF-UP coverage will increase AFDC program cases by roughly 8% in the FY91 start-up year. FY92 represents the first full year of AF-UP coverage. The FY93-95 projected AFDC caseload and COLA average increase is 6%.

GRA: The FY92-95 projected GRA average caseload increase is 5%.

APA: The FY92-95 projected APA caseload and COLA increase is 6%.

OAA-ALB HH: The projected OAA-ALB HH caseload increase is as follows: FY92 - 15%, FY93 - 12%, FY94 and FY95 - 10%.

MEDICAID NON-FAC	22971.4	34087.0	41483.8	50485.7	61441.1	74773.1
MEDICAID FACILITIES	39371.9	55472.6	67509.6	82158.6	99986.6	121683.6
ALB HOLD HARMLESS	1236.6	1479.1	1799.1	2189.1	2664.1	3242.1
GEN RELIEF MEDICAL	6385.1	7724.8	9400.8	11439.8	13921.8	16942.8

ASSUMPTIONS USED IN MAKING THE PROJECTIONS:

The Division of Medical Assistance assumed an annual increase of 21.7% which was the actual percentage change between FY88 and FY89. This also assumes the status quo is maintained and no new programs added.

OMB WORKSHEET

H&SS TRANSFER PAYMENTS (GF = GFM, GF, PR & MHT)

20-Nov-89

	AUTH FY90	AGENCY FY91	PROJECTED FY92	PROJECTED FY93	PROJECTED FY94	PROJECTED FY95
FOSTER CARE	8639.7	10258.4	11489.4	12868.1	14412.3	16141.8

ASSUMPTIONS USED IN MAKING THE PROJECTIONS:

A straight line increase of 12% was used to project the GF needs for FY92-95. This 12% yearly increase was based on a FTE/Client (Full Time Equivalent) increase of approximately 10% and a per day/client increase (based on the Poverty Level Index) of approximately 2%.

Department Totals	133203.2	169196.4	198068.8	229820.0	267571.7	312687.9
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State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



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Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

February 5, 1990

MEMORANDUM

TO: Representative Max Gruenberg
Representative Niilo Koponen

FROM: Mark Handley

RE: Existing constitutional statutory appropriation limits

Enclosed is a package containing existing state statutory and constitutional appropriation limitations.

I. CONSTITUTIONAL PROVISIONS

A. Article 9, Section 16, the present constitutional limit, and the three sections of Article 15 which relate to Article 9, section 16. All of these will be repealed by HJR 66. Exhibit "A."

B. Articles 9 and 8, the constitutional prohibition on contracting state debt without voter approval. Exhibit "B."

II. STATUTORY PROVISIONS

A. AS 37.05.540, the statutory limit contained in the Budget reserve fund statute. Exhibit "C."

B. AS 37.07.020(c) requires the governor to submit a balanced budget. Exhibit "D."

C. AS 37.07.030(5) and 6 require the legislature to pass a balanced budget the submit a six year balanced budget plan. Exhibit "D."

Section 16. Appropriation Limit. Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska

of a public facility to a particular race, ethnic group, or religion would violate AS 15.315, the grant agreement, and, most importantly, the public purpose clause of section. February 26, 1987 Op. Att'y

SIONS

(1988); Public Employees' Local 71 et al., Sup. Ct. Op. No. 3450 (File No. 88-1), P.2d (1989).

d.

Appropriation limit of section 16 of this article must be interpreted consistently with the permanent fund amendment contained in this section. Each legislature may reexamine existing law and enact different laws providing for the use of revenues earned by the Alaska permanent fund. If section 16 were interpreted to provide an exception for permanent fund revenues applied only to appropriations for cash dividends under AS 43.23, the legislature would essentially be denying its flexibility to adjust to changing economic conditions concerning the propriety of cash payments directly to residents. 1983 Op. Att'y Gen. No. 01.

Zobel v. Williams, 457 U.S. 217, 2309, 72 L. Ed. 2d 672, 719 P.2d 448 (Alaska 1980).

for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska

permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury. [Amendment approved November 2, 1982]

Approval date. — This amendment was approved November 2, 1982. (Legislative Resolve No. 1, FSSLA 1981).

Opinions of attorney general. — This section imposes an appropriation limit rather than a spending limit. The legislature may make appropriations which exceed available revenues, but obligations may not be paid under those appropriations unless there is enough surplus money available in the treasury. 1983 Op. Att'y Gen. No. 01.

There is history which supports a liberal interpretation of the term "capital project" as used in this section. 1983 Op. Att'y Gen. No. 01.

If the legislature enacts any other distribution program which is consistent with the intent of the permanent fund dividend law (AS 43.23), any appropriation to implement that program will be exempt from the appropriation limit of this section. 1983 Op. Att'y Gen. No. 01.

If the legislature provides that an appropriation may not be expended until a later fiscal year, the appropriation should be counted only against the limit for that later fiscal year. 1983 Op. Att'y Gen. No. 01.

The one-third appropriation allocation reserved for capital projects and loan appropriations may be disregarded when economic conditions impose a total appropriation limit which is more restrictive than that set out in this section. 1983 Op. Att'y Gen. No. 01.

Appropriations that are available for expenditure in a fiscal year should be counted only against the appropriation limit of this section for the first fiscal year during which they could be completely expended. This should be done even if an unexpended balance is carried forward into the next fiscal year; that balance must be considered obligated for the purposes of the appropriation limit. 1983 Op. Att'y Gen. No. 01.

Appropriations to retire municipal general obligation school bond indebtedness under AS 14.11 are "required" and qualify as an exception to the spending limit of this section. 1983 Op. Att'y Gen. No. 01.

Appropriations to retire municipal general obligation school bond indebtedness under AS 14.11 are "required" and qualify as an exception to the spending limit. 1983 Op. Att'y Gen. No. 01.

Appropriations

SECTION 26. If a majority of those voting on the question at the general election in 1982 approve the ballot proposition for the total cost to the State of providing for relocation of the capital, no additional voter approval of appropriations for that purpose within the cost approved by the voters is required under the 1982 amendment limiting increases in appropriations (art. IX, sec. 16). [Approved November 2, 1982. However, approval of ballot measure 8 makes the section inoperative]

**Reconsideration
of Amendment
Limiting
Increase in
Appropriations**

SECTION 27. If the 1982 amendment limiting appropriation increase (art. IX, sec. 16) is adopted, the lieutenant governor shall cause the ballot title and proposition for the amendment to be placed on the ballot again at the general election in 1986. If the majority of those voting on the proposition in 1986 rejects the amendment, it shall be repealed. [Approved November 2, 1982]

**Application of
Amendment**

SECTION 28. The 1982 amendment limiting appropriation increases (art. IX, sec. 16) applies to appropriations made for fiscal year 1984 and thereafter. [Approved November 2, 1984]

Art 7 Alaska Constitution

transferred, nor shall the public credit be used, except for a public purpose.

Dedicated Funds

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

(The amendment to this section was approved by the voters of the state November 2, 1976 and became effective February 21, 1977. This amendment inserted "as provided in section 15 of this article or" in the first sentence.)

State Debt

SECTION 8. No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective. [Amendment approved November 2, 1982]

Effect of amendments. - The amendment approved November 2, 1982, inserted "or unless authorized by law for housing loans for veterans" in the first sentence.

Local Debts

SECTION 9. No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question.

Interim Borrowing

SECTION 10. The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year.

under 42 U.S.C. 6508. It is the intent of the legislature that an initial appropriation be made to the Department of Community and Regional Affairs to cover anticipated impact grants, and that additional funds be made available through supplemental appropriations if the impact is greater than anticipated and the legislature considers the additional grants proposed by the department to be meritorious.

(e) A municipality may use the funds received under (d) of this section only for the following activities and services to alleviate the impact of the oil and gas development under 42 U.S.C. 6508 within the National Petroleum Reserve — Alaska:

- (1) planning;
- (2) construction, maintenance, and operation of essential public facilities by the municipality; and
- (3) other necessary public services provided by the municipality.

(f) Funds appropriated under (d) of this section may not be used for the retirement of municipal debt.

(g) Amounts received by the state under 42 U.S.C. 6508 and not appropriated for grants to municipalities under (d) of this section lapse at the end of each fiscal year as follows:

- (1) 50 percent to the principal of the Alaska permanent fund;
- (2) .5 percent to the public school fund (AS 37.14.110); and
- (3) the remainder to the general fund for use by the state for the following facilities and services:

- (A) planning;
- (B) construction, maintenance, and operation of essential public facilities; and
- (C) other necessary public services. (§ 2 ch 94 SLA 1984; am §§ 2, 3 ch 53 SLA 1986)

Revisor's notes. — Formerly AS 1986 Acts, see § 1, ch. 94, SLA 1984, and § 1, ch. 53, SLA 1986, respectively, in the 37.25.040. Renumbered in 1988.

Cross references. — For legislative findings in connection with the 1984 and Temporary and Special Acts.

Sec. 37.05.540. Budget reserve fund; appropriation limit.

(a) There is established as a separate fund in the state treasury the budget reserve fund. The budget reserve fund consists of appropriations to the fund. Money received by the state that is subject to the appropriation limit under (b) of this section and that exceeds that limit, may be appropriated to the budget reserve fund.

(b) Except for appropriations to the permanent fund or for Alaska permanent fund dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a nonstate source in trust for a specific purpose, including revenue of a public enterprise or public corporation of the state that issues revenue bonds, appropriations from the

treasury made in a fiscal year may not exceed appropriations made in the preceding fiscal year by more than five percent plus the change in population and inflation since the beginning of the preceding fiscal year. For purposes of applying this limit an appropriation is considered to be made in the fiscal year in which it is enacted and a reappropriation remains attributed to the fiscal year in which the original appropriation is enacted. The determination of the change in population for purposes of this subsection shall be based on an annual estimate of population by the Department of Labor. The determination of the change in inflation for purposes of this subsection shall be based on the Consumer Price Index for all urban consumers for Anchorage prepared by the United States Bureau of Labor Statistics. The amount of money received by the state that is subject to the appropriation limit includes the balance in the general fund carried forward from the preceding fiscal year.

(c) If the legislature determines that the money subject to the appropriation limit received by the state in a fiscal year is less than the maximum permitted to be appropriated under (b) of this section, up to 25 percent of the balance of the budget reserve fund may be appropriated to the general fund.

(d) The Department of Revenue shall manage and invest assets of the budget reserve fund in the manner set out for the management and investment of the assets of the general fund under AS 27.10.070. Income from investment of the budget reserve fund may be appropriated to the fund each year by law.

(e) Notwithstanding other provisions of this section, appropriations may be made from the budget reserve fund needed by the governor to meet a disaster. In this subsection, "disaster" has the meaning given in AS 26.23.230. (§ 1 ch 58 SLA 1986)

Revisor's notes. — Formerly AS 37.05.156. Renumbered in 1988.
 Editor's notes. — Section 3, ch. 58, SLA 1986 provides that this section "applies to fiscal year 1988 and fiscal years thereafter".

Article 7. General Provisions.

Section	Section
900. Interpretation of chapter	990. Definitions for chapter
910. Applicability to University of Alaska	995. Short title
920. Fiscal year	

Sec. 37.05.900. Interpretation of chapter. This chapter shall be construed as supplemental to all other state laws not in conflict with it. If a section or part of a section of this chapter is in conflict with federal requirements for a program for which federal grant-in-aid funds are available, the section or part to the extent of the conflict is inoperative. (§ 1 art VIII ch 82 SLA 1955; am § 18 ch 186 SLA 1957)

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Alaska

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Sec. 37.07.020. Responsibilities of the governor. (a) The governor shall prepare and submit to the legislature before the fourth legislative day a budget for the succeeding fiscal year which must contain all estimated receipts, including all grants, loans, and money received from the federal government, and all proposed expenditures of the state government. The budget submitted by the governor shall be organized so that the proposed expenditures for each agency are presented separately. The budget must be accompanied by a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenue. The proposed general appropriation bill shall become public information on December 15 of each year at which time the governor shall submit copies to the legislature and make copies available to the public.

(b) In addition to the budget and general appropriation bill, the governor shall submit a capital improvements program and financial plan covering the succeeding six fiscal years.

(c) Proposed expenditures may not exceed estimated revenue for the succeeding fiscal year. The expenditures proposed in the six-year capital improvements program and financial plan may not exceed the estimated revenue and bond authorizations passed and proposed.

(d) The governor shall annually, before the convening of the legislature, report to the legislature through the Legislative Budget and Audit Committee the long-range fiscal and economic consequences of

Exhibit D

§ 37.07.030

ALASKA STATUTES

§ 37.07.040

- (1) alternate levels of capitalization of the investment funds of the state; and
- (2) alternative investment policy for the general fund surplus. (§ 1 ch 188 SLA 1970; am § 3 ch 168 SLA 1978; am § 4 ch 18 SLA 1980; am § 3 ch 2 SLA 1982; am § 1 ch 61 SLA 1984)

Sec. 37.07.030. Responsibilities of the legislature. The legislature shall

- (1) provide for a budget review function;
- (2) analyze the comprehensive operating and capital improvements programs and financial plans recommended by the governor;
- (3) adopt legislation to authorize implementation of the governor's comprehensive operating and capital improvements programs and financial plans or appropriate alternatives to those plans;
- (4) provide for a post-audit function to cover financial transactions, program accomplishment, and compliance with legislative intent;
- (5) adopt or revise the estimate of receipts required to balance the succeeding fiscal year's budget in order that proposed expenditures do not exceed estimated receipts for that fiscal year;
- (6) adopt, revise, or initiate revenue measures in order to balance the succeeding fiscal year's budget and the capital improvements section of the budget for the succeeding six years. (§ 1 ch 188 SLA 1970; am § 4 ch 168 SLA 1978)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Chapter 10. Public Funds.

Article

3. Investment and Deposit of State Funds (§ 37.10.085)

MEMORANDUM

State of Alaska
Office of the Governor
Division of Policy

TO: House Judiciary Committee

DATE: January 31, 1990

FROM: Brad Pierce *BP*
Senior Analyst

PHONE: 465-3568

SUBJECT: HJR 66 Tables

Table 1 is my interpretation of the provisions embodied in HJR 66 as written and their effect on real government spending for the FY 92 - FY 95 period. I have assumed FY 91 appropriations of \$2.32 billion subject to the spending limit. This was computed from the Governor's Proposed General Fund Budget of \$2.42 billion minus \$95.6 million in General Obligation debt. Table 2 provides the same information, with a \$2.3 billion base for the spending limitation. Table 3 provides detail on historical and projected growth in formula programs and other categories of state spending.

Table 1

Projected Fiscal Impact of HJR 66

FY 1992 - FY 1995
(Millions of Nominal Dollars)

Revenues	1992	1993	1994	1995
Fall Forecast Unrestricted General Fund Revenue	2,416.1	2,435.2	2,460.7	2,375.8
Expenditures	(2,200.0)	(2,200.0)	(2,200.0)	(2,200.0)
Reserve Balance (in General Fund)	224.7	487.3	797.4	1,044.1
Real Spending (FY 91 dollars)	(2,095.5)	(1,996.0)	(1,901.2)	(1,810.9)
Percent Change in Real Spending From Previous Year	(9.8%)	(4.8%)	(4.8%)	(4.8%)
Cumulative Four Year Change in Real Spending From Gov's Proposed FY 91 Budget	(22.1%)			

Notes: Reserve balance earns 8% interest.

Inflation assumptions are based on the DOR Fall Revenue Forecast mid-case scenario.

FY 91 appropriations subject to the limit = \$2,323.7.

Office of the Governor, Division of Policy.

1/31/90

Table 2

Projected Fiscal Impact of HJR 66 With \$2.3 Billion Limit

FY 1992 - FY 1995
(Millions of Nominal Dollars)

Revenues	1992	1993	1994	1995
Fall Forecast Unrestricted General Fund Revenue	2,416.1	2,435.2	2,460.7	2,375.8
Expenditures	(2,300.0)	(2,300.0)	(2,300.0)	(2,300.0)
Reserve Balance (in General Fund)	120.7	271.0	459.8	575.4
Real Spending (FY 91 dollars)	(2,190.8)	(2,086.7)	(1,987.6)	(1,893.2)
Percent Change in Real Spending From Previous Year	(5.7%)	(4.8%)	(4.8%)	(4.8%)
Cumulative Four Year Change in Real Spending From Gov's Proposed FY 91 Budget	(18.5%)			

Notes: Assumes reserve balance earns 8% interest in general fund.
Inflation assumptions are based on the DOR Fall Revenue Forecast mid-case scenario.
FY 91 appropriations subject to the limit = \$2,323.7.

Office of the Governor, Division of Policy.
1/31/90

Table 3

Five Year Fiscal Plan Detail
FY 91 - 95
(Millions of Nominal Dollars)

Budget (\$Millions)	FY 88	Actual FY 89	Authorized FY 90	Proposed FY 91	Projected FY 92	Projected FY 93	Projected FY 94	Projected FY 95
Operating Subtotal	1,911.3	1,991.5	2,036.7	2,170.9	2,253.6	2,309.9	2,376.0	2,449.1
Education	454.3	470.8	490.8	558.8	586.0	606.1	629.5	659.9
School Debt Retirement	109.5	109.5	107.8	107.8	131.5	131.5	131.5	123.8
Longevity Bonus	50.6	53.3	56.5	59.4	62.6	65.8	69.0	72.4
H&SS Transfer Payments	106.0	115.0	133.2	166.5	198.1	229.8	267.6	312.7
Power Cost Equalization	15.0	16.8	19.4	18.4	20.8	21.4	22.4	23.5
Municipal Asst. & Revenue Sharing	96.9	96.9	91.0	91.1	91.0	91.0	91.0	91.0
Other Senior Tax Relief, Shared Taxes	20.5	23.6	32.1	31.7	26.4	27.1	27.8	28.6
University	137.6	154.2	159.4	163.2	163.2	163.2	163.2	163.2
Courts	37.9	39.0	39.5	40.3	40.3	40.3	40.3	40.3
Legislature	26.7	29.5	30.8	31.2	31.2	31.2	31.2	31.2
Operating Agencies	856.3	882.9	876.2	902.5	902.5	902.5	902.5	902.5
General Obligation and Other Debt	147.9	135.5	132.5	107.7	68.2	59.7	33.9	23.1
Capital Projects	173.4	127.1	132.8	100.0	100.0	100.0	100.0	100.0
Loans	22.6	17.5	10.0	13.7	17.0	17.0	17.0	17.0
Special Appropriations - Oil Fund			32.0	27.0				
Total Unrestricted General Funds	\$2,255.2	\$2,271.6	\$2,344.0	\$2,419.3	\$2,438.8	\$2,486.6	\$2,526.9	\$2,589.2

Notes: Under the Operating Budget subtotal, the Education entry includes formula distributions only. The Other category includes Fisheries Enhancement Tax distributions (\$10.5 million in FY 90), Shared Taxes (\$18.6 million) and Senior Tax Relief (\$3 million).
FY 90 budget totals include only authorized expenditures, they do not include supplementals.

Sources: Division of Budget Review and various state agencies.

Office of the Governor, Division of Policy
1/31/90

Revisor's notes. — Enacted as AS 44.21.250. Renumbered in 1981

Effect of amendments. — The 1987 amendment repealed paragraph (3),

which read "'deputy commissioner' means the deputy commissioner in the department who administers the telecommunications divisions."

Article 7. Office of Public Advocacy.

Section

400. Public advocacy office established
410. Powers and duties
420. Employment of office personnel
430. Attorneys engaged by public advocacy office

Section

440. Conflicts of interests
450. Civil liability of volunteer guardians
460. Nonattorney volunteer guardians ad litem
470. Definition

Sec. 44.21.400. Public advocacy office established. There is created in the Department of Administration the office of public advocacy. (§ 1 ch 55 SLA 1984)

Sec. 44.21.410. Powers and duties. (a) The office of public advocacy shall

(1) perform the duties of the public guardian under AS 13.26.360 — 13.26.410;

(2) provide visitors and experts in guardianship proceedings under AS 13.26.131;

(3) provide guardian ad litem services to children in child protection actions under AS 47.17.030(e) and to wards and respondents in guardianship proceedings who will suffer financial hardship or become dependent upon a government agency or a private person or agency if the services are not provided at state expense under AS 13.26.112;

(4) provide legal representation in guardianship proceedings to respondents who are financially unable to employ attorneys under AS 13.26.106(b), to indigent parties in cases involving child custody in which the opposing party is represented by counsel provided by a public agency, to indigent parents or guardians of a minor respondent in a commitment proceeding concerning the minor under AS 47.30.775;

(5) provide legal representation and guardian ad litem services under AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor under AS 09.55.590; in children's proceedings under AS 47.10.050(a); and in cases involving indigent persons who are entitled to representation under AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict of interests;

(6) develop and coordinate a program to recruit, select, train, assign, and supervise volunteer guardians ad litem from local communi-

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ties to aid in delivering services in cases in which the office of public advocacy is appointed as guardian ad litem;

(7) provide guardian ad litem services in proceedings under AS 12.45.046.

(b) The commissioner of administration may

(1) adopt regulations that the commissioner considers necessary to implement AS 44.21.400 — 44.21.470;

(2) report on the operation of the office of public advocacy when requested by the governor or legislature or when required by law;

(3) solicit and accept grants of funds from governments and from persons, and allocate or restrict the use of those funds as required by the grantor.

(c) The commissioner of administration shall separately account for money received under (b)(3) of this section and deposited in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the Department of Administration to carry out the purposes of this section. (§ 1 ch 55 SLA 1984; am § 21 ch 140 SLA 1986; am § 16 ch 50 SLA 1987; am §§ 1, 2 ch 5 SLA 1988; am § 3 ch 92 SLA 1988)

Revisor's notes. — Paragraph (a)(7) was enacted as (a)(6). Renumbered in 1988.

Effect of amendments. — The 1986 amendment substituted "AS 25.23.125(b)" for "AS 25.23.100(j)" in paragraph (5) of subsection (a).

The 1987 amendment in subsection (a) in paragraph (4) deleted "and" preceding "to indigent parents" and added the language at the end of the paragraph beginning "and to indigent respondents." and inserted "or petitions for the termination

of parental rights on grounds set out in AS 25.23.180(c)(3)" in paragraph (5).

The first 1988 amendment deleted "of public advocacy office" at the end of the catchline, inserted subsection (a)(6), substituted "governments and from persons" for "the federal government and from private foundations" in subsection (b)(3), and added subsection (c).

The second 1988 amendment, effective June 3, 1988, inserted subsection (a)(7).

While neither amendment gave effect to the other, both have been given effect in this section as set out above.

NOTES TO DECISIONS

Responsibility for counsel for indigents not provided for under this section. — Administrative Rule 12(d)(2) mandates that indigent persons requiring counsel but not provided for under AS 44.21.410 or AS 18.85.100, shall be pro-

vided with counsel at the expense of the Alaska Court System. State v. Superior Court, 718 P.2d 466 (Alaska 1986) (proceedings under Uniform Reciprocal Enforcement of Support Act, AS 25.25).

Sec. 44.21.420. Employment of office personnel. (a) The commissioner of administration may employ guardians ad litem, public guardians, clerical staff, and other assistants that the commissioner determines are needed to perform the duties set out in AS 44.21.410. Employees under this subsection are in the classified service under AS 39.25.100.

(b) The commissioner of administration may employ attorneys needed to perform the duties set out in AS 44.21.410. Attorneys employed by the commissioner of administration in the office of public advocacy are in the partially exempt service under AS 39.25.120.

(c) The commissioner of administration may contract for services of court-appointed visitors and experts needed to perform the duties set out in AS 44.21.410. The commissioner may contract with attorneys to provide legal representation, and with other persons to provide guardian ad litem services, as needed to perform the duties set out in AS 44.21.410. The commissioner may determine the rate of compensation for contractual services, taking into account the time involved, the skill and experience required, and other pertinent factors. (§ 1 ch 55 SLA 1984)

Sec. 44.21.430. Attorneys engaged by public advocacy office.

(a) Only an attorney admitted to the practice of law in this state may be employed or retained under contract by the office of public advocacy to provide legal representation.

(b) An attorney employed by the office of public advocacy may not engage in the private practice of law unless the attorney provides services to the office as an independent contractor. (§ 1 ch 55 SLA 1984)

Sec. 44.21.440. Conflicts of interests. Services and legal representation rendered by the office of public advocacy, whether performed by a person under contract or by an employee of the office, shall be provided in a manner that avoids conflicts of interests. (§ 1 ch 55 SLA 1984)

Sec. 44.21.450. Civil liability of volunteer guardians. (a) A volunteer guardian ad litem under the supervision of the office of public advocacy is not civilly liable for acts or omissions during the good faith performance of duties as a guardian unless the acts or omissions constitute gross negligence.

(b) This section does not affect the civil liability of the office of public advocacy. (§ 3 ch 5 SLA 1988)

Sec. 44.21.460. Nonattorney volunteer guardians ad litem. A nonattorney volunteer guardian ad litem may not give legal advice or act in the capacity of attorney for a minor before a court or administrative agency. (§ 3 ch 5 SLA 1988)

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Sec. 44.21.470. Definition. In AS 44.21.410 — 44.21.460, "volunteer guardian ad litem" means a court-appointed special advocate (CASA). (§ 3 ch 5 SLA 1988)

Revisor's notes. — Enacted as AS 44.21.490. Renumbered in 1988.

Chapter 23. Department of Law.

Section

- 10. Attorney general
- 20. Duties
- 30. Promotion of uniform laws
- 40. Records, reports and recommendations on uniform laws

Section

- 50. Employment of attorney to appear before distant court
- 60. Discovery of information and data from transportation business

Sec. 44.23.010. Attorney general. The principal executive officer of the Department of Law is the attorney general. (§ 9 ch 64 SLA 1959)

Collateral references. — 7 Am. Jur. 2d, Attorney General, § 1 et seq.; 72 Am. Jur. 2d, States, Territories and Dependencies, § 62. 7A C.J.S. Attorney General, § 1 et seq.; 81A C.J.S. States, § 61.

Sec. 44.23.020. Duties. (a) The attorney general is the legal advisor of the governor and other state officers.

(b) The attorney general shall

(1) bring, prosecute and defend all necessary and proper actions in the name of the state for the collection of revenue;

(2) represent the state in all civil actions in which the state is a party;

(3) prosecute all offenses involving violation of state law, and file information and reports on all offenses against the revenue laws and other state laws where there is no other provision for their prosecution;

(4) administer legal services, including the furnishing of written legal opinions to the governor, the legislature, and all state officers and departments which the governor directs; and give legal advice on a law, proposed law or proposed legislative measure upon request by the legislature or a member of the legislature;

(5) draft legal instruments for the state;

(6) make a report to the legislature, through the governor, at each regular legislative session

(A) of the work and expenditures of the office, and

(B) on needed legislation or amendments to existing law; and

(7) perform all other duties required by law or which usually pertain to the office of attorney general in a state;

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ISER FISCAL POLICY PAPERS

No. 1, August 1989

Institute of Social and Economic Research

University of Alaska Anchorage

THE ALASKA FISCAL GAP

by Oliver Scott Goldsmith

Alaska faces a problem that will be very tough to solve but is easy to explain: state government is spending more than it collects. The problem will get much worse as time goes on. If state general fund spending stays at the current level of \$2.25 billion (in 1989 dollars), we face a fiscal gap—the difference between current spending and projected revenues—that could soon grow to \$1 billion annually.

This budget crisis looms because oil production, which supplies 85 percent of the state's general fund revenues, will soon begin dropping as the huge Prudhoe Bay oil field is depleted. Likely new petroleum production, higher oil prices, and other economic activity in the coming decade won't be able to generate nearly enough tax and royalty income to replace the loss of Prudhoe Bay production.

Figure 1 shows projected oil production and state petroleum revenues over the next 20 years, based on the Alaska Department of Revenue's estimates from producing fields and our own estimates of new field production and per barrel revenue. Production is at its peak and will soon begin a long decline. Even assuming production from new fields such as West Sak—the timing of which is uncertain—production in 2000 will be only half of what it is today. Petroleum revenues

have already fallen to just half of what they were in the early 1980s, because oil prices are much lower now. If the real price of oil remains in the range where it has been for the last few years, petroleum revenues will drop by half again by 2000.

This figure does not include potential production and revenues from oil fields that may exist in the Arctic National Wildlife Refuge (ANWR). Such revenues would of course help reduce the budget shortfall in the next century. But under any reasonable assumptions (see the box on page 4) they would fall far short of revenues we've enjoyed from Prudhoe Bay, and could not reverse the downward trend. Also, future production from ANWR is extremely speculative right now. Congress would first have to open the refuge to exploration and oil companies would have to discover commercial quantities of oil; after such discoveries it would take years to bring new fields into production.

THE FISCAL GAP

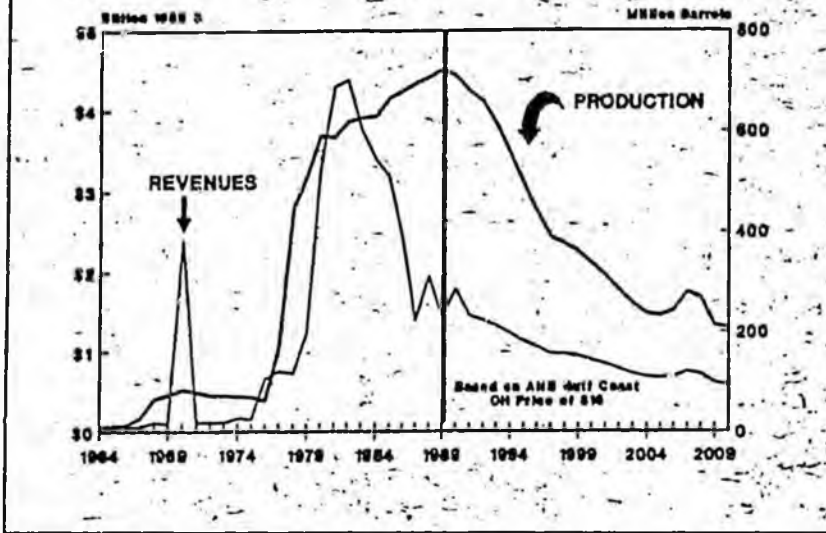
How shrinking production and revenues translate into trouble for Alaska is apparent in Figure 2. It shows the potential size of the future gap

This is the first in a series of *ISER Fiscal Policy Papers* that will examine aspects of state government spending. We intend these papers to focus the attention of state officials and of Alaskans in general on the serious budget crisis we face, and on the necessity for dealing with it soon. We hope this and later papers will provide policymakers with information and analysis they will need when making the difficult decisions ahead.

The author, Oliver Scott Goldsmith, is professor of economics with ISER. He has fourteen years of experience examining state spending. Lee Gorsuch, ISER director, is responsible for the design and presentation of this series. Linda Leask edited the paper.

The *ISER Fiscal Policy Papers* series is financed by a grant from ARCO Alaska.

FIGURE 1. PROJECTED ALASKA PETROLEUM REVENUES AND PRODUCTION



between general fund revenues and spending. If annual spending were held at its current level of about \$2.25 billion (in 1989 dollars), the gap between spending and revenues could be several hundred million dollars a year in the early 1990s and more than \$1 billion annually after the turn of the century. If future revenues turn out to be larger than we anticipate, the fiscal gap could be reduced for a short time but the overall picture would be the same. (See the box on page 4 for a description of how our results would change under different assumptions about future developments and other factors.)

Such a gap of course can't persist. We'll have to balance the budget by cutting spending, raising taxes, using savings, or some combination of the three. These changes will affect not only those who currently enjoy state services, work for state government, or pay taxes. Everyone who benefits from local government services like schools and street maintenance will also be affected. Budget cuts will also affect recipients of government transfers—including Permanent Fund dividends—and businesses that depend on the purchasing power provided by a large public sector.

Balancing the budget will affect all Alaskans, because the economy and people of Alaska are dangerously dependent on state government spending financed by oil revenues. Even now, after several years of recession and a precipitous drop in revenues, state government spending still

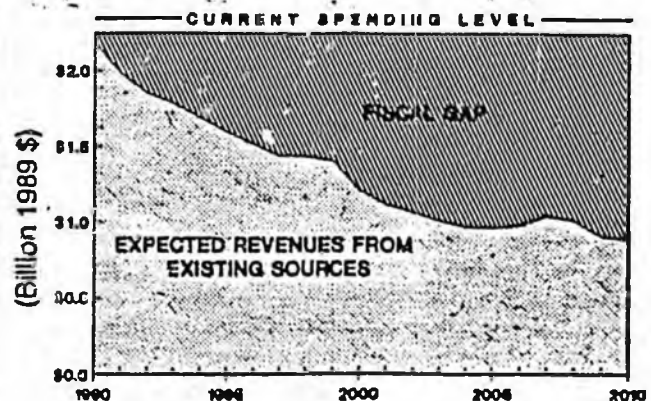
accounts directly and indirectly for more than one in four Alaska jobs.

Below we look at four possible ways to deal with the fiscal gap between now and the year 2010. Briefly, our four cases are: (1) Stumble From Year to Year; this case assumes that the state tries to maintain current spending for as long as possible by using all available reserves except the principal of the Permanent Fund and then cuts spending to match reduced revenues. (2) Deplete the Permanent Fund; this case examines what would happen if the state maintained the current budget level by spending the principal of the Permanent Fund. (3) Freeze the Budget; this case looks at how the

fiscal gap would be affected if the state did not adjust the budget for inflation—in effect cutting the budget by the annual rate of inflation. (4) Cut Spending and Raise Taxes; this case describes the combined effects of reducing state spending, reimposing the personal income tax, and eliminating the Permanent Fund dividend.

There are other possible combinations, but these four scenarios include the main options available to the state. We do not discuss, nor have we attempted to analyze, the enormous political difficulties inherent in exercising any of these options. Some would require changes in law or even amendments to the Alaska constitution. All would generate intense public debate, and most

Figure 2. PROJECTED STATE FISCAL GAP*
(Difference Between Revenues and Spending)



*Projected at the current level of state general fund expenditures. Revenues include oil settlement estimate.

REAL VS. INFLATED DOLLARS IN FISCAL ANALYSIS

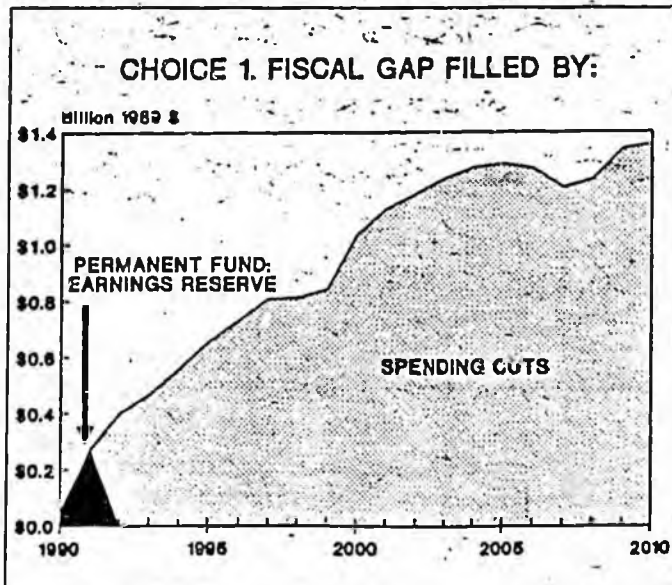
For simplicity and clarity all revenues and expenditures are presented in 1989 dollars. Using this technique eliminates the need to estimate the rate of inflation—the value of which has only a marginal effect on the rest of our analysis—and avoids the confusion that inflation can introduce when we try to compare the purchasing power of dollars received at different times. For example, \$1 of revenue collected in 2000 would have the purchasing power of just 61 cents, if inflation were 5 percent annually over the next decade. Our use of 1989 dollars throughout the analysis allows direct comparisons of current and future purchasing power.

The use of real dollars also corrects a misinterpretation that can arise in revenue projections that use nominal dollars. In such projections, the inflation-proofing portion of Permanent Fund earnings can appear to be a source of recurring revenues. In fact, inflation-proofing is just the portion of earnings needed to offset the devaluation of the fund principal by inflation. Because we use real dollars in our analysis, inflation-proofing does not appear as a separate revenue source, and we avoid any potential misinterpretation. This assumption does not preclude the policy option of appropriating inflation-proofing to fund government spending.

would face extremely strong opposition from specific groups or from Alaskans in general. This paper does not endorse any particular strategy to balance the budget. Rather, it describes in general the tradeoffs—who bears the pain—and the ramifications of the various choices.

Doing an analysis like this requires making certain economic assumptions. Those assumptions are summarized in the box on page 4 and in the individual case descriptions. We can't be sure that these assumptions will prove correct, but changing those assumptions in any reasonable way would not substantially alter our findings.

FISCAL CHOICE 1: STUMBLE FROM YEAR TO YEAR



In this case we look at what would happen if the state government budgeted from year to year, trying to maintain the current level of spending (\$2.25 billion in 1989 dollars) for as long as possible, using available fund balances but making no changes in current fiscal policies. The dividend

program would not be changed, the principal of the Permanent Fund would be retained, and no new tax measures would be enacted.

Revenues from the settlement of disputes with the oil companies over past royalty and tax payments, as well as with the federal government over ownership of leases in the Beaufort Sea, are an important element of our revenue estimates for the 1990s. The amount and timing of any settlement money the state might receive is extremely uncertain, but we assume for this and the other cases that the settlements occur regularly over the next decade in an amount equivalent to \$1.7 billion today. (See also the box on page 4 for an example of how changing this settlement total would change the analysis.) In reality the state may not be so fortunate as to receive a steady stream of income from this source, and the budget shortfall would pressure the state to accept quick negotiated settlements in these disputes.

Under these conditions, the Railbelt Energy Fund, the Earnings Reserve Account of the Permanent Fund, and other fund balances could balance the budget for a short time. A fiscal gap of \$400 million would open in 1992 and grow to an annual deficit of \$1 billion by 2000. In this scenario, state government and the economy would adjust to reduced state spending as discussed below and shown in the graphs on page 7.

Permanent Fund: The Permanent Fund would remain just about the same size (inflation-proofed) that it is today. Contrary to popular belief, future earnings of the Permanent Fund will not be able to replace petroleum revenues in the support of state government. Annual additions to the fund from petroleum revenues—which the state constitution currently requires go directly to the principal of the Permanent Fund—plus earnings would largely be consumed by the Permanent Fund dividend program, with little or nothing left

ECONOMIC ASSUMPTIONS USED IN ANALYSIS

If we changed the economic assumptions used in this analysis, the rate at which the fiscal gap grows would be different but the options for dealing with the gap would be the same. To focus on those options we held the economic assumptions constant throughout the four cases. The most important assumptions are listed below. (Full details on the assumptions are available from the author.)

OIL PRODUCTION: Alaska Department of Revenue estimate, Spring 1989, plus West Sak production scenario developed by author (oil companies recently announced postponement of West Sak exploration)

OIL PRICE: Gulf Coast delivered price for Alaska North Slope (ANS) crude averages \$15 a barrel (in 1989 dollars)

RETURN ON PERMANENT FUND: 3 percent annually, net of inflation

EMPLOYMENT GROWTH RATE: 1.75 percent annually, independent of government spending

SETTLEMENT REVENUES FROM PETROLEUM DISPUTES: \$1.7 billion (in 1989 dollars), received over 10 years

TAX REGIME: Pursuant to the Economic Limit Factor (ELF) as revised by the Alaska Legislature in June 1989

INFLATION RATE: 3 percent annually

RECURRING REVENUES (Non-petroleum revenues): 1 percent growth annually, net of inflation

for fund growth. The total amount available to pay dividends and the payments to individual Alaskans would stay fairly constant because population growth would roughly match growth in the total available for dividends. Dividends as a component of government spending would increase because of decreased spending in all other functional areas.

Revenues: With no new recurring revenues, general fund revenues would steadily decline to about \$1.2 billion in 2000. Permanent Fund additions and earnings would remain relatively constant because of the stable size of the fund.

Expenditures: Declining petroleum revenues would force significant budget cutbacks beginning in earnest in 1992. The general fund would need to be cut 18 percent that year to balance the

budget. Smaller annual cuts would be the rule over the next two decades. Expenditures in 2000 would be \$1.2 billion—equal to revenues collected that year. These cuts in state spending would mean underfunding many and eliminating some government programs; reducing transfers to local governments (creating pressure on local governments to increase taxes and try to shift government functions back to the state); and reducing financial support for individuals. Projected population growth would add to the problem of deciding how the cuts should occur. Uncertainty about the timing and magnitude of cuts from year to year would create continuing confusion and negative attitudes both within government and the private sector.

Alaska Employment: During the next decade 26,000 public and private jobs would be lost as

WHAT IF WE CHANGED THE ASSUMPTIONS?

A question likely to be asked is: How much longer could we maintain current spending if revenues turned out to be greater than we have assumed? If we used up the entire Permanent Fund (as discussed in Case 2), we could maintain current spending up until 2003. Alternate assumptions would add to the number of years that the current spending level could be maintained as follows:

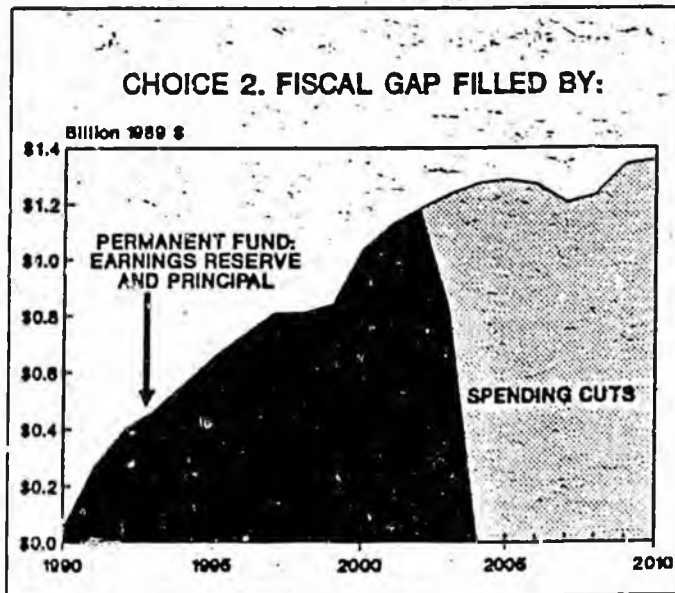
\$1 increase in the price of oil	1 year
Gas pipeline in the 1990s	1 year
ANWR production shortly after 2000	1 year
Petroleum settlements of \$3.4 billion	2 years

Another likely question is: What would be the cost of a one-year delay in closing the fiscal gap? Our analysis in Case 4 indicates that the state can sustain annual spending of about \$1.45 billion (in 1989 dollars) based on the current tax regime, compared with the current spending level of \$2.65 billion (including the approximately \$400 million paid in Permanent Fund dividends). The difference between current and sustainable spending—\$1.2 billion—approximates the loss in state fiscal assets associated with each year of delay in closing the gap.

state general fund spending was cut virtually in half. (For simplicity we assume public sector jobs would be eliminated in proportion to the budget cuts. Wage rate reductions could partially offset this job loss. We also assume that local governments do not raise taxes in response to less state fiscal support.) The drag on the economy created by a job loss of this magnitude would make it difficult if not impossible for the economy to grow, even assuming the private sector could generate new jobs at about the same rate projected for the national economy—1.75 percent annually. Total employment in Alaska in 2000 would be only slightly above what it is today.

Economic Well-Being: Annual percentage changes in employment would hover near zero for most of the next 10 years, with a dramatic drop when government spending was first reduced in 1992. Per capita general fund government spending would fall about 5 percent annually through most of the next 20 years.

FISCAL CHOICE 2: DEplete THE PERMANENT FUND



Another strategy for dealing with the budget crisis—the most drastic and one which would require an amendment of the Alaska constitution—would be to use the entire \$10 billion in the Permanent Fund to plug the fiscal gap and keep spending at \$2.25 billion (in 1989 dollars) for as long as possible. We do not endorse this strategy, but include it to cover the range of options avail-

able to the state. Under this scenario, the portion of Permanent Fund earnings now used to protect the principal of the fund from inflation would be spent, as well as the principal of the fund itself.

The first draw—\$400 million from inflation-proofing—would be required in 1992. Within two years, however, we would begin taking from the principal of the fund, and the withdrawals would grow rapidly—topping \$1 billion for the first time in 2000. The fund principal would be drawn down faster as time went on not only because of the growing fiscal gap but also because the shrinking Permanent Fund would generate less earnings each year. Under this scenario, the effect would be as discussed below and shown in the graphs on page 8.

Permanent Fund: More than \$6 billion from the Permanent Fund would be needed to fill the budget gap between 1992 and 2000. The last year of withdrawals would be 2003, when the Permanent Fund would be depleted. The Permanent Fund dividend would be an additional casualty, declining each year as the fund shrank and disappearing when the fund disappeared.

Revenues: Revenues flowing into the general fund would be the same as in Case 1, but the use of Permanent Fund earnings and principal would disguise the shortfall until 2003, when the Permanent Fund would be gone. By 2005, revenues would be about \$1 billion—60 percent less than the level expected in 1990. The additions and earnings of the Permanent Fund would fall as the fund itself shrank.

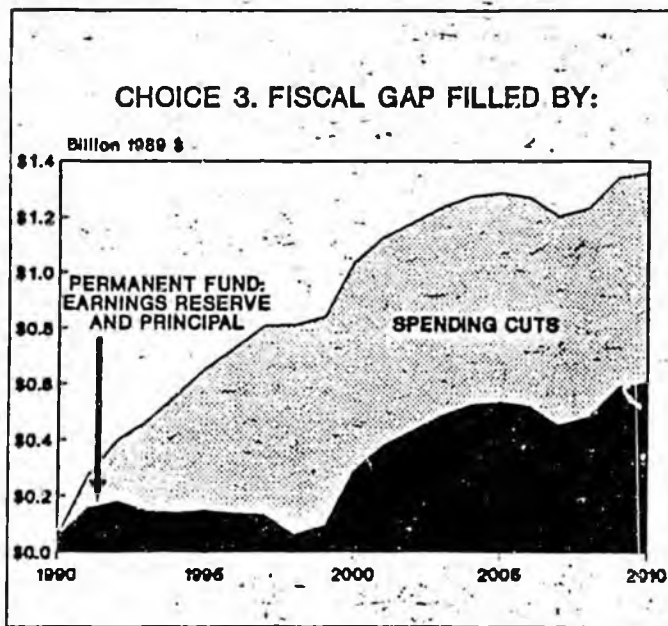
Expenditures: The Permanent Fund would prop up expenditures until 2003. Then a massive "forced transformation" of the public sector and the entire Alaska economy would occur because of the sudden drop in state general fund spending—from \$2.25 billion to \$1 billion in just two years. All public services at the state and local levels would suffer dramatic cutbacks.

Alaska Employment: Extreme dislocation and a serious economic recession would start in 2003. About 30,000 jobs—both public and private—supported by general fund spending would disappear over a two-year period. (To put such a drop in perspective, job loss during the 1985-1988 recession was about 25,000.) Even assuming

private industry would continue to generate jobs at the rate of 1.75 percent annually, by 2010 Alaska would still not have replaced all the jobs lost during the recession.

Economic Well-Being: Alaska employment would increase through 2002 because of growth in the private economy and constant general fund government spending. In the following two years, 12 percent of total state jobs would disappear. Despite constant government spending through 2002, per capita state general fund spending would decline because private economic growth would be drawing people to Alaska. Per capita state general fund spending would be cut nearly in half when the "forced transformation" occurred.

FISCAL CHOICE 3: FREEZE THE BUDGET



The forced transformation of the public sector and the severe recession described in Case 2 could be mitigated under a scenario in which the budget was held constant in nominal dollars—that is, not adjusted for inflation. Such a strategy would reduce the purchasing power of the budget each year by the rate of inflation.

The average annual rate of inflation in the coming years is expected to be in the neighborhood of 5 percent. If the budget were not adjusted for that inflation, the real dollar value (the effective purchasing power) of the budget would fall by 5 percent each year. If the state government imple-

mented a constant budget policy starting in 1991, the budget could be reduced to an arbitrary target level of \$1.5 billion (in 1989 dollars) by 1998.

A gradual policy like this would require a large amount of political discipline, but it would have several attractive features—even though it would not entirely solve the state's long-term fiscal problem. Public programs could be phased out on the basis of plans developed to minimize the effects of the budget reductions. The economy would not suffer the kind of massive shock described under Case 2, when state spending would be reduced by half in just two years. The effects of using inflation to cut the budget are discussed below and shown in the graphs on page 9.

Permanent Fund: This strategy at first glance appears to preserve the Permanent Fund, since the balance would hold relatively constant for several years after budget cuts ended. It would require use of portions of the annual appropriations for inflation-proofing during the 1990s. After 2000 continuing declines in revenues would force significant withdrawals from principal. By 2010 the fund principal would be only about \$3.5 billion, as compared with \$10 billion today. As the Permanent Fund shrank, the amount paid out as dividends would also fall off.

Revenues: General fund revenues would be the same as in Cases 1 and 2. The spending reductions would not be sufficient to produce a general fund surplus; such a surplus could in itself be a new source of earnings. Additions and earnings of the Permanent Fund would taper off after 2000 as the principal of the fund was spent.

Expenditures: State expenditures would fall off gradually but steadily each year until 1998 and then hold steady at \$1.5 billion through the next decade—but only because we would be using the principal of the Permanent Fund to supplement other revenues. After 2010 the Permanent Fund would be used up and a smaller "forced transformation" of the public sector and the economy would occur. Under this scenario, dramatic cuts in state spending—as much as 40 percent—would be forced by 2015 (not shown on the graph).

(Text continued on page 11)

Fiscal Choice 1: Stumble from Year to Year

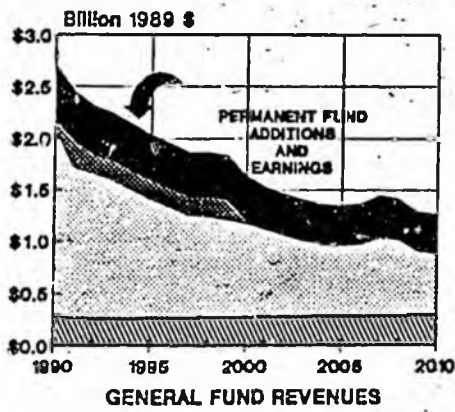
CASE ASSUMPTIONS

- **SPENDING:** General Fund spending based on availability of revenues up to \$ 2.25 billion (1989\$)
- **TAXES:** No new taxes
- **DIVIDEND:** Retain Permanent Fund dividend
- **PERMANENT FUND:** Leave Permanent Fund principal intact, continue contributions and inflation proofing, spend earnings reserve account
- **OIL PRICE (constant across cases):** Average ANS Gulf Coast oil price \$15 (1989\$)
- **SETTLEMENTS (constant across cases):** \$1.7 billion of oil settlements collected and spent over 10 years.

PERMANENT FUND BALANCE

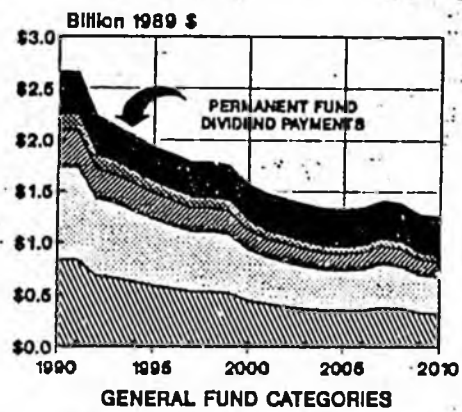


STATE GOVERNMENT REVENUES (Permanent Fund Included)



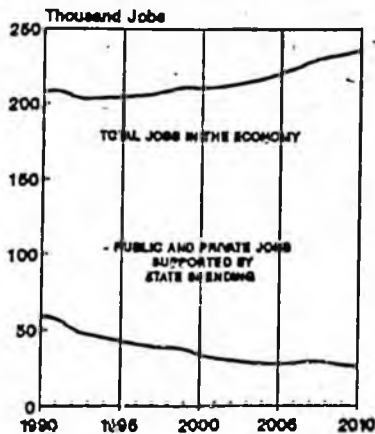
RECURRING OIL
SETTLEMENTS

STATE GOVERNMENT EXPENDITURES (Dividend Included)



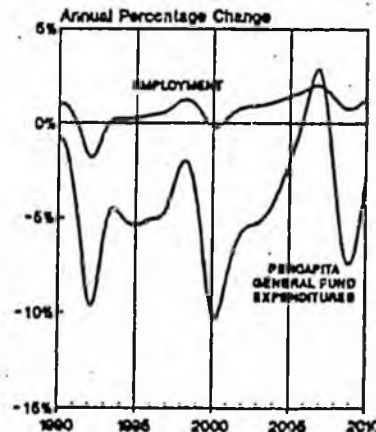
AGENCY FORMULA
OTHER CAPITAL

ALASKA EMPLOYMENT



Wage and Salary Employment Only

ECONOMIC WELL-BEING

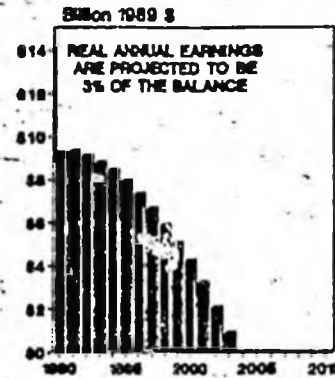


Fiscal Choice 2: Deplete the Permanent Fund

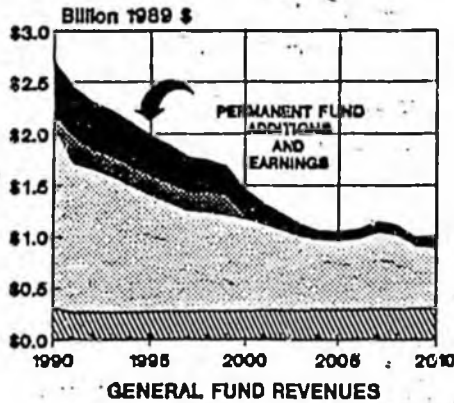
CASE ASSUMPTIONS

- **SPENDING:** General Fund spending based on availability of revenues up to \$ 2.25 billion (1989\$)
- **TAXES:** No new taxes
- **DIVIDEND:** Retain Permanent Fund dividend
- **PERMANENT FUND:** Use Permanent Fund principal to maintain spending as long as possible
- **OIL PRICE (constant across cases):** Average ANS Gulf Coast oil price \$15 (1989\$)
- **SETTLEMENTS (constant across cases):** \$1.7 billion of oil settlements collected and spent over 10 years

PERMANENT FUND BALANCE

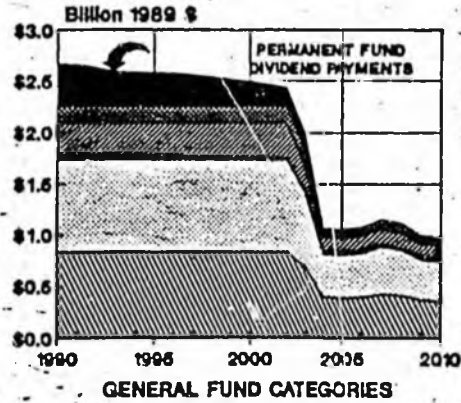


STATE GOVERNMENT REVENUES (Permanent Fund Included)



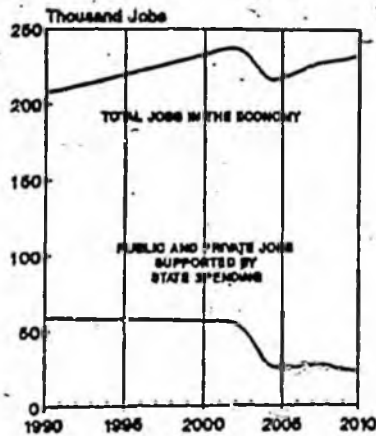
RECURRING OIL
SETTLEMENTS

STATE GOVERNMENT EXPENDITURES (Dividend Included)



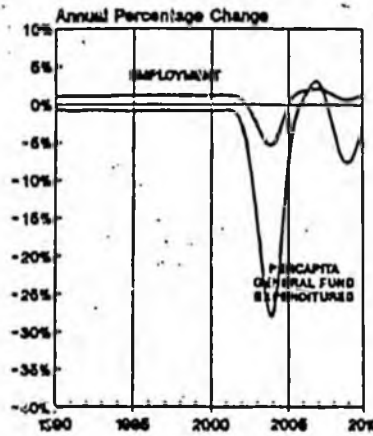
AGENCY OTHER
FORMULA CAPITAL

ALASKA EMPLOYMENT



Wage and Salary Employment Only

ECONOMIC WELL-BEING

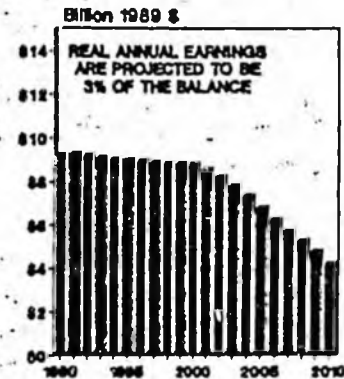


Fiscal Choice 3: Freeze the Budget

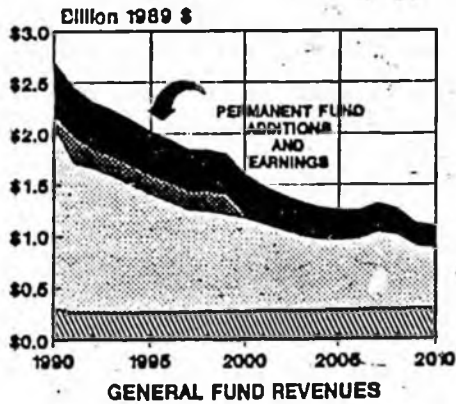
CASE ASSUMPTIONS

- **SPENDING:** General Fund spending constant in nominal dollars from 1991 to 1998. (The budget declines to a target of \$1.5 billion in 1989\$)
- **TAXES:** No new taxes
- **DIVIDEND:** Retain Permanent Fund dividend
- **PERMANENT FUND:** Use Permanent Fund principal to maintain spending at targeted level as long as possible
- **OIL PRICE (constant across cases):** Average ANS Gulf Coast oil price \$15 (1989\$)
- **SETTLEMENTS (constant across cases):** \$1.7 billion of oil settlements collected and spent over 10 years

PERMANENT FUND BALANCE

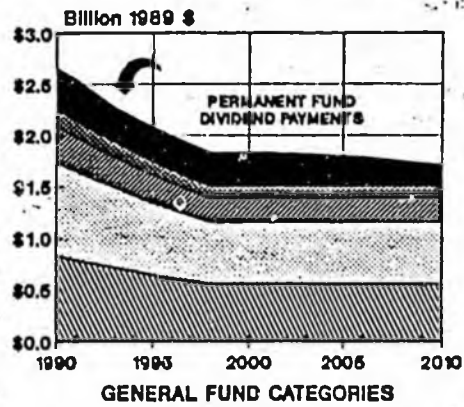


STATE GOVERNMENT REVENUES (Permanent Fund Included)



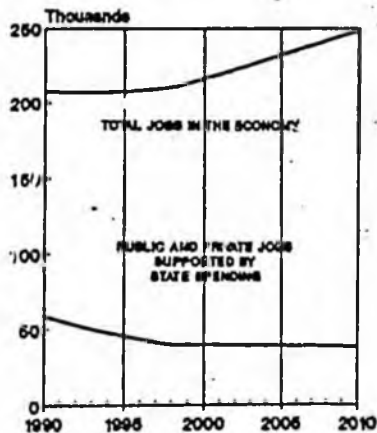
RECURRING OIL
SETTLEMENTS

STATE GOVERNMENT EXPENDITURES (Dividend Included)



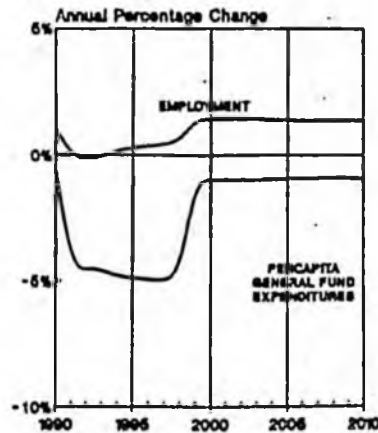
AGENCY OTHER
FORMULA CAPITAL

ALASKA EMPLOYMENT



Wage and Salary Employment Only

ECONOMIC WELL-BEING

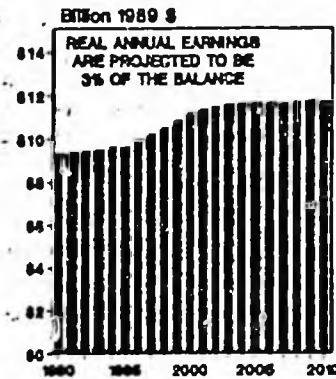


Fiscal Choice 4: Cut Spending and Raise Taxes

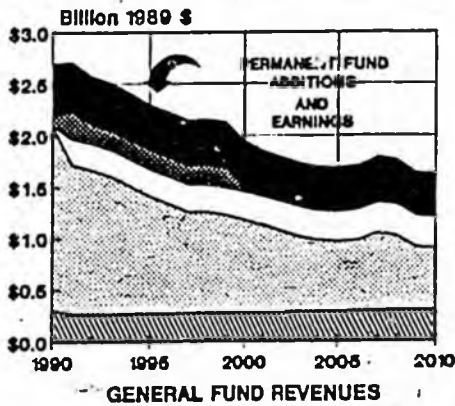
CASE ASSUMPTIONS

- **SPENDING:** General Fund spending is reduced 2.5% annually (1989\$) from 1991 to 2000. (The budget declines to a target of \$1.7 billion in 1989\$)
- **TAXES:** Personal income tax reimposed in 1991
- **DIVIDEND:** Permanent Fund dividend eliminated in 1995
- **PERMANENT FUND:** Leave Permanent Fund principal intact, continue contributions, spend earnings reserve account. Appropriate real earnings to General Fund. Use inflation proofing to fill revenue gap.
- **OIL PRICE (constant across cases):** Average AHS Gulf Coast oil price \$15 (1989\$)
- **SETTLEMENTS (constant across cases):** \$1.7 billion of oil settlements collected and spent over 10 years

PERMANENT FUND BALANCE

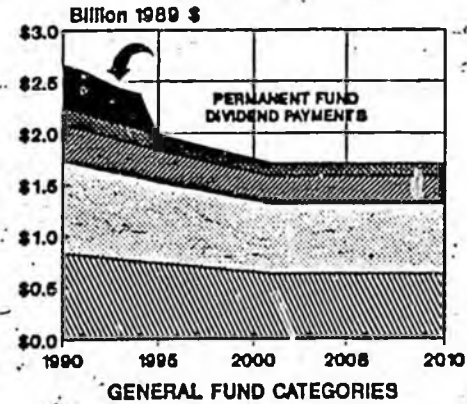


STATE GOVERNMENT REVENUES (Permanent Fund Included)



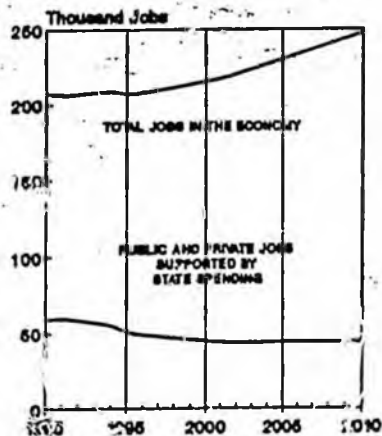
RECURRING OIL
 INC TAX SETTLEMENTS

STATE GOVERNMENT EXPENDITURES (Dividend Included)



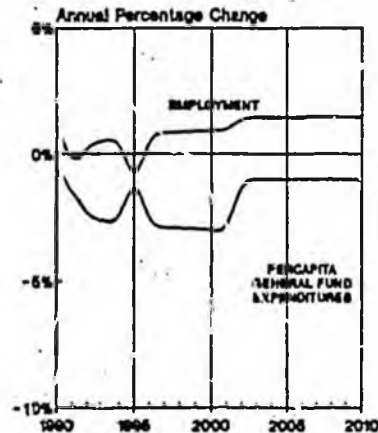
AGENCY FORMULA
 OTHER CAPITAL

ALASKA EMPLOYMENT



Wage and Salary Employment Only

ECONOMIC WELL-BEING

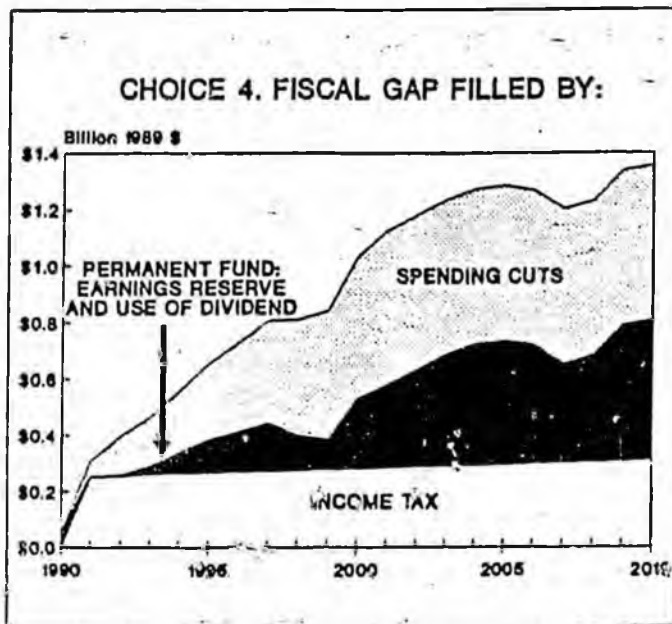


(Text continued from page 6)

Alaska Employment: The number of public and private jobs supported by state spending would suffer gradual attrition throughout most of the 1990s, dropping by about 20,000 over the decade. Private industry would be hard pressed to replace those jobs that had been supported by state spending. Total Alaska employment would stagnate until 1995 and only then begin a gradual increase. However, after 2010, when state spending dropped off very abruptly, a shock wave would again travel throughout the economy, eliminating public and private sector jobs and precipitating another recession.

Economic Well-Being: There would be little year-to-year change in Alaska employment until the late 1990s. In the following decade, modest growth in the private sector combined with stable public employment would result in small annual increases in employment. Per capita general fund state spending would decline every year for the next two decades, but the drops would be smaller after the 1990s. Again, both per capita state spending and employment would suffer after 2010, when state spending dropped sharply.

FISCAL CHOICE 4: CUT SPENDING AND RAISE TAXES



The cumulative budget reductions described in the first three cases, combined with the elimina-

tion of the Permanent Fund in the second and third, may be more than Alaskans are willing to endure. An alternative to those kinds of reductions would be for the state government to use new sources of revenues. The most likely sources are a personal income tax and the earnings of the Permanent Fund that now finance the dividend program. Those two together could contribute \$650 million annually—\$250 million from the income tax and \$400 million from the dividend program—to the general fund. In this scenario, we look at what would happen under one possible combination of these two new revenues. We assume the income tax is reimposed in 1991 and that beginning in 1995 the revenues now used to fund the Permanent Fund dividend program are instead used to supplement general fund revenues.

The state would still need to cut the budget, because at the current level of spending the fiscal gap would soon exceed the \$650 million generated by these new revenue sources. Furthermore, cutting the budget at the same time new revenues were added would distribute the pain between the taxpayers and the beneficiaries of public spending.

Our analysis suggests that the state is spending \$1.2 billion more annually than it can support in the long run, without an income tax (\$800 million in general fund spending and \$400 million in dividends). If we chose to reimpose the income tax and use the earnings of the Permanent Fund to support public spending, sustainable revenues would increase \$650 million annually and \$550 million in non-sustainable spending would remain. Thus the general fund budget would need to be cut to \$1.7 billion—about a 25 percent reduction. In combination with the revenue generating measures, such a budget cut would eliminate the fiscal gap not only in the 1990s but into the following decades as well—and the Permanent Fund would remain intact.

Depending on when the state receives settlements in tax and other disputes, this scenario might require budget cuts in years of increasing revenues. The state would intentionally collect more than it spent—thus setting aside a small balance of settlement reserves to smooth the transition to a smaller budget. Although that might be a rational decision when we consider the projected revenue decline in the later years, the plan would be tough to justify in the short run, particularly in the presence of fluctuating oil

prices. The effects of this fourth scenario are discussed below and shown in the graphs on page 10.

Permanent Fund: The principal of the Permanent Fund would grow slowly through the next two decades, with the addition of revenues from petroleum and withdrawals only of real earnings to fund government. The fund would have a continuing capacity to generate real earnings of \$400 million annually that could be used to support public spending. Individual Alaskans would, however, lose their annual dividends in 1995.

Revenues: Even with the addition of new revenues from the income tax, total general fund revenues would still fall under this scenario, because the new taxes would not completely offset lost petroleum revenues. But the drop would not be as dramatic as in the other cases—revenues independent of the Permanent Fund would be \$1.5 billion in 2000 and fall to \$1.25 billion in 2005. As noted above, the Permanent Fund would produce about \$400 million in real earnings annually, some of which could be reinvested in early years.

Expenditures: Annual budget reductions would continue for 10 years, cutting expenditures by 25 percent over the decade. (If the annual rate of inflation averaged 5 percent, then the budget in nominal dollars would be increasing at 2.5 percent in this case.) These cuts would of course reduce the level of government services, but the reductions would be much more gradual than in the other cases we've looked at. After 2000 expenditures could be maintained at the target level indefinitely.

Alaska Employment: About 12,000 public and private jobs supported by general fund spending would disappear as state spending declined. Another 3,000 jobs would be eliminated when the income tax was reimposed and 5,000 more when the dividend program ended. Although the rate of job loss from these government actions over a 10-year period would be gradual, private industry would have to create new jobs at a rate greater than 1.75 percent annually to produce significant total employment growth before 1996.

Economic Well-Being: The economy would con-

tract when the income tax was reimposed, and again when the Permanent Fund dividend was eliminated. Reimposition of the income tax would draw purchasing power out of the private economy. Elimination of the Permanent Fund dividend would shift purchasing power from an activity with a high multiplier to one with a lower multiplier—because the money would be spent not by thousands of individuals but by government. Per capita general fund spending would decline in the 1990s, but the loss would be less than in the other cases. In contrast, per capita discretionary income of Alaskans (not shown on the graph) would fall in this case due to the reimposition of the income tax and the elimination of the dividend.

TRADEOFFS AMONG STRATEGIES

We have described four ways—all of them painful—of dealing with the fiscal gap. In each case the level of public services—both aggregate and per capita—would fall. In each case the private economy would also suffer, since reduced public spending and transfers and increased taxes would mean less buying power. There is no strategy that would close the fiscal gap without creating pain, because the gap can only be filled by taking from somewhere in the economy.

In each case the pain would be distributed among citizens—present and future—in a different way. Those different distributions are the distinguishing features of each strategy. We recognize, of course, that the effects of balancing the budget will vary among individual Alaskans and in different areas of the state. For example, areas where state spending makes up a larger share of economic activity would be harder hit by budget cuts. Similarly, eliminating or reducing Permanent Fund dividends would affect the pocketbooks of low-income Alaskans more than those with higher incomes, while reimposing the personal income tax would have more impact on those with higher incomes. Despite these individual and regional differences, there are broad kinds of tradeoffs all Alaskans will need to consider; some of these are discussed below.

Present vs. Future Public Spending: If we spend less of our petroleum wealth now, more will remain for future needs—our own or those of

later generations. Should we discount the needs of the future, because such needs are not easily identifiable or because we think the wealth of future generations is currently underestimated? Or should we weight the needs of the future heavily because new public needs are continually being identified, the population is growing, and we may be overestimating future revenues?

Figure 3 shows state spending levels over the next 20 years under our four choices. All the choices show much lower spending by 2010—but how much we spend along the way varies sharply among the choices. Choice 1 and Choice 2 offer the biggest contrast in spending over the next decade; under Choice 1 we would continue current fiscal policy, using all available reserves except the Permanent Fund, while in Choice 2 we would prop up spending by draining the Permanent Fund. Although spending would obviously be much higher under Choice 2 over the next decade, by 2010 spending under both cases would fall to about the same level—but the Permanent Fund would be gone under Choice 2. Choice 3 also would prop up state spending by using the Permanent Fund, but at a slower rate. Spending under Choice 4 would be highest in 2010—but we would maintain that spending level without drawing on the Permanent Fund principal.

Figure 4 shows how each of our four choices would affect the Permanent Fund, our primary repository of oil wealth. The fund and its earning power would not last long if we opted to use the principal to prop up state spending. In Choice 2, the fund would be used up in 2003; in Choice 3 it would dwindle after the 1990s and be gone by 2015. The fund would increase somewhat under both Choices 1 and 4. But under Choice 1 the fund would be left intact while state spending shrank and the state government and the economy floundered from year to year. Under Choice 4, state spending would be stabilized and the economy would not be jolted by continuing spending cuts over 20 years—but it would be stabilized at the cost of a new personal income tax and the elimination of Permanent Fund dividends.

The most straightforward benefit to the average Alaskan from the Permanent Fund has been the annual dividends paid out of fund earnings. Figure 5 shows how dividend payments would be affected under each of our four choices. Under Choice 1, real dividend payments (in 1989 dol-

lars) to each Alaskan would remain fairly constant over the next 20 years, since population growth would roughly match growth in the amount available for dividends. Under Choice 2, the dividends would shrink over the next decade as the principal of the fund was being drawn down and its earnings reduced; the last dividends would be paid in 2004. The attrition of dividends would be somewhat slower under Choice 3, but the result would be the same: shrinking and then disappearing dividends by 2015. Under Choice 4, the dividend program would end in 1995 and the money that formerly went into that program would be shifted over to the general fund.

To conclude our discussion of spending, we should note that in the past decade the state government has spent part of its oil wealth in ways intended to stimulate future economic growth rather than simply to maintain current programs. Many of these ventures have so far had limited success, and it's outside the scope of this paper to assess their value to the state as investments. But to the extent that the state can use its oil wealth to promote economic growth, that kind of spending should be viewed as investment and distinct from spending that simply creates jobs and income in the present.

Present vs. Future Economic Activity: The Alaska recession that followed the "petrodollar boom" of the early 1980s demonstrated that a large portion of the economic activity stimulated by state spending of oil revenues could be sustained only as long as the flow of oil dollars continued. We can continue to spend oil revenues when we receive them, and immediately receive the benefits of the jobs and income produced by that spending. Alternatively, we can postpone spending some of the revenues and receive the economic benefits at some future time. The choice should depend on when those jobs and income will contribute most to the economy and on what we want to save for future generations. Until we make such a choice, the marketplace—essentially the OPEC cartel and the petroleum production cycle—will continue to dictate the booms and busts of our economy.

Figures 6 and 7 show how the number of jobs supported by state spending—including both public and private jobs—and the total number of jobs in Alaska would vary under our four choices. Under Choice 1, the number of jobs supported by

public spending would decline steadily for the next 20 years. Under Choice 2, spending of the Permanent Fund would keep such jobs at about their current level until the fund was exhausted in 2003—then many jobs would be eliminated quickly, and by 2010 there would be about half as many jobs supported by public spending as there are today. Under Choice 3, which involves more gradual use of the Permanent Fund, the number of jobs created directly and indirectly by state spending would drop somewhat by 2010—but not shown on the graph is a very sharp drop that would occur after 2010, when the Permanent Fund was depleted. As with the other cases, the number of jobs supported by state spending would also drop under Choice 4, but the decline would be somewhat smaller and the number of such jobs would stabilize after 2000.

How total jobs in the state—including both those supported by public spending and those by private industry—would fare under each of our choices depends largely on the timing of public spending and on whether the Permanent Fund is depleted. We assume in all cases that private industry in Alaska is able to generate new jobs at an average annual rate of 1.75 percent. Under Choice 1, it would take about 10 years for private growth to offset the job loss from reduced public spending. Use of the Permanent Fund would keep the number of jobs growing under Choice 2—until the fund was used up; then a severe recession would occur. By 2010 Alaska employment would be lowest under Choice 2. Under Choice 3, total jobs would grow slowly but steadily through 2010—but again, not shown on this graph is a sharp decline in jobs that would happen around 2015. Employment under Choice 4 would be slightly lower than under Choice 3, because in that case spending of the Permanent Fund would not be supporting jobs. However, unlike Choice 3, Choice 4 would not involve a recession in 2015.

Public vs. Private Consumption: How much we are able to consume as a state ultimately depends on the productive capacity of our basic industries—petroleum, seafood, tourism, mining, forest products and federal government spending. The split between public and private consumption does not affect this capacity unless government raises taxes so high that private economic incentives are adversely affected. However, the distribution of the benefits does depend

on that split. We have argued that the current rate of consumption can't be sustained (because public spending exceeds sustainable public revenues), but we have not suggested what the proper balance is between public and private consumption. Is public consumption in Alaska too large because of historical accident and because the only constraint on public spending seems to have been the availability of revenues? Or should we increase public consumption relative to private consumption to meet the continuing growth in those needs best served through public action? Do we need a large public sector to balance the dominant economic influence of a single commodity? Or does high public consumption hamper diversification in the private sector?

Gradual vs. Abrupt Transition: A gradual transition to a sustainable level of public spending would allow both the public and private sectors to adjust in ways that would minimize the pain from the loss of public services, income, and employment. At the same time, a gradual transition would be very difficult to manage politically and would have a lasting negative psychological effect on the state and population. A quick transition would not leave much time for adjustments and would cause some inefficiencies as public agencies, businesses, and individuals reorganized in the wake of budget cuts. On the other hand, the detrimental psychological effects would be short-lived.

Figure 8 shows the different rates of spending cuts under the four cases. The most drastic would be Choice 2, where state spending would drop by more than half shortly after 2000. Choice 1 would see sharp cuts in the early 1990s and then a continual downward drift for the next 20 years. Choice 3 would result in a fairly stiff drop in the early 1990s followed by relatively stable state spending through 2010—but then another sharp cut in the next decade. Under Choice 4 we'd see small but steady decreases throughout the 1990s but a leveling off after that.

Public vs. Private Economic Activity: Delivering public services requires hiring public employees—teachers, construction workers, office workers—and indirectly generates private employment. Delivering private goods and services requires hiring private employees—clerks, construction workers, office workers. Is the mix

Comparisons Across Fiscal Choices

Figure 3

STATE GENERAL FUND EXPENDITURES

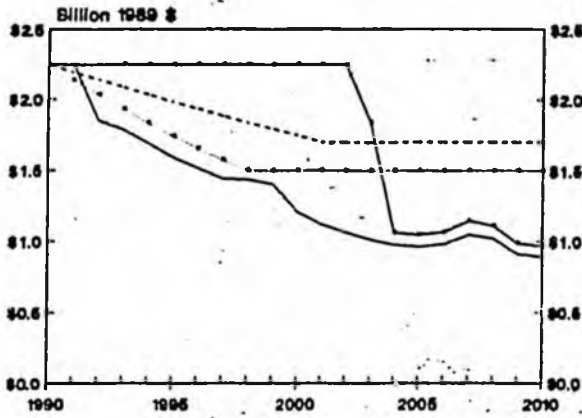


Figure 4

PERMANENT FUND BALANCE

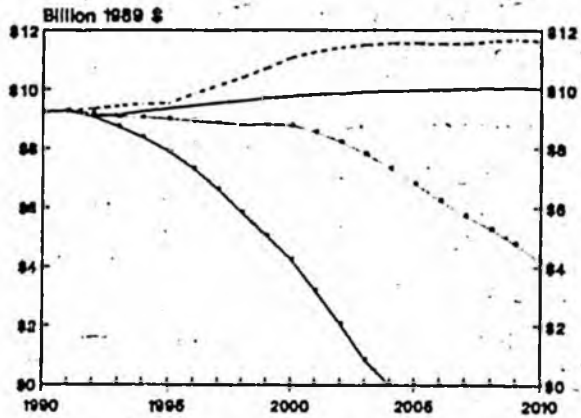


Figure 5

PERMANENT FUND DIVIDEND

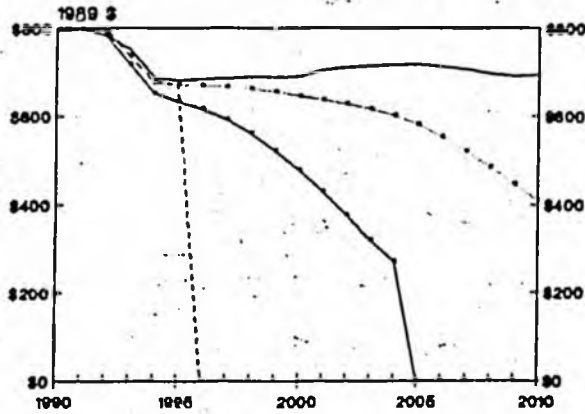


Figure 6

STATE SUPPORTED EMPLOYMENT

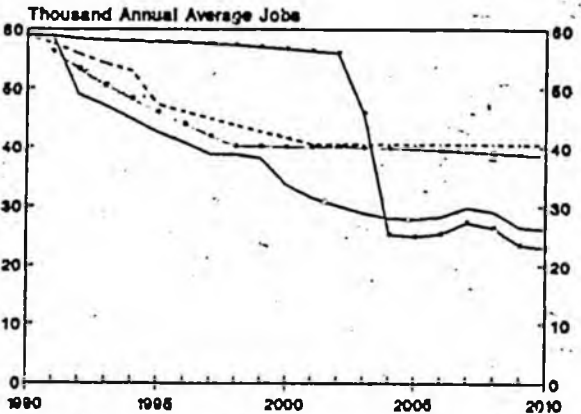


Figure 7

ALASKA WAGE AND SALARY EMPLOYMENT

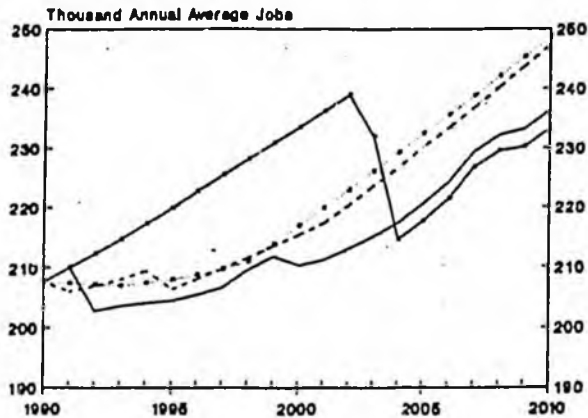
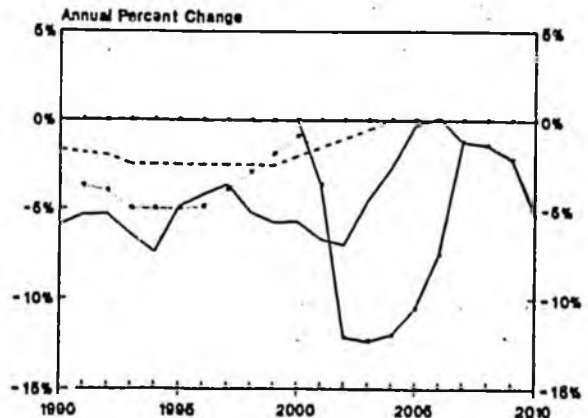


Figure 8

GENERAL FUND SPENDING: YEARLY CHANGE



Values have been smoothed.

SCENARIO

- 1 STUMBLE ALONG
- 2 USE PERMANENT FUND
- - - 3 BUDGET FREEZE
- · - · 4 BUDGET CUT & TAXES

of public and private jobs in the economy an important consideration, independent of the mix of goods and services provided?

It would be if the economic multiplier—the capacity of one job to create other jobs—were significantly different for public and private jobs. However, there doesn't seem to be a significant difference between the multiplier effects of public and private jobs, since most of the multiplier effect in the Alaska economy comes from the successive re-spending of income earned as wages and salaries, independent of who writes the checks.

CONCLUSION: A CALL FOR ACTION

These cases show some of the consequences of four different choices for closing the fiscal gap facing Alaska. As we noted at the outset, we have not assessed the political difficulties of putting budget changes into effect—but of course we recognize that enormous difficulties will accompany any such plan. Further, we don't know whether the assumptions we've used in this analysis will turn out to be accurate. But whether the price of oil is higher or lower than we've assumed, or other circumstances are somewhat

different than we project, Alaska faces a serious fiscal problem. Despite the uncertainties always inherent in planning for the future, this analysis suggests positive action is warranted—and the sooner it is taken the better.

Differences among the four choices demonstrate that we can influence outcomes and change tradeoffs through public choices. For example, we can choose whether the Permanent Fund will be a lasting asset, throwing off income for future generations of Alaskans, or whether we will spend it to get ourselves through the next decade without sacrifice. We can decide on the mix of current versus future spending, total public versus private spending, and when to take the inevitable hit on the economy. With advance warning, we have an opportunity to plan spending reductions in an orderly fashion.

It is clear that what actions to take are political rather than economic decisions. Nonetheless, each decision will have significant economic consequences. Policymakers need information about the implications of different choices to make informed political decisions. Future issues of this series will seek to enlarge the scope of public information to help in this important public debate.

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(907) 586-3090

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FAIRBANKS, ALASKA 99701
(907) 456-4435

March 16, 1990

To: Representatives Goll and Gruenberg, Co-Chairs
Members, House Judiciary Committee

Re: Constitutional/Statutory Spending Limits

NEA-Alaska opposes any form of constitutional or statutory spending limit. Such a change would be far more than a limit on spending. It would be a limit on government and on your ability to represent your constituency and to act on their behalf and in their interests.

Tough spending decisions are never easy decisions but they must be made by our elected representatives based upon the circumstances which are current. They should not be based upon a formula driven system without regard for unique circumstances and needs.

A constitutional spending limit will have the effect of distorting subsequent spending decisions. Alaska is unique. Our problems, programs, and needs are truly different from other states. They are always dynamic.

It is predictable that they will be changing this session, next year, and in future years. As Legislators, you have a continuing need for maximum flexibility in how you chose to deal with them.

A state spending limit will do nothing more than pass along an increasing financial burden to local government. It will only serve to increase a disparity and inequity which is already glaringly evident.

In our opinion, the Alaskans who were involved in last years' "town meetings" were asking you and the Administration to have the courage to make the tough and responsible decisions on the level of programs and services which reflect our current needs and our current and projected financial resources. Such a process does not require any form of formula driven spending limit.

As Legislators you have the information, the responsibility, and the opportunity to make those spending decisions which are in the best interests of all of us. Please do so.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners
Executive Director

Don Oberg
President

MY TURN

Just say 'No' to a constitutional spending limit

By BILL POTTER

The Alaska Legislature is presently considering a constitutional spending limit. I think this is an ill-conceived idea and hope that fellow Alaskans will also oppose such a politically motivated way to avoid making the important decisions elected officials are supposed to make.

When the Founding Fathers gathered in Philadelphia to write our Constitution, the most significant comprehensive political document the world had ever seen or has yet to see, there were many present who did not have much trust in governments or government institutions. Yet in spite of this mistrust and even fear, of government run amok, they wrote a document that placed the ultimate control, the ultimate power, the power of the purse, in the hands of the people's elected representatives.

Without money, government cannot act; with money government can act. Those Founding Fathers placed the power to act, or not to act, in the hands of the people's representatives. And when a like number of another set of Founders met in Fairbanks to draft the Alaska Constitution, they recognized the wisdom of that earlier group which had met in Philadelphia, and acted likewise. They put the ultimate power, the power of the purse, in the hands of elected representatives. And that is as it should be.

A constitutional spending limit is more than a limit on spending; it is a limit on the power of government to act. It is a limit on the power of government to protect the people; it is a limit on the power of the government to serve the people; it is a limit on the power of the government to govern.

I suspect that many people who support a spending limit are concerned about the financial future of this state, and I think that is a just and righteous concern, but as bleak as the financial future of Alaska may be, it is not as bleak or as foreboding

as it has been in times past. Any review of the first eight years of this state government's financial history will show that the financial constraints were far more severe than even the most dire predictions for the future. In spite of the lack of financial resources during those early years, the state legislature, the people's representatives, were able to balance the needs of government with the financial resources available without a constitutional spending cap.

I believe we had many wise people in our legislature during those formative, financially pressing years, but I submit that the current legislature is equally wise and equally able to balance the needs of government with the finances available. I further submit that the people of Alaska will choose an equally wise legislature in the 1990 elections which will be equally able to balance the needs that exist with the finances that will be available, and subsequent elections will result in equally wise and able representatives of the people.

I don't believe it is good government policy or good public policy, for any legislature or any other body to second-guess the intelligence, judgment, or motives of future legislative representatives.

To deny future legislatures the opportunity to use their judgment to address the issues before them with the resources available at that time smacks of, if not arrogance, a profound lack of confidence in those legislators and/or the people who elected them.

I am concerned about the future of public schools because I have devoted my life to education in this state. I am concerned about the future we offer our children, and I am concerned about the economic and social status of the elderly, and I am concerned about those for whom circumstances have cast their lot outside the mainstream of our society. I have concerns for the future and what it is that may be done to restrict the ability of our legislature:

to restrict the ability of government to act to deal with the issues and needs that arise within the confines of the resources available.

Notwithstanding what I said about the wisdom and ability of past, present, and future legislatures, I am painfully aware that not all legislators have been, or are likely to be, willing to make the judgments necessary to balance needs with the financial resources available. If there is a constitutional spending limit in place, I am concerned about legislators who will take the low road by saying "I wanted to help, but our hands were tied." "I wanted good schools, but there was a spending limit." "I support you in your desire to deal with alcohol and drug abuse, but there is nothing we can do with the constitutional limits placed on the legislature."

In the interests of good public policy; in the interests of good government, I urge you to resist any constitutional spending limits. I urge Alaskans to insist that elected officials demonstrate the courage to resist the temptation to tie the hands of government's ability to act in the public interest with the resources available.

Bill Potter has taught in Juneau for 25 years and is a member of the Education Commission of the States.

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FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Proposing amendments to the
Constitution...relating to an appropriation
 Sponsor: Finance Committee limit." Components: Operations
 Requestor: House Judiciary
 Agency Affected: Office of the Governor
 BRU: Office of Management and Budget

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No administrative impact.

Prepared by: Michael A. Nizich, Director Phone: 465-3616
 Division: Division of Administrative Services Date: 1/31/90
 Approved by Commissioner: Garrey Peska, Chief of Staff Date: 1/31/90
 Agency: Office of the Governor

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 16, 1990

SUBJECT: Appropriation Limit (CSHJR 66())
TO: Representative Kay Brown
FROM: Tamara Brandt Cook ^{BC}
Director
Division of Legal Services

You have asked what types of appropriations would be excluded from the appropriation limit under the draft CSHJR 66() by the language, "appropriations of revenues of a public enterprise or public corporation of the State that is authorized by law to issue revenue bonds."

As a preliminary matter, note that the language excludes from the appropriation limit only appropriations of revenues of the enterprise or corporation, such as program receipts, and does not exclude appropriations of general fund or other state money not directly generated by the enterprise or corporation. Revenue that goes to the International Airports Revenue Fund (AS 37.15.430) would be covered by this language because revenue bonds have been authorized for airport facilities under AS 37.15.410. This is an example of a public enterprise authorized by law to issue revenue bonds. Another example is the revenue that goes into the toll facilities construction fund (AS 37.15.620). Several public corporations have been authorized by law to issue revenue bonds, including the Alaska Medical Facility Authority (AS 18.26.050), Regional Resource Development Authorities (AS 30.13.060), Alaska Gas Pipeline Financing Authority (AS 44.82.070), Alaska Energy Authority (AS 44.83.080), Alaska Municipal Bond Bank Authority (AS 44.85.010), Alaska Industrial Development and Export Authority (AS 44.88.090), Alaska Railroad Corporation (AS 42.40.600), Alaska State Housing Authority (AS 18.55.160), Alaska Housing Finance Corporation (AS 18.56.110). Appropriations of revenue of these public corporations would be exempt from the appropriation limit also.

TBC:pl
WKP3/046

Original sponsor(s): Finance Committee

1 IN THE HOUSE

2 CS FOR HOUSE JOINT RESOLUTION NO. 66 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing amendments to the Constitution
6 of the State of Alaska relating to an
7 appropriation limit and to the budget
8 reserve fund.

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

10 * Section 1. Article XV, Constitution of the State of Alaska, is amend-
11 ed by adding new sections to read:

12 SECTION 29. APPROPRIATION LIMIT. (a) Appropriations from the
13 treasury made for each of fiscal years 1992, 1993, 1994, and 1995
14 shall not exceed \$2,300,000,000. This subsection does not apply to
15 appropriations to the permanent fund or for permanent fund dividends
16 to State residents, appropriations to the budget reserve fund, appro-
17 priations of revenue bond proceeds, appropriations of money received
18 from a State source required for State participation in a federally
19 mandated aid program for low income persons, appropriations of money
20 received from a non-State source in trust for a specific purpose,
21 appropriations of revenues of a public enterprise or public corpo-
22 ration of the State that is authorized by law to issue revenue bonds,
23 appropriations of revenue derived from a tax that has been approved by
24 vote of the taxpayers, and appropriations to meet a state of disaster
25 declared by the governor as prescribed by law.

26 (b) If the rate of inflation since the beginning of a fiscal
27 year is greater than six percent, an appropriation for that fiscal
28 year of up to the amount necessary to offset the effect of the rate of
29 inflation that exceeds six percent may be made during the regular

1 session held during that fiscal year upon affirmative vote of two-
2 thirds of the membership of each house of the legislature. The appro-
3 priation is not subject to the limit established in (a) of this sec-
4 tion. For purposes of applying this subsection, the rate of inflation
5 shall be derived from federal indices as prescribed by law.

6 SECTION 30. BUDGET RESERVE FUND. (a) Money received by the
7 State that is subject to the appropriation limit under Section 29 of
8 this article and that exceeds that appropriation limit shall be depos-
9 ited in the budget reserve fund. Deposits under this subsection are
10 not subject to the prohibition on dedicated funds under Article IX,
11 Section 7. Additional appropriations may be made to the budget re-
12 serve fund.

13 (b) Money in the budget reserve fund shall be invested so as to
14 yield competitive market rates to the fund. Income from investment of
15 the fund shall be retained in the fund. Money may be appropriated
16 from the fund only as authorized under (c) and (d) of this section.

17 (c) If the legislature determines that the money subject to the
18 appropriation limit received by the State in a fiscal year is less
19 than the amount that may be appropriated under Section 29 of this
20 article, up to two-thirds of the budget reserve fund balance may be
21 appropriated to the general fund. However, the amount appropriated
22 from the budget reserve fund when added to the money subject to the
23 appropriation limit may not exceed the amount that may be appropriated
24 under Section 29 of this article for that fiscal year.

25 (d) Notwithstanding the appropriation limit in this section and
26 in Section 29 of this article, additional amounts may be appropriated
27 by affirmative vote of three-fourths of the membership of each house
28 of the legislature from the budget reserve fund.

29 (e) On July 1, 1996, the unexpended and unencumbered balance in

1 the budget reserve fund is transferred to the general fund.

2 * Sec. 2. Section 16 of art. IX and secs. 26, 27, and 28 of art. XV,
3 Constitution of the State of Alaska, are repealed July 1, 1991.

4 * Sec. 3. Sections 29 and 30 of art. XV, Constitution of the State of
5 Alaska, are repealed July 1, 1996.

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

Original sponsor(s): Finance Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 66 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing amendments to the Constitution
6 of the State of Alaska relating to an
7 appropriation limit and to the budget
8 reserve fund; and providing for an
9 effective date.

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

11 * Section 1. Article XV, Constitution of the State of Alaska, is amend-
12 ed by adding new sections to read:

13 SECTION 29. APPROPRIATION LIMIT. (a) Appropriations from the
14 treasury made for each of fiscal years 1992, 1993, 1994, and 1995
15 shall not exceed \$2,300,000,000. This subsection does not apply to
16 appropriations to the permanent fund or for permanent fund dividends
17 to State residents, appropriations to the budget reserve fund, appro-
18 priations of revenue bond proceeds, appropriations of revenue required
19 to pay principal and interest on revenue bonds of a public enterprise
20 or public corporation of the State, appropriations of money received
21 from a State source required for State participation in a federally
22 mandated aid program for low income persons, appropriations of money
23 received from a non-State source in trust for a specific purpose,
24 appropriations of revenue derived from a fishery enhancement tax that
25 has been approved by vote of the affected taxpayers, and appropria-
26 tions to meet a state of disaster declared by the governor as pre-
27 scribed by law.

28 (b) If the rate of inflation since the beginning of a fiscal
29 year is greater than six percent, an appropriation for that fiscal

1 year of up to the amount necessary to offset the effect of the rate of
2 inflation that exceeds six percent may be made during the regular
3 session held during that fiscal year upon affirmative vote of two-
4 thirds of the membership of each house of the legislature. The appro-
5 priation is not subject to the limit established in (a) of this sec-
6 tion. For purposes of applying this subsection, the rate of inflation
7 shall be derived from federal indices as prescribed by law.

8 SECTION 30. BUDGET RESERVE FUND. (a) The budget reserve fund
9 is established as a separate fund in the State treasury. The legisla-
10 ture may appropriate money to the budget reserve fund. Money in the
11 fund shall be invested so as to yield competitive market rates to the
12 fund. Notwithstanding Section 7 of Article IX, income from investment
13 of the fund shall be retained in the fund and money may be appropri-
14 ated from the fund only as authorized under (b) of this section.

15 (b) Money received by the State that is subject to the appro-
16 priation limit under Section 29 of this article and that exceeds that
17 appropriation limit shall be deposited in the budget reserve fund.
18 Deposits under this subsection are not subject to the prohibition on
19 dedicated funds under Section 7 of Article IX. If the legislature
20 determines that the money subject to the appropriation limit received
21 by the State in a fiscal year is less than the amount that may be
22 appropriated under Section 29 of this article, up to two-thirds of the
23 budget reserve fund balance may be appropriated to the general fund.
24 However, the amount appropriated from the budget reserve fund when
25 added to the money subject to the appropriation limit may not exceed
26 the amount that may be appropriated under Section 29 of this article
27 for that fiscal year. Notwithstanding the appropriation limit in this
28 subsection and in Section 29 of this article, additional amounts may
29 be appropriated from the budget reserve fund by affirmative vote of

1 three-fourths of the membership of each house of the legislature.

2 * Sec. 2. Article XV, sec. 30(b), Constitution of the State of Alaska,
3 is repealed and readopted to read:

4 (b) If money available for appropriations during a fiscal year
5 is less than the amount of appropriations made for the previous fiscal
6 year, an appropriation may be made from the budget reserve fund for
7 that fiscal year. However, the amount appropriated may not exceed the
8 amount necessary, when added to other funds available for appropri-
9 ation, to provide for total appropriations equal to the amount of
10 appropriations made for the previous fiscal year. Additional amounts
11 may be appropriated from the budget reserve fund by affirmative vote
12 of three-fourths of the membership of each house of the legislature.

13 * Sec. 3. Section 16 of art. IX and secs. 26, 27, and 28 of art. XV,
14 Constitution of the State of Alaska, are repealed July 1, 1991.

15 * Sec. 4. Section 29 of art. XV, Constitution of the State of Alaska,
16 is repealed.

17 * Sec. 5. Sections 1 and 3 of this resolution take effect July 1, 1991.

18 * Sec. 6. Sections 2 and 4 of this resolution take effect July 1, 1995.

19 * Sec. 7. The amendments proposed by this resolution shall be placed
20 before the voters of the state at the next general election in conformity
21 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
22 tion laws of the state.

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MEMORANDUM

① HJR 66 in H/Tad
Tad

State of Alaska
Office of the Governor
Division of Policy

TO: Kay Brown
Representative
Alaska State Legislature

DATE: March 15, 1990

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

PHONE: 465-3568

SUBJECT: HJR 66: Spending Limit:
Establishing a Permanent Budget Reserve Fund

As I mentioned to your staff, the proposed CS for HJR 66 wipes out the Budget Reserve Fund on July 1, 1996 and moves any monies to the general fund. Given the current revenue outlook, a Budget Reserve Fund will probably be more needed in the late 90's than over the next five years. A Budget Reserve Fund serves two purposes: to provide cash in the event of a dramatic drop in oil revenue and to stabilize State spending. That is, the BRF can be used to smooth the fluctuations in annual budget levels, promoting better program delivery and economic stability. Elimination of the entire fund in one year is an open invitation to unrestrained spending in FY97, followed by increased fiscal uncertainty in later years.

Prolonging the life of the Budget Reserve Fund can be accomplished through the following amendment:

1. In Section 1, page 2, delete (e) and replace with the following:

(e) After July 1, 1996, if money available for appropriations during a fiscal year is less than the amount of appropriations made for the previous fiscal year, an appropriation may be made from the budget reserve fund for the fiscal year. An appropriation under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for appropriations equal to the amount of appropriations made for the previous fiscal year.

2. In Section 1, page 2, (c), reword so that (c) reads:

(c) If the legislature determines that the money available for appropriation in a fiscal year is less than the amount that may be appropriated under this article, up to two-thirds of the budget reserve fund may be appropriated to the general fund. However, the amount appropriated from the budget reserve fund when added to the money available for appropriation may not exceed the amount allowed for appropriation under Section 29 prior to July 1, 1996, and Section 30 after July 1, 1996.

3. In Section 3, page 3, delete the repeal of Section 30 and reword to read:

Sec. 3. Section 29 of art. XV, Constitution of the State of Alaska, is repealed July 1, 1996.

Thank you for your consideration of this approach.

cc: Rep. Goll
Rep. Gruenberg

Notes to Five and Twenty Year Fiscal Plans

Projected Appropriations. After 1995, projected appropriations increase at a nominal rate of \$50 million per year, driven by increases to formula programs. All other programs are held to a flat nominal dollar amount.

Permanent Fund Dividends. The estimated amounts are based on a 4% annual real rate of return and the October 1989 Permanent Fund Corporation earnings report, with the Education Fund proposal in place.

Oil Prices. The 1989 fall revenue forecast is much higher than the 1988 fall forecast used in last year's plans. The current forecast is over \$1 billion per year higher from FY 92 through FY95, and is a total of \$9.8 billion higher over the 20 year period from 1991 to 2010. If oil prices turn out to be lower than forecast, the state would have to enact additional revenue measures or cut spending to balance the budget.

Other General Fund Revenues. Estimates include program receipts and general fund loan receipts.

Education Fund. The plans assume Education Fund earnings would not be appropriated until the year 2001, as proposed in the original version of House Joint Resolution 13. Earnings are calculated at a 4% real rate of return.

Income Tax. The plans use the income tax revenue assumptions embodied in the Governor's proposed 1987 legislation (SB 148, HB 154). Due to the fiscal year calendar, first year income tax revenues are budgeted as a half-year's receipts. Single filer rates would be 2.06% (under \$30,000 of taxable income) and 3.7% (over \$50,000); joint filer/head of household rates would be 2.06% (under \$50,000) and 3.7% (over \$50,000). Tax structure assumes current federal tax rules are adopted, PF dividends are taxable, and non-resident income is apportioned pro rata according to place earned. Currently Alaska is one of seven states that do not have a state income tax.

Motor Fuel Tax. Estimates are based on Governor's proposed legislation, SB 188. This approach assumes doubling of current tax to \$0.16/gallon, that marine and aviation fuel remain unchanged, and that the refund for off-highway use remains unchanged at

Five Year Fiscal Plan Summary

FY 1990 - FY 1995
(\$ Millions - Nominal Dollars)

Revenues	1990	1991	1992	1993	1994	1995
Prior Year carryforward	162.7	130.4				
Fall Forecast Unrestricted General Fund Revenue	2,295.6	2,255.6	2,416.1	2,435.2	2,460.7	2,375.8
Other G.F. Revenue	90.1	45.8	45.8	45.8	45.8	45.8
Potential Revenues						
Motor Fuel Tax		34.2	35.0	37.0	39.0	42.0
Income Tax						172.9
Expenditures	(2,384.0)	(2,404.2)	(2,435.9)	(2,482.9)	(2,522.1)	(2,583.3)
Science & Tech. Transfer	(34.0)					
Annual Surplus or Deficit	130.4	61.8	61.0	35.1	23.4	53.2

Notes: Revenue and expenditure totals include \$32 million deposited to the Oil and Hazardous Substance Release Response Fund in FY 90, a \$25.1 million deposit in FY 91 and \$25 million annual deposits for FY 92-95. Income tax revenues have been estimated by the Division of Policy based on the provisions embodied in the Governor's proposed legislation (SB 148, HB 154). Due to the fiscal year calendar, first year income tax revenues are budgeted as a half-year's receipts.

Office of the Governor, Division of Policy.
1/11/90

FY 1991 - FY 2010 LONG-RANGE FISCAL OUTLOOK

\$ Millions - Nominal Dollars

AR	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
RES:																				
ppropriations	(2,404)	(2,436)	(2,483)	(2,522)	(2,583)	(2,633)	(2,683)	(2,733)	(2,783)	(2,833)	(2,883)	(2,933)	(2,983)	(3,033)	(3,083)	(3,133)	(3,183)	(3,233)	(3,283)	(3,333)
Fund Dividends	(493)	(486)	(498)	(542)	(586)	(628)	(674)	(702)	(728)	(754)	(779)	(802)	(824)	(844)	(863)	(880)	(896)	(911)	(925)	(939)
	(2,897)	(2,922)	(2,981)	(3,064)	(3,169)	(3,261)	(3,357)	(3,435)	(3,511)	(3,587)	(3,662)	(3,735)	(3,807)	(3,877)	(3,946)	(4,013)	(4,079)	(4,144)	(4,208)	(4,272)
JES:																				
rd	130																			
venue Forecast	2,256	2,416	2,435	2,461	2,376	2,209	2,031	1,896	1,753	1,597	1,477	1,354	1,225	1,148	1,080	1,020	970	906	894	892
al Fund Revenues	46	46	46	46	46	46	46	46	46	46	46	46	46	46	46	46	46	46	46	46
gs	493	486	498	542	586	628	674	702	728	754	779	802	824	844	863	880	896	911	925	939
	28	26	(2)	(15)	(162)	(379)	(607)	(792)	(985)	(1,191)	(1,361)	(1,534)	(1,713)	(1,840)	(1,958)	(2,068)	(2,168)	(2,282)	(2,344)	(2,396)
PTIONS																				
ndowment Fund											827	898	970	1,044	1,119	1,195	1,273	1,352	1,432	1,513
					173	367	389	412	436	462	489	517	547	579	613	649	687	727	769	814
Tax	34	35	37	39	42	44	47	50	53	56	59	63	66	70	74	79	83	88	93	99
							131	129	127	126	124	124	120	117	113	110	107	104	100	96
PLUS OR DEFICIT	62	61	35	24	53	33	(40)	(201)	(368)	(547)	138	111	93	80	78	89	114	127	196	280

Projected appropriations increase at a nominal rate of \$50 million per year, driven by increases to formula programs.

Fund Dividend appropriation estimates and Education Endowment Fund revenue estimates are based on a 4% annual real rate of return.

Revenue taken from the DOR Fall 1989 Revenue Forecast, mid-case scenario.

State Fund revenues includes restricted program receipts and G.F. loan receipts.

Revenue estimates have been estimated by the Division of Policy based on provisions embodied in the Governor's proposed legislation (SB148, HB 154).

Tax revenue estimates are based on the Governor's proposed legislation (SB188).

Revenue projections are based on the Department of Interior's most probable estimate of recoverable reserves, timing is projected by the Division of Policy.

AGS revenues was provided by Yukon Pacific Corp. Revenue estimates are based on a \$.50/MCF wellhead value and derived by the Division of Policy.

Governor, Division of Policy.

\$0.06/gallon. This change would place Alaska about 25th in the nation; currently only Georgia has a lower motor fuel tax.

ANWR. The ANWR revenue estimate is based on the Department of Interior's most probable estimate of recoverable reserves, which is a field one-twentieth the size of Prudhoe Bay. Production is assumed to start in 2002. Estimate is net of associated Permanent Fund contributions.

TAGS Gas Line. The TAGS gas line revenues are based on an assumed wellhead price for Prudhoe gas of \$.50, with a start-up date of 1997. Estimate is net of associated Permanent Fund contributions.

HJR

68

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 2, 1990

FURTHER REFERRALS:

Date of Committee Action: 2-16-90

The JUDICIARY Committee considered:

HJR 68

HOUSE JOINT RES. NO. 68

APPOINTMENT TO 9TH CIRCUIT CT OF APPEALS

Urging the permanent appointment of an Alaskan to the U.S. Court of Appeals for the Ninth Circuit.

RECOMMENDATIONS:

- be replaced with _____ the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s);
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) STATE AFFAIRS
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

Peter Jones

Max Stuenkel

Bill Davidson

Ellis

Perry Norton

Mike Davis

	Do Not Pass	No Rec	Amend

Max Stuenkel Peter Jones

Chairman's Signature

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 19, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HJR 68

HOUSE JOINT RES. NO. 68

APPOINTMENT TO 9TH CIRCUIT CT OF APPEALS

Urging the permanent appointment of an Alaskan to the U.S. Court of Appeals for the Ninth Circuit.

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] a new title
- [] have attached amendment(s)
- [X] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
- [X] zero fiscal note SA
- [] zero with analysis _____

- [] fiscal note(s) _____
- [] zero fiscal note(s) _____
- [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend

Alvin Karpis
W. J. ...
John ...

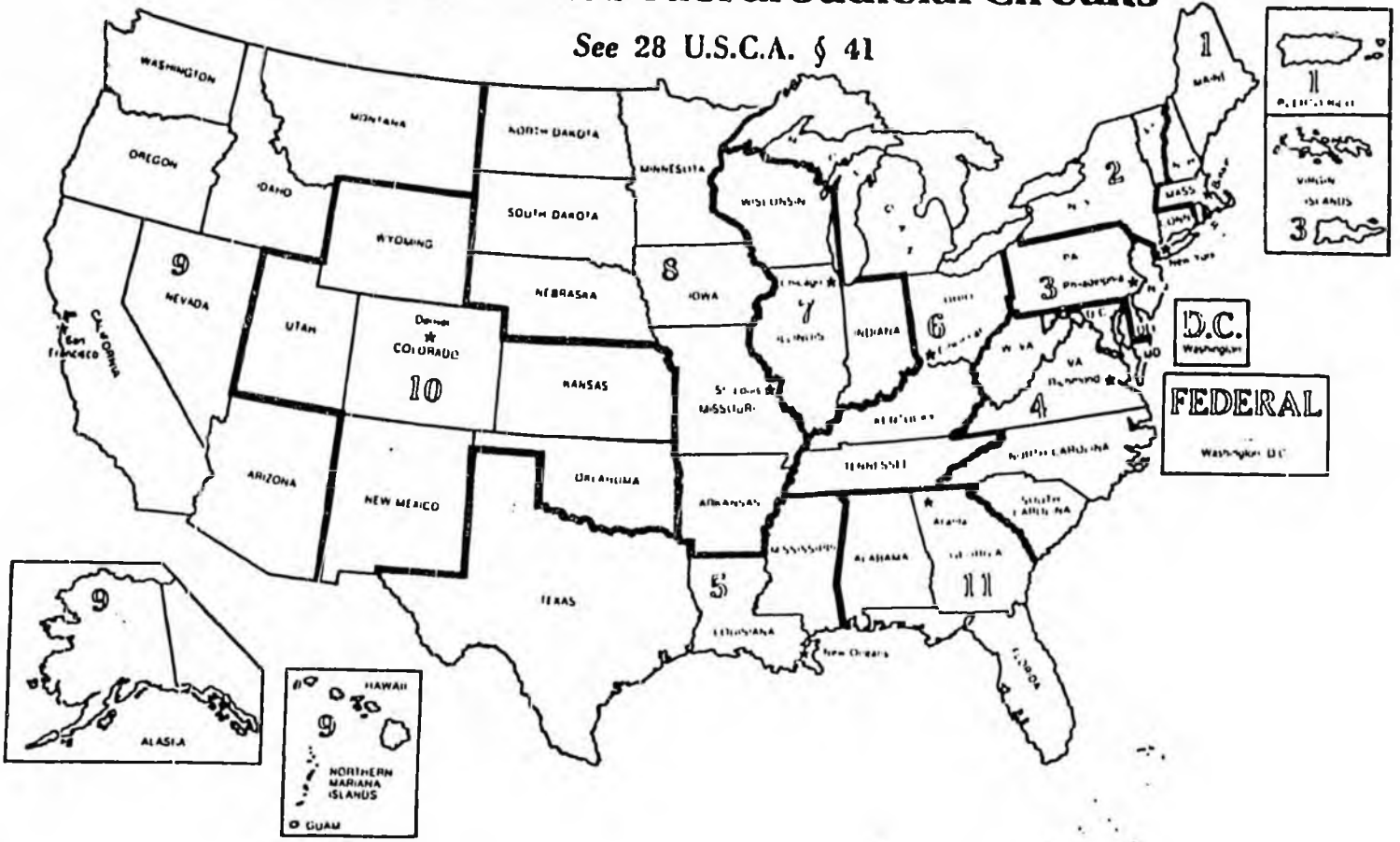
	Do Not Pass	No Rec	Amend

W. J. ...
Chairman's Signature

Item 3

The Thirteen Federal Judicial Circuits

See 28 U.S.C.A. § 41



NINTH CIRCUIT

SANDRA DAY O'CONNOR,
Circuit Justice..... 9-22-81 Washington, D. C.

CIRCUIT JUDGES

ALFRED T. GOODWIN *, C. J.	11-30-71	Pasadena, Cal.
JAMES R. BROWNING.....	9-18-61	San Francisco, Cal.
J. CLIFFORD WALLACE *	6-28-72	San Diego, Cal.
PROCTER HUG, Jr.....	9-16-77	Reno, Nev.
THOMAS TANG	10-12-77	Phoenix, Ariz.
MARY M. SCHROEDER	9-26-79	Phoenix, Ariz.
BETTY B. FLETCHER.....	9-26-79	Seattle, Wash.
JEROME FARRIS.....	9-27-79	Seattle, Wash.
HARRY PREGERSON *	11- 2-79	Los Angeles, Cal.
ARTHUR L. ALARCON.....	11- 2-79	Los Angeles, Cal.
CECIL F. POOLE *	11-27-79	San Francisco, Cal.
DOROTHY W. NELSON.....	12-20-79	Pasadena, Cal.
WILLIAM C. CANBY, Jr.....	5-23-80	Phoenix, Ariz.
WILLIAM A. NORRIS.....	6-18-80	Los Angeles, Cal.
STEPHEN REINHARDT.....	9-11-80	Los Angeles, Cal.
ROBERT R. BEEZER	3-28-84	Seattle, Wash.
CYNTHIA HOLCOMB HALL *	10- 4-84	Pasadena, Cal.
CHARLES E. WIGGINS	10-11-84	Reno, Nev.
MELVIN BRUNETTI.....	4- 4-85	Reno, Nev.
ALEX KOZINSKI.....	11- 7-85	Pasadena, Cal.
JOHN T. NOONAN, Jr.....	12-17-85	San Francisco, Cal.
DAVID R. THOMPSON.....	12-17-85	San Diego, Cal.
DIARMUID F. O'SCANNLAIN.....	9-26-86	Portland, Or.
EDWARD LEAVY *	3-23-87	Portland, Or.
STEPHEN S. TROTT.....	3-25-88	Boise, Idaho
FERDINAND F. FERNANDEZ *	5-22-89	Los Angeles, Cal.
PAMELA ANN RYMER *	5-22-89	Pasadena, Cal.

SENIOR CIRCUIT JUDGES

RICHARD H. CHAMBERS	4-30-54	Tucson, Ariz.
STANLEY N. BARNES.....	3-21-56	Palm Springs, Cal.
CHARLES M. MERRILL.....	9-21-59	San Francisco, Cal.
M. OLIVER KOELSCH	9-23-59	Seattle, Wash.
EUGENE A. WRIGHT.....	9-15-69	Seattle, Wash.
JOHN F. KILKENNY *	9-16-69	Portland, Or.
HERBERT Y. C. CHOY.....	4-23-71	Honolulu, Hawaii
JOSEPH T. SNEED.....	8-24-73	San Francisco, Cal.
OTTO R. SKOPIL, Jr.*	9-26-79	Portland, Or.
WARREN J. FERGUSON *	11-27-79	Santa Ana, Cal.
ROBERT BOOCHEVER	6-18-80	Pasadena, Cal.

Item 2

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: _____
 Title: Appointment to 9th Circuit
Cc of Appeals BRU: _____
 Sponsor: Judiciary Committee Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: House State Affairs Committee Phone: 465-4963
 Division: _____ Date: Jan 25, 1990

Approved by Commissioner: H. C. "Red" Souther, Chair Date: Jan 25, 1990
 Agency: _____

Distribution (by preparer) :

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

HJR

74

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 23, 19-4-90 FURTHER REFERRALS:

Date of Committee Action: 5-4-90

The JUDICIARY Committee considered:

HJR 74

HOUSE JOINT RESOLUTION NO. 74

CONST. AMDT: SUBSISTENCE PREFERENCE

Proposing an amendment to the Constitution of the State of Alaska relating to a preference for subsistence use of fish and wildlife and state-owned renewable natural resources.

RECOMMENDATIONS:

- be replaced with CSHJR 74 (JUD) [] the same title
- [] a new title
- [] have attached amendment(s)
- [] do pass
- [] do not pass
- no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [] fiscal note(s) _____
- zero fiscal note(s) 7 + 6 4-23-90
- [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass
No Rec
Amend

Peter J. See

	Do Not Pass	No Rec	Amend
<u>Cl. Dainoff</u>	✓		
<u>W. J. ...</u>	—		
<u>Al. ...</u>	—		
<u>Elgin</u>	—		
<u>Lucy ...</u>	✓		

Peter J. See
Chairman's Signature

Original sponsor(s): REP. JACKO, Goll, Foster, MacLean

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 74 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 subsistence uses of fish and wildlife
8 and other renewable natural resources;
9 and providing for an effective date for
10 the amendment.

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

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

14 SECTION 19. SUBSISTENCE USES OF RENEWABLE NATURAL RESOURCES.

15 Consistent with the principle of sustained yield, the legislature may
16 grant a preference in the taking of fish and wildlife and other renew-
17 able natural resources for subsistence uses by residents of rural
18 areas and, when necessary to assure sustained yield or to protect
19 subsistence uses, may allocate these resources on the bases of direct
20 dependence, local residence, and the availability of alternative
21 resources.

22 * Sec. 2. The intent of the amendment proposed by this resolution is to
23 validate, ratify, and reinstate existing state subsistence laws, including
24 the provisions of ch. 52, SLA 1986 and to allow the state to retain manage-
25 ment of fish and wildlife and other renewable natural resources. It is not
26 the intent of the amendment proposed by this resolution to preclude the
27 legislature from establishing other preferences for subsistence uses if
28 those preferences are otherwise consistent with the Constitution of the
29 State of Alaska.

1 * Sec. 3. The amendment proposed by this resolution, and the intent of
2 the amendment as set out in this resolution, shall be placed before the
3 voters of the state as one ballot proposition at the next general election
4 in conformity with art. XIII, sec. 1, Constitution of the State of Alaska,
5 and the election laws of the state.

6 * Sec. 4. The amendment proposed by this resolution if approved by the
7 voters is effective immediately upon certification of the election returns
8 by the lieutenant governor.

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Peter PASSED
out - 5/1/90

6-2031S
Utermohle
5/1/90

Original sponsor(s): REP. JACKO, Goll, Foster, MacLean

1 IN THE HOUSE

2 CS FOR HOUSE JOINT RESOLUTION NO. 74 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing amendments to the Constitution
6 of the State of Alaska relating to
7 allocation of fish and wildlife and
8 other wild renewable natural resources
9 for subsistence uses; and providing for
10 an effective date for the amendment.

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

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

14 SECTION 19. SUBSISTENCE USES OF RENEWABLE NATURAL RESOURCES.

15 Nothing in this constitution prohibits the legislature from enacting
16 laws of general applicability relating to the allocation of fish and
17 wildlife and other wild renewable natural resources for subsistence
18 uses that are consistent with valid federal laws relating to subsis-
19 tence in order to retain management authority over those resources by
20 the State.

21 * Sec. 2. The intent of the amendment proposed by this resolution is to
22 validate, ratify, and reinstate the provisions of ch. 52, SLA 1986, and of
23 any regulations adopted under those provisions, that are consistent with
24 valid federal laws relating to subsistence.

25 * Sec. 3. The amendment proposed by this resolution, and the intent
26 the amendment as set out in this resolution, shall be placed before the
27 voters of the state as one ballot proposition at the next general election
28 in conformity with art. XIII, sec. 1, Constitution of the State of Alaska,
29 and the election laws of the state.

1 * Sec. 4. The amendment proposed by this resolution if approved by the
2 voters is effective immediately upon certification of the election returns
3 by the lieutenant governor.
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A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHJR 74 ()

Page 1, line 16, following "applicability":

Insert ", consistent with the sustained yield principle,"

6-2031C
Utermohle
5/1/90

Original sponsor(s): REP. JACKO, Goll, Foster, MacLean

1 IN THE HOUSE

2 CS FOR HOUSE JOINT RESOLUTION NO. 74 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 subsistence uses of fish and wildlife;
8 and providing for an effective date for
9 the amendment.

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

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

13 SECTION 19. SUBSISTENCE USES OF FISH AND WILDLIFE. Consistent
14 with the sustained yield principle, when necessary to provide for
15 subsistence uses, the legislature may grant a preference for the
16 taking of fish and wildlife for subsistence uses by and among
17 residents of rural areas of the State.

18 * Sec. 2. The intent of the amendment proposed by this resolution is to
19 validate, ratify, and reinstate the provisions of ch. 52, SLA 1986, and of
20 any regulations adopted under those provisions, that are consistent with
21 valid federal laws relating to subsistence.

22 * Sec. 3. The amendment proposed by this resolution, and the intent of
23 the amendment as set out in this resolution, shall be placed before the
24 voters of the state as one ballot proposition at the next general election
25 in accordance with art. XIII, sec. 1, Constitution of the State of Alaska
26 and the election laws of the state.

27 * Sec. 4. The amendment proposed by this resolution if approved by the
28 voters is effective immediately upon certification of the election returns
29 by the lieutenant governor.

6-2031Ca
Utermohle

5-2-90

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHJR 74() (version "C")

Page 1, lines 5 - 10:

Delete all material and insert:

"Proposing an amendment to the Constitution of the State of Alaska authorizing the legislature to grant a preference for the taking of fish and wildlife and other wild renewable natural resources by and among residents of rural areas of the state."

6-2031C
Utermohle
5/1/90

5-2-90

Original sponsor(s): REP. JACKO, Goll, Foster, MacLean

1 IN THE HOUSE

2 CS FOR HOUSE JOINT RESOLUTION NO. 74 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 subsistence uses of fish and wildlife
8 and other wild renewable natural re-
9 sources; and providing for an effective
10 date for the amendment.

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

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

14 SECTION 19. SUBSISTENCE USES OF RENEWABLE NATURAL RESOURCES.

15 Consistent with the sustained yield principle, when necessary to
16 provide for subsistence uses, the legislature may grant a preference
17 for the taking of fish and wildlife and other wild renewable natural
18 resources for subsistence uses by and among residents of rural areas
19 of the State.

20 * Sec. 2. In addition to authorizing the legislature to enact laws
21 consistent with federal laws relating to subsistence uses, the intent of
22 the amendment proposed by this resolution is to validate, ratify, and
23 reinstate existing state subsistence laws, including the provisions of ch.
24 52, SLA 1986, that are consistent with federal laws relating to subsis-
25 tence uses.

26 * Sec. 3. The amendment proposed by this resolution, and the intent of
27 the amendment as set out in this resolution, shall be placed before the
28 voters of the state as one ballot proposition at the next general election
29 in conformity with art. XIII, sec. 1, Constitution of the State of Alaska,

1 and the election laws of the state.

2 * Sec. 4. The amendment proposed by this resolution if approved by the
3 voters is effective immediately upon certification of the election returns
4 by the lieutenant governor.
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6-20315D
Utermohle

5-2-90

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHJR 74 () (version "S")

Page 1, lines 5 - 10:

Delete all material and insert:

"Proposing an amendment to the Constitution of the State of Alaska authorizing the legislature to enact laws relating to allocation of fish and wildlife and other wild renewable natural resources for subsistence uses that are consistent with federal laws relating to subsistence uses in order to retain state management authority over those resources."

5-2-90

6-2031S
Utermohle
5/1/90

Original sponsor(s): REP. JACKO, Goll, Foster, MacLean

1 IN THE HOUSE

2 CS FOR HOUSE JOINT RESOLUTION NO. 74 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 subsistence uses of fish and wildlife
8 and other wild renewable natural re-
9 sources; and providing for an effective
10 date for the amendment.

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

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

14 SECTION 19. SUBSISTENCE USES OF RENEWABLE NATURAL RESOURCES.

15 Nothing in this constitution prohibits the legislature from enacting
16 laws of general applicability, consistent with the sustained yield
17 principle, relating to the allocation of fish and wildlife and other
18 wild renewable natural resources for subsistence uses that are consis-
19 tent with federal laws relating to subsistence uses in order to retain
20 management authority over those resources by the State.

21 * Sec. 2. In addition to authorizing the legislature to enact laws
22 consistent with federal laws relating to subsistence uses, the intent of
23 the amendment proposed by this resolution is to validate, ratify, and
24 reinstate existing state subsistence laws, including the provisions of ch.
25 52, SLA 1986, that are consistent with federal laws relating to subsis-
26 tence uses.

27 * Sec. 3. The amendment proposed by this resolution, and the intent of
28 the amendment as set out in this resolution, shall be placed before the
29 voters of the state as one ballot proposition at the next general election

1 in conformity with art. XIII, sec. 1, Constitution of the State of Alaska,
2 and the election laws of the state.

3 * Sec. 4. The amendment proposed by this resolution if approved by the
4 voters is effective immediately upon certification of the election returns
5 by the lieutenant governor.
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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

I will file in H.Jed.

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

May 1, 1990

SUBJECT: HJR 74; State Constitutional Amendment Relating
to Subsistence Uses of Renewable Natural
Resources

TO: Representative Terry Martin

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is in response to your questions relating to HJR 74 and to subsistence.

DOES CSHJR 74 (RESOURCES) AUTHORIZE THE LEGISLATURE TO ENACT LAWS THAT COULD BE IN VIOLATION OF THE ALASKA CONSTITUTION?

Neither HJR 74 or any of the other proposed constitutional amendments relating to subsistence authorizes the legislature to violate the equal protection clause, or any other provision of the Alaska Constitution. Each of the proposed amendments exempts laws enacted by the legislature relating to subsistence from provisions of the Constitution that would otherwise have prohibited such laws. There would be no violation of the equal protection clause in enacting subsistence laws because the power of the legislature to enact a subsistence law supersedes other provisions of the constitution. This is more than a matter of semantics, because the constitution itself is being amended so that equal protection and the other provisions of the constitution that may prohibit the enactment of a subsistence law are not applicable to the legislature. Of course, even if the state modifies its own constitution, the U.S. constitution, including the equal protection requirement, remains unaffected.

The exemption conferred on subsistence laws enacted by the legislature is limited by the terms of the proposed amendment.

CSHJR 74 (Resources) provides that the legislative power to enact a "super-constitutional" subsistence law is limited to

Representative Terry Martin

Page 2

May 1, 1990

a subsistence law that is "consistent with valid federal laws in order to retain management" of renewable natural resources. A subsistence law or portions of a subsistence law that provides for more than is necessary for consistency with federal law or that provides for more than is necessary for retention of state management of renewable natural resources will not qualify for the exemption granted by the proposed constitutional amendments.

Those portions of the law that do not qualify for the exemption may be subject to challenge under the state equal protection clause and all other provisions of the state constitution. The courts will give some deference to the subsistence law since the intent of the proposed amendments is to allow a subsistence statute to be enacted. Those provisions that are not protected by the terms of the exemption but which are reasonably necessary to establish the subsistence program envisioned by the constitutional amendment may be allowed. However there is also the possibility that the court will find those provisions to be invalid and if the provisions are not severable from the remainder of the law may strike down the whole law because it exceeds the terms of the exemption granted under the proposed amendments.

VALID FEDERAL LAWS?

You have asked several questions relating to the term "valid federal laws" which is used in CSHJR 74 (Resources). A statute is presumed to be valid until it is determined to be invalid by a court of competent jurisdiction. The Alaska National Interest Lands Conservation Act is a federal law and its validity is determined under the federal constitution. The Alaska Constitution may not be used as a standard on which to judge the validity of ANILCA. However under ANILCA the state is required to enact provisions consistent with ANILCA in order to retain state management of fish and wildlife on federal lands. One provision enacted in order to be consistent with ANILCA, the rural resident subsistence preference, was found to violate several provisions of the state constitution. McDowell v. State, 785 P.2d 1 (Alaska 1989) The Alaska Constitution contains several provisions relating to the use of natural resources that are not contained in the federal constitution, so it is not reasonable to extend the holding of McDowell to conclude that ANILCA would be unconstitutional under the federal constitution.

ANILCA is not subject to review under the 14th Amendment of the federal constitution, because that amendment applies

Representative Terry Martin

Page 3

May 1, 1990

only to the states. However, the federal government is subject to the due process requirements of the Fifth Amendment of the federal constitution which does require equal treatment of similarly situated individuals. ANILCA may very well survive scrutiny under federal due process standards because the federal courts are more deferential to the acts of Congress than the Alaska courts are of acts of the legislature.

The state may challenge the constitutionality of ANILCA provided that the state has standing to do so. The state must be able to show that a controversy exists and that it is an appropriate party to seek judicial resolution of the controversy. Certainly there is a controversy over the federal takeover of management of fish and wildlife under ANILCA. The state is an appropriate party to challenge that action because the state was given the right to manage fish and wildlife under the Alaska Statehood Act, thus has a valid interest in testing the validity of the takeover provisions of ANILCA. As part of such a challenge to ANILCA the state could probably reach the heart of the matter - the constitutionality of the rural subsistence preference. The federal takeover is occurring because the state has not enacted a rural subsistence preference consistent with ANILCA, but the state would argue that the rural subsistence preference violates the federal due process clause and thus is an invalid basis for requiring the state to comply with federal law. The likelihood of success using such an argument is difficult to predict. Whether the legislature, as opposed to the governor, would be the appropriate party to challenge the constitutionality of the rural subsistence preference in ANILCA is not altogether clear. There does not seem to be any reason why the legislature cannot show that it has important interests at stake in the ANILCA issue, but protecting the state's interest is generally thought of as a function that is part of the ongoing duties of the executive branch. In summary, it seems possible for the state to challenge the rural subsistence preference in ANILCA and also possible that the legislature could be an appropriate party to bring the challenge.

WOULD A NEEDS-BASED SUBSISTENCE PREFERENCE BE CONSTITUTIONAL?

As you mentioned in your memorandum, one member of the Alaska Supreme Court did recognize that ensuring that those Alaskans who need to engage in subsistence activities to provide their basic necessities are able to do so is an important state

Representative Terry Martin

Page 4

May 1, 1990

interest. McDowell, 785 P.2d at 13. This comment does suggest that the court would look favorably upon a subsistence preference based upon need and find such a preference consistent with the state constitution. However this is the view of just one member of the court, albeit a member of the majority in the McDowell case, and just one statement in dicta is not a sufficient basis on which to predict that a subsistence preference system based on need would be constitutional. Also a needs based subsistence preference would not address the issue of the federal take over of fish and wildlife management on federal lands under ANILCA.

If I may be of further assistance, please advise.

GU:lmb
L10/098

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 4, 1990

SUBJECT: Proposed title of CSHJR 74 ()
TO: Representative Peter Goll
Co-chair, House Judiciary Committee
FROM: George Utermohle *GU*
Legislative Counsel

The Judiciary Committee has before it a proposed amendment to the Alaska Constitution relating to subsistence uses of fish and wildlife, CSHJR 74 ().

The committee is considering a title to the resolution which describes the resolution as proposing an amendment relating to a subsistence preference to retain state management of fish and wildlife and other renewable natural resources. This proposed title is actually narrower than the language of the proposed constitutional amendment and thus does not fully express the contents of the resolution. *M*

Under Uniform Rule 49(a)(5):

The joint resolution is treated in all respects as a bill but it not subject to veto.

AS 24.08.020 provides that the subject of a bill is to be expressed in its title. Thus under the Uniform Rules the title of the resolution is required to express the subject of the resolution.

While Art II, sec. 13 applies specifically to bills, the purpose behind the "expression requirement" is to alert legislators and, in case of a proposed constitutional amendment, voters of the contents of the ballot proposition. The policy underlying the expression requirement would seem to apply equally to bills and resolutions proposing constitutional amendments.

GU:mi
wkmi6/088

STATE OF ALASKA



LYMAN F. HOFFMAN
CO-CHAIRMAN
HOUSE FINANCE COMMITTEE

P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3706


HOUSE OF REPRESENTATIVES

DISTRICT 25

AKIACHAK
AKIAK
ATMAUTLUAK
BETHEL
CHEFORNAK
EEK
GOODNEWS BAY
KASIGLUK
KIPNUK
KONGIGANA
KWETHLUK
KWIGILLINGOK
MEKORYUK
NAPAKIAK
NAPASKIAK
NEWTOK
NIGHTMUTE
NUNAPITCHUK
OSCARVILLE
PLATINUM
QUINHAGAK
TOKSOOK BAY
TUNTUTULIAK
TUNUNAK

M E M O R A N D U M

TO: Representative Peter Goll, Co-Chairman
Representative Max Gruenberg, Co-Chairman
House Judiciary Committee
Committee Members

FROM: Representative Lyman Hoffman 

DATE: May 2, 1990

SUBJ: CSHJR 74 (Res)

In reviewing the draft vehicle on the subsistence resolution that the Judiciary Committee is now examining, a number of concerns have surfaced.

The first is the unmistakably different approach that the Judiciary Committee has decided to take in regards to subsistence, considering the approach established by the Resources Committee in CSHJR 74.

The most fundamental issue in McDowell, is not subsistence, it is that the Courts opened the door for the Federal Government to control Fish & Wildlife Management on over 60% of the Lands in the State of Alaska. By approving a resolution focusing on the State's ability to retain management authority, the Resources Committee version would allow the State Legislature the broadest possible flexibility to deal with the more intricate details of subsistence, while maintaining the State's ability to retain management authority in Alaska.

CSHJR 74, as originally passed by the Resources Committee, established a three pronged test for the passage of a State subsistence statute. The Statute would have to 1) be related to the subsistence uses of wild renewable natural resources, 2) be consistent with valid federal laws, and 3) be needed in order to retain management authority by the State. CSHJR 74(Res) did not address nor was it intended to address the extremely complicated details of allocation or sustained yield principles. But rather envisioned that given the tools offered by CSHJR 74, the Legislature would address these significant issues at a future time when adequate public process could be sought.

Memorandum To House Judiciary
May 2, 1990
Page 2

It should be pointed out that the language currently being considered by Judiciary would add an additional two requirements to those mentioned above, 1) the statute would also have to be of general applicability, and 2) would have to conform to sustained yield principles.

I respectfully offer an amendment (attached) to the Committee's draft vehicle.

As indicated by the testimony by Legal Services and the Attorney General's office, the amendment would achieve the intended effects of the Judiciary Committee's draft as written. I believe the amendment I offer would clarify to the voters, the importance of the amendment in order for the State of Alaska to retain management authority over all lands in Alaska.

This suggested amendment would return the heading of the resolution as well as the actual title to the original language adopted by the Resource Committee to emphasize the retention of the State's management authority.

A M E N D M E N T

BY HOFFMAN

OFFERED IN THE HOUSE

TO: CSHJR 74 () (VERSION "S")

PAGE 1 , LINES 5-10 :

DELETE ALL MATERIAL AND INSERT :

" PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ALASKA RELATING TO THE RETENTION OF STATE MANAGEMENT AUTHORITY OF FISH AND WILDLIFE AND OTHER WILD RENEWABLE NATURAL RESOURCES, AND FOR THE ALLOCATION OF SUCH RESOURCES; AND PROVIDING FOR AN EFFECTIVE DATE."

PAGE 1, LINE 14:

DELETE " SUBSISTENCE USES OF RENEWABLE NATURAL RESOURCES."

INSERT " STATE MANAGEMENT OF RENEWABLE NATURAL RESOURCES."

PAGE 1, LINE 18:

DELETE " FOR SUBSISTENCE USES THAT ARE "