

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10880 HOUSE JUDICIARY

1 appropriations made for fiscal year 2006 and applies thereafter.

2 (b) The lieutenant governor shall place the ballot title and proposition for the  
3 2004 amendment relating to an appropriation limit (art. IX, sec. 16) on the ballot again  
4 at the general election in 2010 and every six years thereafter unless it is rejected. If  
5 the majority of those voting on the proposition rejects the amendment, Section 16 of  
6 Article IX is repealed on the date the election is certified.

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

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee

### Memorandum

**To:** Tam Cook, Leg. Legal  
**From:** Vanessa Tordini, Committee Aide  
House Judiciary Committee  
**Date:** January 27, 2004  
**Re:** CS Request

---

Hopefully its not too late to get one more change included in the amended work draft House Judiciary Committee Substitute for work order # 23-LS0435\X, HJR 9 that I requested yesterday.

Please incorporate the following change:

In the exemptions section, lines 11-12, section (6) should read:

"an appropriation required to pay obligations under revenue bonds issued by the state;"

If you have any questions, please call Kelly Huber in Rep. Stoltze's office at 4958 or me at 4990. Thank you very much!

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee

# Memorandum

**To:** Tam Cook, Leg. Legal  
**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee  
**Date:** January 26, 2004  
**Re:** CS Request

---

Please create an amended work draft House Judiciary Committee Substitute for work order # 23-LS0435X, HJR 9, incorporating the following changes:

In the exemptions:

Add trust funds (like the mental health trusts)  
Add "natural" to subsection (3) for natural disasters  
Delete "obligation bonds," on line 12 in subsection (6)

Most importantly, we would like you to please clarify the language in section (c) to the best extent possible. The committee members felt that the language as it currently reads had to be read several times to understand it, and even then could possibly lead to several interpretations. I believe the specific language that led to confusion was the second sentence. (Are we referring to the total *excess* amount of appropriations...that exceeds the limit under (a) of this section? Are there in fact two caps...(a) and (c)? Is there a clearer way to state it?) At this time the sponsor does not want to make substantive changes just clarification.

Also, we need to add language (probably to (a) on page 1) that indicates should an override be accomplished, that added amount above the limit, is NOT included in that year's base for calculating the limit in the future. This is not specified anywhere in the bill and needs to be.

If you have any questions, please call Kelly Huber in Rep. Stoltze's office at 4958 or me at 4990. Thank you very much!

Conceptual Amendment \_\_\_\_\_  
by Rep. McGuire

CSHJR 9 (JUD)

Page 2, Line 20-25 shall read:

Sect. 16 (C) An appropriation that exceeds the limit under (a) of this section:

(1) may be made for any public purpose upon affirmative vote of at least three-fourths of the members of each house of the legislature; and

(2) may not exceed two percent of the amount appropriated for the fiscal year two years preceding the fiscal year for which the appropriations are made, excluding appropriations listed in (b)(1)-(10) of this section.

23-LS0435\X  
Cook  
1/22/04

**CS FOR HOUSE JOINT RESOLUTION NO. 9( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES STOLTZE, Kohring, Rokeberg**

**A RESOLUTION**

1 **Proposing amendments to the Constitution of the State of Alaska relating to an**  
2 **appropriation limit and a spending limit.**

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

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

6 **Section 16. Appropriation and Spending Limit. (a) Appropriations made**  
7 **for a current fiscal year shall not exceed the amount appropriated for the fiscal year**  
8 **two years immediately preceding that current fiscal year by more than fifty percent of**  
9 **the sum of the following:**

10 (1) **the average annual percentage rate of change in the personal**  
11 **incomes of State residents for the three calendar years preceding the calendar year**  
12 **during which the immediately preceding fiscal year began; plus**

13 (2) **the percentage equal to the annual percentage rate of change in the**  
14 **State population for the three calendar years preceding the calendar year during which**  
15 **the immediately preceding fiscal year began.**

16 (b) **Subsection (a) of this section does not apply to**

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

3 (2) an appropriation of Alaska permanent fund income for payments of  
4 permanent fund dividends to State residents;

5 (3) an appropriation to meet a state of disaster declared by the  
6 governor as prescribed by law;

7 (4) an appropriation to the budget reserve fund established in Section  
8 17 of this article;

9 (5) an appropriation of State general obligation and revenue bond  
10 proceeds;

11 (6) an appropriation required to pay obligations under general  
12 obligation bonds, revenue bonds, and certificates of participation issued by the State;

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

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

16 (9) an appropriation of money for expenditure by a State agency to  
17 provide services to another State agency that has also received an appropriation of the  
18 same money; and

19 (10) an appropriation made under (c) of this section.

20 (c) An appropriation that exceeds the limit under (a) of this section may be  
21 made for any public purpose upon affirmative vote of at least three-fourths of the  
22 members of each house of the legislature. The total amount of appropriations under  
23 this subsection made for a fiscal year may not exceed two percent of the amount  
24 appropriated for the fiscal year two years preceding the fiscal year for which the  
25 appropriations are made, excluding appropriations listed in (b)(1) - (10) of this section.

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

28 **Section 30. Application; Reconsideration of Appropriation and Spending**  
29 **Limit.** (a) The 2004 amendment relating to an appropriation and spending limit (art.  
30 IX, sec. 16) first applies to appropriations made for fiscal year 2006 and applies  
31 thereafter.

1           (b) The lieutenant governor shall place the ballot title and proposition for the  
2           2004 amendment relating to an appropriation and spending limit (art. IX, sec. 16) on  
3           the ballot again at the general election in 2010 and every six years thereafter unless it  
4           is rejected. If the majority of those voting on the proposition rejects the amendment,  
5           Section 16 of Article IX is repealed on the date the election is certified.

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

**CS FOR HOUSE JOINT RESOLUTION NO. 9(JUD)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES STOLTZE, Kohring, Rokeberg**

**A RESOLUTION**

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

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

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

6 **Section 16. Appropriation Limit.** (a) Appropriations made for a current  
7 fiscal year shall not exceed the amount appropriated for the fiscal year two years  
8 immediately preceding that current fiscal year by more than fifty percent of the sum of  
9 the following:

10 (1) the average annual percentage rate of change in the personal  
11 incomes of State residents for the three calendar years preceding the calendar year  
12 during which the immediately preceding fiscal year began; plus

13 (2) the percentage equal to the annual percentage rate of change in the  
14 State population for the three calendar years preceding the calendar year during which  
15 the immediately preceding fiscal year began.

16 (b) An appropriation that exceeds the limit under (a) of this section may be

1 made for any public purpose upon affirmative vote of at least three-fourths of the  
2 members of each house of the legislature. The total amount of appropriations under  
3 this subsection made for a fiscal year may not exceed two percent of the amount  
4 appropriated for the fiscal year two years preceding the fiscal year for which the  
5 appropriations are made.

6 (c) Calculations made under (a) or (b) of this section shall not include

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

9 (2) an appropriation of Alaska permanent fund income for payments of  
10 permanent fund dividends to State residents;

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

13 (4) an appropriation to the budget reserve fund established in Section  
14 17 of this article;

15 (5) an appropriation of State general obligation and revenue bond  
16 proceeds;

17 (6) an appropriation required to pay obligations under revenue bonds  
18 issued by the State;

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

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

22 (9) an appropriation of money for expenditure by a State agency to  
23 provide services to another State agency that has also received an appropriation of the  
24 same money;

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

27 (11) an appropriation of money from tuition of the University of  
28 Alaska; and

29 (12) an appropriation made under (b) of this section.

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

1           **Section 30. Application; Reconsideration of Appropriation Limit.** (a) The  
2 2004 amendment relating to an appropriation limit (art. IX, sec. 16) first applies to  
3 appropriations made for fiscal year 2006 and applies thereafter.

4           (b) The lieutenant governor shall place the ballot title and proposition for the  
5 2004 amendment relating to an appropriation limit (art. IX, sec. 16) on the ballot again  
6 at the general election in 2010 and every six years thereafter unless it is rejected. If  
7 the majority of those voting on the proposition rejects the amendment, Section 16 of  
8 Article IX is repealed on the date the election is certified.

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

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HJR 9  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: OOG  
 Title Proposed amendment to the Constitution of the State RDU Elections  
 Alaska relating to an appropriation limit and spending limit. Component Elections  
 Sponsor Representative Stoltze  
 Requester House Judiciary Component No. 21

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

Note: Amounts do not include inflation units, otherwise noted below.

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

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

Prepared by: Leonard G. Jones Phone 465-3051  
 Division: Division of Elections Date/Time 2/2/04 11:20 AM  
 Approved by: Laura A. Glaiser, Director Date 2/2/2004  
 Agency: Office of the Lt. Governor, Division of Elections

## APPENDIX C. STATE TAX AND EXPENDITURE LIMITS

STATE Year of Adoption Type of Limit Method of Approval	Limit Applies To	The Limit Is	Provisions for Waiver	Provisions in the Case of Transfer of Responsibility for Government Programs	Treatment of Surpluses
ALASKA 1982 <sup>1</sup> Constitutional Expenditure Legislative referendum	State appropriations	Yearly growth of appropriations may not exceed percentage increase in population and inflation	In the event of decreased revenues, an appropriation may be made from the Budget Reserve Fund.	None	None
ARIZONA 1978 Constitutional Expenditure Legislative Referendum	Appropriations of state tax revenues	Appropriations of state tax revenues shall not exceed 7.23 percent of state personal income	Requires two-thirds legislative approval for specific additional appropriations	Legislature shall provide for adjustments to limit if court order or legislative enactment transfers responsibility between state and local governments or between federal and state governments	None
CALIFORNIA 1979 Constitutional Expenditure Citizen Initiative	Appropriations of state tax revenues	Yearly growth in appropriations limit shall not exceed percentage increase in population and per capita personal income	In the event of an emergency, the appropriations limit may be exceeded provided increased expenditures are compensated for by reduced expenditures over three following years. Alternatively, the limit may be changed by voters but the change is operative for only four years	1) The appropriations limit shall be altered if program responsibility is transferred from one government entity to another, from government to private entity, or from funding through general revenues to funding through special revenues. 2) The state shall provide the funding when it requires local government to provide a program. 3) Appropriations required for purpose of complying with federal requirements are not under limit	One-half of all surplus revenues shall be returned to taxpayers by revision of tax rates or fee schedules within next two fiscal years; one-half shall be allocated to K-14 school districts.

1. Automatic vote for reconsideration of limit in 1986 continued the provision.

STATE Year of Adoption Type of Limit Method of Approval	Limit Applies To	The Limit Is	Provisions for Waiver	Provisions in the Case of Transfer of Responsibility for Government Programs	Treatment of Surpluses
<b>COLORADO</b> 1991 Statutory Expenditure Legislative vote  1992 Constitutional Expenditure & Revenue Citizen Initiative	State general fund appropriations  All state spending and tax increases	6 percent of prior year's appropriation  Spending can only increase based on population growth and increase in CPI; no change in taxes or tax policy without voter approval; current spending limits cannot be weakened without voter approval	Legislative majority  Any voter-approved increases; General Assembly can declare emergency by two-thirds vote and raise emergency taxes subject to voter approval	None  Locals can reduce or end its subsidy for any state-man- dated program except K-12 education; 90 days notice required and adjustment can occur in a maximum of three equal annual install- ments. Local taxes support- ing these programs must be reduced accordingly	None  Excess revenue must be refunded to the citizens
<b>CONNECTICUT</b> 1991-Statutory (resolution for a consti- tutional amendment) 1992-Constitutional Expenditure Legislative vote-1991 Legislative referendum- 1992	State appropriations (but excludes debt service, state grants to distressed municipalities, first year expenditures for federal mandates or court orders, and expenditures from the Budget Reserve Fund).	Appropriations shall not increase by more than the increase in personal income in the state (average of the annual increase for each of the preceding five years) or the increase in inflation (CPI-U, preceding 12 month period), whichever is greater	Governor can declare an emergency or the existence of extraordinary circumstances, plus approval by three-fifths of both House and Senate	None	1) Budget Reserve Fund (rainy-day fund) 2) Reduction of bonded indebtedness 3) Any purpose authorized by at least three-fifths of both House and Senate
<b>DELAWARE</b> 1978 Constitutional Expenditure Legislative referendum	State general fund appropriations	98 percent of estimated general fund revenue and prior year's unencumbered funds	Declaration of an emergency and three-fifths vote of each chamber	None	Goes into an accumulative cash balance and is avail- able for appropriations in ensuing fiscal year
<b>FLORIDA</b> 1994 Constitutional Revenue Legislative referendum	All state revenues including taxes, fees, licenses and charges	Prior year's revenue plus growth, defined as a five year rolling average of personal income growth	Two-thirds vote of the Legislature	Legislature by statute can adjust the limit to reflect transfers in funding responsibilities between state and local governments	Excess revenues go to the budget stabilization fund. When the fund reaches statutory maximum, the excess is rebated to taxpayers

2. The constitutional amendment will not take effect until the legislature defines terms with a three-fifths vote

STATE Year of Adoption Type of Limit Method of Approval	Limit Applies To	The Limit Is	Provisions for Waiver	Provisions in the Case of Transfer of Responsibility for Government Programs	Treatment of Surpluses
HAWAII 1978 Constitutional Expenditure Constitutional Convention	State general fund appropriations	General fund appropriations shall not exceed the average rate of growth of state personal income for three previous years.	Specific appropriations over the limit require two-thirds approval in both chambers	The state must share the cost of any new program or service increase required of local governments by the Legislature	If the state general fund balance in each of two succeeding years exceeds 5 percent of general fund revenues, the Legislature will provide for a tax refund
IDAHO 1980 Statutory Expenditure Legislative vote	State general fund appropriations (modified in 1994 to exclude one-time expenditures)	Appropriations shall not exceed five and one third percent of state personal income	No provision	Adjustments to limit shall be made if court order or legislative enactment transfers responsibility between state and local governments or between federal and state governments	No provision
IOWA 1992 Statutory Expenditure Legislative vote	State general fund appropriations	Appropriations can be 99 percent of adjusted general fund receipts	None	None	Excess goes to Cash Reserve Fund, then to the Rebuild Infrastructure Account, then to Economic Recovery Fund
LOUISIANA 1979 Statutory Revenue Legislative vote	State tax revenue	Tax revenue shall not exceed the ratio of FY 1970- 79 tax revenue to 1977 state personal income. Expenditures for any given year shall not exceed anticipated state revenues for that year	Statute may be amended by vote of the Legislature	None	State tax revenue in excess of limit shall be deposited in the Tax Surplus Fund; appropriations from that fund may be made for paying tax refunds
1993 Constitutional Expenditure Legislative referendum	State general fund appropriations	State spending limited to 1992 appropriations plus per capita personal income growth	Two-thirds vote by the Legislature	None	Surplus may only be used to retire debt in advance of maturity
MASSACHUSETTS 1986 Statutory Revenue Legislative vote	State revenue	General fund balance may not exceed one-half of 1 percent of the year's tax revenue	Statute may be amended by vote of the legislature	Vote of legislature	Excess revenues transferred to a budget stabilization fund which is only allowed to grow to 5 percent of the state tax revenue, if the fund grows by more, the excess goes back to the taxpayers as an income tax credit  Proportional personal

STATE Year of Adoption Type of Limit Method of Approval	Limit Applies To	The Limit Is	Provisions for Waiver	Provisions in the Case of Transfer of Responsibility for Government Programs	Treatment of Surpluses
MASSACHUSETTS, cont. 1986 Statutory Revenue Initiative petition	State revenue	Revenues limited to the average growth of wages and salaries of the previous three years	Statute may be amended by vote of the legislature	Vote of legislature	Income tax credit
MICHIGAN 1970 Constitutional Revenue Citizen initiative	All state revenues less federal aid	For any fiscal year, state revenue may not exceed 9.49 percent of total personal income for the year prior	Governor must first specify an emergency; then the Legislature must concur by two-thirds vote in each chamber	1) Limit may be adjusted if program responsibility is transferred from one level of government to another by means of a constitutional amendment. 2) State is prohibited from reducing current proportion of local services financed through state aid. 3) No new program shall be required of local governments unless funded by state. 4) The proportion of total state spending paid to all units of local government as a group shall not be reduced below proportion for FY78-79	Revenues exceeding limit by 1 percent or more shall be used for tax refunds set in proportion to income tax liability. Excess less than 1 percent may be transferred to the State Budget Stability Fund
MISSISSIPPI 1992 Statutory Expenditure Legislative vote	Budget recommendations and appropriations	Budget and appropriations are limited to 98 percent of projected revenues	None	None	One-half of year-end surplus remains in the general fund, and one-half goes into a working cash/stabilization reserve fund up to the 7.5 percent ceiling, then remainder goes into a special education fund
MISSOURI 1980 Constitutional Revenue Citizen initiative	Total state revenue	Revenue shall not exceed the ratio of FY 1980-81 state revenue to 1979 state personal income, multiplied by the greater of state personal income in any calendar year or the average state personal income over the previous three calendar	Governor must first specify an emergency; then the legislature must concur by two-thirds vote in each chamber	1) Limit may be adjusted if program responsibility is transferred from one level of government to another. 2) State is prohibited from reducing current proportion of local services financed through state aid. 3) No new program shall be	Revenues exceeding limit by 1 percent or more shall be used for tax refunds set in proportion to income tax liability. Excess less than 1 percent may be transferred to the general revenue fund

STATE Year of Adaption Type of Limit Method of Approval	Limit Applies To	The Limit Is	Provisions for Waiver	Provisions in the Case of Transfer of Responsibility for Government Programs	Treatment of Surpluses
MISSOURI, cont.  1996 Constitutional Revenue Citizen Initiative	Total state revenue	years  Voter approval required for any tax or fee increase that will produce revenues greater than: 1) \$50 million adjusted annually by the percentage change in state personal income for the second previous fiscal year, or 2) one percent of the state revenues for the second fiscal year prior to the legislature's action, whichever is less	Governor must first specify an emergency; then the legislature must concur by two-thirds vote in each chamber	required of local governments unless funded by state.  None	Does not affect 1980 amendment—same as above
MONTANA 1981 Statutory Expenditure Legislative vote	State appropriations	State biennial appropriations shall not exceed state appropriations for the preceding biennium plus the product of preceding biennial appropriations and the growth percentage. The growth percentage is the difference between average state personal income for three calendar years immediately preceding the next biennium and the average state personal income for the three calendar years immediately preceding the current biennium	Governor must declare an emergency. Legislature must then approve specific additional expenditures by two-thirds vote of each chamber	None	No provision
NEVADA 1975 Statutory Expenditure Non-binding Legislative Vote	Governor's proposed general fund expenditures	State expenditures are tied to population growth and inflation using the 1975-76 biennium as the base	Not applicable because non-binding	None	No provision

STATE Year of Adoption Type of Limit Method of Approval	Limit Applies To	The Limit Is	Provisions for Waiver	Provisions in the Case of Transfer of Responsibility for Government Programs	Treatment of Surpluses
NEW JERSEY 1990 Statutory Expenditure Legislative vote	General fund state appropriations less exemptions for debt service, state aid, grants-in-aid and capital construction	Appropriations shall not exceed the average prior three years of state per capita annual income	Two-thirds vote of the Legislature	Adjustment to limit shall be made if program responsibility is transferred between state and local governments	No provision, but the state has a rainy day fund
NORTH CAROLINA 1991 Statutory Expenditure Legislative vote	State appropriations	Fiscal year operating budget shall not be greater than 7 percent of the projected total state personal income for that fiscal year	Limit may be exceeded the extent that Medicaid, prison operations or state health insurance increases exceed increases in state personal income	None	Revert to general fund credit balance
OKLAHOMA 1985 Constitutional Expenditure Legislative referendum	Appropriated revenues	1) 12 percent yearly increase (adjusted for inflation) 2) 95 percent of certified revenue	None	None	Revenue to general fund in excess of estimate (up to 10 percent) shall be deposited in a rainy day fund
OREGON 1979 Statutory Expenditure Legislative vote	State appropriations	The rate of growth of appropriations in each biennium shall not exceed rate of growth of state personal income in the two prior calendar years	Legislative majority	Adjustment to limit shall be made if program funding is transferred from general fund to non-general fund sources or vice-versa	Revenue exceeding close of session revenue forecast by 2 percent or more shall be used for tax refunds proportional to income tax liability
RHODE ISLAND 1992 Constitutional Expenditure Legislative referendum	State general fund appropriations	98 percent of estimated general fund revenue and prior year's unencumbered funds	None	None	2 percent must be put into rainy day fund
SOUTH CAROLINA 1980, 1984 Constitutional Expenditure Legislative Referendum	State appropriations approved by General Assembly	Yearly growth in state appropriations shall not exceed average growth of personal income over three preceding years or 9.5 percent of total state personal income, whichever is greater. Also, the number of state employees is tied to state population	Limit may be exceeded for one year by a two-thirds vote of the legislature if it first declares a financial emergency. Also, every five years the legislature can review the composition of the limit	None	Excess revenues may be spent to match federal programs, for debt purposes, tax relief, or transferred to reserve fund

STATE Year of Adoption Type of Limit Method of Approval	Limit Applies To	The Limit Is	Provisions for Waiver	Provisions in the Case of Transfer of Responsibility for Government Programs	Treatment of Surpluses
TENNESSEE 1978 Constitutional Expenditure Constitutional Convention	Appropriations of state tax revenue	Growth in state appropriations shall not exceed growth in state personal income	Specific additional amount may be approved by majority vote of the legislature	State must share in cost if it increases expenditure requirements of local government	No provision
TEXAS 1970 Constitutional Expenditure Legislative referendum	Appropriations of state tax revenues not dedicated by the state constitution	Growth of biennial appropriations shall not exceed rate of growth of state personal income	Specific additional amount may be approved by majority vote of the Legislature if it first adopts a resolution that an emergency exists	None	No provision
UTAH 1989 Statutory Expenditure Legislative vote	State appropriations	Yearly growth in appropriations tied to population growth and inflation	Emergency must be declared by governor and confirmed by more than two-thirds of both houses of the Legislature	1) Adjustment to limit shall be made if program responsibility is transferred between state and local governments 2) Adjustment to limit shall be made if program funding is transferred from general fund to non-general fund sources or vice-versa	No provision
WASHINGTON 1993 Statutory Expenditure Citizen initiative	State expenditures	State expenditures are tied to a three year rolling average of inflation and population growth	An emergency must be declared and approved with two-thirds vote of the Legislature. Revenue increases need two-thirds legislative approval if within expenditure limit, voter approval needed to exceed limit	Prohibits state from imposing new mandates on local governments unless fully reimbursed	Excess revenue goes into Emergency Reserve Fund; if fund exceeds five percent of general fund revenue, the additional surplus is placed in the Education Construction Fund

Source: NCSL survey of legislative fiscal officers, April 1996

P.32

## Spending Limit Escalation Factors and Calculation Comparison

Calendar Year	Average Annual Personal Income	Personal Income % change	Average Monthly Employment	Employment % change	Annual Payroll	Payroll % change	1-Jul Population	Population % change	CPIU Anchorage	Inflation % change
81	6,902		185,387		4,759,723,567		434,300		92.4	
82	8,263	20%	199,845	8%	5,520,124,247	16%	464,300	7%	97.4	5%
83	9,302	13%	212,832	6%	6,075,746,330	10%	499,100	7%	99.2	2%
84	9,958	7%	222,498	5%	6,360,195,845	5%	524,000	5%	103.3	4%
85	10,756	8%	228,076	3%	6,484,283,718	2%	543,900	4%	105.8	2%
86	10,722	0%	218,729	-4%	6,154,855,455	-5%	550,700	1%	107.8	2%
87	10,427	-3%	207,998	-5%	5,759,858,788	-6%	541,300	-2%	108.2	0%
88	10,776	3%	212,080	2%	5,879,980,794	2%	535,000	-1%	108.6	0%
89	11,779	9%	225,028	6%	6,620,359,500	13%	538,900	1%	111.7	3%
90	12,567	7%	236,227	5%	7,004,096,991	6%	553,171	3%	118.6	6%
91	13,243	5%	241,024	2%	7,347,053,592	5%	569,054	3%	124.0	5%
92	14,039	6%	245,845	2%	7,723,072,327	5%	586,722	3%	128.2	3%
93	14,791	5%	251,216	2%	8,017,637,481	4%	596,906	2%	132.2	3%
94	15,168	3%	256,829	2%	8,288,064,209	3%	600,622	1%	135.0	2%
95	15,514	2%	259,771	1%	8,387,406,337	1%	601,581	0%	138.9	3%
96	15,763	2%	261,484	1%	8,389,994,484	0%	605,212	1%	142.7	3%
97	16,488	5%	266,112	2%	8,721,665,986	4%	609,655	1%	144.8	1%
98	17,138	4%	271,907	2%	9,108,277,123	4%	617,082	1%	146.9	1%
99	17,600	3%	274,570	1%	9,201,169,498	1%	622,000	1%	148.4	1%
2000	18,806	7%	280,664	2%	9,743,507,197	6%	627,697	1%	150.9	2%
2001	19,661	5%	287,941	3%	10,288,563,168	6%	633,630	1%	155.2	3%
2002	20,467	4%	292,237	1%	10,726,560,790	4%	643,786	2%	158.2	2%

Sources: Personal Income - U.S. Bureau of Economic Analysis (BEA); Employment, Payroll, Population - AK, DOL, Research and Analysis; Inflation - U.S. Bureau of Labor Statistics (BLS).

\*Note that FY 04 is the base year for calculating the limit but if it were in effect the allowable change in spending would apply to the FY 05 budget, which is unknown at this time. This projection is an attempt to show the relative change between proposals. Also the more spending categories removed from the limit, the higher the potential budget growth.

PI Average	5.166%
Pop Average	1.155%
Infl Average	2.156%

23-LS0435X  
Cook  
1/22/04

**CS FOR HOUSE JOINT RESOLUTION NO. 9( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES STOLTZE, Kohring, Rokeberg**

**A RESOLUTION**

1 **Proposing amendments to the Constitution of the State of Alaska relating to an**  
2 **appropriation limit and a spending limit.**

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

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

6 **Section 16. Appropriation and Spending Limit.** (a) Appropriations made  
7 for a current fiscal year shall not exceed the amount appropriated for the fiscal year  
8 two years immediately preceding that current fiscal year by more than fifty percent of  
9 the sum of the following:

10 (1) the average annual percentage rate of change in the personal  
11 incomes of State residents for the three calendar years preceding the calendar year  
12 during which the immediately preceding fiscal year began; plus

13 (2) the percentage equal to the annual percentage rate of change in the  
14 State population for the three calendar years preceding the calendar year during which  
15 the immediately preceding fiscal year began.

16 (b) Subsection (a) of this section does not apply to

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

3 (2) an appropriation of Alaska permanent fund income for payments of  
4 permanent fund dividends to State residents;

5 (3) an appropriation to meet a state of disaster declared by the  
6 governor as prescribed by law;

7 (4) an appropriation to the budget reserve fund established in Section  
8 17 of this article;

9 (5) an appropriation of State general obligation and revenue bond  
10 proceeds;

11 (6) an appropriation required to pay obligations under general  
12 obligation bonds, revenue bonds, and certificates of participation issued by the State;

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

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

16 (9) an appropriation of money for expenditure by a State agency to  
17 provide services to another State agency that has also received an appropriation of the  
18 same money; and

19 (10) an appropriation made under (c) of this section.

20 (c) An appropriation that exceeds the limit under (a) of this section may be  
21 made for any public purpose upon affirmative vote of at least three-fourths of the  
22 members of each house of the legislature. The total amount of appropriations under  
23 this subsection made for a fiscal year may not exceed two percent of the amount  
24 appropriated for the fiscal year two years preceding the fiscal year for which the  
25 appropriations are made, excluding appropriations listed in (b)(1) - (10) of this section.

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

28 **Section 30. Application; Reconsideration of Appropriation and Spending**  
29 **Limit.** (a) The 2004 amendment relating to an appropriation and spending limit (art.  
30 IX, sec. 16) first applies to appropriations made for fiscal year 2006 and applies  
31 thereafter.

1           (b) The lieutenant governor shall place the ballot title and proposition for the  
2           2004 amendment relating to an appropriation and spending limit (art. IX, sec. 16) on  
3           the ballot again at the general election in 2010 and every six years thereafter unless it  
4           is rejected. If the majority of those voting on the proposition rejects the amendment,  
5           Section 16 of Article IX is repealed on the date the election is certified.

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

# ALASKA STATE LEGISLATURE

*Chair:*  
House Finance Subcommittees for,  
Department of Public Safety  
Department of Law

*Member:*  
House Finance Committee  
Legislative Council



*Session:*  
Alaska State Capitol  
Juneau, AK 99801-1182  
Phone: (907) 465-4958  
Fax: (907) 465-4928

*Interim:*  
PO Box 464  
Chugak, AK 99567

## REPRESENTATIVE BILL STOLTZE

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP  
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK  
Representative\_Bill\_Stoltze@legis.state.ak.us

### Sponsor Statement

For

### House Joint Resolution 9

**“Proposing amendments to the Constitution of the State of Alaska  
relating to an appropriation limit and a spending limit.”**

---

I believe that the adoption of an effective, reasonable constitutional spending limit to be an essential first step to developing any new long-range fiscal plan for the state. This step will establish guidelines by which the legislature will execute its power of appropriation and will create a more consistent pattern for state spending.

The existing constitutional appropriation limit, adopted by voters in 1981, has not worked as anticipated and has never been effective in restraining state spending. One main reason for its failure is that the starting amount of \$2.5 billion and the escalation factor based on inflation and population growth was too liberal. Given the increases in inflation and population over the last 20 years, the spending limit imposed by Article IX, Section 16 is more than \$6 billion. That is about \$3 billion more than appropriated in Fiscal Year 2002.

The key to this proposed amendment is to start with a base appropriation limit that is equal to the appropriation level of the earliest complete fiscal year. All increases in spending would require a three-fourths vote whether the increase was presented as an increment in the statewide appropriation measures or through another piece of legislation as a fiscal note or stand-alone appropriation. The intent of this approval process is to allow the legislature to focus on significant increases apart from the ongoing needs of general government expenditures.

Specified appropriations are excluded from the appropriation limit for reasons already established in law.

If the amount appropriated exceeds the limit, the governor shall reduce expenditures by the executive branch for its operation and administration in order to bring expenditures back in line with the constitutional limit.

Sponsor Statement  
HJR 9  
February 3, 2003

And finally, an additional provision states that this appropriation guideline remain in place for six years, if passed by a vote of the people, and if it is not revised or passed again in a general election, it would be removed as a Constitutional provision. This caveat is included to either eliminate a provision that may not be working as anticipated without cost to the state or allow revisions to the provision as deemed necessary by future legislatures and Alaskan citizens.

Without a meaningful constitutional amendment in place that limits the amount of state expenditures, there is no guarantee that the state will restrain, let alone reduce, spending. HJR 9 would limit state spending and is a key component of any new long-range plan to ensure Alaska's long-term fiscal health.

# ALASKA STATE LEGISLATURE

*Chair:*  
House Finance Subcommittees for,  
Department of Public Safety  
Department of Law

*Member:*  
House Finance Committee  
Legislative Council



*Session:*  
Alaska State Capitol  
Juneau, AK 99801-1182  
Phone: (907) 465-4958  
Fax: (907) 465-4928

*Intern:*  
PO Box 464  
Chugiak, AK 99567

## REPRESENTATIVE BILL STOLTZE

Representative\_Bill\_Stoltze@legis.state.ak.us

### Sectional Analysis For House Joint Resolution 9

**“Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.”**

- Section 1 (a)** Rewrites the existing constitutional spending limit to be based on a flat spending base. Exceptions of certain types of appropriations and reappropriations are clearly defined and would not be included in the appropriation limit.
- (b)** Permits an appropriation that would exceed the limit established in Section 1 (a) to be made by an affirmative three-fourths vote of the legislature.
- Section 2** Amends the constitution by adding a new section that this resolution would provide for a six-year time limit for the spending limit. At the end of six years, the spending limit would need to be revised, and therefore require a vote of the people, or it would simply be removed from the Constitution.
- Section 3** This section directs the Lt. Governor to place this initiative on the ballot at the next general election.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP  
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

# LEGAL SERVICES

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 323

## MEMORANDUM

January 30, 2003

**SUBJECT:** Appropriation Limit (Work Order No. 23-LS0435)

**TO:** Representative Bill Stoltze  
Attn: Barbara Bitney

**FROM:** Tamara Brandt Cook  
Director *TBC*

Here is a copy of the resolution proposing a constitutional amendment to the appropriation limit that you requested. I must warn you that I cannot be sure this or a similar appropriation limit would be found to be a valid constitutional amendment that may be proposed by the legislature. It might be an invalid revision under the holding of the Alaska Supreme Court in Bess v. Ulmer, 985 P.2d 979 (Alaska 1999). It appears to me that the proposal would meet the four factors identified by the court as indicative of a valid amendment: (1) the proposal is simple to express and understand; (2) it is complete within itself; (3) it relates to only one subject; and (4) it substantially affects only a few sections of the constitution. There is an outside chance, I suppose, that the court would view the requirement for continuing votes on the spending limit contained in sec. 2 of the resolution as an additional subject, but this seems a remote risk. The real worry is that the court in Bess suggested that, aside from the four factors, if a fundamental power of one of the branches of state government is significantly altered, this could also result in the type of "sweeping change" that is not permitted to be accomplished in an amendment to the state constitution proposed by the legislature. It is possible that the court would view a substantial restriction on the legislative power of appropriation, such as here proposed, as amounting to such a significant alteration as to constitute an impermissible revision.

TBC:med  
03-082.med

Enclosure

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HJR 9  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All  
 Title Appropriation/Spending Limit BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Stoltz Component No. \_\_\_\_\_  
 Requester \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Prepared by: Brad Pierce, Senior Policy Analyst Phone \_\_\_\_\_  
 Division: OMB Date/Time 2/11/03 7:33 AM  
 Approved by: \_\_\_\_\_ Date 2/11/2003  
 Agency: \_\_\_\_\_

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHJR9(W&M)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: OOG  
Title Constitutional Amendment relating to BRU Elections  
an appropriation limit and a spending limit. Component Elections  
Sponsor Rep. Stoltze, Kohring, Rokeberg  
Requester House Ways and Means Component No. 21

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

Prepared by: Lauri Allred Phone 465-5347  
Division: Division of Elections Date/Time 5/2/03 10:29 AM  
Approved by: Laura A. Glaiser, Director Date 5/2/2003  
Agency: Office of the Lt. Governor, Division of Elections



ALASKA

## **National Federation of Independent Business**

### **Statement of Support for HJR 9**

### **Appropriation and Spending Limit**

**January 23, 2004**

The Alaska Chapter of the National Federation of Independent Business has 2,500 members, making it the largest small-business advocacy group in the state. The legislative agenda of NFIB is determined by ballot. The ballot is a poll of the membership on a series of issues.

Following are the ballot results in response to the following question: Do you support an amendment to the Alaska Constitution that limits appropriation increases to no more than 2 percent per year?

55% YES

26% NO

19% Undecided

A majority of NFIB members support an amendment to the Alaska Constitution that limits appropriation increases to no more than 2 percent per year. While not garnering enough support to take an official position, the following related question was also posed to the membership.

Should a limited increment for inflation be included for formula-driven programs such as education and Medicaid?

47% YES

33% NO

20% Undecided

**Vote YES on HJR 9**

Submitted by Thyes Shaub on behalf of NFIB/Alaska.

# ALASKA STATE LEGISLATURE

*Chair:*  
House Finance Subcommittees for,  
Department of Public Safety  
Department of Law

*Member:*  
House Finance Committee  
Legislative Council



*Session:*  
Alaska State Capitol  
Juneau, AK 99801-1182  
Phone: (907) 465-4958  
Fax: (907) 465-4928

*Interim:*  
PO Box 464  
Chugak, AK 99567

## REPRESENTATIVE BILL STOLTZE

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP  
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK  
Representative\_Bill\_Stoltze@legis.state.ak.us

### Sponsor Statement

For

### House Joint Resolution 9

**“Proposing amendments to the Constitution of the State of Alaska  
relating to an appropriation limit and a spending limit.”**

---

I believe that the adoption of an effective, reasonable constitutional spending limit to be an essential first step to developing any new long-range fiscal plan for the state. This step will establish guidelines by which the legislature will execute its power of appropriation and will create a more consistent pattern for state spending.

The existing constitutional appropriation limit, adopted by voters in 1981, has not worked as anticipated and has never been effective in restraining state spending. One main reason for its failure is that the starting amount of \$2.5 billion and the escalation factor based on inflation and population growth was too liberal. Given the increases in inflation and population over the last 20 years, the spending limit imposed by Article IX, Section 16 is more than \$6 billion. That is about \$3 billion more than appropriated in Fiscal Year 2002.

The key to this proposed amendment is to start with a base appropriation limit that is equal to the appropriation level of the earliest complete fiscal year. All increases in spending would require a three-fourths vote whether the increase was presented as an increment in the statewide appropriation measures or through another piece of legislation as a fiscal note or stand-alone appropriation. The intent of this approval process is to allow the legislature to focus on significant increases apart from the ongoing needs of general government expenditures.

Specified appropriations are excluded from the appropriation limit for reasons already established in law.

If the amount appropriated exceeds the limit, the governor shall reduce expenditures by the executive branch for its operation and administration in order to bring expenditures back in line with the constitutional limit.

Sponsor Statement  
HJR 9  
February 3, 2003

And finally, an additional provision states that this appropriation guideline remain in place for six years, if passed by a vote of the people, and if it is not revised or passed again in a general election, it would be removed as a Constitutional provision. This caveat is included to either eliminate a provision that may not be working as anticipated without cost to the state or allow revisions to the provision as deemed necessary by future legislatures and Alaskan citizens.

Without a meaningful constitutional amendment in place that limits the amount of state expenditures, there is no guarantee that the state will restrain, let alone reduce, spending. HJR 9 would limit state spending and is a key component of any new long-range plan to ensure Alaska's long-term fiscal health.

# ALASKA STATE LEGISLATURE

*Chair:*  
House Finance Subcommittees for,  
Department of Public Safety  
Department of Law

*Member:*  
House Finance Committee  
Legislative Council



*Session:*  
Alaska State Capitol  
Juneau, AK 99801-1182  
Phone: (907) 465-4958  
Fax: (907) 465-4928

*Interim:*  
PO Box 464  
Chugiak, AK 99567

## REPRESENTATIVE BILL STOLTZE

Representative\_Bill\_Stoltze@legis.state.ak.us

### Sectional Analysis For House Joint Resolution 9

**“Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.”**

- Section 1 (a)** Rewrites the existing constitutional spending limit to be based on a flat spending base. Exceptions of certain types of appropriations and reappropriations are clearly defined and would not be included in the appropriation limit.
- (b)** Permits an appropriation that would exceed the limit established in Section 1 (a) to be made by an affirmative three-fourths vote of the legislature.
- Section 2** Amends the constitution by adding a new section that this resolution would provide for a six-year time limit for the spending limit. At the end of six years, the spending limit would need to be revised, and therefore require a vote of the people, or it would simply be removed from the Constitution.
- Section 3** This section directs the Lt. Governor to place this initiative on the ballot at the next general election.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP  
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

# LEGAL SERVICES

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 30, 2003

**SUBJECT:** Appropriation Limit (Work Order No. 23-LS0435)

**TO:** Representative Bill Stoltze  
Attn: Barbara Bitney

**FROM:** Tamara Brandt Cook  
Director *TBC*

Here is a copy of the resolution proposing a constitutional amendment to the appropriation limit that you requested. I must warn you that I cannot be sure this or a similar appropriation limit would be found to be a valid constitutional amendment that may be proposed by the legislature. It might be an invalid revision under the holding of the Alaska Supreme Court in Bess v. Ulmer, 985 P.2d 979 (Alaska 1999). It appears to me that the proposal would meet the four factors identified by the court as indicative of a valid amendment: (1) the proposal is simple to express and understand; (2) it is complete within itself; (3) it relates to only one subject; and (4) it substantially affects only a few sections of the constitution. There is an outside chance, I suppose, that the court would view the requirement for continuing votes on the spending limit contained in sec. 2 of the resolution as an additional subject, but this seems a remote risk. The real worry is that the court in Bess suggested that, aside from the four factors, if a fundamental power of one of the branches of state government is significantly altered, this could also result in the type of "sweeping change" that is not permitted to be accomplished in an amendment to the state constitution proposed by the legislature. It is possible that the court would view a substantial restriction on the legislative power of appropriation, such as here proposed, as amounting to such a significant alteration as to constitute an impermissible revision.

TBC:med  
03-082.med

Enclosure

**HJR 9**  
**Constitutional Appropriation**  
**and Spending Limit**

Prepared for  
the House Judiciary Committee  
May 9, 2003

## What's the difference between an appropriation and spending?

**appropriation** is the amount and purpose for which the legislature directs the governor to spend state money<sup>2</sup>.

- The **power of appropriation** is granted to the legislature so that they may pass a reasonable and balanced budget each state fiscal year.

**spending** is the amount of state money<sup>2</sup> the governor actually spends. In some years, spending is less than the amount appropriated by the legislature, and in some years it exceeds the appropriation level and the governor must ask for additional legislative approval to spend beyond the initial amount appropriated.

- The **powers and duties** of the governor require that the governor conduct state business as required by law. He has the ability to adjust spending within appropriations without consent of the legislature.

2. State money consists of state revenues, federal receipts and all other fund sources

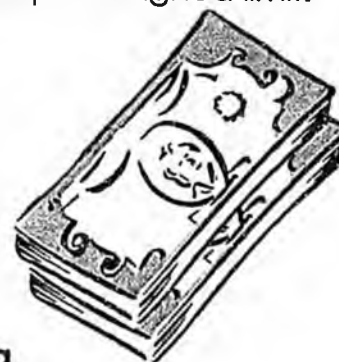
### A practical example:

**Appropriation** is equated to the limit available on your personal credit card.

**Spending** is how much you actually charge within that pre-assigned limit.



Appropriation VS Spending



---

## Doesn't Alaska already have a constitutional appropriation and spending limit?

**Yes**, but it no longer guides the legislature or governor in managing state spending as intended.

- The existing limit has grown faster than Alaska's revenues and appropriations. Today, more than \$6.4 billion<sup>1</sup> state funds would need to be appropriated to be at risk of exceeding the limit.
- It was assumed that legislative appropriations should increase at the same rate as population and inflation.
- <sup>1</sup> The legislature currently appropriates approximately \$3.4 billion<sup>1</sup> state funds.

<sup>1</sup> state funds excluding the items presented in HJR 9 section 1(a)(1-10)

## Alaska also has a statutory spending limit. (AS 35.05.540)

### Statutory Appropriation Limit

Excludes appropriations:

1. of revenue bond proceeds
  2. of principal and interest payments on GO bonds
  3. of revenues of state corporations that issue revenue bonds
  4. to the permanent fund and dividends
  5. of trust fund receipts
  6. money already appropriated (reappropriations)
  7. disaster payments as declared by the Governor
- no exclusion for Federal receipts unless interpreted as "a Trust"
  - use of the budget reserve fund to appropriate out of the fund no more than 25% of the fund balance for state revenue needs
  - growth = population and inflation growth from prior year, non-accumulative growth (approximately \$250 million per year)
  - no provision to exceed limit
-

---

## How is this appropriation limit different from the existing limit?

### The existing appropriation limit:

- Was developed at a time before Permanent fund dividends, before many state corporations were established and there was no general obligation bond debt in 1980. Therefore, calculating the base is open to interpretation.
- Is based on population and inflation growth, sometimes as great as 13% annually. Variations in calculating the rate provided as many as eight different base amounts in one fiscal year. The statutory appropriation limit tried to resolve this variable by identifying which data to calculate the inflation and population growth from.

To date, the constitutional appropriation limit has grown at a rate that far exceeds anticipated spending required by the state's programs, leaving the legislature with essentially no limit or control. Today, annual appropriation limits are self-imposed by the legislature with no specific guidelines to determine "how much".

- Requires that one third of all state appropriations be spent on capital projects – an admirable concept when the state was developing its core infrastructure. However, a more correct term would have been "capital improvements" so that large general purchases or extended lapse dates on some appropriations would not be counted as capital projects.

*For example: Is a long-term contract for software design really a capital improvement?*

---

## **HJR 9 provides for steady but limited appropriation growth over time.**

HJR 9 provided that 2% of a base year's appropriation may be added to the budget that the legislature is currently reviewing. (Approximately \$33 million per year, or \$66 million from the most recent final state fiscal year.)

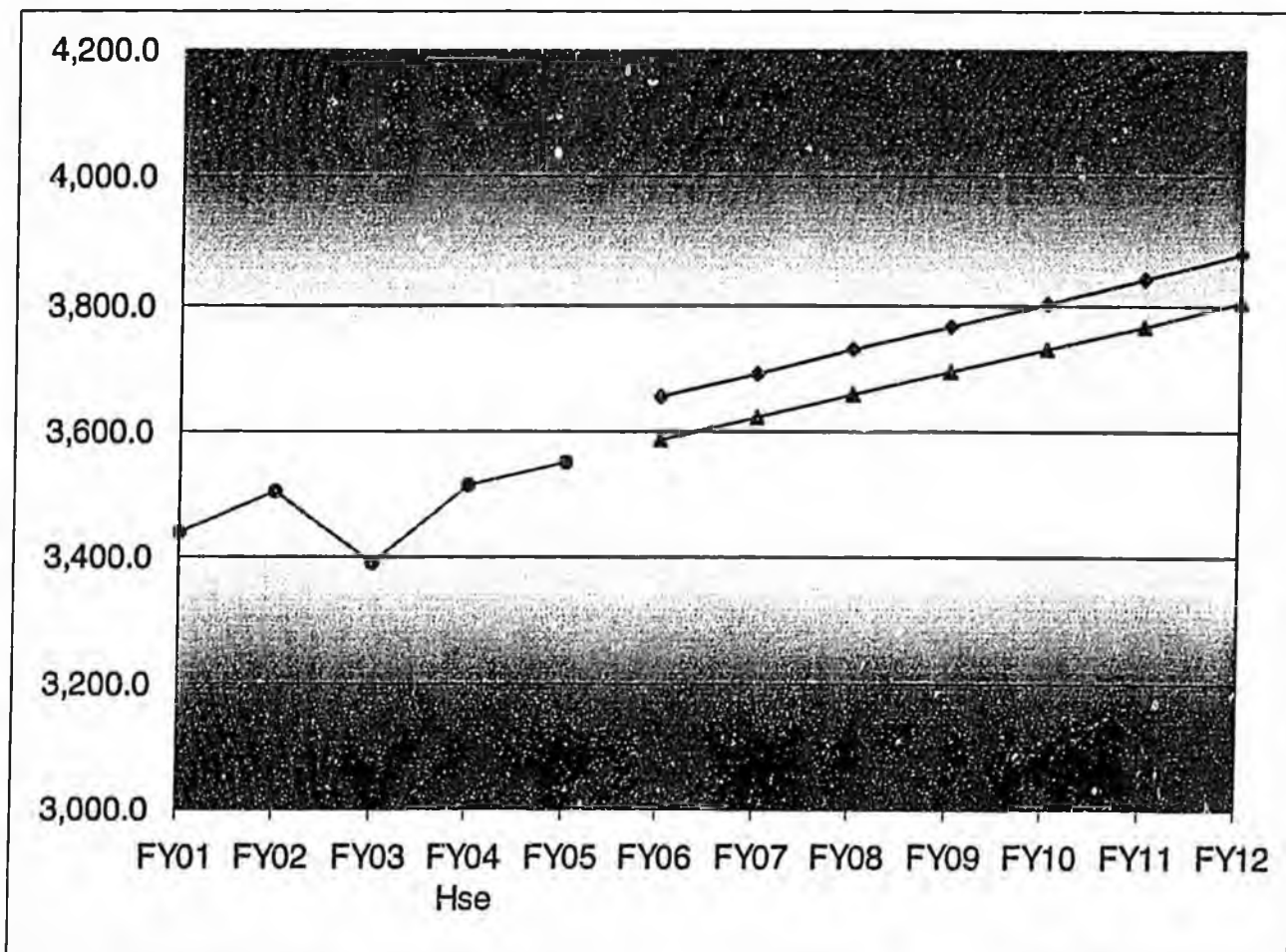
- This limit would be in place during times of decreased revenues to insure that growth does not exceed revenue expectations
- This limit would be in place during times of revenue windfalls so that the state would be encouraged to save for "rainy days" rather than spend

In addition to the 2% cumulative growth, the legislature may appropriate an **additional 2%** to meet needs of the state if \$33 million is not enough for one year's growth

- To acquire the additional 2%, a three-quarter vote of the legislature is required,
- The additional 2% growth would provide another \$33 million dollars to be added to the appropriation equalling approximately \$66 million each year.
- The additional 2% growth is not added into the cumulative base year's calculation so that the appropriation limit does not begin to grow exponentially as it did with population and inflation guidelines.

Following is a projected growth chart using the 2% plus 2% scenario

This chart illustrates a stable and reasonable pattern for future appropriation growth in state government.



**Key factors regarding the growth chart:**

1. the preceding fiscal years are not stable showing fluctuations of approximately \$200 million in three year's time

FY01	\$3.441 billion	base year
FY02	\$3.504 billion	Increase \$63 million
FY03	\$3.391 billion	decrease \$113 million
Fy04	\$3.515 billion	increase \$124 million

2. For the preceding fiscal years, had the 2% growth factor been implemented, the budgets would have looked more like this:

FY01	\$3.441 billion	base year
FY02	\$3.475 billion	Increase \$34 million
FY03	\$3.509 billion	Increase \$34 million
Fy04	\$3.544 billion	Increase \$35 million

3. Future fiscal years appear stable showing reasonable growth and reducing erratic appropriation swings

## How do you calculate the base amount?

Simply: After excluding certain appropriations, 2% is calculated from the most recent final fiscal year (two fiscal years prior to the one considered).

**HJR 9 excludes nine specific state appropriations because there is limited control over the amount available for appropriation, or the appropriations are already voter approved.**

- (1) **an appropriation to the Alaska Permanent Fund** - this includes inflation-proofing and additional deposits greater than required by constitution or statute.
- (2) **An appropriation of Alaska Permanent Fund income for payments of permanent fund dividends to State residents** - because there is a formula for calculating the amount of the dividends each year, and there is no legislative control over the number of residents eligible for the dividend, this appropriation is excluded.
- (3) **An appropriation to meet a state of disaster declared by the governor as prescribed by law** - natural and economic disasters are unpredictable and are therefore exempt from the appropriation limit
- (4) **An appropriation for the Alaska Railroad** - this quasi-state corporation is exempt for all financial matters of state accounting

- 
- (5) **an appropriation of State general obligation and revenue bond proceeds** - bonds are voter approved and cannot be adjusted by the legislature without additional voter approval
- (6) **an appropriation required to pay obligations under general obligation bonds, revenue bonds, and certificates of participation issued by the State** - similar to item (5) and includes certificates of participation, such as long term lease agreements with growth factors calculated into terms of the lease
- (7) **an appropriation of money received from the federal government** - the state is not limited to the amount of federal funding it can receive and spend, nor will the base calculation be reduced if federal funding is decreased for any reason
- (8) **An appropriation of money for expenditure by a State agency to provide services to another state agency that has also received an appropriation of the same money** - fondly called "duplicated funds". This is money where two or more state agencies must acquire expenditure authority to spend the same money. For example, the department of revenue must contract with the department of law for legal services - revenue spends \$1 million for legal services and Law spends the same \$1 million actually completing the task. This is not considered a \$2 million expenditure, and under this provision, \$1 million would be excluded from the limit.
- (9) **An appropriation made under (b) of this section** - this is the exclusion that instructs the legislature and governor how to calculate the base. This language tells us:
- Do include the first 2% growth in future years' base fiscal year for purposes of determining the 2% growth amount - this 2% growth is not listed as a subsection of paragraph (a), therefore not excluded
  - Do **not** count the above mentioned nine exclusions in the appropriation limit
  - Do **not** count the above nine exclusions in the base fiscal year for purposes of determining the 2% growth amount
  - Do **not** include the additional 2% growth in future years' base fiscal year for purposes of determining the growth amount

---

The following sub-section was moved to the Introductory paragraph (a) but maintains the same effect.

**(a) an appropriation of money already appropriated under an unobligated appropriation that is not void under Section 13 of this article -** this is what we call "reappropriations". Since the money was counted in a prior fiscal year, it is not counted again.

## **How does Alaska's government grow at a rate to accommodate and attract future economic growth?**

**First,** Alaska must show that stable government spending is planned

**Second,** stability in government is more attractive to prospective businesses than a sporadic, feast and famine approach

**Third,** if Alaska is viewed as a positive state for business development, corporations will make the initial investment to establish themselves here. Alaska could support business growth through excluded appropriations such as bonding for capital infrastructure growth.

**Fourth,** - although this would be subject to legal interpretation - in the event state money for infrastructure or fiscal support for significant economic growth is not available, and the state could prove that the potential economic loss could be determined to be a disaster, it would be excluded from the limit.

Economic disaster is typically viewed as an economic loss but there may be room for interpretation that economic loss would be created if additional assistance grants or capital projects were not appropriated timely to improve the state's overall economic health.

---

## What happens if this Constitutional appropriation limit does not work?

The sponsor proposed an appropriation limit that contained a "sunset" provision where it would last for six years and then is placed on the ballot for Alaska's citizens to reconsider it or consider a changed appropriation and spending limit.

- If you like this version, you can vote for it, as is, in six years.
- If you don't like this version, you can vote on a revised provision that a future legislature would have to draft and pass - maybe their suggested language would be to repeal an appropriation limit all together, or just fine-tune what is before us today.

### The original language was:

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

**Section 30. Transition; Reconsideration of Appropriation and Spending Limit.** If the 2003 amendment relating to an appropriation and spending limit (art. 10 IX, sec. 16) is adopted, the lieutenant governor shall place the ballot title and proposition for the amendment on the ballot again at the general election in 2006 and every six years thereafter unless it is rejected. If the majority of those voting on the proposition rejects the proposition, Section 16 of Article IX is repealed on the date the election is certified.

**The House State Affairs Committee removed the language** so that this language would remain in the Constitution indefinitely. The general premise for removing the sunset provision was that the Constitution is revered as a more permanent document and guide for the state. Having a temporary provision did not seem to carry the weight that is standard for Constitutional language.

If the language does not work, a new resolution would be drafted and put before the voters, but until that time, this language will become permanent.

---

## Now that I understand the appropriation limit, “How does the spending limit work?”

The House State Affairs Committee amended the resolution so that paragraph (c) instructs the governor to reduce expenditures by line item veto to the extent necessary to avoid spending more than the amount appropriated.

*The impact of this change is that the governor is given mandated veto power and does not restrict the branch of government from which the veto is taken (including the legislature and the courts).*

The governor is instructed to **reduce appropriations** that might exceed the spending limit if the legislature over-appropriates. He is also instructed to **NOT overspend** and after the fact, ask the legislature to increase appropriation levels.

*Using Medicaid spending as an example, a governor could spend state money at a rate that would exceed its appropriation for the year and create a situation where the last two months of a fiscal year, no Medicaid reimbursements would be authorized. This could be considered a disaster and then be excluded from the limit, however, there is a statutory provision requiring the agency to institute the optional services list to manage its spending. The options list has not been initiated in past years and it has been the accepted practice for the agency to request additional appropriation authorization mid-fiscal year.*

### The original language was:

*(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) and (b) of this section, the governor shall reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending more than the amount that may be appropriated under (a) and (b) of this section.*

## Can the Governor spend less than what is appropriated?

Yes, and the governor typically spends less than that which is appropriated for many of the state's smaller programs. There is no limit to how little of an appropriation the governor is required to actually spend.

---

## What constitutes a disaster?

### Hostile Action

#### **Sec. 26.20.010. Policy and purpose.**

(a) Because of the national emergency and the possibility of disasters or emergencies resulting from enemy attack, sabotage, or other hostile action, and in order to insure adequate preparations for disasters or emergencies, and generally to provide for the common defense, it is found and declared to be necessary. (abbreviated)

### Disaster Emergencies

#### **Sec. 26.23.020. The governor and disaster emergencies.**

(a) The governor is responsible for meeting the dangers presented by disasters to the state and its people.

(c) If the governor finds that a disaster has occurred or that a disaster is imminent or threatened, the governor shall, by proclamation, declare a condition of disaster emergency. The proclamation must indicate the nature of the disaster, the area threatened or affected, and the conditions that have brought it about or that make possible the termination of the disaster emergency. A proclamation to declare a condition of disaster emergency must also state whether the governor proposes to expend state funds to respond to the disaster.

### Federal Programs Available - Federal Development Fund

#### **Section 44.33.285 Action by governor.**

The governor may, upon recommendation of the commissioner of commerce and economic development, designate by proclamation an area as an area impacted by an economic disaster. When an area is so designated, the legislature may appropriate money for assistance grants and the governor may recommend in the governor's budget submission that capital projects planned for the area be accelerated and that new projects be funded for the area. The proclamation may provide that waivers of capital projects requirements, as authorized in AS 44.33.300, become effective only to the extent set out in the proclamation.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HJR 9  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All  
 Title Appropriation/Spending Limit BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Stoltze Component No. \_\_\_\_\_  
 Requester \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Prepared by: Brad Pierce, Senior Policy Analyst Phone \_\_\_\_\_  
 Division OMB Date/Time 2/11/03 7:33 AM  
 Approved by: \_\_\_\_\_ Date 2/11/2003  
 Agency \_\_\_\_\_

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHJR9(W&M)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: OOG  
 Title Constitutional Amendment relating to BRU Elections  
an appropriation limit and a spending limit Component Elections  
 Sponsor Rep. Stoltze, Kohring, Rokeberg  
 Requester House Ways and Means Component No. 21

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred Phone 465-5347  
 Division: Division of Elections Date/Time 5/2/03 10:29 AM  
 Approved by: Laura A. Glaiser, Director Date 5/2/2003  
 Agency: Office of the Lt. Governor, Division of Elections

~~HTP 9 / B~~

HTP 9 / B

ANSWERS

# 1

099

p 2

Line 26

after

;

new line 27

new # (11)

an appropriation of money from tuition of the  
University of Alaska;

remember (11)

to (12)

Ans. 2 - FAILED Gara

Delete at ~~line 8~~ p. 1 line 8,  
"fifty percent of"

Conceptual Amendment

Case  
3 - FAILED!

Rewrite Section 16(a) to allow appropriations to ~~be~~ reach the FY 2003 level, adjusted for inflation and population growth. ~~Q~~

Amo 4 - FAILED

Insert @ p. 2 line 28

" (12) an amount ~~that~~ that exceeds the prior years budget needed to reduce kindergarten through 12<sup>th</sup> grade class sizes. "

# **HJR 9**

## **Constitutional Appropriation and Spending Limit**

Prepared for  
the House Judiciary Committee  
May 9, 2003

---

## What's the difference between an appropriation and spending?

**appropriation** is the amount and purpose for which the legislature directs the governor to spend state money<sup>2</sup>.

- The **power of appropriation** is granted to the legislature so that they may pass a reasonable and balanced budget each state fiscal year.

**spending** is the amount of state money<sup>2</sup> the governor actually spends. In some years, spending is less than the amount appropriated by the legislature, and in some years it exceeds the appropriation level and the governor must ask for additional legislative approval to spend beyond the initial amount appropriated.

- The **powers and duties** of the governor require that the governor conduct state business as required by law. He has the ability to adjust spending within appropriations without consent of the legislature.

2. State money consists of state revenues, federal receipts and all other fund sources

### A practical example:

**Appropriation** is equated to the limit available on your personal credit card.

**Spending** is how much you actually charge within that pre-assigned limit.



Appropriation VS Spending



---

## Doesn't Alaska already have a constitutional appropriation and spending limit?

**Yes**, but it no longer guides the legislature or governor in managing state spending as intended.

- The existing limit has grown faster than Alaska's revenues and appropriations. Today, more than \$6.4 billion<sup>1</sup> state funds would need to be appropriated to be at risk of exceeding the limit.
- It was assumed that legislative appropriations should increase at the same rate as population and inflation.
- The legislature currently appropriates approximately \$3.4 billion<sup>1</sup> state funds.

<sup>1</sup> state funds excluding the items presented in HJR 9 section 1(c)(1-10)

## Alaska also has a statutory spending limit. (AS 35.05.540)

### Statutory Appropriation Limit

Excludes appropriations:

1. of revenue bond proceeds
  2. of principal and interest payments on GO bonds
  3. of revenues of state corporations that issue revenue bonds
  4. to the permanent fund and dividends
  5. of trust fund receipts
  6. money already appropriated (reappropriations)
  7. disaster payments as declared by the Governor
- **no exclusion for Federal receipts unless interpreted as "a Trust"**
  - **use of the budget reserve fund to appropriate out of the fund no more than 25% of the fund balance for state revenue needs**
  - **growth = population and inflation growth from prior year, non-accumulative growth (approximately \$250 million per year)**
  - **no provision to exceed limit**
-

---

## How is this appropriation limit different from the existing limit?

### The existing appropriation limit:

- Was developed at a time before Permanent fund dividends, before many state corporations were established and there was no general obligation bond debt in 1980. Therefore, calculating the base is open to Interpretation.
- Is based on population and Inflation growth, sometimes as great as 13% annually. Variations in calculating the rate provided as many as eight different base amounts in one fiscal year. The statutory appropriation limit tried to resolve this variable by identifying which data to calculate the inflation and population growth from.

To date, the constitutional appropriation limit has grown at a rate that far exceeds anticipated spending required by the state's programs, leaving the legislature with essentially no limit or control. Today, annual appropriation limits are self-imposed by the legislature with no specific guidelines to determine "how much".

- Requires that one third of all state appropriations be spent on capital projects - an admirable concept when the state was developing its core infrastructure. However, a more correct term would have been "capital improvements" so that large general purchases or extended lapse dates on some appropriations would not be counted as capital projects.

For example: *Is a long-term contract for software design really a capital improvement?*

---

## **HJR 9 provides for steady but limited appropriation growth over time.**

HJR 9 provided that 2% of a base year's appropriation may be added to the budget that the legislature is currently reviewing. (Approximately \$33 million per year, or \$66 million from the most recent final state fiscal year.)

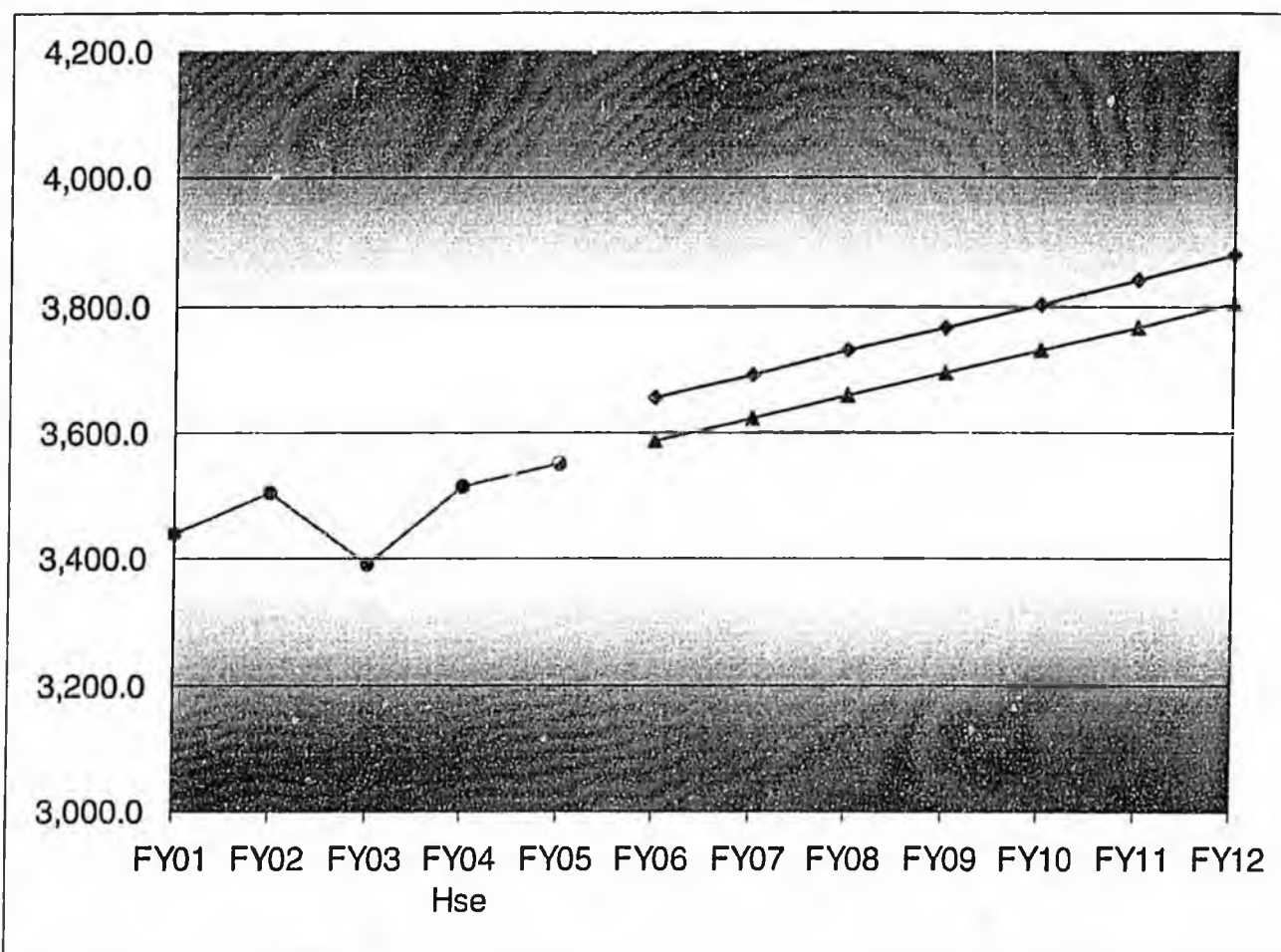
- This limit would be in place during times of decreased revenues to insure that growth does not exceed revenue expectations
- This limit would be in place during times of revenue windfalls so that the state would be encouraged to save for "rainy days" rather than spend

In addition to the 2% cumulative growth, the legislature may appropriate an **additional 2%** to meet needs of the state if \$33 million is not enough for one year's growth

- To acquire the additional 2%, a three-quarter vote of the legislature is required,
- The additional 2% growth would provide another \$33 million dollars to be added to the appropriation equaling approximately \$66 million each year.
- The additional 2% growth is not added into the cumulative base year's calculation so that the appropriation limit does not begin to grow exponentially as it did with population and inflation guidelines.

Following is a projected growth chart using the 2% plus 2% scenario

This chart illustrates a stable and reasonable pattern for future appropriation growth in state government.



**Key factors regarding the growth chart:**

1. the preceding fiscal years are not stable showing fluctuations of approximately \$200 million in three year's time

FY01	\$3.441 billion	base year
FY02	\$3.504 billion	increase \$63 million
FY03	\$3.391 billion	decrease \$113 million
Fy04	\$3.515 billion	increase \$124 million

2. For the preceding fiscal years, had the 2% growth factor been implemented, the budgets would have looked more like this:

FY01	\$3.441 billion	base year
FY02	\$3.475 billion	increase \$34 million
FY03	\$3.509 billion	increase \$34 million
Fy04	\$3.544 billion	increase \$35 million

3. Future fiscal years appear stable showing reasonable growth and reducing erratic appropriation swings

## How do you calculate the base amount?

Simply: After excluding certain appropriations, 2% is calculated from the most recent final fiscal year (two fiscal years prior to the one considered).

**HJR 9 excludes nine specific state appropriations because there is limited control over the amount available for appropriation, or the appropriations are already voter approved.**

- (1) **an appropriation to the Alaska Permanent Fund** – this includes inflation-proofing and additional deposits greater than required by constitution or statute.
- (2) **An appropriation of Alaska Permanent Fund income for payments of permanent fund dividends to State residents** – because there is a formula for calculating the amount of the dividends each year, and there is no legislative control over the number of residents eligible for the dividend, this appropriation is excluded.
- (3) **An appropriation to meet a state of disaster declared by the governor as prescribed by law** – natural and economic disasters are unpredictable and are therefore exempt from the appropriation limit
- (4) **An appropriation for the Alaska Railroad** – this quasi-state corporation is exempt for all financial matters of state accounting

- 
- (5) **an appropriation of State general obligation and revenue bond proceeds** – bonds are voter approved and cannot be adjusted by the legislature without additional voter approval
- (6) **an appropriation required to pay obligations under general obligation bonds, revenue bonds, and certificates of participation issued by the State** – similar to item (5) and includes certificates of participation, such as long term lease agreements with growth factors calculated into terms of the lease
- (7) **an appropriation of money received from the federal government** – the state is not limited to the amount of federal funding it can receive and spend, nor will the base calculation be reduced if federal funding is decreased for any reason
- (8) **An appropriation of money for expenditure by a State agency to provide services to another state agency that has also received an appropriation of the same money** – fondly called “duplicated funds”. This is money where two or more state agencies must acquire expenditure authority to spend the same money. For example, the department of revenue must contract with the department of law for legal services – revenue spends \$1 million for legal services and Law spends the same \$1 million actually completing the task. This is not considered a \$2 million expenditure, and under this provision, \$1 million would be excluded from the limit.
- (9) **An appropriation made under (b) of this section** – this is the exclusion that instructs the legislature and governor how to calculate the base. This language tells us:
- Do **not** include the first 2% growth in future years’ base fiscal year for purposes of determining the 2% growth amount – this 2% growth is not listed as a subsection of paragraph (a), therefore not excluded
  - Do **not** count the above mentioned nine exclusions in the appropriation limit
  - Do **not** count the above nine exclusions in the base fiscal year for purposes of determining the 2% growth amount
  - Do **not** include the additional 2% growth in future years’ base fiscal year for purposes of determining the growth amount

---

The following sub-section was moved to the introductory paragraph (a) but maintains the same effect.

**(a) an appropriation of money already appropriated under an unobligated appropriation that is not void under Section 13 of this article** – this is what we call “reappropriations”. Since the money was counted in a prior fiscal year, it is not counted again.

## **How does Alaska's government grow at a rate to accommodate and attract future economic growth?**

**First**, Alaska must show that stable government spending is planned

**Second**, stability in government is more attractive to prospective businesses than a sporadic, feast and famine approach

**Third**, if Alaska is viewed as a positive state for business development, corporations will make the initial investment to establish themselves here. Alaska could support business growth through excluded appropriations such as bonding for capital infrastructure growth.

**Fourth**, - although this would be subject to legal interpretation - in the event state money for infrastructure or fiscal support for significant economic growth is not available, and the state could prove that the potential economic loss could be determined to be a disaster, it would be excluded from the limit.

Economic disaster is typically viewed as an economic loss but there may be room for interpretation that economic loss would be created if additional assistance grants or capital projects were not appropriated timely to improve the state's overall economic health.

---

## What happens if this Constitutional appropriation limit does not work?

The sponsor proposed an appropriation limit that contained a "sunset" provision where it would last for six years and then is placed on the ballot for Alaska's citizens to reconsider it or consider a changed appropriation and spending limit.

- If you like this version, you can vote for it, as is, in six years.
- If you don't like this version, you can vote on a revised provision that a future legislature would have to draft and pass - maybe their suggested language would be to repeal an appropriation limit all together, or just fine-tune what is before us today.

### The original language was:

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

**Section 30. Transition; Reconsideration of Appropriation and Spending Limit.** If the 2003 amendment relating to an appropriation and spending limit (art. 10 IX, sec. 16) is adopted, the lieutenant governor shall place the ballot title and proposition for the amendment on the ballot again at the general election in 2006 and every six years thereafter unless it is rejected. If the majority of those voting on the proposition rejects the proposition, Section 16 of Article IX is repealed on the date the election is certified.

**The House State Affairs Committee removed the language** so that this language would remain in the Constitution indefinitely. The general premise for removing the sunset provision was that the Constitution is revered as a more permanent document and guide for the state. Having a temporary provision did not seem to carry the weight that is standard for Constitutional language.

If the language does not work, a new resolution would be drafted and put before the voters, but until that time, this language will become permanent.

---

## Now that I understand the appropriation limit, “How does the spending limit work?”

The House State Affairs Committee amended the resolution so that paragraph (c) instructs the governor to reduce expenditures by line item veto to the extent necessary to avoid spending more than the amount appropriated.

*The impact of this change is that the governor is given mandated veto power and does not restrict the branch of government from which the veto is taken (including the legislature and the courts).*

The governor is instructed to **reduce appropriations** that might exceed the spending limit if the legislature over-appropriates. He is also instructed to **NOT overspend** and after the fact, ask the legislature to increase appropriation levels.

*Using Medicaid spending as an example, a governor could spend state money at a rate that would exceed its appropriation for the year and create a situation where the last two months of a fiscal year, no Medicaid reimbursements would be authorized. This could be considered a disaster and then be excluded from the limit, however, there is a statutory provision requiring the agency to institute the optional services list to manage its spending. The options list has not been initiated in past years and it has been the accepted practice for the agency to request additional appropriation authorization mid-fiscal year.*

### The original language was:

*(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) and (b) of this section, the governor shall reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending more than the amount that may be appropriated under (a) and (b) of this section.*

## Can the Governor spend less than what is appropriated?

Yes, and the governor typically spends less than that which is appropriated for many of the state's smaller programs. There is no limit to how little of an appropriation the governor is required to actually spend.

---

## What constitutes a disaster?

### Hostile Action

#### Sec. 26.20.010. Policy and purpose.

(a) Because of the national emergency and the possibility of disasters or emergencies resulting from enemy attack, sabotage, or other hostile action, and in order to insure adequate preparations for disasters or emergencies, and generally to provide for the common defense, it is found and declared to be necessary. (abbreviated)

### Disaster Emergencies

#### Sec. 26.23.020. The governor and disaster emergencies.

(a) The governor is responsible for meeting the dangers presented by disasters to the state and its people.

(c) If the governor finds that a disaster has occurred or that a disaster is imminent or threatened, the governor shall, by proclamation, declare a condition of disaster emergency. The proclamation must indicate the nature of the disaster, the area threatened or affected, and the conditions that have brought it about or that make possible the termination of the disaster emergency. A proclamation to declare a condition of disaster emergency must also state whether the governor proposes to expend state funds to respond to the disaster.

### Federal Programs Available - Federal Development Fund

#### Section 44.33.285 Action by governor.

The governor may, upon recommendation of the commissioner of commerce and economic development, designate by proclamation an area as an area impacted by an economic disaster. When an area is so designated, the legislature may appropriate money for assistance grants and the governor may recommend in the governor's budget submission that capital projects planned for the area be accelerated and that new projects be funded for the area. The proclamation may provide that waivers of capital projects requirements, as authorized in AS 44.33.300, become effective only to the extent set out in the proclamation.

2 (6) an appropriation required to pay obligations under gen  
3 obligation bonds, revenue bonds, and certificates of participation issued by the Stat

4 (7) an appropriation of money received from the federal governmer

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

7 (9) an appropriation of money for expenditure by a State agenc  
8 provide services to another State agency that has also received an appropriation o  
9 same money; and

10 (10) an appropriation made under (b) or (c) of this section.

11 [ (b) An appropriation that exceeds the limit under (a) of this section ma  
12 made for any public purpose upon affirmative vote of at least two-thirds o  
13 members of each house of the legislature. The total amount of appropriations t  
14 this subsection made for a fiscal year may not exceed two percent of the an  
15 appropriated for the fiscal year two years preceding the fiscal year for whic  
16 appropriations are made. ]

17 (c) An appropriation that exceeds the limit under (a) and (b) of this se  
18 may be made for any public purpose upon affirmative vote of at least three-four  
19 the members of each house of the legislature. The total amount of appropri  
20 under this subsection made for a fiscal year may not exceed two percent of the a  
21 appropriated for the fiscal year two years preceding the fiscal year for whic  
22 appropriations are made.

23 \* Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding  
24 section to read:

25 **Section 30. Application; Repeal of Appropriation Limit.** (a) The  
26 amendment relating to an appropriation and spending limit (art. IX, sec. 16  
27 applies to appropriations made for fiscal year 2006 and applies each fisca  
28 thereafter until fiscal year 2013.

29 → (b) Section 16 of Article IX is repealed July 1, 2012.

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

Amended,  
Repealed  
offer  
amend. 13  
deleted  
passed 18-6  
Evoked 10



*Held over*

*This year's*  
23-LS0435A

**HOUSE JOINT RESOLUTION NO. 9**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVES STOLTZE. Kohring**

**Introduced: 1/31/03**

**Referred: State Affairs, Judiciary, Finance**

**A RESOLUTION**

1 **Proposing amendments to the Constitution of the State of Alaska relating to an**  
2 **appropriation limit and a spending limit.**

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

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

6 **Section 16. Appropriation and Spending Limit.** (a) Appropriations made  
7 for a fiscal year shall not exceed the amount appropriated for the fiscal year two years  
8 preceding the fiscal year for which the appropriations are made. This subsection does  
9 not apply to

- 10 (1) an appropriation to the Alaska permanent fund;
- 11 (2) an appropriation of Alaska permanent fund income for payments of  
12 permanent fund dividends to State residents;
- 13 (3) an appropriation to meet a state of disaster declared by the  
14 governor as prescribed by law;
- 15 (4) an appropriation for the Alaska Railroad;
- 16 (5) an appropriation of State general obligation and revenue bond

*"No by more than 4% not there"*

1 proceeds;

2 (6) an appropriation required to pay obligations under general  
3 obligation bonds, revenue bonds, and certificates of participation issued by the State;

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

5 (8) a reappropriation of money already appropriated under an  
6 unobligated appropriation (that is not void under Section 13 of this article) (general  
7 what's that mean include? reapprop.)

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

11 (10) an appropriation made under (b) of this section.

12 (b) An appropriation that exceeds the limit under (a) of this section may be  
13 made for any public purpose upon affirmative vote of at least three-fourths of the  
14 members of each house of the legislature. The total amount of appropriations under  
15 this subsection made for a fiscal year may not exceed two percent of the amount  
16 appropriated for the fiscal year two years preceding the fiscal year for which the  
17 appropriations are made, excluding appropriations listed in (a)(1) - (10) of this section.

18 (c) If appropriations for a fiscal year exceed the amount that may be  
19 appropriated under (a) and (b) of this section, the governor shall reduce expenditures  
20 by the executive branch for its operation and administration to the extent necessary to  
21 avoid spending more than the amount that may be appropriated under (a) and (b) of  
22 this section.

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

25 **Section 30. Application; Reconsideration of Appropriation and Spending**

26 **Limit.** (a) The 2004 amendment relating to an appropriation and spending limit (art.  
27 IX, sec. 16) first applies to appropriations made for fiscal year 2006 and applies  
28 thereafter.

29 (b) The lieutenant governor shall place the ballot title and proposition for the  
30 2004 amendment relating to an appropriation and spending limit (art. IX, sec. 16) on  
31 the ballot again at the general election in 2010 and every six years thereafter unless it  
is rejected. If the majority of those voting on the proposition rejects the amendment,

combined (b) & (c) of last year

subject (d) from last year

What about inflation?

Maybe include 4%

W/ no out could dramatically state spending - situation that we couldn't correct til gen. election

takes out 2004 & 2005 provisions last year

rejectable by gen. & spec. vote

1 Section 16 of Article IX is repealed on the date the election is certified.

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



ALASKA

## National Federation of Independent Business

### Statement of Support for HJR 9

### Appropriation and Spending Limit

January 23, 2004

The Alaska Chapter of the National Federation of Independent Business has 2,500 members, making it the largest small-business advocacy group in the state. The legislative agenda of NFIB is determined by ballot. The ballot is a poll of the membership on a series of issues.

Following are the ballot results in response to the following question: Do you support an amendment to the Alaska Constitution that limits appropriation increases to no more than 2 percent per year?

55% YES

26% NO

19% Undecided

A majority of NFIB members support an amendment to the Alaska Constitution that limits appropriation increases to no more than 2 percent per year. While not garnering enough support to take an official position, the following related question was also posed to the membership.

Should a limited increment for inflation be included for formula-driven programs such as education and Medicaid?

47% YES

33% NO

20% Undecided

### Vote YES on HJR 9

Submitted by Thyes Shaub on behalf of NFIB/Alaska.

**HJR**

**20**



# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HJR20  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Office of the Governor  
Title Constitutional Amendment repealing the BRU Elections  
prohibition on dedicated funds Component Elections  
Sponsor Representatives Masek, Wilson  
Requester House Judiciary Component No. 21

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred Phone 465-5347  
Division Division of Elections Date/Time 4/28/03 1:28 PM  
Approved by: Laura A. Glaiser, Director Date 4/28/2003  
Agency Office of the Lt. Governor, Division of Elections

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. John Coghill  
Rep. Jim Holm  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee

### Memorandum

**To:** Kathryn Kurtz, Leg. Legal  
**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee  
**Date:** May 8, 2003  
**Re:** CS Request

---

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS0889\D, HJR 20, incorporating the changes written on the attached resolution. The resolution was passed out of committee today.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

23-LS0889D  
Kurtz  
4/2/03

CS FOR HOUSE JOINT RESOLUTION NO. 20( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES MASEK, Wilson

A RESOLUTION

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

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

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

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

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

13 Section 18. **Highway Fund.** (a) The revenue received after <sup>Dec 2 4</sup> ~~June 30, 2008~~, from  
14 State taxes on fuel used for the propulsion of motor vehicles designed for and ordinarily  
15 used on highways or roads, less refunds, credits, and the costs of collection of those taxes  
16 as provided by law, shall be placed in a highway fund. The legislature may appropriate

*Shall*

1 money from the highway fund only for maintenance of roads and highways.

2 (b) The legislature shall provide by law for the management and investment of the  
3 highway fund balance. The income earned from the management and investment of the  
4 highway fund shall be deposited into the fund.

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

# Alaska State Legislature

Committees:

Vice-Chair  
Legislative Counsel  
Resources  
Military & Veterans  
Affairs

Member:  
Transportation



During Interim: (June-Dec)  
Mat-Su LIO  
600 E. Railroad Ave.  
Wasilla, AK 99654  
(907) 376-2679  
Fax: 373-4745


During Session: (Jan-May)  
State Capitol, Room 403  
Juneau, AK 99801-1182  
(907) 465-2679  
Fax: 465-4822  
1-800-505-2678

## Representative Beverly Masek

DATE: April 8, 2003

TO: Representative Lisel McGuire  
Chair, House Judiciary Committee

RE: Hearing Request – HJR 20



---

Attached is a copy of HJR 20 and my sponsor statement. I have requested from Division of Elections a fiscal note.

Would you please schedule this resolution for a hearing?

Thank you so much.

# Alaska State Legislature

## Committees:

Vice-Chair  
Legislative Counsel  
Resources  
Military & Veterans  
Affairs

Co-Chair:  
Transportation



During Interim: (June-Dec)  
Mat-Su LIO  
600 E. Railroad Ave.  
Wasilla, AK 99654  
(907) 376-2679  
Fax: 373-4745

During Session: (Jan-May)  
State Capitol, Room 403  
Juneau, AK 99801-1182  
(907) 465-2679  
Fax: 465-4822  
1-800-505-2678

## Representative Beverly Masek

### SPONSOR STATEMENT

#### HJR-20

#### DEDICATED TAXES

HJR 20 was introduced to ask the voting public to support a change in Article IX, Section 7 of Alaska's constitution.

Specifically, if passed by the legislature and adopted at the November, 2004 general election, Article IX, Section 7, would be amended to require all motor fuels taxes generated through the sale of motor fuels to be placed in a constitutionally protected fund for the express purpose of maintaining Alaska's roads and highways.

Alaska's constitution prohibits dedicated funds except for the Permanent Fund, when required to receive federal funds, and for dedicated funds in existence prior to adoption of the constitution.

Amending Alaska's constitution should not be taken lightly and is considered with great trepidation. However, as our state revenues continue their decline, I believe Alaskans are more amenable to contributing to the effort to maintain our road and highway infrastructure if they had assurances the motor fuel taxes levied were utilized for that express purpose.

Motor fuels taxes in all states are dedicated in some fashion for road and highway maintenance. In Alaska, motor fuels taxes are deposited in a special highway fuel tax account within the general fund. However, the legislature may appropriate these funds for other purposes and it is felt by the sponsor that this would be the case with increased motor fuel taxes.

**HJR**

**22**





# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. John Coghill  
Rep. Jim Holm  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee

### Memorandum

**To:** Leg. Legal  
**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee  
**Date:** May 9, 2003  
**Re:** CS Request

---

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS0924\D, HJR 22, incorporating the attached amendment and the amendment listed below. I have also written the changes that Amendment #2 makes into the attached copy of the resolution. The resolution was passed out of committee today.

Amendment #1 – see attached

Amendment #2 – Page 2, Line 26:  
After “state may not” insert “, without compelling justification”

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.