

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 86/2

9458 HOUSE STATE AFFAIRS

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North Dakota	29.6	27.6	14.9	7.3	20.6
Ohio	31.3	18.0	36.6	4.7	9.5
Oklahoma	25.9	16.0	32.1	3.8	22.2
Oregon	0.0	12.8	65.3	7.3	14.7
Pennsylvania	30.4	17.0	27.0	9.3	15.9
Rhode Island	30.6	20.9	35.6	5.5	7.3
South Carolina	37.7	14.2	34.8	5.3	8.1
South Dakota	51.7	25.8	0.0	5.8	16.8
Tennessee	56.9	20.4	1.7	8.3	12.7
Texas	50.6	30.4	0.0	0.0	19.0
Utah	39.9	10.9	38.3	5.5	5.4
Vermont	21.7	27.5	31.2	6.0	13.5
Virginia	21.9	17.4	49.1	4.2	7.5
Washington	59.3	15.6	0.0	0.0	25.1
West Virginia	29.0	24.4	26.0	8.0	12.6
Wisconsin	28.5	14.1	43.6	7.4	6.4
Wyoming	31.2	9.6	0.0	0.0	59.2
District of Columbia	19.9	12.7	26.4	6.6	34.4
U.S. Total	33.0	16.2	31.4	7.3	12.1

Source: U.S. Bureau of the Census.

1994 State Revenue

	Total General Revenue			Total Taxes		
	(\$million)	Per Capita	Rank	(\$million)	Per Capita	Rank
ALABAMA	11,599	2,749	40	4,767	1,130	44
ALASKA	6,203	10,237	1	1,240	2,047	3
ARIZONA	11,749	2,883	35	5,657	1,388	27
ARKANSAS	6,870	2,800	39	3,176	1,295	34
CALIFORNIA	115,228	3,666	14	49,695	1,581	14
COLORADO	10,425	2,852	36	4,154	1,136	43
CONNECTICUT	11,993	3,662	15	6,788	2,073	2
DELAWARE	3,237	4,585	4	1,444	2,045	4
FLORIDA	34,805	2,494	48	17,808	1,276	36
GEORGIA	18,265	2,589	46	8,784	1,245	40
HAWAII	5,698	4,833	3	2,993	2,539	1
IDAHO /p	3,628	3,203	24	1,617	1,427	23
ILLINOIS	31,897	2,714	43	15,472	1,317	31
INDIANA	15,313	2,749	41	7,283	1,266	37
IOWA	8,961	3,167	26	4,130	1,460	19
KANSAS	7,474	2,926	33	3,675	1,439	21
KENTUCKY	11,730	3,065	31	5,693	1,488	18
LOUISIANA	13,524	3,134	27	4,383	1,016	48
MAINE	4,098	3,305	22	1,765	1,423	24
MARYLAND	15,581	3,113	28	7,583	1,515	16
MASSACHUSETTS	22,298	3,691	12	11,017	1,824	7
MICHIGAN	31,814	3,350	21	15,419	1,624	13
MINNESOTA	17,182	3,762	10	8,651	1,894	5
MISSISSIPPI	7,697	2,884	34	3,325	1,246	39
MISSOURI	13,359	2,513	47	5,910	1,112	45
MONTANA	3,166	3,699	11	1,161	1,356	29
NEBRASKA	4,446	2,740	42	2,144	1,321	30
NEVADA	4,767	3,272	23	2,381	1,634	12
NEW HAMPSHIRE	3,081	2,710	44	837	736	50
NEW JERSEY	29,808	3,771	9	13,494	1,707	10
NEW MEXICO	6,709	4,056	7	3,021	1,826	6
NEW YORK	82,202	4,524	5	32,817	1,806	9
NORTH CAROLINA	21,051	2,977	32	10,519	1,488	17

NORTH DAKOTA	2,289	3,588	17	885	1,387	28
OHIO	40,836	3,678	13	14,188	1,278	35
OKLAHOMA	9,184	2,819	38	4,263	1,308	33
OREGON	10,886	3,528	18	4,039	1,309	32
PENNSYLVANIA /p	38,252	3,174	25	17,142	1,422	25
RHODE ISLAND	4,137	4,143	6	1,436	1,440	20
SOUTH CAROLINA	11,268	3,075	30	4,502	1,229	41
SOUTH DAKOTA	2,041	2,831	37	659	914	49
TENNESSEE	12,725	2,459	49	5,733	1,108	46
TEXAS	45,035	2,450	50	19,465	1,059	47
UTAH	5,907	3,096	29	2,416	1,266	38
VERMONT	2,026	3,494	19	833	1,435	22
VIRGINIA	17,295	2,640	45	8,037	1,227	42
WASHINGTON	19,379	3,627	16	9,701	1,816	8
WEST VIRGINIA	6,349	3,485	20	2,554	1,402	26
WISCONSIN	19,617	3,860	8	8,428	1,658	11
WYOMING	2,308	4,849	2	739	1,553	15
U.S. Total	845,887	3,256		373,824	1,439	

/p - preliminary data.

Source: U.S. Bureau of the Census.

1994 State Revenue as a Percentage of Personal Income

	Total General Revenue /1			Total Taxes		
	(\$million)	% Per. Inc.	Rank	(\$million)	% Per. Inc.	Rank
ALABAMA	11,599	15.3	28	4,767	6.3	35
ALASKA	6,203	43.7	1	1,240	8.7	4
ARIZONA	11,749	15.1	31	5,657	7.2	21
ARKANSAS	6,870	16.7	23	3,176	7.7	12
CALIFORNIA	115,228	16.4	24	49,695	7.1	26
COLORADO	10,425	12.8	41	4,154	5.1	48
CONNECTICUT	11,993	12.6	43	6,788	7.1	24
DELAWARE	3,237	19.9	7	1,444	8.9	3
FLORIDA	34,805	11.5	48	17,808	5.9	41
GEORGIA	18,265	12.8	40	8,784	6.2	37
HAWAII	5,698	20.1	6	2,993	10.6	2
IDAHO /p	3,628	17.4	16	1,617	7.8	11
ILLINOIS	31,897	11.5	49	15,472	5.6	44
INDIANA	15,813	13.6	38	7,283	6.2	36
IOWA	8,961	15.7	27	4,130	7.2	22
KANSAS	7,474	14.1	35	3,675	6.9	29
KENTUCKY	11,730	17.3	19	5,693	8.4	6
LOUISIANA	13,524	17.8	13	4,383	5.8	42
MAINE	4,098	17.0	21	1,765	7.3	20
MARYLAND	15,581	12.5	44	7,583	6.1	40
MASSACHUSETTS	22,298	14.4	33	11,017	7.1	25
MICHIGAN	31,814	15.1	30	15,419	7.3	19
MINNESOTA	17,182	16.9	22	8,651	8.5	5
MISSISSIPPI	7,697	18.3	11	3,325	7.9	10
MISSOURI	13,359	12.3	46	5,910	5.4	46
MONTANA	3,166	20.8	4	1,161	7.6	14
NEBRASKA	4,446	13.2	39	2,144	6.3	34
NEVADA	4,767	13.7	36	2,381	6.9	30
NEW HAMPSHIRE	3,081	11.4	50	837	3.1	50
NEW JERSEY	29,808	13.6	37	13,494	6.2	38
NEW MEXICO	6,709	23.8	2	3,021	10.7	1
NEW YORK	82,202	17.6	15	32,817	7.0	27

NORTH CAROLINA	21,051	15.2	29	10,519	7.6	15
NORTH DAKOTA	2,289	19.3	8	885	7.4	16
OHIO	40,836	17.6	14	14,188	6.1	39
OKLAHOMA	9,184	16.0	26	4,263	7.4	17
OREGON	10,886	17.2	20	4,039	6.4	33
PENNSYLVANIA /p	38,252	14.3	34	17,142	6.4	32
RHODE ISLAND	4,131	18.9	9	1,436	6.6	31
SOUTH CAROLINA	11,268	17.4	18	4,502	6.9	28
SOUTH DAKOTA	2,041	14.4	32	659	4.7	49
TENNESSEE	12,725	12.6	42	5,733	5.7	43
TEXAS	45,035	12.4	45	19,465	5.4	47
UTAH	5,907	18.0	12	2,416	7.4	18
VERMONT	2,026	17.4	17	833	7.1	23
VIRGINIA	17,295	11.7	47	8,037	5.5	45
WASHINGTON	19,379	16.1	25	9,701	8.1	8
WEST VIRGINIA	6,349	20.4	5	2,554	8.2	7
WISCONSIN	19,617	18.5	10	8,428	7.9	9
WYOMING	2,308	23.8	3	739	7.6	13
U.S. Total	845,887	15.0		373,824	6.6	

/p - preliminary data. /1 - Total revenues from all sources, including intergovernmental and miscellaneous charges.

Source: U.S. Bureau of the Census and Bureau of Economic Analysis.

1994 State Taxes by Source

(percentage of total taxes)

	General	Selective	License	Individual	Corporation	Other
	Sales	Sales	Taxes	Income	Income	Taxes
ALABAMA	26.8	26.9	8.1	28.7	4.6	4.9
ALASKA	0.0	8.0	5.9	0.0	14.2	71.8
ARIZONA	44.1	13.7	5.7	24.9	5.4	6.3
ARKANSAS	38.2	18.1	6.1	30.2	5.8	1.7
CALIFORNIA	34.0	9.2	5.0	35.3	9.3	7.2
COLORADO	27.1	15.7	6.0	46.3	3.5	1.4
CONNECTICUT	32.2	15.9	4.5	32.9	10.3	4.2
DELAWARE	0.0	14.6	32.5	37.9	10.7	4.3
FLORIDA	56.4	19.7	7.3	0.0	5.3	11.3
GEORGIA	37.2	10.1	4.5	40.8	5.9	1.6
HAWAII	44.5	17.4	2.5	32.1	2.3	1.2
IDAHO /p	33.7	14.3	9.4	34.8	5.4	2.4
ILLINOIS	30.1	20.7	5.9	32.6	7.9	2.6
INDIANA	34.4	11.6	2.8	41.4	8.3	1.4
IOWA	33.6	14.0	9.3	36.5	4.2	2.3
KANSAS	35.3	14.0	5.1	32.5	6.9	6.2
KENTUCKY	27.4	20.4	5.7	30.4	4.7	11.4
LOUISIANA	31.5	20.6	9.9	22.3	5.0	10.8
MAINE	35.0	15.5	6.0	34.8	5.2	3.5
MARYLAND	23.9	19.2	4.6	42.5	4.2	5.4
MASSACHUSETTS	20.9	11.2	3.6	51.6	9.6	2.9
MICHIGAN	29.4	10.0	5.3	36.0	14.1	5.1
MINNESOTA	29.1	15.2	7.7	39.9	6.4	1.8
MISSISSIPPI	47.7	19.7	6.3	19.2	5.0	2.0
MISSOURI	37.2	13.4	7.8	36.2	4.3	1.2
MONTANA	0.0	20.9	11.4	29.8	5.9	32.0
NEBRASKA	34.8	18.7	6.7	33.4	5.3	1.0
NEVADA	49.8	32.9	12.0	0.0	0.0	5.3
NEW HAMPSHIRE	0.0	57.9	12.6	4.3	17.2	8.0
NEW JERSEY	28.0	23.4	4.6	33.2	8.0	2.8
NEW MEXICO	47.4	12.3	4.7	19.1	4.1	12.5
NEW YORK	19.4	15.9	2.9	48.9	9.5	3.4

NORTH CAROLINA	24.6	19.1	6.1	40.8	7.0	2.4
NORTH DAKOTA	29.0	27.2	7.2	15.5	8.1	13.1
OHIO	31.6	18.8	8.2	36.0	4.6	0.8
OKLAHOMA	25.6	16.0	13.0	30.8	3.8	10.8
OREGON	0.0	13.5	12.7	64.0	6.5	3.4
PENNSYLVANIA /p	30.0	17.4	10.2	27.6	8.7	6.1
RHODE ISLAND	28.7	21.5	6.0	36.8	5.5	1.4
SOUTH CAROLINA	37.2	14.4	8.2	34.0	4.9	1.3
SOUTH DAKOTA	51.4	26.3	12.1	0.0	5.5	4.7
TENNESSEE	53.7	24.8	9.8	1.7	7.4	2.6
TEXAS	51.0	30.5	13.0	0.0	0.0	5.5
UTAH	40.7	11.3	3.4	38.3	5.2	1.1
VERMONT	21.1	27.0	8.2	34.4	4.2	5.1
VIRGINIA	22.2	18.3	5.2	47.4	3.8	3.1
WASHINGTON	59.8	14.8	4.7	0.0	0.0	20.7
WEST VIRGINIA	28.5	25.8	5.7	26.2	7.2	6.6
WISCONSIN	28.8	14.7	5.2	43.2	6.4	1.8
WYOMING	27.0	8.2	9.5	0.0	0.0	55.3
U.S. Total	33.0	16.7	6.5	31.5	6.8	5.5

/p - preliminary data.

Source: U.S. Bureau of the Census.

Barbours -
Better version of the
first table -

Thanks Jim

State Individual Income Tax Rates

Tax rate for tax year 1997 -- as of January 1, 1997

State	---Tax Rates---		# of Brackets	--Income Brackets--		---Personal Exemption---			Federal Tax Ded.
	Low	High		Low	High	Single	Married	Child.	
ALABAMA	2.0	- 5.0	3	500 (b)	- 3,000 (b)	1,500	3,000	300	*
ALASKA	No State Income Tax								
ARIZONA	3.0	- 5.6	5	10,000 (b)	- 150,000 (b)	2,100	4,200	2,300	
ARKANSAS	1.0	- 7.0 (e)	6	2,999	- 25,000	20 (c)	40 (c)	20 (c)	
CALIFORNIA (a)	1.0	- 9.3	6	4,908 (b)	- 223,390 (b)	67 (c)	134 (c)	37 (c)	
COLORADO	5.0		1	-----Flat rate-----		-----None-----			
CONNECTICUT	3.0	- 4.5	2	2,250 (b)	- 2,250 (b)	12,000 (f)	24,000 (f)	0	
DELAWARE	0.0	- 6.9	7	4,500	- 30,000	100 (c)	200 (c)	100 (c)	
FLORIDA	No State Income Tax								
GEORGIA	1.0	- 6.0	6	750 (g)	- 7,000 (g)	1,500	3,000	1,500	
HAWAII	2.0	- 10.0	8	1,500 (b)	- 20,500 (b)	1,040	2,080	1,040	
IDAHO	2.0	- 8.2	8	1,000 (g)	- 20,000 (g)	2,650 (d)	5,300 (d)	2,650 (d)	
ILLINOIS	3.0		1	-----Flat rate-----		1,000	2,000	1,000	
INDIANA	3.4		1	-----Flat rate-----		1,000	2,000	1,000	
IOWA (a)	0.4	- 9.98	9	1,112	- 50,040	20 (c)	40 (c)	40 (c)	*
KANSAS	4.4	- 7.75	3	20,000 (i)	- 30,000 (i)	2,000	4,000	2,000	
KENTUCKY	2.0	- 6.0	5	3,000	- 8,000	20 (c)	40 (c)	20 (c)	
LOUISIANA	2.0	- 6.0	3	10,000 (b)	- 50,000 (b)	4,500 (j)	9,000 (j)	1,000 (j)	*
MAINE (a)	2.0	- 8.5	4	4,150 (b)	- 16,500 (b)	2,100	4,200	2,100	
MARYLAND	2.0	- 5.0	4	1,000	- 3,000	1,200	2,400	1,200	

MASSACHUSETTS	5.95	(k)		1	-----Flat rate-----	2,200	4,400	1,000	
MICHIGAN (a)	4.4			1	-----Flat rate-----	2,500	5,000	2,500	
MINNESOTA (a)	6.0	-	8.5	3	16,510 (l) - 54,250 (l)	2,650 (d)	5,300 (d)	2,650 (d)	
MISSISSIPPI	3.0	-	5.0	3	5,000 - 10,000	6,000	9,500	1,500	
MISSOURI	1.5	-	6.0	10	1,000 - 9,000	1,200	2,400	400	* (m)
MONTANA (a)	2.0	-	11.0	10	1,900 - 66,399	1,520	3,040	1,520	*
NEBRASKA (a)	2.62	-	6.99	4	2,400 (n) - 26,500 (n)	69 (c)	138 (c)	69 (c)	
NEVADA	No State Income Tax								
NEW HAMPSHIRE	State Income Tax is Limited to Dividends and Interest Income Only.								
NEW JERSEY	1.4	-	6.37	6	20,000 (o) - 75,000 (o)	1,000	2,000	1,500	
NEW MEXICO	1.7	-	8.5	7	5,500 (p) - 65,000 (p)	2,650 (d)	5,300 (d)	2,650 (d)	
NEW YORK	4.0	-	6.85	4	8,000 (b) - 20,000 (b)	0	0	1,000	
NORTH CAROLINA	6.0	-	7.75	3	12,750 (q) - 60,000 (q)	2,500 (d)	5,000 (d)	2,500 (d)	
NORTH DAKOTA	2.67	-	12.0 (r)	8	3,000 - 50,000	2,651 (d)	5,301 (d)	2,651 (d)	* (s)
OHIO (s)	0.693	-	7.004	9	5,000 - 200,000	850 (s)	1,700 (s)	850 (s)	
OKLAHOMA	0.5	-	7.0 (t)	8	1,000 - 10,000	1,000	2,000	1,000	* (t)
OREGON (a)	5.0	-	9.0	3	2,200 (b) - 5,550 (b)	124 (c)	248 (c)	124 (c)	* (u)
PENNSYLVANIA	2.8			1	-----Flat rate-----	-----None-----			
RHODE ISLAND	27.5% Federal tax liability								
SOUTH CAROLINA (a)	2.5	-	7.0	6	2,280 - 11,400	2,650 (d)	5,300 (d)	2,650 (d)	
SOUTH DAKOTA	No State Income Tax								
TENNESSEE	State Income Tax is Limited to Dividends and Interest Income Only.								
TEXAS	No State Income Tax								
UTAH	2.3	-	7.0	6	750 (b) - 3,750 (b)	1,988 (d)	3,975 (d)	1,988 (d)	* (v)
VERMONT	25% Federal tax liability (w)								
VIRGINIA	2.0	-	5.75	4	3,000 - 17,000	800	1,600	800	
WASHINGTON	No State Income Tax								
WEST VIRGINIA	3.0	-	6.5	5	10,000 (b) - 60,000 (b)	2,000	4,000	2,000	

WISCONSIN	4.9	-	6.93 (x)	3	7,500	-	15,000	0	0	50 (c)
WYOMING	No State Income Tax									
DIST. OF COLUMBIA	6.0	-	9.5	3	10,000	-	20,000	1,370	2,740	1,370

Source: The Federation of Tax Administrators from various sources.

(a) Seven states have statutory provision for automatic adjustment of tax brackets, personal exemption or standard deductions to the rate of inflation. Nebraska indexes the personal exemption amounts only.

(b) For joint returns, the tax is twice the tax imposed on half the income.

(c) tax credits.

(d) These states allow personal exemption or standard deductions as provided in the IRC. Utah allows a personal exemption equal to three-fourths the federal exemptions. Amounts reported include the 1996 index adjustment.

(e) A special tax table is available for low income taxpayers reducing their tax payments.

(f) Combined personal exemptions and standard deduction. An additional tax credit is allowed ranging from 75% to 0% based on state adjusted gross income. Exemption amounts are phased out for higher income taxpayers until they are eliminated for households earning over \$71,000. For tax years beginning after 1996, the tax bracket amount increases to \$4,500.

(g) The tax brackets reported are for single individuals and married households filing jointly. For married households filing separately, the same rates apply to income brackets ranging from \$500 to \$5,000.

(h) For joint returns, the tax is twice the tax imposed on half the income. A \$10 filing fee is charge for each return and a \$15 credit is allowed for each exemption.

(i) The tax brackets reported are for single individual and married households filing separately. For married household filing jointly, the rates range from 3.5% for income under \$30,000 to 6.45% for income over \$60,000.

(j) Combined personal exemption and standard deduction.

(k) A 12% tax rate applies to interest, dividends and capital gains.

(l) The tax brackets reported are for single individuals. For married taxpayers filing jointly, the same rates apply to income brackets ranging from \$24,140 to \$95,920. An addition 0.5% tax is applied to certain income levels.

(m) Limited to \$10,000 for joint returns and \$5,000 for individuals.

(n) The tax brackets reported are for single individual. For married couples, the tax rates range from 2.62% for income under \$4,000 to 6.99% over \$46,750.

(o) The tax brackets reported are for single individuals. A separate schedule is provided for married households filing jointly which ranges from 1.4% under \$20,000 to 6.37% for income over \$150,000.

(p) The tax brackets reported are for single individuals. For married individuals filing jointly, the rate ranges from 1.7% under \$8,000 to 8.5% over \$100,000. Married households filing separately pay the tax imposed on half the income.

(q) The tax brackets reported are for single individuals. For married taxpayers, the same rates apply to income brackets ranging from \$21,250 to \$100,000. An additional middle income tax credit is allowed.

(r) Taxpayers have the option of paying 14% of the adjusted federal income tax liability, without a deduction of federal taxes. And additional \$300 personal exemption is allowed for joint returns or unmarried head of households.

(s) Plus an additional \$20 per exemption tax credit. Tax rates are temporarily adjusted downward for 1996 and 1997, based on the amount of revenue in the general fund. Rates reported are adjusted for the 1996 tax year, statutory rates range from 0.743% to 7.5% with the same brackets.

(t) The rate range reported is for single persons not deducting federal income tax. For married persons filing jointly, the same

* rates apply to income brackets ranging from \$2,000 to \$21,000. Separate schedules, with rates ranging from 0.5% to 10%, apply to taxpayers deducting federal income taxes.

(u) Limited to \$3,000.

(v) One half of the federal income taxes are deductible.

(w) If Vermont tax liability for any taxable year exceeds the tax liability determinable under federal tax law in effect on December 31, 1994, the taxpayer will be entitled to a credit of 106% of the excess tax.

(x) The tax brackets reported are for single individuals. For married taxpayers, the same rates apply to income brackets ranging from \$10,000 to \$20,000.

REPRESENTATIVE
TERRY MARTIN
VICE-CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
HOUSE FINANCE COMMITTEE

Alaska State Legislature



OK

MAY 15 - JAN 15 258-8169
716 W. 4TH, SUITE 650
ANCHORAGE, AK 99504

JAN 15 - MAY 15 465-3783
STATE CAPITOL
JUNEAU, AK 99801-1182

MEMORANDUM

To: Representative Jeannette James, Chair
House Committee on State Affairs

From: Representative Terry Martin *JMM*

Date: January 16, 1997

Subject: Scheduling of HJR 7

At your earliest convenience, please schedule a hearing for HJR 7, a proposed amendment to the Alaska Constitution prohibiting the imposition of a state personal income tax, a state ad valorem property tax, or statewide sales tax without the prior approval of the voters of the state.

Support information and backup materials are attached. If you have questions, please contact either myself or John Manly of my staff at 465-3783. Thank you for your expeditious attention to this request.



FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HJR 7

Revision Date	Dept. Affected <u>Office of the Governor</u>
Title <u>Const. Amdt.: Relating to Voter Approval for</u>	BRU <u>Executive Operations</u>
New Taxes	Component <u>General and Primary Elections</u>
Sponsor <u>Representative Martin</u>	
Requester <u>House State Affairs</u>	Component Serial No. <u>#22</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services						
Travel						
Contractual		3.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	3.0	0.0	0.0	0.0	0.0

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

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF		3.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	3.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: none

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Full-time		0				
Part-time		0				
Temporary		0				

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet as required by AS 15.58, and the programming costs for counting votes cast on the measure. However, only four measures can be printed on a single ballot card. If this measure requires printing an additional ballot card, the costs will increase by \$56.0.

Prepared by	Dana LaTour <i>Dana LaTour</i>	Phone	465-5347
Division	Division of Elections	Date	2/24/97
Approved by Co Agency	Lt. Governor Fran Ulmer <i>Fran Ulmer</i> Office of the Lieutenant Governor	Date	2/24/97

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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HJR

14

0-LS0355\F
Luckhaupt
3/17/97

*Added
by Rules
3/18/97*

CS FOR HOUSE JOINT RESOLUTION NO. 14(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Barnes, Hodgins, Sanders, Masek, Martin, Keuplen, Phillips, Cowdery, Vezey, Ryan, Porter, Ogan

A RESOLUTION

1 **Relating to supporting the "American Land Sovereignty Protection Act."**

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

3 **WHEREAS** the United Nations has designated 67 sites in the United States as "World
4 Heritage Sites" or "Biosphere Reserves," which altogether are about equal in size to the State
5 of Colorado, the eighth largest state; and

6 **WHEREAS** art. IV, sec. 3, United States Constitution, provides that the United States
7 Congress shall make all needed regulations governing lands belonging to the United States;
8 and

9 **WHEREAS** many of the United Nations' designations include private property
10 inholdings and contemplate "buffer zones" of adjacent land; and

11 **WHEREAS** some international land designations such as those under the United States
12 Biosphere Reserve Program and the Man and Biosphere Program of the United Nations
13 Scientific, Educational, and Culture Organization operate under independent national
14 committees such as the United States National Man and Biosphere Committee that have no
15 legislative directives or authorization from the Congress; and

16 **WHEREAS** these international designations as presently handled are an open invitation
17 to the international community to interfere in domestic economies and land use decisions; and

1 **WHEREAS** local citizens and public officials concerned about job creation and
2 resource based economies usually have no say in the designation of land near their homes for
3 inclusion in an international land use program; and

4 **WHEREAS** former Assistant Secretary of the Interior George T. Frampton, Jr., and
5 the President used the fact that Yellowstone National Park had been designated as a "World
6 Heritage Site" as justification for intervening in the environmental impact statement process
7 and blocking possible development of an underground mine on private land in Montana
8 outside of the park; and

9 **WHEREAS** a recent designation of a portion of Kamchatka as a "World Heritage Site"
10 was followed immediately by efforts from environmental groups to block investment insurance
11 for development projects on Kamchatka that are supported by the local communities; and

12 **WHEREAS** environmental groups and the National Park Service have been working
13 to establish an International Park, a World Heritage Site, and a Marine Biosphere Reserve
14 covering parts of western Alaska, eastern Russia, and the Bering Sea; and

15 **WHEREAS**, as occurred in Montana, such designations could be used to block
16 development projects on state and private land in western Alaska; and

17 **WHEREAS** foreign companies and countries could use such international designations
18 in western Alaska to block economic development that they perceive as competition; and

19 **WHEREAS** animal rights activists could use such international designations to
20 generate pressure to harass or block harvesting of marine mammals by Alaska Natives; and

21 **WHEREAS** such international designations could be used to harass or block any
22 commercial activity, including pipelines, railroads, and power transmission lines; and

23 **WHEREAS** the President and the executive branch of the United States have, by
24 Executive Order and other agreements, implemented these designations without approval by
25 the Congress; and

26 **WHEREAS** actions by the President in applying international agreements to lands
27 owned by the United States may circumvent the Congress; and

28 **WHEREAS** Congressman Don Young introduced House Resolution No. 901 in the
29 105th Congress entitled the "American Lands Sovereignty Protection Act of 1997" that
30 required the explicit approval of the Congress prior to restricting any use of United States land
31 under international agreements;

1 **BE IT RESOLVED** that the Alaska State Legislature supports the "American Lands
2 Sovereignty Protection Act" that reaffirms the constitutional authority of the Congress as the
3 elected representatives of the people over the federally owned land of the United States.

4 **COPIES** of this resolution shall be sent to the Honorable Ted Stevens and the
5 Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S.
6 Representative, members of the Alaska delegation in Congress.

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 19, 1997

FURTHER REFERRALS:

Date of Committee Action: 3/13/97

The STATE AFFAIRS Committee considered:

HJR 14

HOUSE JOINT RESOLUTION NO. 14

SUPPORT AMERICAN LAND SOVEREIGNTY ACT

Relating to supporting the "American Land Sovereignty Protection Act."

recommends it be replaced with the following committee substitute CSHJR 14 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Dma) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) H.WTR C.M.T.E.

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Janette James</i>	✓			
<i>Mark Hogg</i>	✓			
<i>Frank Jones</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	

CHAIR'S SIGNATURE Janette James

0-LS0355AE
Luckhaupt
3/7/97

01 cleared FINAK

CS FOR HOUSE JOINT RESOLUTION NO. 14()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Barnes, Hodgins, Sanders, Masek, Martin, Kemplen,
Phillips, Cowdery, Vezey, Ryan, Porter, Ogan

A RESOLUTION

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7 Congress shall make all needed regulations governing lands belonging to the United States;
8 and

9 WHEREAS many of the United Nations' designations include private property
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13 Scientific, Educational, and Culture Organization operate under independent national
14 committees such as the United States National Man and Biosphere Committee that have no
15 legislative directives or authorization from the Congress; and

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17 to the international community to interfere in domestic economies and land use decisions; and

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2 resource based economies usually have no say in the designation of land near their homes for
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5 the President used the fact that Yellowstone National Park had been designated as a "World
6 Heritage Site" as justification for intervening in the environmental impact statement process
7 and blocking possible development of an underground mine on private land in Montana
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14 covering parts of western Alaska, eastern Russia, and the Bering Sea; and

15 **WHEREAS**, as occurred in Montana, such designations could be used to block
16 development projects on state and private land in western Alaska; and

17 **WHEREAS** foreign companies and countries could use such international designations
18 in western Alaska to block economic development that they perceive as competition; and

19 **WHEREAS** animal rights activists could use such international designations to
20 generate pressure to harass or block harvesting of marine mammals by Alaska Natives; and

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22 commercial activity, including pipelines, railroads, and power transmission lines; and

23 **WHEREAS** the President and the executive branch of the United States have, by
24 Executive Order and other agreements, implemented these designations without approval by
25 the Congress; and

26 **WHEREAS** actions by the President in applying international agreements to lands
27 owned by the United States may circumvent the Congress; and

28 **WHEREAS** Congressman Don Young introduced House Resolution No. 901 in the
29 105th Congress entitled the "American Lands Sovereignty Protection Act of 1997" that
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1 **BE IT RESOLVED** that the Alaska State Legislature supports the "American Lands
2 Sovereignty Protection Act" that reaffirms the constitutional authority of the Congress as the
3 elected representatives of the people over the land of the United States.

4 **COPIES** of this resolution shall be sent to the Honorable Ted Stevens and the
5 Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S.
6 Representative, members of the Alaska delegation in Congress.

PEOPLE TO TESTIFY BY TELECONFERENCE ON MARCH 13, 1997

HIR 14 - AMERICAN LANDS SOVEREIGNTY PROTECTION ACT

Steve Borell @ Anchorage LIO Will be at LIO at 8:30 AM
Alaska Mining Association
276-0347

Stan Leaphart @ Fairbanks LIO Will be LIO at 8:00 AM
Citizens' Advisory Commission on Federal Areas
3700 Airport Way
Fairbanks, AK 99709
Phone 451-2775
Fax 451-2761

Paul C. Jones --- Set up on Bridge / Call about 8:15 AM
Mineral Exploration Commission
Sovereign Gold Company, Ltd.
1019 8th Street, Suite 305
Golden, Colorado 80401 USA

Telephone: 303-277-1155
Fax: 303-277-1212

He will be in Toronto most of the week. He can be reached by telephone at his hotel in Toronto. (416-863-7300)
Or messages and faxes can be sent to him @ Ehram & Associates in Toronto at (416-862-7350)

Irene Anderson She will be at the LIO in Nome.
Sitnasuak Native Corp. (Sitna-sock)
443-2632

~~Becky Gay Cannot testify, but is sending a position statement.
Resource Development Council
907-276-0700~~

Frank Dillon Alaska Truckers / Will be here to testify.
276-1174

Jon Jarvis -- Wrangell St. Alias / National Park Service---Has not returned my call. *Will go to the Anch LIO at 8:15-*

**Holiday Inn in Anchorage -
907-279-8671**

Telephone: 822-5234

Fax: 822-7216

Paul C. Jones
(Elvson & Assoc.)
416 - 862 - 7350
Toronto

(Call 303 - 277 - 1222 &
leave # on ans-
machine.)

Call at ^{8:10}8:15

1-800-478-~~9999~~
7612

Alaska State Legislature

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

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

House Of Representatives

House District 34

Sponsor Statement

HJR 14 A Resolution relating to supporting the "American Land Sovereignty Protection Act."

I have proposed this legislation on the premise that my greatest responsibility as an Alaskan and as a State Legislator is to protect and defend the sovereignty of our Great State, and, further, to support protection of sovereignty of our Great Nation.

A little known fact is that, in 1971, the United States joined a U.N. program calling for establishing "biosphere reserves" around the world. These reserves are surrounded by buffer zones that restrict human behavior. Forty-seven national parks, which cover 51 million acres of land, are classified as these sanctuaries. Sixty-eight percent of our national parks, preserves and monuments have been designated to the United Nations Educational, Scientific, and Cultural Organization (UNESCO), Biosphere Reserves and World Heritage Sites without any legislative or congressional direction.

Most disturbing is that 40.7 million acres of this land designated to Biosphere Reserves, the World Heritage Foundation, and UNESCO are in the State of Alaska. A World Heritage Site in Alaska is the Wrangell-St. Elias National Park and Preserve (13.2 million acres). There are six Biosphere Reserves: Admiralty Island National Monument (921,000 acres); Aleutian Islands National Wildlife Refuge (2.7 million acres); Denali National Park and Preserve (6.5 million acres); Gates of the Arctic National Park and Preserve (7.5 million acres); Glacier Bay National Park and Preserve (3.3 million acres); and Noatak National Preserve (6.6 million acres).

There is legitimate concern about some possible international interference during the decision-making processes on domestic lands. Too often, we

Alaskans have found ourselves under federal oversight with no recourse. Soon, we may find ourselves under International oversight! We must not let this happen. This legislation will reaffirm the constitutional authority of the Congress as elected representatives of the people over the land of the United States. We want the Congress to make these decisions with a public process, not the President, or his appointees.

So, please join with me in supporting the "American Land Sovereignty Protection Act of 1997" introduced to the United States House of Representatives by Congressman Don Young in the 105th Congress.

February 25, 1997

FAX TO: Myrna/Office of Representative James

via Paul Richards

FROM: Steve Borell

SUBJECT: World Heritage Sites

Here are some more "Whereas" statements for your consideration:

WHEREAS former Assistant Secretary of Interior George Frampton and President Clinton used the fact that Yellowstone National Park had been designated as a World Heritage Site as justification for intervening in the EIS process and blocking possible development of an underground mine on private lands in Montana outside of the park; and

WHEREAS recent designation of a portion of Kamchatka as a World Heritage Site was followed immediately by efforts from environmental groups to block investment insurance for development projects on Kamchatka that are supported by the local communities; and

WHEREAS environmental groups and the National Park Service have been working to establish an International Park, a World Heritage Site and a Marine Biosphere Reserve covering parts of western Alaska, eastern Russia and the Bering Sea between them; and

WHEREAS, as occurred in Montana, such designations could be used to block development projects on State and private lands in western Alaska; and

WHEREAS foreign companies and countries could use such international designations in western Alaska to block economic development that they perceive as competition; and

WHEREAS animal rights activists could use such international designations to generate pressure to harass or block harvesting of marine mammals by Alaska Natives; and

WHEREAS such international designations could be used to harass or block any commercial activity including pipelines, railroads, power transmission lines, etc.

Keep in touch - if you want more please call.

Steve Borell

FILE h901.ih

HR 901 IH
105th CONGRESS
1st Session

To preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

IN THE HOUSE OF REPRESENTATIVES

February 27, 1997

Mr. YOUNG of Alaska (for himself, Mr. CONDIT, Mr. SOLOMON, Mr. PICKETT, Mr. COBURN, Mr. TRAFICANT, Mr. POMBO, Mr. STENHOLM, Mr. HILLEARY, Ms. DANNER, Mrs. CHENOWETH, Mr. ORTIZ, Mrs. CUBIN, Mr. PETERSON of Minnesota, Mr. HASTINGS of Washington, Mr. NETHERCUTT, Ms. DUNN, Mr. HOSTETTLER, Mr. HERGER, Mr. STUMP, Mr. BONO, Mr. SMITH of Oregon, Mr. TAYLOR of North Carolina, Mr. DOOLITTLE, Mr. DICKEY, Mr. DUNCAN, Mr. NORWOOD, Mr. HAYWORTH, Mr. MCINTOSH, Mr. CUNNINGHAM, Mr. BARR of Georgia, Mr. SKEEN, Mr. WELDON of Florida, Mr. CANADY of Florida, Mr. COMBEST, Mr. SENSENBRENNER, Mr. BACHUS, Mr. LEWIS of California, Mr. MCKEON, Mr. GEKAS, Mrs. SMITH of Washington, Mr. COLLINS, Mr. STEARNS, Mr. LARGENT, Mr. MILLER of Florida, Mr. HUTCHINSON, Mr. KIM, Mr. CALVERT, Mr. KNOLLENBERG, Mr. GILLMOR, Mr. METCALF, Mr. TAUZIN, Mr. TALENT, Mr. CRANE, Mr. BRYANT, Mr. ARCHER, Mr. BILBRAY, Mr. BLILEY, Mr. HILL, Mrs. EMERSON, Mr. RADANOVICH, Mr. GOODLATTE, Mr. GIBBONS, Mr. MANZULLO, Mr. SPENCE, Mr. BARTLETT of Maryland, and Mr. HULSHOF) introduced the following bill; which was referred to the Committee on Resources

A BILL

To preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

[Italic->] Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, *[<-Italic]*

SECTION 1. SHORT TITLE.

This Act may be cited as the 'American Land Sovereignty Protection Act'.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS- Congress finds the following:

(1) The power to dispose of and make all needful rules and regulations governing lands belonging to the United States is vested in the Congress under article IV, section 3, of the Constitution.

(2) Some Federal land designations made pursuant to international agreements concern land use policies and regulations for lands belonging to the United States which under article IV, section 3, of the Constitution can only be implemented through laws enacted by the Congress.

(3) Some international land designations, such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Cultural Organization, operate under independent national committees, such as the United States National Man and Biosphere Committee, which have no legislative directives or authorization from the Congress.

(4) Actions by the United States in making such designations may affect the use and value of nearby or intermixed non-Federal lands.

(5) The sovereignty of the States is a critical component of our Federal system of government and a bulwark against the unwise concentration of power.

(6) Private property rights are essential for the protection

FAX TO: Rep. James (Attn: Myrna)
FROM: Royce

1 of 4

of freedom.

(7) Actions by the United States to designate lands belonging to the United States pursuant to international agreements in some cases conflict with congressional constitutional responsibilities and State sovereign capabilities.

(8) Actions by the President in applying certain international agreements to lands owned by the United States diminishes the authority of the Congress to make rules and regulations respecting these lands.

(b) PURPOSE- The purposes of this Act are the following:

(1) To reaffirm the power of the Congress under article IV, section 3, of the Constitution over international agreements which concern disposal, management, and use of lands belonging to the United States.

(2) To protect State powers not reserved to the Federal Government under the Constitution from Federal actions designating lands pursuant to international agreements.

(3) To ensure that no United States citizen suffers any diminishment or loss of individual rights as a result of Federal actions designating lands pursuant to international agreements for purposes of imposing restrictions on use of those lands.

(4) To protect private interests in real property from diminishment as a result of Federal actions designating lands pursuant to international agreements.

(5) To provide a process under which the United States may, when desirable, designate lands pursuant to international agreements.

SEC. 3. CLARIFICATION OF CONGRESSIONAL ROLE IN WORLD HERITAGE SITE LISTING.

Section 401 of the National Historic Preservation Act Amendments of 1980 (Public Law 96-515; 94 Stat. 2987) is amended--

(1) in subsection (a) in the first sentence, by--

(A) striking 'The Secretary' and inserting 'Subject to subsections (b), (c), (d), and (e), the Secretary'; and

(B) inserting '(in this section referred to as the 'Convention')' after '1973'; and

(2) by adding at the end the following new subsections:

(d) (1) The Secretary of the Interior may not nominate any lands owned by the United States for inclusion on the World Heritage List pursuant to the Convention, unless--

(A) the Secretary finds with reasonable basis that commercially viable uses of the nominated lands, and commercially viable uses of other lands located within 10 miles of the nominated lands, in existence on the date of the nomination will not be adversely affected by inclusion of the lands on the World Heritage List, and publishes that finding;

(B) the Secretary has submitted to the Congress a report describing--

(i) natural resources associated with the lands referred to in subparagraph (A); and

(ii) the impacts that inclusion of the nominated lands on the World Heritage List would have on existing and future uses of the nominated lands or other lands located within 10 miles of the nominated lands; and

(C) the nomination is specifically authorized by a law enacted after the date of enactment of the American Land Sovereignty Protection Act and after the date of publication of a finding under subparagraph (A) for the nomination.

(2) The President may submit to the Speaker of the House of Representatives and the President of the Senate a proposal for legislation authorizing such a nomination after publication of a finding under paragraph (1)(A) for the nomination.

(e) The Secretary of the Interior shall object to the inclusion of any property in the United States on the list of World Heritage

FAX TO: Rep. James (ATTN: Myrinda)
FROM: Royce
2 of 4

in Danger established under Article 11.4 of the Convention, unless--

(1) the Secretary has submitted to the Speaker of the House of Representatives and the President of the Senate a report describing--

(A) the necessity for including that property on the list;

(B) the natural resources associated with the property;

and

(C) the impacts that inclusion of the property on the list would have on existing and future uses of the property and other property located within 10 miles of the property proposed for inclusion; and

(2) the Secretary is specifically authorized to assent to the inclusion of the property on the list, by a joint resolution of the Congress after the date of submittal of the report required by paragraph (1).'

(f) The Secretary of the Interior shall submit an annual report on each World Heritage Site within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the site:

(1) An accounting of all money expended to manage the site.

(2) A summary of Federal full time equivalent hours related to management of the site.

(3) A list and explanation of all nongovernmental organizations that contributed to the management of the site.

(4) A summary and account of the disposition of complaints received by the Secretary related to management of the site.'

SEC. 4. PROHIBITION AND TERMINATION OF UNAUTHORIZED UNITED NATIONS BIOSPHERE RESERVES.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1 et seq.) is amended by adding at the end the following new section:

SEC. 403. (a) No Federal official may nominate any lands in the United States for designation as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization.

(b) Any designation on or before the date of enactment of the American Land Sovereignty Protection Act of an area in the United States as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization shall not have, and shall not be given, any force or effect, unless the Biosphere Reserve--

(1) is specifically authorized by a law enacted after that date of enactment and before December 31, 2000;

(2) consists solely of lands that on that date of enactment are owned by the United States; and

(3) is subject to a management plan that specifically ensures that the use of intermixed or adjacent non-Federal property is not limited or restricted as a result of that designation.

(c) The Secretary of State shall submit an annual report on each Biosphere Reserve within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the reserve:

(1) An accounting of all money expended to manage the reserve.

(2) A summary of Federal full time equivalent hours related to management of the reserve.

(3) A list and explanation of all nongovernmental organizations that contributed to the management of the reserve.

(4) A summary and account of the disposition of the complaints received by the Secretary related to management of the reserve.'

FAX TO: Rep. James (Att. Myer)
FROM: Royce

3 of 4

SEC. 5. INTERNATIONAL AGREEMENTS IN GENERAL.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1 et seq.) is further amended by adding at the end the following new section:

'SEC. 404. (a) No Federal official may nominate, classify, or designate any lands owned by the United States and located within the United States for a special or restricted use under any international agreement unless such nomination, classification, or designation is specifically authorized by law. The President may from time to time submit to the Speaker of the House of Representatives and the President of the Senate proposals for legislation authorizing such a nomination, classification, or designation.

'(b) A nomination, classification, or designation, under any international agreement, of lands owned by a State or local government shall have no force or effect unless the nomination, classification, or designation is specifically authorized by a law enacted by the State or local government, respectively.

'(c) A nomination, classification, or designation, under any international agreement, of privately owned lands shall have no force or effect without the written consent of the owner of the lands.

'(d) This section shall not apply to--

'(1) sites nominated under the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (popularly known as the Ramsar Convention);

'(2) agreements established under section 16(a) of the North American Wetlands Conservation Act (16 U.S.C. 4413); and

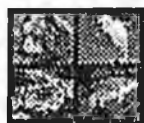
'(3) conventions referred to in section 3(h)(3) of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712(2)).

'(e) In this section, the term 'international agreement' means any treaty, compact, executive agreement, convention, bilateral agreement, or multilateral agreement between the United States or any agency of the United States and any foreign entity or agency of any foreign entity, having a primary purpose of conserving, preserving, or protecting the terrestrial or marine environment, flora, or fauna.'

SEC. 6. CLERICAL AMENDMENT.

Section 401(b) of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1(b)) is amended by striking 'Committee on Natural Resources' and inserting 'Committee on Resources'.

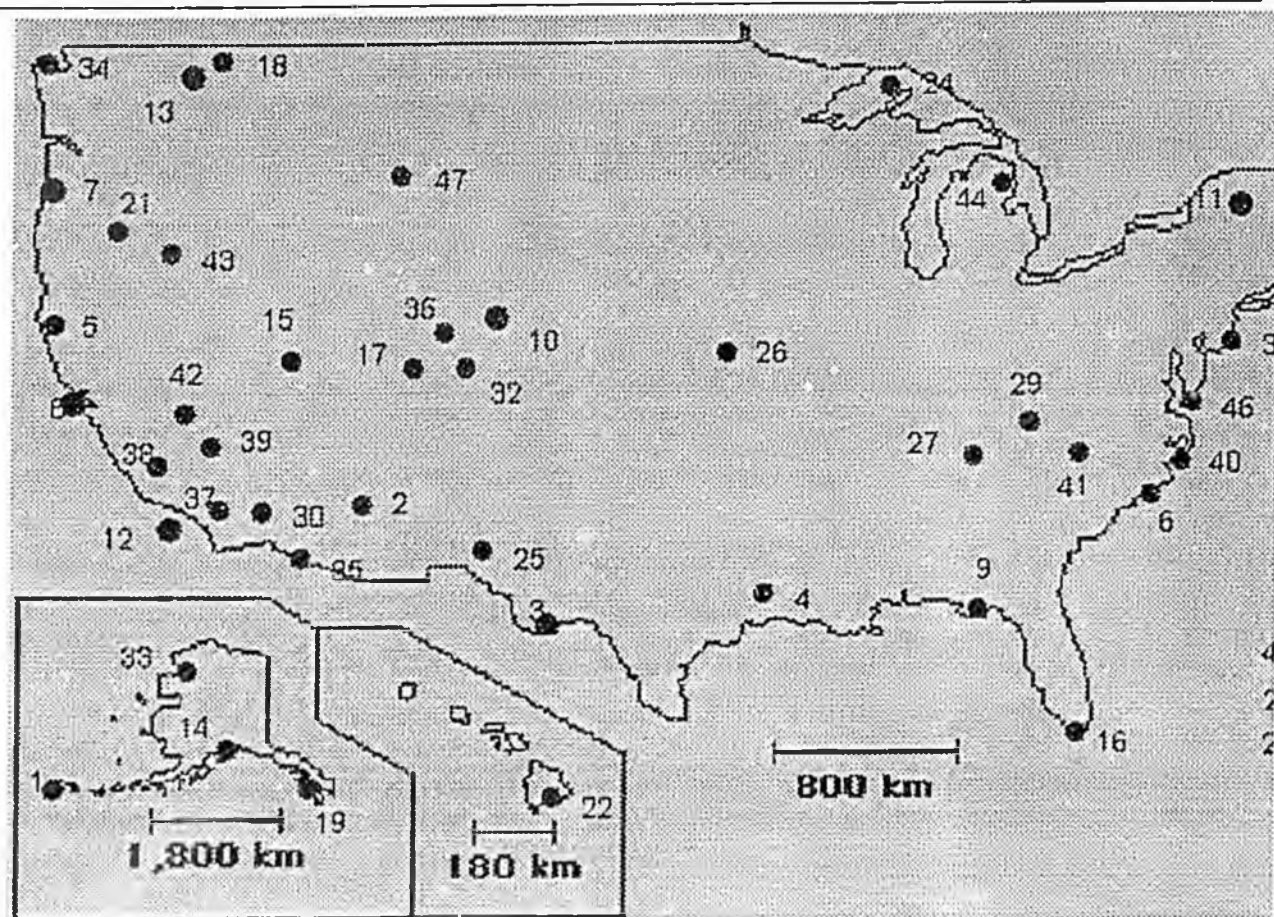
*FAX TO: Rep. James (BHW: Myrna)
FROM: Royce
4 of 4*



U.S. Man and the Biosphere

Biological Resources Division - USGS

Map of U.S. Biosphere Reserves



1. Aleutian Islands
2. Beaver Creek
3. Big Bend
4. Big Thicket
5. California Coast Ranges
6. Carolinian-South Atlantic
7. Cascade Head
8. Central Gulf Coastal Plain
10. Central Plains
11. Champlain-Adirondack
12. Channel Islands
13. Coran
14. Denali
15. Desert
16. Everglades
17. Fraser

CI-UNESCO Project : Strengthening Institutional Capacity, Technology Transfer, and Networking for Biosphere Reserves

The Biosphere Reserve Concept

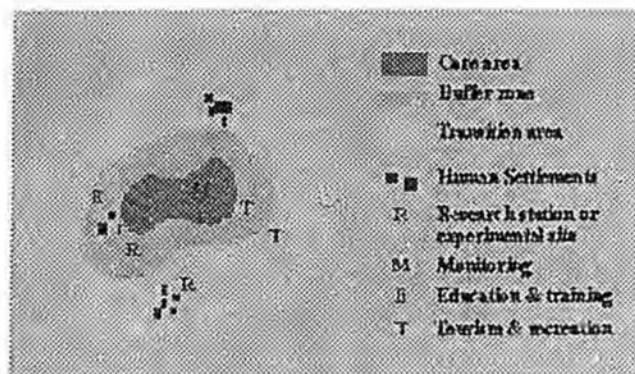
In 1968, the UNESCO Conference on the Conservation and Rational Use of the Biosphere gave rise to the Man and the Biosphere (MAB) Programme within UNESCO. The biosphere reserve concept was key to achieving MAB's objective of striking a balance between conserving biodiversity, encouraging economic and social development, and preserving cultural values.

Biosphere reserves are areas of terrestrial and coastal/marine ecosystems where, through appropriate zoning patterns and management mechanisms, the conservation of ecosystems and their biodiversity is ensured. Each biosphere reserve has three basic functions:

- *a conservation function:* to contribute to the conservation of landscapes, ecosystems, species and genetic variation;
- *a development function:* to foster economic and human development which is socially and ecologically sustainable;
- *a logistic function:* to provide support for research, monitoring, education and information exchange related to local, national and global issues of conservation and development.

For management purposes, each reserve is divided into three zones:

- *core zone:* strictly protected areas with very little human influence, which are used to monitor natural changes in representative ecosystems and serve as conservation areas for biodiversity;
- *buffer zone:* areas surrounding the core zone where only low impact activities are allowed, such as research, environmental education, and recreation;
- *transition zone:* the outer zone where sustainable use of resources by local communities is encouraged and these impacts can be compared to zones of greater protection.



While traditional parks often attempt to form small protected areas in a world increasingly dominated by severe human impacts, biosphere reserves are designed to bring people and nature together to demonstrate how to both use and preserve nature.

The Global Picture

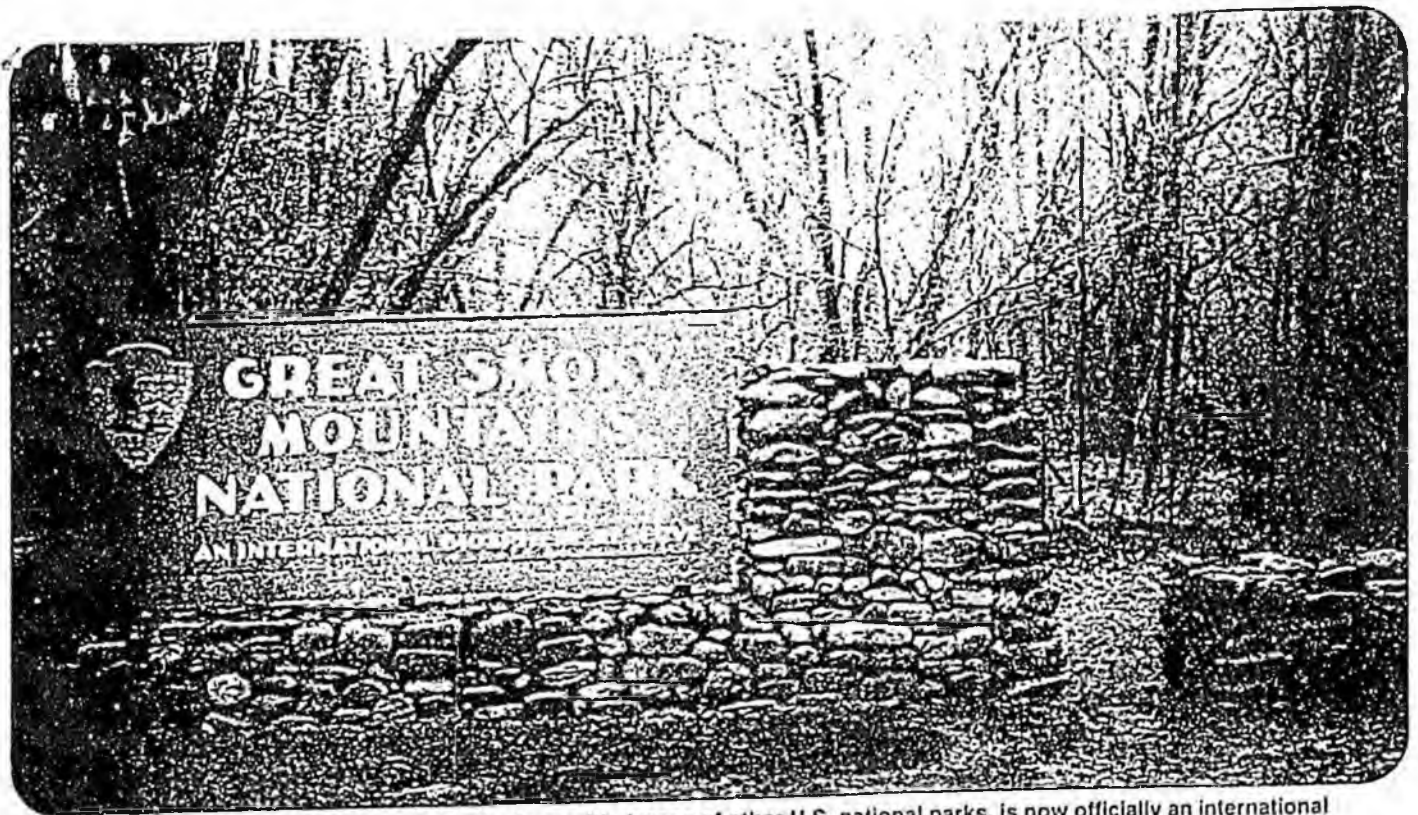
A primary goal of UNESCO-MAB is the exchange of scientific knowledge and management experience. There are currently more than 335 biosphere reserves in 85 countries, forming a global network of scientists and natural resource managers working to maintain the long-term survival of fragile ecosystems. Because of its unique structure, this biosphere reserve network has the ability to serve as a medium for the worldwide exchange of ideas and information on conserving biodiversity and monitoring ecological changes in the environment.

A major international conference held in Seville, Spain in 1995 refined and strengthened the strategy for this global cooperative effort. By recognizing the value of partnerships among local communities, government institutions, non-governmental organizations and private enterprises -- such as that between UNESCO, CI, Intel, and NEC -- the network is capitalizing on the shared strengths and needs among each of its participants.

[Biosphere Reserves FAO](#)







Great Smoky Mountains National Park, along with dozens of other U.S. national parks, is now officially an international biosphere reserve area administered by a United Nations committee whose authority supersedes the U.S. government.



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 276-0347

March 10, 1997

Honorable Jeannette James
Alaska House of Representatives
Capitol Building
Juneau, AK 99801

RE: HJR-14, Supporting the American Land Sovereignty Protection Act

Dear Representative James,

The Alaska Miners Association wishes to go on record in support of House Joint Resolution 14 which urges the U.S. Congress to pass, H.R.901, the American Land Sovereignty Protection Act of 1997. We have also reviewed the proposed Committee Substitute for HJR-14 and this CS makes several beneficial additions to the resolution that will help educate the public to the dangers presented by World Heritage Sites and Biosphere Reserves.

We are aware of at least two instances where World Heritage Sites have been used to block development projects. In one instance, affecting the New World Mining District in Montana, both domestic and international environmental groups used the fact that Yellowstone National Park is a World Heritage Site to oppose the development of a mine located outside the park. Some details of the proposed mine include: that it would be located about three miles north of the park boundary on a drainage that flows away from the park; it would be an underground mine with limited surface facilities; it would utilize modern mining and recovery technologies; it would, as part of its operating plan, clean up and correct environmental problems that had been left by historical mining which occurred before current environmental laws were in place.

In another instance, U.S. and European based environmental groups have used the newly established "Volcanoes of Kamchatka World Heritage Site" in an effort to block mine development projects that would create jobs and economic development for the extremely depressed economy of Kamchatka. The current economy of Kamchatka is mainly commercial fishing with some limited tourism. These are important industries but both are seasonal, relatively low paying, and highly impacted by outside forces. Mining would provide badly needed economic diversification and stability for the area.

These examples show how World Heritage Sites and Biosphere Reserves can be used to stop and/or harass mineral development. The same thing would most certainly occur if the system proposed as "Beringia International Park, World Heritage Site, and Marine Biosphere Reserve" were to be established covering "existing national parks, refuges, and monuments" in western Alaska, an area in eastern Russia, and the Bering Sea between them.

Experience has shown that every possible means is used to stop development in Alaska and these designations would be one more avenue. In most of western Alaska, mineral development has the greatest opportunity to provide new jobs and the basis for economic opportunities. This is the

same for State lands, federal lands, and Native and other private lands. National and international environmental groups would be expected to use Heritage and Biosphere designations to block and harass mineral development.

The most obvious example would be for these groups to target mineral development on State and Native lands adjacent to designated areas. Another example would be to block development of a railroad from the northwest Arctic coalfields, southern NPRA, or the Ambler Mining District to either a deep water port site on Norton Sound or to connect with the Alaska Railroad at Nenana. Such a railroad will be necessary if large volumes of coal and concentrates are to ever be developed in this part of the state. The right-of-way for such a railroad would have to cross as many as three of the "existing national parks, refuges, or monuments."

A third example is that a Marine Biosphere Reserve is not defined by Congress and the impacts of such a designation are unknown. It is likely that animal rights advocates would use such a designation in an attempt to stop the harvesting of marine mammals. And that it would be used to block an undersea pipeline from western Alaska or the Chukchi Sea down to Saint Lawrence Island. And that it would be used to block any attempt to load coal ships in the Chukchi Sea or to increase the 110 day open water shipping season for Red Dog mine by a few weeks using an ice breaker.

A fourth and even more-troubling example is that World Heritage Sites and Biosphere Reserves could be used by international competitors or foreign nations to affect any of the items above. Monies could be channeled through international environmental groups to fund the harassment of Alaska projects. We would expect that if zinc producers in other parts of the world had known that Red Dog would, in 1997, be producing 8% of the world's zinc concentrate, they would have done everything possible to block the right-of-way across Cape Krusenstern National Monument, one of the areas now being proposed for inclusion in a World Heritage Site.

As a final example, the rules and management guidelines for World Heritage Sites and Biosphere Reserves are established by a committee of the United Nations. They are therefore subject to change without control or consent by either the U.S. Congress or the President.

Any one of the above examples should be sufficient for every member of Congress to vote in favor of the American Land Sovereignty Protection Act of 1997.

Thank you for introducing this resolution and for the opportunity to comment on this extremely important issue.

Sincerely,



Steven C. Borell, P.E.
Executive Director

cc: Congressman Don Young
Senator Ted Stevens
Senator Frank Murkowski

FISCAL NOTE

No.
 Bill Version: HJR 14
 (H) Publish Date: 2/19/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Title: Supporting the American Land Sovereignty
Protection Act
 Sponsor: James
 Requestor: H. WTR

Dept. Affected _____
 BRU: _____
 Components: _____
 Serial # _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

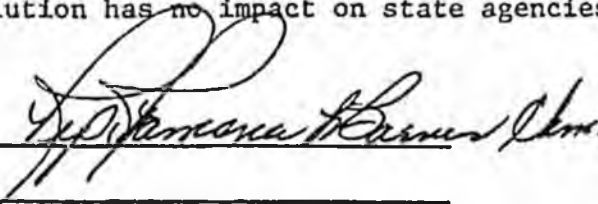
Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis This resolution has no impact on state agencies.

Prepared by:

H. WTR



Date: 2-17-97

Phone: 465-6585

Phone:

HJR

16

Date Referred to Committee: January 27, 1997

FURTHER REFERRALS:

Date of Committee Action: 3/6/97

The STATE AFFAIRS Committee considered:

HJR 16

HOUSE JOINT RESOLUTION NO. 16

SUPPORT FEDERAL BALANCED BUDGET AMENDMENT

Relating to a federal balanced budget amendment.

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) CONSUMER

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jennette James</i>	✓			
<i>[Signature]</i>		✓		
<i>[Signature]</i>		✓		
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	

CHAIR'S SIGNATURE Jennette James

Alaska State Legislature



While in Session:
State Capitol Building
Juneau, Alaska 99801-1182
907-465-3719
Fax 907-465-3258

Interim:
119 N. Cushman, Suite 211
Fairbanks, Alaska 99701-2879
907-456-5081
Fax 907-456-8245

Representative Al Vezey

SPONSOR STATEMENT HJR16

“Relating to a federal balanced budget amendment.”

Federal government overspending has become the rule and not the exception over the years. It is clear that change is needed and the federal government can no longer handle the responsibility of creating our national budget without new guidelines.

One generation should not have the right to burden another with its debts. The unlimited ability to borrow has resulted in a federal debt totaling \$5.3 trillion.

Our nation must learn to live within its means, just as each individual must. Passing a balanced budget amendment will bring discipline to our national spending: without this discipline we face economic chaos. With the passage of a Balanced Budget Amendment, more resources would go toward private investment, interest rates would drop and businesses could afford to expand. It is for these reasons I ask the members of both houses to support this resolution urging the Congress, the President of the United States, and each state of our nation to support the Balanced Budget Amendment to the U.S. Constitution.



REPUBLICAN GOVERNORS ASSOCIATION

Now AMERICA'S MAJORITY

January 9, 1997

Dear Republican Leader:

As you know, the Republican leadership of the U.S. House and Senate has committed all of its efforts to early passage of the Balanced Budget Amendment. We are writing to express to you our support for the Balanced Budget Amendment. We also request that you consider sponsoring and/or supporting a resolution in your legislature asking the U.S. House and Senate to pass a Balanced Budget Amendment promptly in the 105th Congress.

One generation should not have the right to saddle another with its debts. The unlimited ability to borrow has resulted in a federal debt totaling \$5.3 trillion.

The benefits of the Balanced Budget Amendment are tangible. As more resources would go toward private investment, interest rates would drop and businesses could afford to expand. A nonpartisan economic analysis has determined that 2.5 million jobs could be created by 2002 if a balanced federal budget were achieved.

We know you consider it very important that the federal government balance its budget. We feel the Balanced Budget Amendment is the best means to ensure that Congress and the President take this responsibility seriously. We would appreciate any assistance you could provide in helping to pass a resolution in your legislature encouraging Congress to quickly pass the Balanced Budget Amendment.

Sincerely,

Terry Branstad
Governor of Iowa
Chairman
Republican Governors Association

Haley Barbour
Chairman
Republican National Committee

C. Robert Brawley
State Representative, NC
President, National Republican
Legislators Association

*Barbara
This is all that I have
for HJR1016.
Don't know if AL will
continue to pursue this due to
the failure in the U.S. Senate by
a vote.
Dempsey
3581*

A L A S K A

**NFIB**National Federation of
Independent Business

MAR 04 1997

National Federation of Independent Business**Statement of Support for HJR 16****A Resolution in Support of the Federal
Balanced Budget Amendment****March 3, 1997**

The Alaska Chapter of the National Federation of Independent Business has 4,400 members, making it the largest small-business advocacy group in the state.

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

The National Federation of Independent Business has lobbied hard for the Balanced Budget Amendment to the US Constitution. Following is an excerpt from NFIB testimony before the US Senate Judiciary Committee:

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

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

NFIB/Alaska urges support for HJR 16.

Alaska State Legislature

While in Session:
State Capitol Building
Juneau, Alaska 99801-1182
907-465-3719
Fax 907-465-3258

Interim:
119 N. Cushman, Suite 211
Fairbanks, Alaska 99701-2879
907-456-5081
Fax 907-456-8245

Representative Al Vezey

January 29, 1997

From: Representative Al Vezey ✓
State Capitol, Rm. 13

To: Representative Jeannette James
Chairman, House State Affairs Committee
Rm. 106, State Capitol Bldg.

Subject: Hearing Request on HJR16

425

I respectfully requested a hearing on HJR16, "*Relating to a federal balanced budget amendment*" before the State Affairs committee at the earliest convenience of that committee and it's chairman.

Thank you for your favorable consideration of this request.

OK ✓
Riviera

**Model Resolution by State Legislatures
Requesting that the
Balanced Budget Amendment to the U.S. Constitution
be Submitted to the States for Ratification**

WHEREAS, the annual federal budget has not been balanced since 1969, and the federal public debt is now more than \$5 trillion or \$20,000 for every man, woman, and child in America; and

WHEREAS, continued deficit spending demonstrates an unwillingness or inability of both the federal executive and legislative branches to spend no more than available revenues; and

WHEREAS, fiscal irresponsibility at the federal level is lowering our standard of living, destroying jobs, and endangering economic opportunity now and for the next generation; and

WHEREAS, the federal government's unlimited ability to borrow raises questions about fundamental principles and responsibilities of government, with potentially profound consequences for the nation and its People, making it an appropriate subject for limitation by the Constitution of the United States; and

WHEREAS, the Constitution of the United States vests the ultimate responsibility to approve or disapprove constitutional amendments with the People, as represented by their elected State Legislatures; and opposition by a small minority repeatedly has thwarted the will of the People that a Balanced Budget Amendment to the Constitution should be submitted to the States for ratification;

BE IT THEREFORE RESOLVED BY THE LEGISLATURE OF _____, That the Congress of the United States expeditiously pass, and propose to the Legislatures of the several States for ratification, an amendment to the Constitution of the United States requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

BE IT FURTHER RESOLVED, That [the appropriate State official(s)] transmit copies of this resolution to the President of the United States Senate, the Speaker of the House of Representatives of the United States, each Member of the [State] Congressional Delegation, and the Secretary of State and the presiding officers of both Houses of the Legislatures of each of the other States in the Union.

HJR 16



AMERICAN LEGISLATIVE EXCHANGE COUNCIL

910 17th Street N.W. ■ Fifth Floor ■ Washington, D.C. 20006 ■ (202) 466-3800 ■ FAX (202) 466-3801

*faxed
1/23/97
lee*

Dear Member of Congress,

As members of the American Legislative Exchange Council (ALEC) we would like to take this opportunity to welcome the 105th Congress. It is both an exciting and challenging time to be an elected official in this great nation.

During the next few years, you will be faced with many historic opportunities to advance the American dream of freedom, opportunity and prosperity. But none will be as significant as enacting and sending to the states for ratification a Constitutional Balanced Budget Amendment.

As state legislators who must balance our state budgets each year, we understand the difficult choices you will face. Unfortunately, as the past 29 years have shown, it has been impossible for past Congresses to withstand the political pressure of special interests and make the tough choices necessary to balance the budget. Clearly, the federal budget process is broken and needs fixing. As the experience in the states shows, balanced budget amendments work, and a federal Balanced Budget Amendment is the only way to guarantee the fiscal integrity of this nation and a solvent future for our children and grandchildren. Therefore, we call on you to exercise the courage and fiscal responsibility to stand up to the special interests who are willing to place their interests ahead of the nation's future.

We hope that the 105th Congress will make the Balanced Budget Amendment its first priority. The nation cannot afford to wait. The federal government cannot continue to borrow from future generations to pay for current consumption. If deficit spending is not curbed now, when it can be done sensibly and gradually, it will have to be done under desperate circumstances. The only way to ensure that programs like Social Security and Medicare are there for us and our children is to set a course of fiscal responsibility today.

As you may know, ALEC is the nation's largest bipartisan, individual membership association of state legislators, with nearly 3,000 members. ALEC is dedicated to the Jeffersonian principles of individual liberty, limited government and the free enterprise system. We believe that reducing the devastating \$5 trillion national debt is central to these principles and critical to the strength of the nation's economy.

The historic opportunity to provide a brighter, more prosperous future lies in your hands. We in the states are up to the challenge and ready to ratify the Balanced Budget Amendment. This is not about whether you are a Democrat or Republican or a liberal or conservative — this is about what you must do for the future of this great nation. It is up to you to make the right choice for this country, the fiscally responsible choice — pass a Balanced Budget Amendment.

Reply Fax (No Cover Sheet Necessary)

Please fax this form to ALEC at (202) 466-3801. If you do not have access to a fax machine, please call Karen O'Brien, Director of Tax & Fiscal Policy at ALEC at (202) 466-3800, ext. 237 and leave a message that you wish to have your name added to the above letter.

Please respond as soon as possible and before January 31, 1997

I hereby authorize you to add my name to the above letter in support of the Constitutional Balanced Budget Amendment. I understand the letter will be published and sent to every Member of Congress and the President.

Signature: *Jeanette James*

Name (please print): JEANETTE JAMES

State: AK Rep. Sen. Delegate Assemblyman



ACTION ALERT

TO: ALL ALEC MEMBERS

FROM: Representative Bonnie Sue Cooper (R-Mo.)
ALEC National Chair

Speaker Bobby Hogue (D-Ark.)
ALEC First Vice Chairman

RE: 105TH CONGRESS: VOTE ON THE BALANCED BUDGET AMENDMENT

An historic opportunity is upon us. We stand the best chance ever of passing the Balanced Budget Amendment in the new 105th Congress. Both the House and the Senate plan to move quickly in January 1997 on the Balanced Budget Amendment. Both chambers may debate and even vote on the amendment simultaneously, perhaps in February, to maximize national focus on the issue. ALEC and the 105th Congress need your help to guarantee a better economic future for this nation.

We are calling upon you to call or write your senators and representatives from your state and let them know of your support for passing the BBA this year. Also, we are asking for your signature on the attached letter from ALEC members to each member of Congress. **In addition, and most importantly, please share with your colleagues in the legislature the enclosed sample Resolution Requesting that the Balanced Budget Amendment to the U.S. Constitution be Submitted to the States for Ratification.** Passing this or a similar resolution in your state will send a strong, clear message to Congress that the federal government must adhere to the same standard that virtually every state and citizen in this country follows — balancing their budgets.

You must act today if you want to restore fiscal responsibility to our federal government and pass the Balanced Budget Amendment this year.

Again, please:

- ① Pass in your state legislature a resolution calling upon Congress to pass the Balanced Budget Amendment (see enclosed sample).
- ② Write or call your senators and representatives with your support for the BBA.
- ③ Fax the attached Reply Form to ALEC to add your name to ALEC's letter.

Thank you for your prompt action!

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HJR 16

Revision Date: 3/5/97 Dept. Affected: Governor
 Title: Support Fed. Balanced Budget Amendment BRU: _____
 Sponsor: Veppij Component: _____
 Requester: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY97) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: B. Cottrell
 Division: Rep. Granda
 Approved by Commissioner: _____
 Agency: _____

Phone: 465-3743
 Date: 3/5/97
 Date: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

HJR

18

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 29, 1997

FURTHER REFERRALS:

HESS
Judiciary
Finance

Date of Committee Action: 2/11/97

The STATE AFFAIRS Committee considered:

HJR 18

HOUSE JOINT RESOLUTION NO. 18

DEDICATED FUNDS: RATE MAY BE CHANGED

Proposing an amendment to the Constitution of the State of Alaska relating to changing the rate of a tax or license that supports a dedication of its proceeds.

recommends it be replaced with the following committee substitute CS HJR 18 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) Electronics 1/31/97
 zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jeannette James</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>		<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE *Jeannette James*

Alaska State House of Representatives
House District 39

Session
Alaska State Capital
Juneau, Alaska 99801-1182
Phone: (907) 465-4942



Interim
P.O. Box 137
Akiak, Alaska 99552
Phone: (907) 765-7526

Representative Ivan M. Ivan

SPONSOR STATEMENT - HOUSE JOINT RESOLUTION 18

This resolution proposes an amendment to Article IX, Section 7 of the state constitution. The current article allows for the dedication of funds for a specific purpose as long as it existed by April 24, 1956. This resolution would allow a changing of a rate of a tax or license of which the proceeds are dedicated to a special purpose. This proposed amendment would be placed before the voters at the next general election, if approved by the Legislature.

I introduced this resolution because of the differing opinions represented by the attorney general's office and Legal Services in regards to the dedication of a tax increment to a specified purpose. In order to avoid litigation, especially if the proceeds of the tobacco tax are to be placed into the school fund or if the legislature changes any other tax rate or license fee, into which proceeds are to be placed into a dedicated fund, this resolution is a means to resolve that potential problem.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HJR 18

1 Page 1, line 1:

2 Delete "an amendment"

3 Insert "amendments"

4 Page 1, following line 12:

5 Insert a new bill section to read:

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

8 **Section 29. Effective Date and Retroactive Effect of Amendment to**
9 **Section 7 of Article IX.** The 1998 amendment permitting changes in the rate of a
10 tax or license that is dedicated to a special purpose (art. IX, sec. 7) shall take effect
11 the day after certification of the election returns by the lieutenant governor and is
12 retroactive to October 1, 1997."

13 Renumber the following bill section accordingly.

14 Page 1, line 13:

15 Delete "amendment"

16 Insert "amendments"

LEGAL SERVICES

COPY

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

April 26, 1996

SUBJECT: Draft CSHB 431 () (Work Order No. 9-LS15181F)

TO: Representative Jeannette James, Chair
House State Affairs Committee

FROM: Jack Chenoweth
Legislative Counsel

This is drafted in the alternative.

Until a few weeks ago, based on a very old Opinion of the Attorney General, I would have advised as a matter of course that this proposal to dedicate the tax increment constituted a violation of the dedicated fund prohibition of article IX, section 7. Now, as a result of further research explained in Legislative Counsel Mike Ford's April 3 memorandum, I believe that conclusion is not so certain.

The drafting of the amendment reflects the possibility that the dedication might not be found unconstitutional for the reason given in that memo.

To repeat advice already provided to you:

Under AS 43.50.140, the proceeds derived from the original tobacco tax are required to be paid into the school fund. This fund avoids the constitutional prohibition against dedicated funds contained in Article IX, sec. 7, of the Alaska Constitution because the fund existed at the time the Alaska Constitution was ratified by the voters. Specifically, the Alaska Constitution provides that the dedicated funds prohibition does 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 two main motivations for the ban on dedicated funds are to maintain the potential of flexibility in budgeting and to ensure that the legislature does not abdicate its responsibility in making budget decisions. Fairbanks v. Convention & Visitors Bureau, 818 P.2d 1153, at 1158 (Alaska 1991).

A question was raised as to whether the Alaska Constitution allows the legislature to change the amount of the tax, without affecting the status of the school fund as an exception to the dedicated fund rule. In 1959, the Attorney General issued opinion No. 7, that concluded that the "legislature has no power to raise or lower the dedication by increasing, or decreasing the

tax or license fee or the rate thereof which is set aside." 1959 Opinion No. 7, at page 5. This conclusion is, however, contradicted by the minutes of the constitutional convention. In discussing the language in Article IX, sec. 7, at the constitutional convention, the question arose as to the effect of this section regarding a change to the rate of taxation in a dedicated fund. The committee with the responsibility for writing Article IX was the committee on Finance and Taxation. The spokesman for that committee was Barrie M. White. The following discussion with Delegate White and other delegates illustrates the intent of the framers of the Alaska Constitution:

R. RIVERS: May I make a correction? When I was illustrating the gas tax about the going up to six, no that would be wrong, because absolutely allowing allocations as exist at the time this constitution is ratified would fix the ceiling, I am sure, as to how high they could go. I'll call this the closing, if you wish, Mr. McCutcheon. But certainly they could go through. Now, when Mr. Taylor read my proposed amendment, he said "allocations allowed at the time this goes into effect" and he may have inadvertently omitted "continuance of". All I'm objecting to is this "continuance of". I'm in accord with their idea of not letting any more allocations come along, but when you say "continuance of" allocations I immediately think of the rate of allocations as well as the subject matter. Now if they are only going to allow allocations on particular subjects that are now covered by allocations then I have no quarrel with them whatsoever but I am sure that's not the intent of the Committee. The Committee intends to allow such rates of allocations as will exist when this constitution is ratified but no one may go beyond those rates in the future and if they ever drop down, this continuance business does not allow them to re-enact.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, if as Mr. Rivers deduces, the terminology of this sentence means that the rates are frozen. The principle behind this sentence is not that the rates are frozen, it is the principle of allocating earmarked funds. It is not a matter of percentage wise, it is a theory of earmarked funds and I can't see his argument in this by striking out "continuance". He proposes that this is going to cure the proposition of a freeze. He thinks it is a freeze. It is not a freeze in any respect of the word as far as I can see; it is a matter of a theory of earmarked funds and doesn't have anything to do with dollar and cents or percentages.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask the Committee what their intent was on that. I would like to hear what they say.

PRESIDENT EGAN: Do you wish to answer that, Mr. White?

WHITE: I think I can answer for all the Committee on that, Mr. Rivers. It is not the intent of the Committee that this be interpreted to mean a freeze in any way, shape, or form. The Committee feels that the objections raised by Mr. Rivers are covered by the existing language. The reason the Committee resists the deletion of the words "continuance of" is that it would then mean that the legislature could discontinue a presently earmarked fund next year and then 50 years from now bring it back into being. We do not intend that that be the case.

V. RIVERS: If you are not freezing an amount, could they raise an existing allocation under this? On the gasoline tax could they raise that to six per cent according to your thinking on this?

WHITE: Certainly they could.

V. RIVERS: If they lowered it down to three could they then re-enact two more after that?

WHITE: The Committee intends that this not have any reference to rates at all. The Committee intends that this apply to the allocation of particular taxes to a particular propose and no more than that.

V. RIVERS: I just wanted this in the record. Now if they wipe it out altogether, discontinue it, it's gone forever, is that right?

WHITE: That is right.

V. RIVERS: But if you discontinue half of it, you can raise it back up?

WHITE: That would mean that.

(Emphasis added). This discussion indicates a clear intent on the part of the delegates to allow a change to the rate of taxation without affecting the status of a dedication of the proceeds of the tax. While the intent of the constitutional framers has weight, the final decision on interpretation of the Alaska Constitution rests with the Alaska Supreme Court. It is possible that the court would disagree with the intent expressed in the constitutional minutes and find that any change to the rate of tobacco taxation destroys the status of the school fund as an exception the dedicated fund rule. Nonetheless, comments by delegates to the constitutional convention do have some bearing on the decision making process of the Alaska Supreme Court. In Starr v. Hagglund, 374 P.2d 316, 319 (Alaska 1962), the court stated that

Representative Jeannette James

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opinions of individual members of the constitutional convention are not considered to be a safe guide in ascertaining the purpose of a majority of the convention when adopting a particular provision. But reports of committees and statements of chairmen of such committees stand on more solid footing and may be resorted to in determining the intent of the enacting body.

(Emphasis added) Therefore, the comments of Mr. White, as chairman of the committee on finance and taxation, may be persuasive to the court.

Please contact me if you have further questions.

JBC:pl:glc:lmb
96-091.lmb

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

April 3, 1996

SUBJECT: Tobacco Tax - (Work Order No. 9-LS1832)

TO: Representative Jeannette James

FROM: Michael F. Ford
Legislative Counsel

You have asked for an explanation of the effects of an increase of the tobacco tax (AS 43.50.090) on the dedicated fund provision contained in AS 43.50.140. As explained in this memo, it appears that the legislature may be able to increase the tax without affecting the dedicated status of the state school fund.

Under AS 43.50.140, the proceeds derived from the tobacco tax are required to be paid into the school fund. This fund avoids the constitutional prohibition against dedicated funds contained in Article IX, sec. 7, of the Alaska Constitution because the fund existed at the time the Alaska Constitution was ratified by the voters. Specifically, the Alaska Constitution provides that the dedicated funds prohibition does 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 two main motivations for the ban on dedicated funds are to maintain the potential of flexibility in budgeting and to ensure that the legislature does not abdicate its responsibility in making budget decisions. Fairbanks v. Convention & Visitor Bur., 818 P.2d 1153, at 1158 (Alaska 1991).

The precise question you have raised is whether the Alaska Constitution allows the legislature to change the amount of the tax, without affecting the status of the school fund as an exception to the dedicated fund rule. In 1959, the Attorney General issued opinion No. 7, that concluded that the "legislature has no power to raise or lower the dedication by increasing or decreasing the tax or license fee or the rate thereof which is set aside." 1959 Opinion No. 7, at page 5. This conclusion is, however, contradicted by the minutes of the constitutional convention. In discussing the language in Article IX, sec. 7, at the constitutional convention, the question arose as to the effect of this section regarding a change to the rate of taxation in a dedicated fund. The committee with the responsibility for writing Article IX was the committee on Finance and Taxation. The spokesman for that committee was Mr. Barrie M. White. The following discussion with Mr. White and other delegates illustrates the intent of the framers of the Alaska Constitution:

R. RIVERS: May I make a correction? When I was illustrating the gas tax about the going up to six, no that would be wrong, because absolutely allowing allocations as exist at the time this constitution is ratified would fix the ceiling, I am sure, as to how high they could go. I'll call this the closing, if you wish, Mr. McCutcheon. But certainly they could go through. Now, when Mr. Taylor read my proposed amendment, he said "allocations allowed at the time this goes into effect" and he may have inadvertently omitted "continuance of". All I'm objecting to is this "continuance of". I'm in accord with their idea of not letting any more allocations come along, but when you say "continuance of" allocations I immediately think of the rate of allocations as well as the subject matter. Now if they are only going to allow allocations on particular subjects that are now covered by allocations then I have no quarrel with them whatsoever but I am sure that's not the intent of the Committee. The Committee intends to allow such rates of allocations as will exist when this constitution is ratified but no one may go beyond those rates in the future and if they ever drop down, this continuance business does not allow them to re-enact.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, if as Mr. Rivers deduces, the terminology of this sentence means that the rates are frozen. The principle behind this sentence is not that the rates are frozen, it is the principle of allocating earmarked funds. It is not a matter of percentage wise, it is a theory of earmarked funds and I can't see his argument in this by striking out "continuance". He proposes that this is going to cure the proposition of a freeze. He thinks it is a freeze. It is not a freeze in any respect of the word as far as I can see; it is a matter of a theory of earmarked funds and doesn't have anything to do with dollar and cents or percentages.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask the Committee what their intent was on that. I would like to hear what they say.

PRESIDENT EGAN: Do you wish to answer that, Mr. White?

WHITE: I think I can answer for all the Committee on that, Mr. Rivers. It is not the intent of the Committee that this be interpreted to mean a freeze in any way, shape, or form. The Committee feels that the objections raised by Mr. Rivers are covered by the existing language. The reason the Committee resists the deletion of the words "continuance of" is that it would then mean that the legislature could discontinue a presently earmarked fund next year

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and then 50 years from now bring it back into being. We do not intend that that be the case.

V. RIVERS: If you are not freezing an amount, could they raise an existing allocation under this? On the gasoline tax could they raise that to six per cent according to your thinking on this?

WHITE: Certainly they could.

V. RIVERS. If they lowered it down to three could they then re-enact two more after that?

WHITE: The Committee intends that this not have any reference to rates at all. The Committee intends that this apply to the allocation of particular taxes to a particular propose and no more than that.

V. RIVERS: I just wanted this in the record. Now if they wipe it out altogether, discontinue it, it's gone forever, is that right?

WHITE: That is right.

V. RIVERS: But if you discontinue half of it, you can raise it back up?

WHITE: That would mean that.

We believe that this discussion indicates a clear intent to allow a change to the rate of taxation, without affecting the status of a dedication of the proceeds of the tax. To this extent, we disagree with the 1959 opinion No. 7 issued by the Attorney General, that the framers of the constitution intended that a change to the rate of taxation would destroy the dedicated status of the fund.

It is important to note that while the intent of the constitutional framers has weight, the final decision on interpretation of the Alaska Constitution rests with the Alaska Supreme Court. It is possible that the court would disagree with the intent expressed in the constitutional minutes and find that any change to the rate of tobacco taxation destroys the status of the school fund as an exception the dedicated fund rule. Nonetheless, comments by delegates to the constitutional convention do have some bearing on the decision making process of the Alaska Supreme Court. In Starr v. Haggund, 374 P.2d 316, 319 (Alaska 1962), the court stated that "opinions of individual members of the constitutional convention are not considered to be a safe guide in ascertaining the purpose of a majority of the convention when adopting a particular provision. But reports of committees and statements of chairmen of such committees stand on more solid footing and may be resorted to in determining the

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intent of the enacting body." (Emphasis added) Therefore, the comments of Mr. White, as chairman of the committee on finance and taxation, may be persuasive to the court.

You have also asked if the rate of taxation is changed, does the additional revenue go into the school fund or the general fund? We believe that any increase in the tax imposed under AS 43.50.090 will not, by itself, affect the disposition of the proceeds of the tax. The increased revenues will still flow into the school fund as required under AS 43.50.140. It is also important to note that to maintain the status of the school fund as an exception to the dedicated fund rule, that disposition of the proceeds of the tobacco tax cannot be changed. To change the disposition of the proceeds of the tax as required under AS 43.50.140 would destroy the dedicated fund exemption granted to the school fund under Article IX, sec. 7, of the Alaska Constitution.

Please contact me if you have further questions.

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March 11, 1959

1959 Opinions of the
Attorney General, No. 7

Reversed in part as to
Sharing of Taxes with Local
Units of Government by Opin-
ion No. 31, December 2, 1960.

The Honorable Hugh J. Wade
Acting Governor of Alaska
State Capitol
Juneau, Alaska

Re: The Prohibition Against Dedicated Funds Contained
in Article IX, Section 7 of the Constitution of
the State of Alaska.

Dear Governor Wade:

I have for consideration your request of February 27, 1959,
for an opinion on § 7, Article IX of the Constitution. You
have specifically requested whether an increase in the tax on
gasoline used in the aviation industry in Alaska could con-
stitutionally be diverted to the Aviation Fund or whether the
excess must go into the general fund.

Section 7 reads as follows:

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"DEDICATED FUNDS. The proceeds of any state
tax or license shall not be dedicated to any
special purpose, except 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 constitution by the
people of Alaska."

Inasmuch as this problem is related to a wide variety of com-
plex revenue dedications which are now law or proposed law and
since the problem is basic to state financing, the scope of
this opinion is broadened beyond the question at hand to a
general review of § 7 of the Constitution.

This section has been diligently researched by recourse
to the minutes of the Constitutional Convention of 1955-1956.

Hon. Hugh J. Wade
Acting Governor of Alaska

March 11, 1959
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The typed transcripts have been used wherever available. However, § 7 was introduced on the floor of the Convention on the morning of January 17, 1956, and no transcripts are available. For that morning session, the tape recordings of the debates of the delegates were listened to. References to the tapes so as to provide both pertinent quotations and their context would be impossible without extending this opinion to unmanageable length. However, references will be made to the tapes by giving the foot of tape at which the pertinent discussion transpires and then summarizing the occurrences, leaving the context to be verified from the original by interested persons.

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To grasp the problem examination of the reasons behind § 7 and the evils to be avoided, thereby, will be necessary.

Prior to the Convention, the Public Administration Service was employed by the Alaska Statehood Committee to prepare Constitutional Studies for the convention delegates. See Vol. of the Constitutional Studies, Sec. IX, pp 27-30. Among the reasons such a prohibition as is found in § 7 was recommended are the following:

1. Flexibility of budgeting.
2. Financial control.
3. Lack of relationship between the tax and purpose.

Percentages of dedicated funds as compared to total revenue were cited for various states.

Listening to the tape recordings of the morning session of January 17, 1956, impels the conclusion that the delegates were desirous of eliminating dedications so that the Legislature would have the greatest flexibility in allocating tax revenues on a basis of need. It was stated that, as a matter of compromise, a grandfather clause had been included in § 7 to permit all dedications existing on the date of ratification of the Constitution (April 24, 1956) to continue. An amendment to this clause, offering a change from the date of ratification to the effective date of the Constitution was defeated. (See the transcripts pp 57 et seq. on January 28, 1956.)

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Other than the grandfather clause which permits existing dedications, there is a further exception to the prohibition. Any dedications "required" for participation in Federal programs are permitted. Federal conservation statutes presently require certain license fees to be diverted to special purposes in order for states to receive matching funds. (For instance, see 16 USCA 669 and 16 USCA 777.) Only those dedications which

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March 11, 1959

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re "required" will be permitted. Any attempted dedication of funds after April 26, 1956, which is not absolutely required for participation in Federal programs must be covered into the general fund, any statute notwithstanding.

The prohibition against dedications should be read in conjunction with § 7 of Article XI of the Constitution which deals with restrictions on the initiative and referendum. Therein it is stated that the initiative and referendum shall not be used to create or apply to dedications of "revenue." Note that the prohibition in § 7, Article IX is against dedications of "proceeds of any state tax or license." This seeming contradiction is resolved by reference to the typed transcripts on page 31 of January 24, 1956. There it was explained to be the intent that "revenues" is a broader term than "tax or license" and means all proceeds coming to the State. Consequently, it is proper for a legislature to dedicate any revenues that are proceeds of either taxes or licenses.

The grandfather clause is stated as an exception to the general prohibition in the following language:

" . . . This provision shall not prohibit the continuation of any dedication for special purposes existing upon the date of ratification. . . ."

The question you pose is whether or not the rate of the dedication can be raised. In other words, if a tax proceed or portion thereof is dedicated to a special purpose, may the rate of tax be or the proportion of the proceeds be raised, thereby increasing the amount of dedicated funds.

It is my opinion that no action by the Legislature is permissible which would (1) tend to increase or decrease the percentage of the total tax and license proceeds which are dedicated, or (2) which would tend to increase or decrease the amount of proceeds which are dedicated.

The exception permits only the "continuation" of dedications "existing" on the date of ratification. To raise the station gas tax from 5 to 7 cents and dedicate the whole 7 cents would constitute another and further dedication of tax proceeds. The only prior existing dedication is one for 5 cents and not one for 7 cents. To permit existing dedications to be raised would "open end" all of them existing upon the date of ratification. The purpose of the prohibition would be defeated. Existing dedications could be raised to inordinate percentages of the total revenue, thus denying the financial stability sought by the constitutional framers.

Hon. Hugh J. Wade
Acting Governor of Alaska

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The foregoing opinion is born out by the taped recordings of the Convention proceedings. (Refer to tapes 2, 3 and 4 of January 17, 1956.)

At foot 540, tape 3, Delegate Johnson proposed to amend the present § 7 by striking the words, "prohibit the continuance of" and inserting in their place the words "apply to."

At foot 600, tape 3, Delegate Ralph Rivers spoke in favor of the amendment because he felt it would permit repeal and re-enactment of existing dedications. Delegates Johnson and Nolan at foot 640, tape 3, indicated their understanding of the amendment was that the Legislature would be powerless to repeal an existing dedication. (Note: Delegates Johnson and Rivers were for the amendment, but disagree as to its meaning. However, both they and Delegate Nolan indicate that the section without the amendment could not be repealed and re-enacted at a later date.)

At foot 55, et seq., tape 4, Delegate Victor Rivers says Delegate Johnson's amendment should be supported because it would permit existing dedications to be raised, lowered, replaced or eliminated by the Legislature. He stated that the amendment would therefore give greater flexibility than the present wording.

At foot 125, tape 4, Delegate Merland stated that he spoke for the Committee on Finance and Taxation, and that it was their intent that present dedications be allowed until repealed; but that once it was repealed, it could not be later re-enacted.

At foot 215, tape 4, this amendment was defeated 40 to 13.

At foot 330, tape 4, Delegate Ralph Rivers offered an amendment to § 7 which would delete the words "the continuance of."

Delegate Ralph Rivers at foot 345, says the present wording freezes the exact rates of the dedications allowed upon the date of ratification of the Constitution. He advocated his amendment so as to give more flexibility. He stated that his amendment would not allow the rate to be raised but would allow it to be lowered or temporarily discontinued.

At foot 395, tape 4, Delegate Coghill supported the amendment to § 7 because if adopted, it would permit the dedication to be temporarily done away with or suspended downward; thereby allowing the Legislature more flexibility for growth or decline in financial problems.

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Acting Governor of Alaska

March 11, 1959
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At foot 420, tape 4, Delegate Gray challenged the amendment on the grounds that it was, in substance, the same amendment as the earlier one offered by Delegate Johnson at foot 540 of tape 3.

Delegate Ralph Rivers answered Delegate Gray by saying that the purpose of Delegate Johnson's amendment was to permit doubling the dedications or the rate involved, and the purpose of his own amendment was to permit lowering of rates while still prohibiting the rates from being raised by the Legislature. Delegate Ralph Rivers' amendment was also defeated, leaving § 7 substantially as it appears in the Constitution after re-drafting by the Committee on style and drafting.

Consequently, the intent of the drafters of the Constitution of the State of Alaska, was to permit the continuance of existing dedications at the then existing rates until the Legislature saw fit to exercise the only power retained in relation to them: that is, the power to repeal.

A dedication must be continued, if at all, in exactly the same form. Any attempted alteration short of repeal is a nullity. A dedication encompasses (1) proceeds or part of the proceeds of a tax or license (2) set aside at a certain rate (3) for a particular purpose. The Legislature has no power to raise or lower the dedication by increasing or decreasing the tax or license fee or the rate thereof which is set aside. Also, there is no power to broaden or reduce the purposes for which an existing dedication is made, for to do so is to alter the dedication itself.

I have for further consideration, two questions submitted by the Director of the Legislative Council. For purposes of continuity and clarity, these questions and their answers will be set out herein.

(1957).

The first question is whether H.B. 120, which is substantially a re-enactment of Ch. 10, SLA 1949, the Alaska Property Tax Act, violates § 7 of the Constitution by providing in § 4 of the bill that the tax levied by the State shall be turned over to the local political subdivision wherein collected.

You are advised that it is my opinion that such a provision violates the Constitution and is a prohibited dedication. This is a tax proceed which at the time it is collected is earmarked for a special purpose (political subdivisions). There is, however, nothing to prevent each legislature from annually making an appropriation to the political subdivisions of the monies already collected under the Act. To be sure, this is the

Hon. Hugh J. Wade
Acting Governor of Alaska

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express intent of the constitutional framers: that each obligation of government be judged both on its own merits and in comparison with the merits of others in the computation of the budget. (See page 31 et seq. of the written transcripts from the January 24, 1956, session of the Convention for the proposition that a dedication is present when a tax proceed is earmarked from the time it is collected.) Also note that at foot 113, tape 3, it is indicated that the return of liquor license fees and business license fees to political subdivisions constituted a dedication, but since they were earmarked at the time of ratification, they would continue to be dedicated.

The second problem posed by the Director of the Legislative Council is whether or not the raw fish tax refund to political subdivisions could be raised from the present 10% to 50%. In view of the foregoing expressions, the answer is in the negative.

You are further apprised that since the ratification date of the Constitution was April 26, 1956, all dedications made in the 1957 session of the Territorial Legislature are nullities as of January 3, 1959. Any monies due and owing prior to January 3rd may be covered to their earmarked purposes, but receipts due and owing after that which fall into the prohibited category must be covered into the general fund. Also note that any repeal or repeal and re-enactment of a dedication during that session takes the dedication from under the protection of the grandfather clause and a re-enactment either in 1957 or later is a nullity unless the dedication is required by the Federal Government for participation in Federal programs.

Very truly yours,

J. GERALD WILLIAMS
ATTORNEY GENERAL

By
Jack O'Hair Asher
Assistant Attorney General

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Addendum: On page 5, paragraph 6, after H.B. 126, insert "introduced in the 1957 Legislature."

cc: Department of Finance
Alaska Office Building
Juneau, Alaska

STATE OF ALASKA

DEPARTMENT OF LAW

JAY S. HAMMOND, GOVERNOR

OFFICE OF THE ATTORNEY GENERAL

POUCH 4 - STATE CAPITOL
JUNEAU 99511

June 2, 1978

Honorable Terry Gardiner
Chairman, House Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Legislation on Fisher-
men's Fund
Our File: J-66-580-78

Dear Chairman Gardiner:

This responds to your inquiry of May 3, 1978, with respect to the legislation enacted last year based on advice from this office which we now believe to have been in error. */

In brief, one of our attorneys who was relatively unfamiliar with the nuances of the prohibition against dedi- cated funds, Alaska Const., art. IX, §7, worked with your committee last year to develop legislation which would elim- inate the double fee paid by commercial fishermen who are also holders of limited entry permits. The results are con- tained in sections 8 and 14, chapter 105, SLA 1977. In ef- fect, they exempted permit holders from license fees and

*/ You also requested advice on the proper disposition of Interest earned from the Fishermen's Fund. We have not yet reached a conclusion on that point but we are now convinced that no legislation is required on it, i.e., either the in- terest is already a part of the dedication or it is not. When our researches lead us to a conclusion, we will advise.

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provided for payment into the Fishermen's Fund from monies collected for permit fees of an amount equal to the amount which would have been paid into the fund from collections for commercial licenses. It was then believed that this arrangement would not offend the constitutional prohibition. We now conclude otherwise.

The Alaska Constitution, art. IX, §7, provides in relevant part as follows:

The proceeds of any state tax or license shall not be dedicated to any special purpose [with exceptions not here relevant]. . . . This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of the ratification of this section [1956] by the people of Alaska.

There can be no question that the framers of the constitution fully intended, with only the exceptions expressly stated, to bar for all time the additional dedication of any new or different state revenues for special purposes. 3, 4, and 5 MINUTES, ALASKA CONSTITUTIONAL CONVENTION 2297-2301, 2361-2390, 2401-2416, 3415-3420. The reasons for their doing this were many, but basically the reasons came down to the proposition that neither the chief executive (as the State's chief budget officer) nor the legislature (as the State's only appropriating body) should have its hands tied financially by a myriad of dedicated funds for a myriad of

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diverse programs and that each program must compete annually with all others for its fair share of available money. Id.

The prohibition, however, is against new dedications, i.e., those dedications of revenues which did not exist on April 24, 1956, the date of the constitution's ratification. The dedication of license fees for the Fishermen's Fund was first made in 1951 and later amended in 1955. §4, ch. 100, SLA 1951; am §1, ch. 99, SLA 1955; now codified as AS 23.35.060. Hence, when the constitution was ratified there existed a dedication of

60 per. of the money derived by the state from all commercial fishermen's licenses, including clam diggers' licenses. . . .

"[T]he continuation of any dedication . . . existing" is not prohibited. In an early opinion by this office, we opined that the legislature could neither increase the percentage of the dedication nor the amount of the levy so as to increase the amount to be dedicated. 1959 Op. Atty. Gen. No. 7. To do so would alter the dedication, not continue it. To do so would also increase the dedication, i.e., dedicate still more of the source of revenue and thereby constitute still another dedication in violation of the constitution. Nor, of course, could a new source of revenue be tapped if the dedicated source were lost or abandoned.

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Amendments which could have allowed such alterations were expressly rejected by the framers. 4 MINUTES 2378-2390, 2401-2411. In sum, it was concluded that, with respect to dedicated funds, the only power left to the legislature is the power to repeal the existing dedications. Id. */

In 1977, AS 23.35.060, which provides for the Fishermen's Fund dedication, was amended to read, in relevant part, as follows:

60 percent of the money derived by the state from each crewmember fishing license issued under AS 16.05.480, an equal amount of the money derived by the state from each commercial fisherman who is issued a permit under AS 16.43 [the Limited Entry Act]. . . .

The effect of the amendment is to add a dedication of a new and different revenue source, i.e., the annual fee for a commercial fisheries entry permit. It does not continue an existing dedication. **/

*/ It goes without saying that this lack of power to alter does not apply to the other exceptions, the permanent fund and dedications required under federal law.

**/ Arguably, the Buy-Back Fund established under AS 16.43.-310-320 is also a new and prohibited dedication. However, the wording of the constitution's prohibition was designed to exclude certain kinds of dedications, e.g., sinking funds, retirement funds, employment security funds. 4 MINUTES 2363 (dialogue between delegates Davis and White). The Buy-Back Fund might fall into this excepted class. We are inclined to think not, but the answer is uncertain.

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It can be argued that the annual fee for a commercial fisheries entry permit supplants the annual fee for a commercial fisheries license for gear operators. That is, those persons no longer pay the latter, AS 16.05.480 as amended by §8, ch. 105, SLA 1977, effective January 1, 1978, but rather only the former. AS 16.43.160; 20 AAC §05.220. Not only is this argument essentially the same as those resoundingly rejected by the framers of our constitution, 4 MINUTES 2378-2390, 2401-2412, but it is simply not correct. The 1977 amendment to AS 23.35.060 unquestionably makes a dedication from a new and different source of revenue. It does not matter that the amount is the same.

When the license fee for gear operators was eliminated, the dedication for the Fishermen's Fund was reduced to 60 percent of the money received thereafter under AS 16.05.480 from crewmen's license sales. The purported dedication from fees collected from permit sales and renewals is a nullity -- without any force or effect.

The exception from the prohibition against dedicated funds is for the "continuance" of "existing" dedications. Reducing a dedication makes it different from that which existed, i.e., an existing dedication is not continued when it is reduced any more than it is when it is increased. Under the plain language of the constitution, any change is

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prohibited. The prior opinion referred to above, 1959 Op. Atty. Gen. No. 7, basing its conclusion on the framers' rejection of a proposed amendment which would have allowed for reductions in existing dedications, concluded that any alteration was a nullity. That conclusion is logically sound. There is some contradictory material in the Convention minutes, however. 4 MINUTES 2405 (dialogue between delegates V. Rivers and White, the latter acting as spokesman for the committee). How the courts would rule is uncertain, but they will give some weight to remarks of committee spokesmen. Walters v. Cease, 388 P.2d 263, 265-266 (Alaska 1964).

Here there was no reduction in the amount to be dedicated, i.e., 60 percent of a certain source, but rather an alteration -- partial elimination -- in the source. The license fees for commercial fishermen were changed to exempt persons who hold permits. Thus, the present dedication is not a "continuance" of an "existing" dedication. This office issued still another opinion soon after Statehood in which we opined that the reduction of the source invalidates the remaining dedication. 1959 Op. Atty. Gen. No. 14. A reduction of the source was deemed to be, in effect, a repeal of the entire dedication.

This result is admittedly drastic, but there can be no question that it is logically correct. The framers

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rejected every effort to amend the exception language so as to allow a dedication to be altered. 4 MINUTES 2401-2405 (Rivers amendment), 2409-2412 (Kilcher amendment). Delegate White, however, acting as a spokesman for the committee, assured the delegates that, despite the logical implications of the constitution's language, an existing allocation of funds from a given source could be raised or lowered, i.e., say, from 3 percent to 6 percent, that the "continuance" did not apply to rates. He also specified that it did apply so as to prevent the legislature from discontinuing an allocation and then starting it up again sometime in the future. And he said, "The committee intends that this apply to the allocation of particular taxes to a particular purpose and no more than that." Id., at 2405. How much of his remarks, if any, will be judicially accepted is unknown. But we are inclined to the view that the dedication is not repealed in its entirety by the partial elimination of its source but rather that it is reduced to provide for a dedication solely from crewmember commercial licenses -- all that is left of the source. */

*/ The convention expressly rejected an amendment that said, "but discontinuance shall not preclude reinstatement," and therefore, reinstatement of a commercial license fee for operators would not ordinarily allow reinstatement of that dedication. 4 MINUTES 2409-2412 (Kilcher amendment).

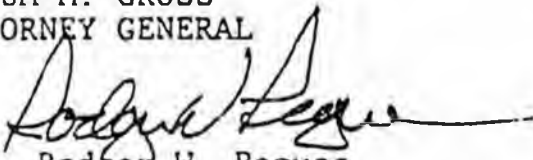
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The problem now is whether the legislature's mistaken action last year, which resulted from our incorrect advice, can be cured. We believe that legislation retroactive to the first of this year -- the effective date of the applicable amendments from last year -- will supersede last year's legislation and cure the mistaken action. We have prepared legislation to accomplish this. It can, as you have suggested, be added to CSSB 428 am. A copy is enclosed. Last year's discontinuance of a portion of the source of the dedication was so obviously based on a mistake as to its legal effect, and its purpose could so easily have been accomplished in the manner we have proposed here that the courts should give this curative legislation its effect.

We hope this answers the committee's questions.

Sincerely yours.

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Rodger W. Pegues
Assistant Attorney General

RWP/pjg

Enc: Proposed Legislation

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

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

November 30, 1982

ATTY GEN OP #13

Gerald L. Wilkerson, C.P.A.
Legislative Auditor
Legislative Audit Division
Legislative Affairs Agency
Pouch W
Juneau, Alaska 99811

Honorable Carole J. Burger
Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99811

Re: The dedicated funds
prohibition applied to various
funds and accounts. Our Files
Nos. J66-785-81 and J66-649-80

Dear Mr. Wilkerson and Commissioner Burger:

You have both asked for a broad review of the application of the constitutional dedicated funds prohibition to various state funds and accounts. Alaska Const. art. IX, § 7. Because of the factual complexities presented by the various funds, accounts, and appropriations and because of the paucity of judicial precedent, we are not able to advise you with absolute certainty regarding the constitutionality of state practices. However, some of the issues raised by your request may be resolved in litigation which is now pending concerning the administration of

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certain appropriations and funds by the Alaska Power Authority. 1/

In response to your request, we have identified and analyzed several categories of funds, accounts, and transactions which raise dedication questions. Our approach in dealing with these questions will be to first discuss the purpose and meaning of the dedication prohibition. We will then focus on the implications of a recent Alaska Supreme Court case that deals specifically with the dedicated funds prohibition. Next we will consider the probable legal status of several general categories of funds, accounts, and appropriations which raise dedication questions. Lastly, we will consider the dedication prohibition in reference to specific funds and appropriations.

We should point out that the advice given in this opinion could have a significant effect upon the state budget. This results from the recent adoption of Article IX, section 16 of the Alaska Constitution (the spending limit). Under the reasoning of this opinion, it may be that income earned by a loan fund or public enterprise must be appropriated to that fund or

1/ The legal issues in this litigation are the validity of the deposit of interest and principal payments on loans in a revolving loan fund and of the appropriation to the Power Development Fund of interest to be received on specific amounts appropriated to that fund (§ 1 ch. 90, SLA 1981 as reenacted by § 69 ch. 59 SLA, 1981 and amended by § 236 ch. 141, SLA 1982.). Trustees for Alaska, et al. v. State of Alaska and Alaska Power Authority, No. 3AN-492-82 Civ. (Alaska Super., Jan. 21, 1982)

enterprise if that income is to be retained by it. If the Alaska Supreme Court adopts that reasoning, the necessity for these appropriations would have to be considered by the administration and the legislature in developing a state budget which conformed to the spending limit. This concern would also become important if independent authorities for operation of entities like the State Ferry System or the Alaska Railroad were to be considered.

I. THE PURPOSE OF THE PROHIBITION

Article IX, Section 7 provides:

DEDICATED FUNDS. 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 [establishing the Permanent Fund] 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.

There are essentially two views of the meaning of this provision. Under the first interpretation the dedicated funds prohibition would require that every dollar received by the state be deposited and remain unrestricted in the general fund until it is withdrawn pursuant to an appropriation authorizing the expenditure of a specific dollar amount for a specific pur-

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pose (absent a contrary federal requirement or a statutory dedication which existed prior to ratification of the Constitution). This is known as the strict interpretation view.

Under the strict view, the phrase "proceeds of any state tax or license" would encompass every dollar paid to the state (or to a public corporation or authority established by the state) for whatever purpose. State loan repayments (both principal and interest), enterprise receipts (e.g., airport lease revenues, parking garage receipts, etc.), program receipts (e.g., Ferry System ticket sales, University of Alaska tuition receipts, etc.), as well as all other revenues (e.g., taxes, natural resource revenues such as royalties, etc.), would be required to be deposited in the state treasury and retained there until the expenditure is authorized by appropriation of a specific dollar amount.

An argument can certainly be made that this is the proper interpretation of the dedicated funds prohibition. As set out in 1975 Op. Atty. Gen. No. 9 at 2 (Alaska May 2, 1974), "Section 7 of Article IX had two interrelated purposes: (1) to prevent any future dedication of revenues for special purposes [i.e., 'earmarking'] and (2) to prevent the creation of new special funds separate from the general fund." The rationale underlying each of these two purposes is "that the widespread existence of dedicated revenues lodged in special funds deprives