

11863

SENATE

JUDICIARY

SB

3005

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 7/27/06

FURTHER:

Date of 5-Day Notice: Special Session
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered SENATE BILL NO. 3005

SB 3005 DETENTION/IDENTIFICATION; CONTEMPT

"An Act relating to contempt of court and to temporary detention and identification of persons."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s),
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>					X
<i>[Signature]</i>		✓			
<i>[Signature]</i>		✓			
				✓	
CHAIR:					

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

August 1, 2006

SUBJECT: CSSB 3005(); Work Order No. 24-GS3097\G

TO: Senator Con Bunde

FROM: Pam Finley *PF*
Revisor of Statutes

Enclosed is the referenced CS. The provisions of this bill that require a person to identify himself or herself and submit to photographing or fingerprinting are legally problematic. If the police have reasonable grounds to believe the person was involved in criminal activity, they may require the person to identify himself or herself. Hiibel v. Sixth Judicial District Court of Nevada, 542 U.S. 1201 (2004). However, the U.S. Supreme Court held in Brown v. Texas, 443 U.S. 47 (1979) that the Fourth Amendment to the U.S. Constitution prohibits the police from requiring identification of a person "in the absence of any basis for suspecting [the person] of misconduct." Id. at 52. Whether a "stop-and-identify" statute is constitutional depends on "the gravity of the public concerns served by the [requirement], the degree to which the [requirement] serves the public interest, and the severity of the interference with individual liberty." Brown at 50 -51. I do not know whether the public interest in identifying a witness would outweigh the person's privacy rights. I did, however, want you to be aware of the issue.

PF:ljw
06-287.ljw

Enclosure

CS FOR SENATE BILL NO. 3005()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - THIRD SPECIAL SESSION**

BY

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to contempt of court and to temporary detention and identification of**
2 **persons; and providing for an effective date."**

3 **BE IT ENACTED BY THE LFGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 09.50.020(a) is amended to read:

5 (a) A person who is guilty of contempt

6 (1) may be punished [IS PUNISHABLE] by a fine of not more than
7 \$300 or by imprisonment for not more than six months for a contempt under

8 (A) AS 09.50.010(1) or (2);

9 (B) AS 09.50.010(3) - (12) if [. HOWEVER, WHEN THE
10 CONTEMPT IS ONE MENTIONED IN AS 09.50.010(3) - (12), OR IN AN
11 ACTION BEFORE A MAGISTRATE, THE PERSON IS PUNISHABLE BY
12 A FINE OF NOT MORE THAN \$100 UNLESS] it appears that a right or
13 remedy of a party to an action or proceeding was defeated or prejudiced by the
14 contempt; or

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(C) AS 09.50.010(5) or (10) if the conduct involves the failure to honor a subpoena or refusal to be sworn or answer as a witness in connection with a civil or criminal court proceeding or an appearance before the grand jury;

(2) may be punished by a fine of not more than \$100 for a contempt under AS 09.50.010(3) - (12), except as otherwise provided in (1)(B) or (1)(C) of this subsection [, IN WHICH CASE THE PENALTY SHALL BE AS PRESCRIBED FOR CONTEMPTS DESCRIBED IN AS 09.50.010(1) AND (2)].

Sec. 2 AS 12.50 is amended by adding a new section to read:

Article 3. Temporary Detention and Identification of Persons.

Sec. 12.50.201. Temporary detention and identification of persons. (a) A peace officer may temporarily detain a person under circumstances that give the officer reasonable suspicion that

Subsec (1) the person witnessed or was at or near the scene of the commission of a crime against a person under AS 11.41, a felony property crime under AS 11.46, or misconduct involving weapons under AS 11.61.190 or 11.61.195(a)(3);

(2) the person has information of material aid in the investigation of that crime; and

(3) the temporary detention of the person is reasonably necessary to obtain or verify the identification of the person, to obtain an account of the crime, to protect a crime victim from imminent harm, or for other exigent circumstances.

(b) A peace officer who temporarily detains a person under (a) of this section may

(1) detain the person only as long as reasonably necessary to accomplish the purposes of that subsection;

(2) take one or more photographs of the person, if photographs can be taken without unreasonably delaying the person or removing the person from the vicinity; and

(3) if the person does not provide valid government-issued photographic identification or the officer has reasonable suspicion that the identification is not valid.

1 (A) serve a subpoena on the person to appear before the grand
2 jury where the crime was committed; and

3 (B) take the person's fingerprint impressions if

4 (i) the crime under investigation is murder, attempted
5 murder, or misconduct involving weapons under AS 11.61.190 or
6 11.61.195(a)(3); and

7 (ii) fingerprint impressions can be taken without
8 unreasonably delaying the person or removing the person from the
9 vicinity.

10 (c) A peace officer electing to serve a subpoena under (b) of this section may
11 not require the person to sign the subpoena or another document. The officer or the
12 subpoena must advise the person that failure to honor the subpoena is punishable as
13 criminal contempt of court under AS 09.50.010. A person receiving a subpoena to
14 testify under (b) of this section may request the district attorney to withdraw the
15 subpoena if, before the grand jury proceeding for which the person has been served a
16 subpoena to appear, the person provides the peace officer who served the subpoena
17 with valid government-issued photographic identification.

18 (d) Photographs or fingerprints taken under (b) of this section

19 (1) may be used for identification purposes only, and not for criminal
20 investigative purposes unless it is determined that the person is suspected of
21 committing a crime within the scope of the investigation; and

22 (2) must be destroyed upon the earlier of the following occurrences
23 unless it is determined that the person is suspected of committing a crime within the
24 scope of the investigation:

25 (A) the person has testified in a grand jury or court proceeding
26 in connection with the matter under investigation; or

27 (B) completion of the prosecution of the crime being
28 investigated.

29 (e) A person who refuses or resists the taking of photographs or fingerprints
30 under this section commits a class B misdemeanor, punishable as provided in
31 AS 12.55, except that a sentence of imprisonment, if imposed, may not exceed 10

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days.

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* **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).



Alaska State Legislature

Senator Con Bunde

Senate District P

Vice Chair: Senate Finance Committee

Chair: Senate Labor & Commerce Committee

Sponsor Statement

SB 3005

"An Act relating to contempt of court and to temporary detention and identification of persons."

Written in Alaska's constitution is an acknowledgement of an individual's freedom and an individual's corresponding obligation to our state. Striking a balance between the needs of society to prosecute crime, the rights of a defendant to witnesses on their behalf and the right of an individual to be free from unreasonable arrest is the central issue in SB 3005 Detention of Material Witnesses.

A material witness is a witness whose testimony is crucial to either the defense or prosecution. SB 3005 adds a section to AS 12.50 allowing peace officers to temporarily detain material witnesses at the scene of a crime. SB 3005 outlines that the detention is allowed only when it is necessary to obtain the identification of the witness, to obtain an account of the crime, to protect a crime victim from imminent harm, or for other exigent circumstances.

SB 3005 allows a police officer who has detained a person under these circumstances to photograph the person; serve a subpoena on the person to appear before the grand jury if the person fails to provide valid government-issued identification and; take the person's fingerprints if the person is detained in connection with the investigation of a murder, attempted murder or misconduct involving weapons in the first degree under AS 11.61.190.

Giving peace officers the ability to gain the identification of material witnesses at the scene of a crime protects both the needs of society and the rights of the individual. Material witnesses can be the deciding factor in bringing indictments and prosecuting crime. Alternatively, material witnesses may also provide crucial testimony to defendants' arguments. SB 3005 balances the interests of individuals' freedom with the need to collect information at the scene of a crime.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION - 3rd Special

Fiscal Note Number: 1
 Bill Version: SB 3005
 (S) Publish Date: 7/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to contempt of court and to
temporary detention and identification of persons." RDU CRIMINAL
 Sponsor Governor Component Criminal Justice Litigation
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill allows for stiffer penalties for contempt of court when it arises from failure to honor a subpoena or refusal to be sworn or answer as a witness under was in connection with a court proceeding relating to a felony crime or an appearance before the grand jury. It also creates a new Article in the Criminal Code under Chapter 50 (Witnesses). The new article allows a peace officer to temporarily detain a person who witnessed or may have witnessed a crime or the detention is necessary to identify the person, obtain an account of the crime or protect the person from imminent harm or for other exigent circumstances. It allows the peace officer to subject the detainee to certain procedures such as photographs or fingerprints and makes it a class B misdemeanor if the person refuses or resists the taking of photographs or fingerprints. Passage of this legislation will not have a fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 7/27/06 9:55 AM
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 7/27/2006
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 3005
 (S) Publish Date: 7/27/06

Revision Date/Time (Note if Revision): 7/27/06 11:26 a.m. Dept. Affected: Administration
 Title: An act relating to material witnesses; ... RDU: Legal and Advocacy Services
 Component: Office of Public Advocacy
 Sponsor: Governor
 Requester: _____ Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill permits a material witness to be detained and fingerprinted at the scene of a crime under certain exigent circumstances. It also amends the penalty statute for contempt.

This bill is not expected to have an fiscal impact on the Office of Public Advocacy.

Prepared by: Joshua P. Fink, Director Phone (907) 269-3500
 Division: Office of Public Advocacy Date/Time 7/27/06 11:26 a.m.
 Approved by: Melanie Millhorn, Deputy Commissioner Date 7/27/2006
 Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: SB 3005
 (S) Publish Date: 7/27/06

Revision Date/Time (Note if correction): 7/27/06 / 11:24 a.m. Dept. Affected: Administration
 Title: An Act relating to material witnesses RDU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Governor
 Requester: _____ Component No: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill permits a material witness to be detained and fingerprinted under certain exigent circumstances. It also amends the penalty statute for contempt.

This bill is not expected to have an impact on the Public Defender Agency's fiscal operations.

Prepared by: Quinlan Steiner, Director Phone (907) 334-4414
 Division: Public Defender Agency Date/Time 7/27/2006 11:24 a.m.
 Approved by: Melanie Millhorn, Deputy Commissioner Date 7/27/2006
 Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: SB 3005
 (S) Publish Date: 7/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title: "An act relating to detention of material witnesses" RDU: Institutional Facilities
 Component: Institution Director's Office
 Sponsor: Governor
 Requester: _____ Component No.: 1381

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

The department anticipates an extremely small number of potential cases each year that may be impacted by the language contained in the legislation. Due to the small number of potential cases and the fact that a sentence, if imposed, may not exceed 10 days of imprisonment, passage of the legislation should not have a significant fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Director
 Division: Administrative Services
 Approved by: Portia C.K. Parker, Deputy Commissioner
 Agency: Department of Corrections

Phone: (907) 465-3339
 Date/Time: 7/27/06 10:16 AM
 Date: 7/27/2006



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Rules By Request of THE GOVERNOR

Current Version: SB 3005

Contact: Lauren Rice, 269-0181

Fact Sheet for: Senate Bill3005

Short Title: DETENTION/IDENTIFICATION; CONTEMPT

Summary:

- Increases the penalty for contempt of court for failure to honor a subpoena or refusal to answer as a witness, or to appear before the grand jury.
- Adds a section to AS 12.50 allowing a peace officer to temporarily detain a person under circumstances that give the officer reasonable suspicion that:
 - the person witnessed a crime or was in the vicinity of a crime such as homicide or manslaughter;
 - the person may have information of material aid in the investigation of that crime, and;
 - the temporary detention is reasonably necessary to obtain or verify the identification of the person, to obtain an account of the crime, to protect a crime victim from imminent harm, or for other exigent circumstances.
- Allows a police officer who has detained a person under these circumstances to:
 - photograph the person;
 - serve a subpoena on the person to appear before the grand jury if the person fails to provide valid government-issued identification;
 - take the person's fingerprints if the person is detained in connection with the investigation of a murder, attempted murder or misconduct involving weapons in the first degree under AS 11.61.190.
- Prohibits the peace officer from requiring the person to sign a subpoena issued under this section, and requires the peace officer to advise the person that failure to honor the subpoena is punishable as criminal contempt of court.
- Allows a person receiving a subpoena to request the district attorney to withdraw the subpoena if the person provides a valid government-issued photographic identification prior to the grand jury proceeding.
- Makes it a class B misdemeanor to refuse or resist the taking of photos or fingerprints, and outlines procedures for retaining or destroying them.

Benefits:

- Balances the need to protect individual freedom with the ability to prosecute crime and to provide defendants with witnesses on their behalf.

Background:

- A material witness is crucial to either the defense or prosecution. Unfortunately, material witnesses often refuse to cooperate with law enforcement officials, significantly impeding the ability to bring indictments or prosecute crime. SB 3005 protects material witnesses from unreasonable arrests or confinement and helps ensure the availability of crucial testimony.

Citation/Title

RCRP Rule 5, RULE 5. PROCEEDINGS BEFORE THE JUDGE OR MAGISTRATE

Rules of Criminal Procedure, Rule 5

**WEST'S ALASKA COURT RULES
RULES OF CRIMINAL PROCEDURE
PART II. PRELIMINARY PROCEEDINGS**

Current with amendments received through 8/15/2005

RULE 5. PROCEEDINGS BEFORE THE JUDGE OR MAGISTRATE**(a) Appearance Before Judge or Magistrate.**

(1) Except when the person arrested is issued a citation for a misdemeanor or a violation and immediately thereafter released, the arrested person shall be taken before the nearest available judge or magistrate without unnecessary delay. This appearance may be accomplished by the use of telephonic or television equipment pursuant to Criminal Rules 38.1 and 38.2. Unnecessary delay within the meaning of this paragraph (a) is defined as a period not to exceed twenty-four hours after arrest, including Sundays and holidays.

(2) If

(i) The judge or magistrate commits the arrested person to jail for a purpose other than to serve a sentence, and

(ii) The jail is situated in a different community from the place where the judge or magistrate committed the arrested person to jail, and

(iii) The arrested person is not represented by counsel, and

(iv) The arrested person has not previously had a bail review, and

(v) The arrested person has no date, time and place established for his or her next court appearance,

then the arrested person shall be taken before a judge or magistrate in the community where the jail is located within twenty-four hours of the person's detention in that jail

(aa) in order for bail to be reviewed, and

(bb) in order to determine if the person is represented by counsel, and

(cc) in order for the counsel to be appointed, if appropriate.

(3) The responsibility for ensuring that the arrested person is taken before a judge or magistrate as specified in subsections (1) and (2) of this section (a) shall be borne equally by

(i) municipal police officers and municipal jail personnel, and by

(ii) state troopers, state jail personnel, and all other peace officers.

No distinction shall be drawn between cases in which arrest was made pursuant to a warrant and cases in which arrest was made without a warrant.

*342 (4) Whenever the person arrested is taken for examination before a judge or magistrate other than the one who issued the warrant, the complaint and any other statement or deposition on which the warrant was granted must be furnished to the defendant and must be communicated to the judge or magistrate before whom the person arrested appears.

(5) Whenever a person arrested without a warrant is brought before a judge or magistrate, a complaint shall be filed forthwith.

(6) Judges and magistrates shall be available at all times to receive bail, and each judge and magistrate individually shall have authority to delegate this duty to the person admitting the defendant to jail, or to such other person as shall in the determination of a judge or magistrate be qualified for this purpose.

(b) Rights of Prisoner to Communicate with Attorney or Other Person. Immediately after arrest, the prisoner shall have the right forthwith to telephone or otherwise to communicate with both an attorney and any relative or friend. Any attorney at law entitled to practice in the courts of Alaska, at the request of either the prisoner or any relative or friend of the prisoner, shall have the right forthwith to visit the prisoner in private. This paragraph does not provide a prisoner with the right to initiate communication or attempt to initiate communication under circumstances proscribed under AS 11.56.755.

(c) Statement by Judge or Magistrate--Right to Counsel--Bail. The judge or magistrate

(1) shall inform the defendant of the complaint and of any affidavit filed therewith, and

(2) shall require that a copy of the complaint and of any affidavit filed therewith be delivered to the defendant if this has not already been done, and

(3) shall inform the defendant

(i) of the right to retain counsel, and

(ii) of the right to request the assignment of counsel if the defendant is unable to obtain counsel, and

(iii) of the right to have a preliminary examination, and

(4) shall inform the defendant that the defendant is not required to make a statement and that any statement may be used against the defendant. The judge or magistrate shall allow the defendant reasonable time and opportunity to consult counsel and shall admit the defendant to bail as provided by law and by these rules.

(d) Initial Determination of Probable Cause.

*343 (1) If the defendant was arrested without a warrant, the judicial officer at the first appearance shall determine whether the arrest was made with probable cause to believe that an offense had been committed and that the defendant had committed it. This determination shall be made from the complaint, from an affidavit or affidavits filed with the complaint, or from an oral statement under oath of the arresting officer or other person which is recorded by the judicial officer. The determination shall be noted in the file.

(2) If the defendant was arrested on a warrant for a failure to appear at a prior proceeding, the court shall determine from the file whether the defendant's initial arrest was pursuant to a warrant and, if not, whether at a prior proceeding the court made an initial determination of probable cause as required by subparagraph (d)(1). If there has been no judicial determination of probable cause, the court shall proceed as under subparagraph (d)(1).

(3) If probable cause is not shown, the judicial officer shall discharge the defendant.

(e) Felonies.

(1) If the charge against the defendant is a felony, the defendant shall not be called upon to plead.

(2) The judicial officer shall inform the defendant of the right to a preliminary examination. A defendant is entitled to a preliminary examination if the defendant is charged with a felony for which the defendant has not been indicted, unless

(A) the defendant waives the preliminary examination, or

(B) an information has been filed against the defendant with the defendant's consent in the superior court.

(3) If the defendant after having had the opportunity to consult with counsel waives preliminary examination, the judicial officer shall forthwith hold the defendant to answer in the superior court.

(4) If the defendant does not waive preliminary examination, the judicial officer shall schedule a preliminary examination. Such examination shall be held within a reasonable time, but in no event later than

(A) 10 days following the initial appearance, if the defendant is in custody, or

(B) 20 days following the initial appearance, if the defendant is not in custody.

With the consent of the defendant and upon a showing of good cause, taking into account the public interest in prompt disposition of criminal cases, the judicial officer may extend the time limits specified in this subsection one or more times. In the absence of consent by the defendant, the judicial officer may extend these time limits only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interest of justice.

*344 (f) Misdemeanors.

(1) The judicial officer shall ask the defendant to enter a plea pursuant to Criminal Rule 11.

(2) If the defendant pleads not guilty, the court shall fix a date for trial at such time as will afford the defendant a reasonable opportunity to prepare.

[Amended effective July 15, 1994; July 15, 1995; by Laws 1998, c. 86, § 17; June 13, 1998.]

Note

Note to SCO 1339: Criminal Rule 5(b) was amended by § 17 ch. 86 SLA 1998 to make it clear that the rule does not give a prisoner the right to contact a victim or witness in violation of AS 11.56.755. Section 1 of this order is adopted for the sole reason that the legislature has mandated the amendment.

Citation/Title

AK ST Sec. 12.30.050, Release of material witnesses

*5105 Alaska Stat. § 12.30.050

**WEST'S ALASKA STATUTES
TITLE 12. CODE OF CRIMINAL PROCEDURE
CHAPTER 30. BAIL**

Current through the 2005 First Regular Session and First Special Session of the 24th Alaska Legislature

§ 12.30.050. Release of material witnesses

If it appears by affidavit that the testimony of a person is material in a criminal proceeding, and it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer shall impose conditions of release under AS 12.30.020. A material witness may not be detained because of inability to comply with any condition of release if the testimony of the witness can adequately be secured by deposition. Release may be delayed for a reasonable period of time for the deposition of the witness to be taken.

Search this disc for cases citing this section.

Citation/Title

AK ST Sec. 12.30.020, Release before trial

*5090 Alaska Stat. § 12.30.020

WEST'S ALASKA STATUTES
TITLE 12. CODE OF CRIMINAL PROCEDURE
CHAPTER 30. BAIL

Current through the 2005 First Regular Session and First Special Session of the 24th Alaska Legislature

§ 12.30.020. Release before trial

(a) A person charged with an offense shall, at that person's first appearance before a judicial officer, be ordered released pending trial on the person's personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer unless the offense is an unclassified felony or class A felony or unless the officer determines that the release of the person will not reasonably assure the appearance of the person as required or will pose a danger to the alleged victim, other persons, or the community. If the offense with which a person is charged is a felony, on motion of the prosecuting attorney, the judicial officer may allow the prosecuting attorney up to 48 hours to demonstrate that release of the person on the person's personal recognizance or upon the execution of an unsecured appearance bond will not reasonably assure the appearance of the person or will pose a danger to the alleged victim, other persons, or the community.

(b) If a judicial officer determines under (a) of this section that the release of a person will not reasonably assure the appearance of the person, or will pose a danger to the alleged victim, other persons, or the community, the judicial officer may

(1) place the person in the custody of a designated person or organization agreeing as a custodian to supervise the person; the court shall, personally and in writing, inform the custodian about the duties required of a custodian, and that failure to report immediately in accordance with the terms of the order that the person released has violated a condition of release may result in the custodian's being held criminally liable under AS 11.56.758;

(2) place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) require the person to return to custody after daylight hours on designated conditions;

(4) require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security, a sum not to exceed 10 percent of the amount of the bond; the deposit to be returned upon the performance of the condition of release;

*5091 (5) require the execution of a bail bond with sufficient solvent sureties or the deposit of cash;

(6) require the execution of a performance bond in a specified amount and the deposit in the registry of the court, in cash or other security; the performance bond must be imposed and enforced separately from any appearance bond, and the deposit to be returned upon the performance of the condition of release; or

(7) impose any other condition considered reasonably necessary to assure the defendant's appearance as required and the safety of the alleged victim, other persons, or the community.

(c) In determining the conditions of release under (b) of this section, the judicial officer shall take into account

(1) the nature and circumstances of the offense charged, including the effect of the offense upon the alleged victim;

(2) the weight of the evidence against the person;

(3) the person's family ties;

(4) the person's employment;

AK ST Sec. 12.30.020, Release before trial

- (5) the person's financial resources;
- (6) the person's character and mental condition;
- (7) the length of the person's residence in the community;
- (8) the person's record of convictions;
- (9) the person's record of appearance at court proceedings;
- (10) the flight of the accused to avoid prosecution or the person's failure to appear at court proceedings; and
- (11) threats the person has made, and the danger the person poses, to the alleged victim.

(d) A judicial officer authorizing the release of a person under this section shall issue an order containing a statement of the conditions imposed.

(e) The judicial officer shall inform the person of the penalties that may be imposed for a violation of the conditions of release and advise the person that a warrant for the person's arrest will be issued immediately upon a violation or that the person may be arrested without a warrant for a violation of conditions of release as set out in AS 12.25.030(b).

(f) A person who remains in custody 48 hours after appearing before a judicial officer because of inability to meet the conditions of release shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed the conditions. If the judicial officer who imposed the conditions of release is not available, any other judicial officer in the district may review the conditions. If the conditions are not amended and the person remains in custody, the judicial officer shall set out in writing the reasons for requiring the conditions imposed.

*5092 (g) A judicial officer who orders the release of a person on a condition specified in (b) of this section may at any time amend the order to impose additional or different conditions of release, or to release the person under (a) of this section.

(h) Information offered or introduced at a hearing before a judicial officer to determine the conditions of release need not conform to the rules governing the admissibility of evidence in a court of law.

(i) The court shall issue written or oral findings to demonstrate why conditions provided under (b)(1) of this section needed to be imposed.

(j) If a person remains in custody after review of conditions by a judicial officer under (f) of this section, a subsequent review of conditions may be held at the request of the person. Unless the prosecuting authority stipulates otherwise, a judicial officer may not schedule a bail review hearing under this subsection unless

- (1) the person provides to the court and the prosecuting authority a written statement that information not considered at the previous review will be presented and includes a description of the new information;
- (2) the prosecuting authority has at least 48 hours' notice before the time set for the review requested under this subsection; and
- (3) at least 48 hours have elapsed between the previous review and the time set for the review requested under this subsection.

Amended by Laws 1994, c. 115, § 4, imd. eff. June 18, 1994; Laws 1997, c. 63, §§ 10 to 12, eff. July 1, 1997; Laws 2000, c. 124, § 4, eff. September 4, 2000; Laws 2004, c. 124, §§ 18, 19, eff. July 1, 2004; Laws 2005, c. 65, § 1, eff. July 14, 2005.

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

Laws 2004, c. 124, § 32(c) provides:

"(c) Sections 16, 18, and 19 of this Act apply to custodians who fail to report on or after July 1, 2004, for persons released for offenses committed before, on, or after July 1, 2004."

Laws 2000, c. 124, § 7 provides:

"Applicability. (a) Sections 1--3 and 5 of this Act apply to offenses committed on or after September 4, 2000. However, the underlying offense for which a person is on release before trial, sentence, or service of sentence may occur before, on, or after the September 4, 2000.

"(b) Section 4 of this Act applies to custodians appointed and performance bonds posted on or after September 4, 2000. However, offenses that give rise to the appointment of a custodian or the posting of the performance bond may occur before, on, or after September 4, 2000.

*5093 "(c) Section 6 of this Act applies to actions occurring before, on, or after September 4, 2000."

Laws 1997, c. 63, § 27(a) provides:

"Except as provided in (c) and (d) of this section, this Act applies to a criminal or juvenile hearing and proceedings held on or after the effective date of the relevant section of this Act, regardless of whether the criminal offense or delinquent act occurred before, on, or after the effective date of the relevant section of this Act."

Search this disc for cases citing this section.

Citation/Title

AK ST Sec. 12.50.010, Witness subpoenaed in this state to testify in another state

*5217 Alaska Stat. § 12.50.010

WEST'S ALASKA STATUTES
TITLE 12. CODE OF CRIMINAL PROCEDURE
CHAPTER 50. WITNESSES
ARTICLE 1. UNIFORM ACT TO SECURE ATTENDANCE IN CRIMINAL
PROCEEDINGS

Current through the 2005 First Regular Session and First Special Session of the 24th Alaska Legislature

§ 12.50.010. Witness subpoenaed in this state to testify in another state

(a) If a judge of a court of record in any state which by its laws has made provision for commanding persons within the state to attend and testify in this state certifies under the seal of the court that there is a criminal prosecution pending in the court, or that a grand jury investigation has commenced or is about to commence, that a person within this state is a material witness in that prosecution or grand jury investigation, and that the presence of that person will be required for a specified number of days, then, upon presentation of the certificate to a judge of a court of record in the judicial district in which the person is, the judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing.

(b) If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending or grand jury investigation has commenced or is about to commence will give to the witness protection from arrest and the service of civil and criminal process, the judge shall issue a subpoena, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending or where a grand jury investigation has commenced or is about to commence at a time and place specified in the subpoena. In any such hearing the certificate shall be prima facie evidence of all of the facts stated therein.

(c) If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure attendance in the requesting state, the judge may, in lieu of notification of the hearing, direct that the witness be immediately brought before the judge for said hearing; and if the judge at the hearing is satisfied of the desirability of the custody and delivery, for which determination the certificate shall be prima facie proof of this desirability, the judge may, in lieu of issuing subpoena, order that the witness be immediately taken into custody and delivered to an officer of the requesting state.

*5218 (d) If the witness who is subpoenaed as provided in this section, after being paid or tendered by a properly authorized person a sum equivalent to the cost of air fare round trip passage on a certificated carrier or such prepaid passage and reasonable incidental travel allowance for going to and from airports plus \$20 per day for each day that the witness is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the subpoena, the witness shall be punished in the manner provided for the punishment of a witness who disobeys a subpoena issued from a court of record in this state.

Search this disc for cases citing this section.

Sec. 12.30.050. Release of material witnesses.

If it appears by affidavit that the testimony of a person is material in a criminal proceeding, and it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer shall impose conditions of release under AS 12.30.020 . A material witness may not be detained because of inability to comply with any condition of release if the testimony of the witness can adequately be secured by deposition. Release may be delayed for a reasonable period of time for the deposition of the witness to be taken.

Sec. 12.30.060. Penalties for failure to appear.

A person released under the provisions of this chapter who knowingly fails to appear before a court or judicial officer as required shall incur a forfeiture of any security that was given or pledged for the person's release and, if the person was released

(1) in connection with a charge of felony, or while awaiting sentence or pending appeal after conviction of an offense, is guilty of a felony and upon conviction is punishable by a fine of not more than \$5,000 or by imprisonment for not more than five years, or by both;

(2) in connection with a charge of misdemeanor, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than the maximum provided for the misdemeanor, or by imprisonment for not more than one year, or by both; or

(3) for appearance as a material witness, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both.

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*Mark, Begich,
Mayor*

ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599
Telephone (907) 786-8500



Service since 1921

Alaska State 24th Legislature

Legislators;

This is a letter of support for HB 3007, the Material Witness Bill.

Anchorage and the entire State are growing; and with this growth bring both new and more complex issues in to our communities. The challenge for law enforcement is to keep up with the changes in societal trends that negatively impact public safety and to balance our response to them within the mandates of the law. Sometimes to meet this challenge requires change in our tactics and/or our law. In considering such changes, most of us first look to other jurisdictions to examine how they had responded and if had been effective. And the fact that nearly every state and the federal government have addressed this issue in the adoption of a material witness law is significant and indicative that this law is essential to combat this societal problem.

I know this bill will assist every law enforcement officer in his and her pledge to the citizens we all serve. I support this bill and appreciate your collective efforts to help all Alaskans be a little safer in our changing world.

Walt Monegan
Chief of Police



Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 843-4481 • Fax: (907) 343-4499 <http://www.muni.org>

Mayor Mark Begich

Office of the Mayor

July 3, 2006

The Honorable Frank Murkowski
Governor
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Murkowski:

I understand from media accounts that you are considering an initiative to look into youth violence issues in Anchorage. We welcome the State's involvement and look forward to being a part of your efforts.

As you know, my administration has been working with police, prosecutors, judges and legislators on several initiatives to speed up the prosecution of criminals in Anchorage to get them off the streets quicker and better use technology to prevent crime.

Unfortunately, a backlog within the State criminal justice system is preventing the quick prosecution of criminals and their removal from Anchorage streets. An ever increasing number of Anchorage police officers are bringing a corresponding increase in the number of cases to the under-resourced State criminal justice system. Too many of these cases are not being processed in a timely manner, resulting in delays, inadequate sentences and defendants awaiting trial committing more crime. This worsens Anchorage's gang problem.

According to the Anchorage District Attorney's Office, there are more than 2,500 felony cases currently awaiting disposition by the State. At the same time, the number of trials held in Anchorage has dropped dramatically, from nearly 140 in 1986 to about 30 in 2004. Some murder cases awaiting trial date back to 1999. As of January 2006, there were nearly 300 felony trials pending in Anchorage, including 28 homicides.

Below, I have outlined some issues the Municipality considers to be priorities that can be remedied through State leadership and partnering with local governments:

Unclog the court backlog – The Municipality strongly supported your bill passed by the Legislature (SB237) to add Superior Court judges in Anchorage, Kenai, Palmer and Fairbanks, and expand courthouses. Yet, we believe the measure fell short because it failed to fund the additional elements needed to make the entire State criminal justice system work properly – additional prosecutors and public defenders.

Community, Security, Prosperity

As noted, more than 40 new police officers have been added in Anchorage since 2003. These officers are bringing an increasing number of cases to the DA's office. In 2003, 2,322 felony cases were accepted by the DA, 95 percent of them brought by APD. In 2005, that number had jumped more than 10 percent to 2,559. Yet, the DA's office reports that processing just those cases without accepting any new ones would take nine years. While awaiting processing, many defendants are released into the community, only to commit more crimes.

Improve technology so courts and police can share criminal data – Currently, the State court system and APD cannot electronically share some data about criminal defendants, such as bail status. This means when an officer encounters a violator on the street, the officer may not know whether that person is out on bail or has committed other crimes. Numerous other jurisdictions such as Arizona, Wisconsin and Chicago, have state-of-the-art systems to allow for sharing of such information.

A task force, the Multi-Agency Justice Integration Consortium (MAJIC), has been working since 2002 on this problem, but it remains an obstacle to getting criminals off the streets more quickly. My administration supports better technology within the court system to more rapidly process criminals and urges court officials to agree to information sharing with APD.

Ankle bracelets for gang members – Gang members present unique threats to the public because they often ignore probation and parole restrictions and frequently commit other crimes while awaiting disposition of their cases. The Municipality supports state legislation requiring judges to order gang members to wear ankle bracelets as a condition of their release. Removal of the bracelet would automatically send them back to jail. This would enable the police to better monitor gang members.

Stricter penalties for multiple traffic violations – In several high-profile cases recently, drivers who have previously been convicted of traffic violations receive only light punishment, and then go on to commit serious crimes including murder. This is the case with both Mark Elkins and Kris Felber, who both killed innocent Anchorage citizens. We support stricter State laws, perhaps modeled after "three strikes" laws in which drivers with long histories of multiple traffic violations face felonies. These drivers should be removed from the streets before they kill innocent victims.

We also support broadening the felon in possession statute by adding a subsection to AS 11.61.200 that makes it unlawful for a convicted felon to occupy a vehicle with a firearm in it.

Material witness law change – We support Sen. Con Bunde's legislation (SB206) regarding material witnesses, which unfortunately failed in the Legislature this year. This measure would preclude a repeat of last year's Dimond Center frustration faced by police officers as they attempted to gather information at the scene of a shooting and faced uncooperative witnesses.

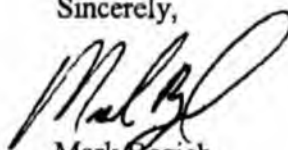
Federal prosecutor partnership – Processing of gang, drug and gun violations under federal law is quicker and the penalties far more strict than under state law. Former United States Attorney Tim Burgess proposed the Municipality of Anchorage assign city prosecutors to the federal prosecutor, to focus on gang, drug and gun cases. We recently received \$100,000 from the U.S. Department of Justice to launch this initiative and are matching it with local taxpayer dollars. We also are seeking \$400,000 annually for three years in a federal grant through U.S. Senator Lisa Murkowski and have asked the Legislature for support. Two city prosecutors and support staff would receive specialized training and be assigned to the federal prosecutor's office to focus on gang, drug and gun violations.

Last year, my administration launched a five-part anti-gang initiative which includes: improved intelligence gathering, better focused law enforcement operations, enhanced community education and support, better family support and tougher laws. In addition, the Tri-Borough Commission I have formed with Mat-Su Mayor Tim Anderson and Kenai Peninsula Mayor John Williams will be sponsoring a gang summit this fall with the U.S. Attorney's Office.

I want to stress that while additional laws may be necessary, the most immediate and effective solution is a sustainable revenue stream dedicated to enforcement, to the full functioning of the State Court System and a solid prevention program for our youth.

We would welcome the State's participation in tackling the problems of youth violence in our community. The Municipality of Anchorage requests a seat at the table for any of State effort and I look forward to the opportunity to discuss these issues with you at your convenience.

Sincerely,



Mark Begich
Mayor

CC: Select State Legislators
Anchorage Assembly members

SJR

1

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/11/05

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered SENATE JOINT RESOLUTION NO. 1

SJR 1 CONST. AM: APPROPRIATION LIMIT

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

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

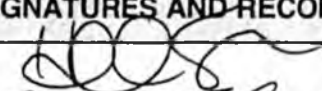
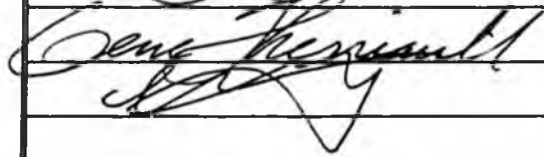

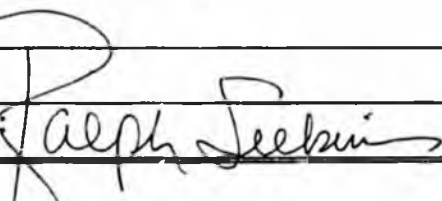
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			X	
			X	
			X	
CHAIR:  Ralph Tebbins			X	

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

February 10, 2005

SUBJECT: Appropriation Limit (CSSJR 1(JUD))

TO: Senator Ralph Seekins
Chair of the Senate Judiciary Committee
Attn: Brian Hove

FROM: Tamara Brandt Cook
Director *TBC*

Here is a final CSSJR 1 for the Judiciary Committee. Please be aware that this resolution raises legal problems. In addition, it includes in places language that is not clear and does not comply with usual drafting style. The following is a partial list of potential specific problems:

(1) The first sentence appears to permit appropriations to, essentially, double each year under the limit.

(2) The resolution refers to particular executive branch agencies, to the Finance Committees of the legislature, and to one federal agency, the Bureau of Economic Analysis. Normally the constitution refrains from referring to specific government agencies because they are changed from time to time through government reorganization. Any constitutional provision that refers to a particular government agency can become obsolete or difficult to apply if the agency is changed.

(3) In (j) and (k) reference is made to a treasurer. Alaska does not have the office of state treasurer.

(4) Subsection (g) states: "the governor may issue a proclamation declaring a fiscal emergency and shall cause the legislature to assemble in special session solely for that purpose." Is it a mandatory duty or permissive power of the governor to call a special session in this situation?

(5) How does the provision in subsection (h) preventing the legislature from adjourning "for a joint recess" work in connection with the restriction in Art. II, sec. 10 on one house adjourning for longer than three days unless the other concurs? May each house take turns adjourning so that no "joint recess" occurs under subsection (h)?

Senator Ralph Seekins

February 10, 2005

Page 2

(6) How does the pay restriction in subsection (h) mesh with Art. II. sec. 7 which requires legislators to receive salaries and travel expenses?

(7) Subsection (j) uses the term "non-self-liquidating general obligation bond." How do these bonds differ from other general obligation bonds? What is a "general-fund-supported revenue lease bond"?

I think it is unlikely that this resolution, if adopted, would be found valid under the reasoning of Bess v. Ulmer, 985 P.2d 979. The court in that case found a distinction between amendments to the constitution that the legislature may propose and revisions that the legislature may not propose. At page 987 the court noted that "an enactment which is so extensive in its provisions as to change directly the 'substantial entirety' of the constitution by the deletion or alterations of numerous existing provisions may well constitute a revision thereof [while] even a relatively simple enactment may accomplish such far reaching changes in the nature of our basic governmental plan as to amount to a revision also." The process of amendment, on the other hand, is proper for those changes which are "few, simple, independent, and of comparatively small importance." The legislature may not propose "sweeping changes" to the state constitution. In considering whether a particular change is within the power of the legislature to propose the court identified four factors it would consider: (1) whether the proposal is simple to express and understand; (2) whether it is complete within itself; (3) whether it relates to only one subject; and (4) whether it substantially affects only a few sections of the constitution. It is not certain that this resolution meets any of these four factors. In addition, because the thrust of the resolution is to limit a basic power of one of the branches of government, the legislative power of appropriation, the court may view this resolution as a "sweeping change" to the constitution.

TBC:lmb
05-050.lmb

Enclosure

24-LS0292VF
Cook
2/9/05

CS FOR SENATE JOINT RESOLUTION NO. 1()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR DYSON

A RESOLUTION

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

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

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

6 **Section 16. Appropriation Limit.** (a) Subject to (b) of this section and
7 except as provided in this section, appropriations made for a current fiscal year shall
8 not exceed the amount appropriated for the fiscal year two years preceding the current
9 fiscal year by more than the product of that prior year's appropriations multiplied by
10 the sum of one plus the percentage change in State population, and then multiplying
11 that resultant product by one plus the percentage change in the Consumer Price Index.
12 However, the percentage change in the Consumer Price Index shall be no greater than
13 the percentage change in personal income of State residents. The Department of
14 Commerce, Community, and Economic Development or its successor agency shall
15 determine the change in per capita personal income based upon the Alaska personal
16 income statistics produced by the Bureau of Economic Analysis in the United States

1 Department of Commerce. In this subsection,

2 (1) "percentage change in State population" means the percentage
3 change for the latest available estimates as compiled by a State agency;

4 (2) "percentage change in the Consumer Price Index" means the
5 percentage change for the latest available estimates for all urban consumers for the
6 Anchorage metropolitan area as compiled by a federal agency.

7 (b) If the appropriation limit amount calculated in this section for a current
8 fiscal year is less than the appropriation limit amount calculated for the immediately
9 preceding fiscal year, the appropriation limit amount for the immediately preceding
10 fiscal year shall apply to the current fiscal year.

11 (c) Calculations made under (a) of this section shall not include appropriations

12 (1) to the Alaska permanent fund established in Section 15 of this
13 article;

14 (2) of Alaska permanent fund income for payments of permanent fund
15 dividends to State residents;

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

19 (4) of State general obligation bond and revenue bond proceeds;

20 (5) required to pay obligations under revenue bonds;

21 (6) of money received from the federal government;

22 (7) of money received as tuition, fees, or contract receipts, or from
23 other sources apart from the general fund by the University of Alaska;

24 (8) of dedicated funds and trust funds;

25 (9) of money for expenditures by a State agency to provide services to
26 another State agency that has also received an appropriation of the same money;

27 (10) of money previously appropriated for a different purpose or to a
28 different recipient; and

29 (11) made under (d), (l), or (m) of this section.

30 (d) The appropriation limit imposed by this section may be exceeded for a
31 fiscal year in an emergency as defined in (e) of this section. Any expenditure

1 exceeding the limit imposed by this section for a declared emergency as provided for
2 in this section shall be for that purpose only and shall be directly related to, and
3 proportional to the costs arising from, the emergency. Furthermore, such funds shall
4 not be considered in the base for determining the following year's appropriation limit.

5 (e) "Emergency," for the purposes of (d) of this section, means the existence,
6 as declared by the governor, of conditions of disaster or of extreme peril to the safety
7 of persons or property within the State, or parts thereof, caused by an attack or
8 probable or imminent attack by an enemy of the United States, epidemic, fire, flood,
9 drought, storm, civil disorder, earthquake, or volcanic eruption. "Emergency" does
10 not include revenue shortfalls, excessive spending, or similar conditions limiting the
11 ability to fund government operations.

12 (f) The commissioner of revenue, or the head of a successor agency, shall, on
13 a quarterly basis, report to the governor and the members of the Finance Committees
14 in each house regarding the State's compliance with the appropriation limit imposed
15 by this section for the current fiscal year. The report shall include updated estimates
16 of revenues and expenditures and the appropriation limit for the current fiscal year. If
17 the Department of Revenue estimates that current fiscal year total expenditures might
18 exceed the appropriation limit imposed by this section, the report shall include
19 recommendations for corrective actions.

20 (g) If, following enactment of the budget bill, the governor determines that,
21 for that fiscal year, general fund revenues will decline substantially below the estimate
22 of general fund revenues upon which the budget bill for that fiscal year, as enacted,
23 was based, or general fund expenditures will increase substantially above the estimate
24 of general fund revenues, or both, or if, following the enactment of the budget bill for
25 fiscal year, the governor determines that, for that fiscal year, total expenditures are
26 expected to exceed the appropriation limit imposed by this section for that fiscal year,
27 the governor may issue a proclamation declaring a fiscal emergency and shall cause
28 the legislature to assemble in special session solely for that purpose. The
29 proclamation shall identify the nature of the fiscal emergency and shall be submitted
30 by the governor to the legislature, accompanied by proposed legislation to address the
31 fiscal emergency. Any legislation proposed or enacted in response to the fiscal

1 emergency declared under this section shall comply with the requirements of this
2 section.

3 (h) If the legislature fails to pass and send to the governor a bill or bills to
4 address the fiscal emergency declared under (g) of this section by the tenth day
5 following the issuance of the proclamation, the legislature may not adjourn for a joint
6 recess until that bill or those bills have been passed and signed by the governor.
7 Neither the governor nor any member of the legislature shall be entitled to any salary,
8 per diem, or other expense allowance for any day after the tenth day following the
9 issuance of the proclamation until legislation addressing the fiscal emergency has been
10 passed and signed into law by the governor. No forfeited salary, per diem, or expense
11 allowance shall be paid retroactively.

12 (i) A bill addressing the fiscal emergency declared under (g) of this section
13 shall contain a statement to that effect.

14 (j) Whenever, based on the most recent Department of Revenue estimates, or
15 the estimates of its successor agency, and based on laws then in effect, the estimated
16 total amount of debt service for the current fiscal year or any of the succeeding four
17 fiscal years on non-self-liquidating general obligation bonds and general-fund-
18 supported lease revenue bonds exceeds six percent of the estimated general fund
19 revenues for that fiscal year, exclusive of transfers from other funds during that fiscal
20 year, the treasurer may not sell any additional non-self-liquidating general obligation
21 bonds or general-fund-supported lease revenue bonds.

22 (k) If the percentage under (j) of this section is six percent or less, the
23 treasurer may sell those bonds to the extent that, based on the most recent Department
24 of Revenue estimates, or the estimates of its successor agency, and based on laws then
25 in effect, the additional debt service will not cause the percentage to exceed six
26 percent for the current fiscal year or any of the succeeding four fiscal years.

27 (l) The legislature may, upon the affirmative vote of at least two-thirds of the
28 members of each house, adopt an appropriation that exceeds the limit under (a) of this
29 section if the governor requests the appropriation in response to extraordinary
30 circumstances. The governor's request must include at least the following
31 information: (1) identification of the specific extraordinary circumstances; (2) the

1 amount requested for appropriation; (3) the period of time over which the
2 appropriation is intended to be used; and (4) a plan for recovering the amount of
3 money appropriated under this subsection. An appropriation made under this
4 subsection may not be used for the payment of bonds, notes, or other evidences of
5 indebtedness. For purposes of this subsection, "extraordinary circumstances" shall be
6 defined by law passed by at least two-thirds of the members of each house.

7 (m) If the legislature by law, declares that an extraordinary circumstance
8 exists, upon the affirmative vote of at least two-thirds of the members of each house,
9 the legislature may pass an appropriation that exceeds the appropriation limit under
10 this section to address the extraordinary circumstance.

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

13 **Section 30. Application, Transition, and Repeal.** The 2006 amendment
14 relating to an appropriation limit (art. IX, sec. 16) first applies to appropriations made
15 for fiscal year 2008. However, for purposes of making calculations under the
16 appropriation limit for fiscal years 2008 through 2010, it shall be assumed that,
17 excluding appropriation listed under Section 16(c) of Article IX, the amount
18 appropriated for

19 (1) fiscal year 2006 equals \$3,250,000,000; and

20 (2) fiscal year 2007 equals \$3,393,000,000.

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

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SJR4
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title CONST. AM: BUDGET RESERVE FUND RDU Elections
 Component Elections
 Sponsor Senator Dyson
 Requester (S) Judiciary Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	1.5	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 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. However, only six measures can be printed on an 8 1/2 by 14 inch ballot. If a measure requires printing an 8 1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred, Admin. Assistant Supervisor Phone 465-4611
 Division: Division of Elections Date/Time 2/4/05 11:40 AM
 Approved by: Laura A. Glaiser Date 2/4/2005
 Agency: Office of the Lt. Governor, Division of Elections

AMENDMENT #2

OFFERED IN THE SENATE

By Senator Fred Dyson

To: SJR1 (24-LS0292\A)

- 1 Page 1, Lines 7 through 9: Conceptual amendment to reflect that the base
- 2 year is the second fiscal year prior to the fiscal year being considered, as
- 3 opposed to the immediately preceding year.

AMENDMENT 1

OFFERED IN THE SENATE
TO: SJR 1

BY SENATOR DYSON

1 Page 2, line 29:

2 Delete ", (g), or (k)"

3

4 Page 3, line 7:

5 Delete "persons an"

6 Insert "persons or"

7

8 Page 3, line 20, through page 4, line 13:

9 Delete all material.

10 Reletter the following subsections accordingly.

11

12 Page 4, line 29:

13 Delete "(h)"

14 Insert "(g)"

15

16 Page 5, line 6:

17 Delete "(h)"

18 Insert "(g)"

19

20 Page 5, line 14:

21 Delete "many"

22 Insert "may"

23 Delete "not-self-liquidating"



SENATOR FRED DYSON

SJR 1

Sponsor Statement

"A Resolution Proposing an Appropriation Limit"

Dated: January 21, 2005

Contact: Senator Fred Dyson at (907) 465-2199

The adoption of an effective, reasonable constitutional spending limit is an integral step in the development of any effective long-range fiscal plan for the state. Senate Joint Resolution 1 (SJR 1) would amend Article IX, section 16 of Alaska's Constitution by establishing a new appropriations limit in a manner that more tightly constrains budget growth than does the existing appropriation limit, and is more closely aligned to Alaska's current revenue picture. Passage of SJR 1 would ensure that the state has a long-term, predictable spending plan that helps the state control spending in good times so that the state has the necessary funds to care for the people of Alaska when times are not so good.

The existing constitutional appropriation limit, adopted by voters in 1981, has not worked as anticipated and, as a result, has not been effective in restraining state spending. One primary reason for its failure is that the base upon which the limit was set was too high. Another is that the escalator factors, population and inflation, were cumulative year after year resulting in a limit that eventually became so high as to effectively not be a limit. In fact, given the increases in inflation and population over the last 20 years, our "limit" is currently more than \$6 billion. SJR 1 will amend the existing appropriation limit to more accurately reflect current budgeting and spending while making sure we provide for increased costs due to inflation and a growing population.

While this resolution sets a more effective limit, it is realistic in that it provides mechanisms for addressing unforeseeable emergencies. Should the need arise additional funds can be appropriated beyond the limit if the governor declares an emergency.

Another change is the removal of an existing provision that requires the legislature to reserve one-third for capital projects and loan appropriations, whether needed or not. Over the years, several attorney general opinions have been written on the meaning of the constitutional limit. Those opinions counter the plain English meaning of the language and have allowed the legislature and the administration to avoid this requirement. The resolution removes this arbitrary and superfluous requirement.

Finally, the proposed amendment would also limit the amount of debt service the state can incur. This is intended to help keep the state from mortgaging its future to fund capital projects for today -- a practice that created a recent near disaster in California. The provision limits indebtedness to 6% of general fund revenues.

A proposed amendment to the original resolution deletes references to the constitutional budget reserve. The amendment also includes a provision for the state to exceed the appropriations limit for extraordinary circumstances such as is anticipated for construction of the natural gas line.

PROVIDED BY SENATOR FRED DYSON

During Session (January-May): Alaska State Capitol • Juneau, Alaska 99801 • (800) 342-2199 • (907) 465-2199 • (907) 465-4587 FAX

During Interim (June-December): 10928 Eagle River Road • Eagle River, Alaska 99577 • (907) 694-6683 • (907) 694-1015 FAX

Senator.Fred.Dyson@Legis.state.ak.us • www.akrepublicans.org

1 Insert "non-self-liquidating"

2 Page 5, line 15:

3 Delete "general - fund-supporting"

4 Insert "general-fund-supported"

5 Page 5, line 16:

6 Delete "(k)"

7 Insert "(j)"

8

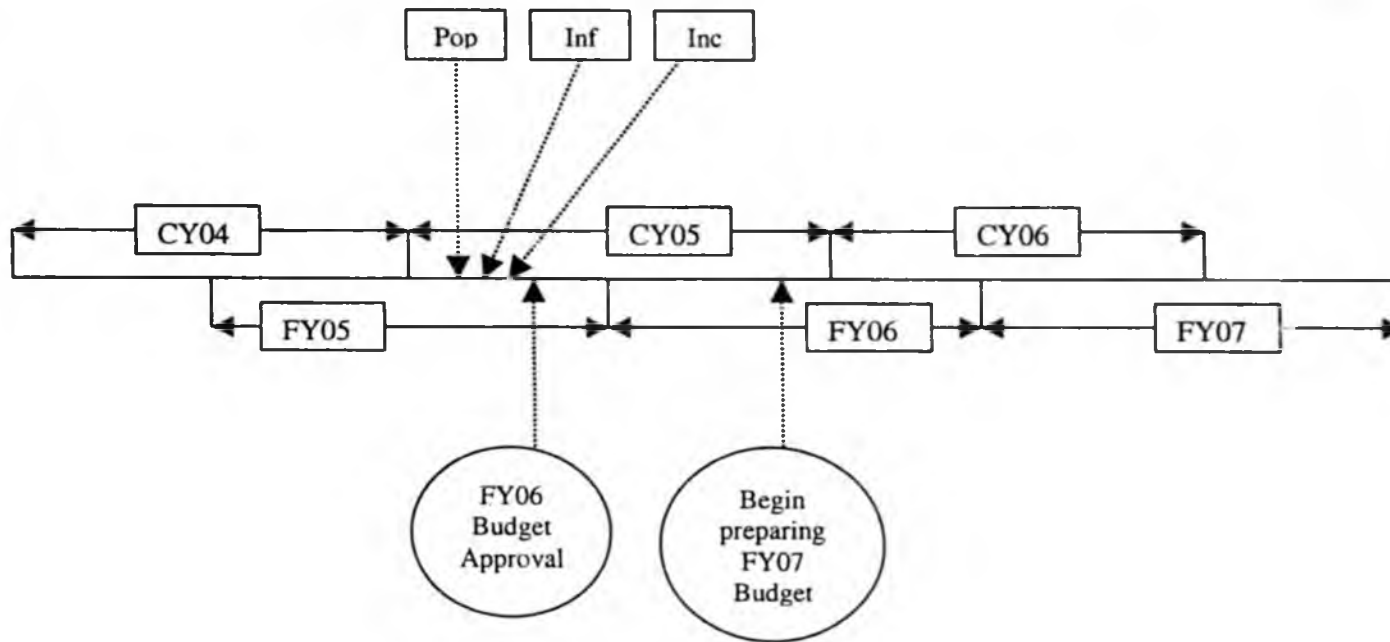
9 Page 5, following line 20:

10 Insert a new subsection to read:

11 "(l) The legislature may, upon the affirmative vote of at least two-thirds of the
12 members of each house, adopt an appropriation that exceeds the limit under (a) of this
13 section if the governor requests the appropriation in response to extraordinary
14 circumstances. The governor's request must include at least the following
15 information: (1) identification of the specific extraordinary circumstances; (2) the
16 amount requested for appropriation; (3) the period of time over which the
17 appropriation is intended to be used; and (4) a plan for recovering the amount of
18 money appropriated under this subsection. An appropriation made under this
19 subsection may not be used for the payment of bonds, notes, or other evidences of
20 indebtedness. For purposes of this subsection, "extraordinary circumstances" shall be
21 defined by law adopted by at least two-thirds of the members of each house."

DATA AVAILABILITY & SOURCES

<u>Data Available</u>	<u>FY07 limit relies on data from:</u>	<u>CY 2004 data available:</u>
Inflation: mid-February, US Department of Labor, Bureau of Labor Statistics	CY04	February 2005
Population: late January, Alaska Department of Labor, Research & Analysis	CY04	January 2005
Personal Income: late April, US Bureau of Economic Analysis	CY04	April 2005



CORRECTION

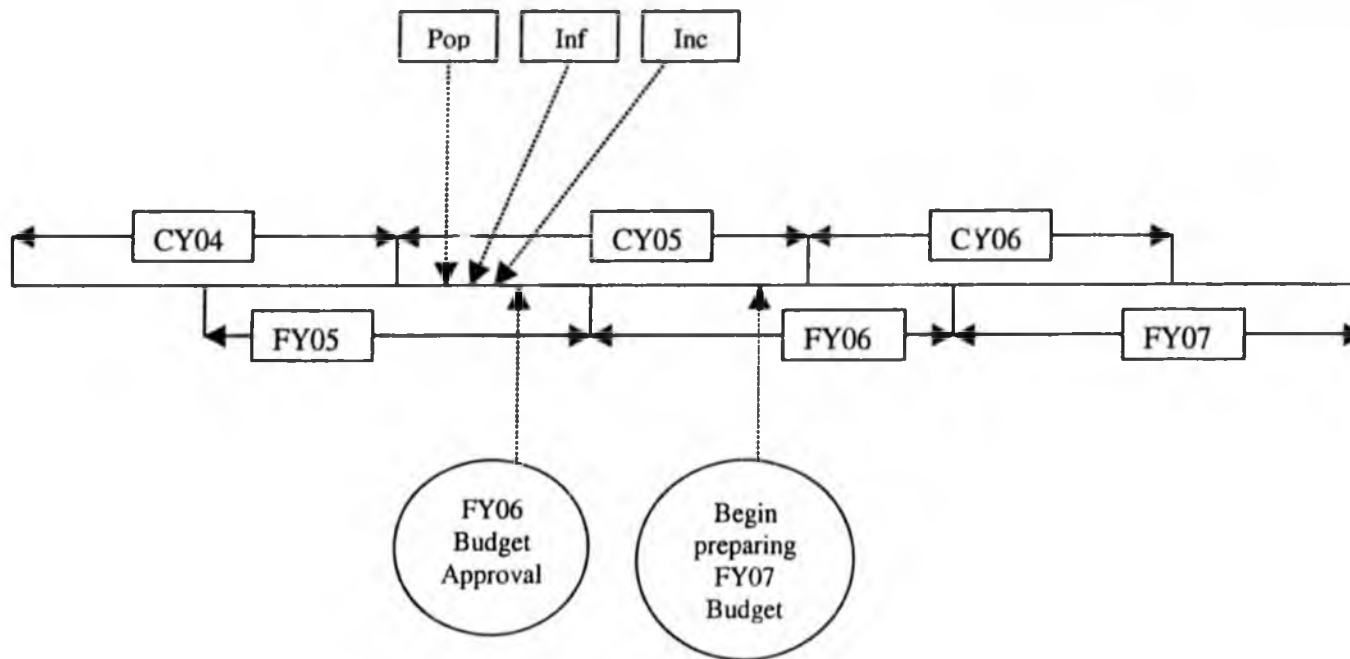
THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

DATA AVAILABILITY & SOURCES

<u>Data Available</u>	<u>FY07 limit relies on data from:</u>	<u>CY 2004 data available:</u>
Inflation: mid-February, US Department of Labor, Bureau of Labor Statistics	CY04	February 2005
Population: late January, Alaska Department of Labor, Research & Analysis	CY04	January 2005
Personal Income: late April, US Bureau of Economic Analysis	CY04	April 2005





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Statistics**

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include graphs NEW! [More Formatting Options](#) →

Data extracted on: January 20, 2005 (3:22:42 PM)

Consumer Price Index - All Urban Consumers

Series Id: CUURA427SA0, CUUSA427SA0 Not Seasonally Adjusted Area: Anchorage, AK Item: All items Base Period: 1982-84=100															
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
1987													108.2	108.3	108.1
1988													108.6	108.4	108.9
1989													111.7	110.9	112.5
1990													118.6	116.9	120.4
1991													124.0	123.3	124.7
1992													128.2	127.3	129.1
1993													132.2	131.5	132.8
1994													135.0	134.3	135.8
1995													138.9	138.2	139.5
1996													142.7	141.8	143.7
1997													144.8	144.1	145.4
1998													146.9	146.7	147.0
1999													148.4	148.6	148.3
2000													150.9	150.0	151.9
2001													155.2	154.4	156.0
2002													158.2	157.5	159.0
2003													162.5	161.1	163.9
2004													166.7	165.6	167.8

Table 1.1 Annual Components Of Population Change For Alaska, 1945-2004.

July 1 To June 30	End of Period Population	Population Change	Average Annual Rate of Change (%)	Components Of Change			Death Rate	Natural Increase	Net Migrants
				Births	Birth Rate	Deaths			
1945-46	103,000			2,050		1,220	830		
1946-47	117,000	14,000	12.73	2,490	24.2	1,200	1,290	12,710	
1947-48	126,000	9,000	7.41	2,890	24.7	1,180	1,710	7,290	
1948-49	132,600	6,600	5.10	3,300	26.2	1,190	2,110	4,490	
1949-50	137,100	4,500	3.34	3,520	27.3	1,220	2,400	2,100	
1950-51	160,000	22,900	15.42	4,110	30.0	1,310	2,800	20,100	
1951-52	185,500	25,500	14.76	5,130	32.1	1,310	3,820	21,680	
1952-53	193,800	8,300	4.38	6,270	33.8	1,280	4,990	3,310	
1953-54	200,100	6,300	3.20	6,910	35.7	1,240	5,670	630	
1954-55	206,500	6,400	3.15	7,190	35.9	1,200	5,990	410	
1955-56	212,400	5,900	2.82	7,480	36.2	1,220	6,260	-360	
1956-57	218,600	6,200	2.88	7,730	36.4	1,240	6,490	-290	
1957-58	220,100	1,500	0.68	7,450	34.1	1,200	6,250	-4,750	
1958-59	224,000	3,900	1.76	6,830	31.0	1,170	5,660	-1,760	
1959-60	230,400	6,400	2.82	7,290	32.5	1,250	6,040	360	
1960-61	236,700	6,300	2.70	7,560	32.8	1,300	6,260	40	
1961-62	242,800	6,100	2.54	7,610	32.2	1,290	6,320	-220	
1962-63	249,900	7,100	2.88	7,670	31.6	1,320	6,350	750	
1963-64	253,200	3,300	1.31	7,480	29.9	1,380	6,100	-2,800	
1964-65	265,200	12,000	4.63	7,170	28.3	1,390	5,780	6,220	
1965-66	271,500	6,300	2.35	6,810	25.7	1,320	5,490	810	
1966-67	277,900	6,400	2.33	6,410	23.6	1,300	5,110	1,290	
1967-68	284,900	7,000	2.49	6,350	22.8	1,317	5,033	1,967	
1968-69	294,600	9,700	3.35	6,670	23.4	1,330	5,340	4,360	
1969-70	308,500	13,900	4.61	7,230	24.5	1,370	5,860	8,040	
1970-71	319,600	11,100	3.53	7,437	24.1	1,444	5,993	5,107	
1971-72	329,800	10,200	3.14	7,129	22.3	1,462	5,667	4,533	
1972-73	336,400	6,600	1.98	6,781	20.6	1,468	5,313	1,287	
1973-74	348,100	11,700	3.42	6,847	20.4	1,467	5,380	1,320	
1974-75	384,100	36,000	9.83	7,275	20.9	1,497	5,778	30,222	
1975-76	409,800	25,700	6.47	7,694	20.0	1,570	6,124	19,576	
1976-77	418,000	8,200	1.98	8,175	19.9	1,612	6,563	1,637	
1977-78	411,600	-6,400	-1.54	8,668	20.7	1,654	7,014	-13,414	
1978-79	413,700	2,100	0.51	9,043	22.0	1,654	7,389	-5,289	
1979-80	419,800	6,100	1.46	9,400	22.7	1,671	7,729	-1,629	
1980-81	434,300	14,500	3.40	9,912	23.6	1,738	8,174	6,326	
1981-82	464,300	30,000	6.68	10,783	24.8	1,775	9,008	20,992	
1982-83	499,100	34,800	7.22	11,728	25.3	1,862	9,866	24,934	
1983-84	524,000	24,900	4.87	12,319	24.7	1,945	10,374	14,526	
1984-85	543,900	19,900	3.73	12,727	24.3	2,033	10,694	9,206	
1985-86	550,700	6,800	1.24	12,556	23.1	2,110	10,446	-3,646	
1986-87	541,300	-9,400	-1.72	11,941	21.7	2,096	9,845	-19,245	
1987-88	535,000	-6,300	-1.17	11,483	21.2	2,073	9,410	-15,710	
1988-89	538,900	3,900	0.73	11,468	21.4	2,088	9,380	-5,480	
1989-90	553,171	14,271	2.61	11,776	21.9	2,142	9,634	4,637	
1990-91	569,054	15,883	2.83	11,798	21.3	2,225	9,573	6,310	
1991-92	586,722	17,668	3.06	11,744	20.6	2,214	9,530	8,138	
1992-93	596,906	10,184	1.72	11,347	19.3	2,477	8,870	1,314	
1993-94	600,622	3,716	0.62	10,978	18.4	2,422	8,556	-4,840	
1994-95	601,581	959	0.16	10,439	17.4	2,500	7,939	-6,980	
1995-96	605,212	3,631	0.60	10,079	16.8	2,707	7,372	-3,741	
1996-97	609,655	4,443	0.73	10,018	16.6	2,574	7,444	-3,001	
1997-98	617,082	7,427	1.21	9,924	16.3	2,642	7,282	145	
1998-99	622,000	4,918	0.79	9,864	16.0	2,609	7,255	-2,337	
1999-00	625,504	3,504	0.56	10,102	16.2	2,829	7,273	-3,769	
2000-01	632,389	6,885	1.09	9,980	16.0	2,934	7,046	-161	
2001-02	640,841	8,452	1.33	9,889	15.6	3,072	6,817	1,635	
2002-03	648,243	7,402	1.15	10,017	15.6	3,098	6,919	483	
2003-04	655,435	7,192	1.10	10,271	15.8	3,030	7,241	-49	

Alaska Department of Labor and Workforce Analysis, Research & Analysis, Demographics Unit.

* Provisional

SA04 State income and employment summary -- Alaska
(thousands of dollars)

Code	Item	2002	2003
	<i>Income by place of residence (\$000)</i>		
010	Personal Income	20,899,470	21,576,070
011	Nonfarm personal income 1/	20,884,598	21,562,261
012	Farm income 2/	14,872	13,809
020	Population (persons) 3/	641,482	648,818
030	Per capita personal income (dollars) 4/	32,580	33,254
	<i>Derivation of personal income</i>		
035	Earnings by place of work	17,060,606	17,999,642
036	Less: Contributions for government social insurance 5/	1,717,407	1,790,497
037	Employee and self-employed contributions for government social insurance	837,364	879,850
038	Employer contributions for government social insurance	880,043	910,647
042	Plus: Adjustment for residence 6/	-993,023	-1,040,368
045	Equals: Net earnings by place of residence	14,350,176	15,168,777
046	Plus: Dividends, interest, and rent 7/	3,202,433	3,140,304
047	Plus: Personal current transfer receipts	3,346,861	3,266,989
	<i>Components of earnings by place of work</i>		
050	Wage and salary disbursements	11,892,286	12,407,121
060	Supplements to wages and salaries	3,117,547	3,401,728
061	Employer contributions for employee pension and insurance funds	2,237,504	2,491,081
062	Employer contributions for government social insurance	880,043	910,647
070	Proprietors' income 8/	2,050,773	2,190,793
071	Farm proprietors' income	5,033	3,763
072	Nonfarm proprietors' income	2,045,740	2,187,030
	<i>Employment (number of jobs)</i>		
7010	Total employment	410,031	418,211
7020	Wage and salary employment	322,386	327,789
7040	Proprietors employment	87,645	90,422

Footnotes for Table SA04 (SIC Series 1969-2002)

1. Nonfarm personal income is total personal income less farm income.
2. Farm income is farm earnings less farm employer contributions for government social insurance.
3. Midyear population estimates of the Bureau of the Census.

4. Per capita personal income is total personal income divided by total in-year population.
5. Contributions for government social insurance are included in earnings by type and industry, but they are excluded from personal income.
6. The adjustment for residence is the net inflow of the earnings of interarea commuters. For the United States, it consists of adjustments for border workers: wage and salary disbursements to U.S. residents commuting to Canada less wage and salary disbursements to Canadian and Mexican residents commuting into the United States.
7. Rental income of persons includes the capital consumption adjustment.
8. Proprietors' income includes the inventory valuation adjustment and the capital consumption adjustment.

- All state and local area dollar estimates are in current dollars (not adjusted for inflation).
- (N) Data not available for this year.

Regional Economic Information System
Bureau of Economic Analysis
September 2004

We, the Taxpayers

Heritage's new fight for a Taxpayer Bill of Rights



Heritage's Director of the Thomas A. Roe Institute for Economic Policy Studies, Alison Fraser, discusses federal budget and spending reform with Neil Cavuto on FOX News.

"A federal Taxpayer Bill of Rights would limit annual spending increases to the inflation rate plus the population growth rate and reserve any budget surpluses for tax relief and debt reduction."

—Alison Fraser

Stradivarius violins, but I can't do all of that," Fraser explains. "So I have to prioritize and focus on what's most important. That's what we need Congress to do, and that's what the Taxpayer Bill of Rights will force them to do."

Fraser and her Heritage colleagues have crafted a federal version of the Taxpayer Bill of Rights based on Colorado's success, and they are now hard at work to enlighten elected officials on its merits. "Heritage is meeting with members of Congress to educate them about the threat of runaway federal spending and to explain why this is the best solution to this problem," Fraser says.

Heritage supporters can also look forward to seeing this idea debated on TV programs and radio shows and in America's newspapers. "My colleague Brian Riedl and I will be focusing quite a bit on the media," Fraser explains. "We'll be writing op-eds and doing interviews to drive home the need for a Taxpayer Bill of Rights and to highlight the problems of runaway federal spending." ■

Heritage is using your support to lead a new debate over the Taxpayer Bill of Rights—a proposal that would save taxpayers a whopping \$4 trillion over the next decade. That's a lot of bang for your buck. But as Alison Fraser, director of Heritage's Thomas A. Roe Institute for Economic Policy Studies, explains, the Taxpayer Bill of Rights is really a simple idea.

The Taxpayer Bill of Rights would force Congress to zero in on the unbridled growth in federal spending that is piling up huge deficits and crowding out important initiatives such as defense, Medicare and Social Security. And just as the welfare reforms crafted by Heritage and enacted in 1996 were based on successful state programs, the Taxpayer Bill of Rights is tested and proven successful at the state level.

Take Colorado, which enacted the nation's first Taxpayer Bill of Rights in 1992. "Thanks to its strength, Colorado

has seen phenomenal economic growth," Fraser observes. "Colorado's taxes have plummeted while its economic and job growth rates have nearly doubled."

"A federal Taxpayer Bill of Rights would limit annual spending increases to the inflation rate plus the population growth rate and reserve any budget surpluses for tax relief and debt reduction," Fraser reports. "So rather than growing 6.4 percent annually, which was the average during the past five years, federal spending would typically increase by approximately 3.3 percent annually."

Fraser is an expert on federal spending, economic growth and labor policies. But first and foremost, she's a mom—which gives her a unique perspective on the need for the Taxpayer Bill of Rights.

"I would love to take my kids on vacations around the world and—since they're all musicians—buy them

Kansas Among Worst at Curbing Spending

by Alan Cobb, 5/5/04

I'm proud to be a lifelong Kansan, as well as spokesman for and a member of Americans for Prosperity. My wife and I are graduates of USD 259 and Wichita State University, and our three children go to Kansas public schools. In total, more than 2,000 fine, upstanding Kansans make up Americans for Prosperity.

Last week, the vice president of the Wichita Area Chamber of Commerce voiced his organization's opposition to higher taxes. So did Paola hardware store owner Darryl Taylor, who urged legislators to let him keep more of his hard-earned dollars so he can hire more of his fellow Kansans. Joining them were the National Federation of Independent Business, the Wichita Independent Business Association and many other groups representing thousands of Kansans and Kansas businesses.

But interesting things happen when difficult and emotional issues are publicly debated.

When supporters of tax increases lobby for their cause, they often appeal to emotions and attempt to discredit their opponents. This year's emotion-focused strategy in Kansas is the cry of "outsiders" standing in opposition to a massive tax increase proposed by Kansas legislators.

But we can't let these tactics divert attention from the facts and the very real issues of the continued growth of government spending, the economy and the erosion of Kansas' job (and taxpayer) base.

Last year, Kansas lost 7,200 jobs, according to the U.S. Bureau of Labor Statistics. We fell to 40th in the nation in job growth. These job losses happened after the 2002 tax increase by the Legislature, which raised taxes by \$1 billion over five years. In addition, the U.S. Bureau of Economic Analysis shows that our state's production and Kansans' personal income growth severely lags the rest of the nation. And the Small Business Survival Committee, based in Washington, D.C., reports that Kansas has the sixth-highest number of government employees per citizen, compared with other states.

According to the Kansas Legislative Research Department, the education plan that the House passed this session would have increased taxes by \$1 billion over five years. Government agencies normally use a term of five years to compute impact, because unless taxes have sunsets, their impact will go on and on. Five years is a proper and reasonable time frame.

We can also measure taxes in Kansas by looking at the amount spent by state government. Between 1992 and 2000, state spending per Kansas citizen increased by nearly 55 percent. A study by Raymond Keating of the Small Business Survival Committee found that Kansas ranked 41st in terms of restraining spending. Only nine states did a worse job of holding back the growth of state spending during this period.

If the Legislature wants to increase funding for education, it can. However, it should get the additional funding from existing resources instead of from additional taxes on its citizens and businesses. The legislature must take fiscal responsibility and set priorities, just as Kansas families, seniors and businesses do every day.

Reasonable people can differ on spending priorities and where additional funding for education should be found. But we all must remember that as government spending swells, our prosperity as a state shrinks.

This article appeared in the Wichita Eagle.

New Studies Justify Need for Taxpayer Protections

by Peggy Venable
8/18/04

Ronald Reagan said, "Government may protest that it never gets the money it needs, but it always manages to find a need for the money it gets."

It was his second inaugural address as California governor in 1971 and he was focused on reining in runaway spending. According to a new paper produced by Dr. Barry Poulson, Americans for Prosperity Foundation visiting fellow, state and local spending actually outpaced growth of federal spending over much of the post-WW II period.

The origins of the tax revolt began with a referendum proposed by Reagan to impose a tax and spending limit on California. In 1973, Reagan backed Proposition I, designed to limit the growth of state and local government with voting requirements to increase taxes or exceed the spending limits. He recommended refunds of surplus revenue, provided for an emergency fund and required state funding for state-mandated local spending increases.

Today, it's "round two" as spending limitations in the forms of the Taxpayer's Bill of Rights (TABORs) and tax and expenditure limitations (TEs) are sweeping the country.

The movement is based on the novel concept that the size of government should grow proportionally with the size of the state.

Special interests stand to gain from increased government spending. Lobbyists spend countless hours encouraging legislators to spend more. Some spending, such as education, are generally agreed to be in the common good; though there is wide disagreement on what level of expenditure is appropriate.

Those of us footing the bill are not lobbyists. Citizens are busy earning a living, and have only a vague idea of how government policies impact their pocketbooks -- until the tax bill comes due.

Generally, in good times, government grows. In bad times, government grows.

As part of that earlier tax revolt, Texas enacted a 1978 constitutional amendment which was designed to limit government growth. The measure (Article 8, Section 22) restricted the growth of appropriations from non-dedicated revenues to the rate of growth of the state's economy.

According to a new study issued by the Texas Public Policy Foundation, the loopholes in Texas' spending limitations are huge. In that paper, author Dr. Byron Schlomach finds if real, per capita non-federal Texas expenditures in 2003 were the same as in 1990, Texans could have saved \$8.7 billion in state taxes in 2003. This translates to almost \$1,600 in savings for an average family of four in 2003 alone. And that's only the state tax bill.

The best way to determine how government has grown is adjusting for population and inflation to look at real, per capita expenditures. Using those indicators, state expenditures increased 28.5 percent from 1990 to 2003 in Texas.

Since Texas imposes limits on sales taxes, one could expect that local government growth would be limited. But when compared to 1992 spending, local government spending exceeded population growth and inflation by \$3.5 billion in 2002 alone.

The 1978 Texas constitutional amendment places weak limits on state expenditure increases. The end of the decade of the 1990's found an explosion of local government spending.

Cities vary tremendously in how much they spend beyond population and inflation increases. In El Paso, government spending outpaced those indicators by 42 percent. Dallas was far worse -- real government spending increased 55 percent faster than the benchmarks. Houston's spending increased by a relatively smaller 21 percent -- and a viable tax revolt is underway in Houston.

It is an indisputable fact that public schools have been the government spending growth industry of the 1990's. Per student spending has grown 25 percent over 11 years. That translates to property taxpayers paying \$5.4 billion more than population and inflation growth. That would represent a .40 per \$100 valuation savings, or 28 percent, given the level of 2000-01 state spending.

During periods of rapidly increasing property values, like in the 1990's, the state's education funding obligations fall, freeing state funds for other uses -- a void which was easily filled.

But let there be no mistake that state spending for education has grown 500 percent since 1976. Advocates of more public school spending have been successful in exploiting the state's declining share claiming the state is "not living up to its obligations" and that schools are "underfunded." They fail to mention that the state funding has increased annually.

If ever there is a case to be made for spending limitations, it's the Texas public education system.

One of the key provisions of a TEL is to provide opportunity for policymakers to return a surplus to the taxpayers or to "make their case" and seek approval for increasing spending. Only when required to ask taxpayers for more of our hard-earned money will government be held accountable.

For Texas taxpayers to rest easily, Texas needs to enact real tax and expenditure limitations which provide for government growth at all levels commensurate to population and inflation increases.

Oklahoma TABOR: Let's Adapt Colorado's Plan

By Barry Poulson, Ph.D., and Brandon Dutcher

9/15/04

In "Rocky stop; Colorado blocks rebate repeal try" (Our Views, Aug. 10), The Oklahoman extolled Colorado's "Taxpayers' Bill of Rights" (TABOR) and said Oklahoma needs one, too. We agree.

Oklahoma's business leaders worked hard to get right to work and are working hard for tort reform and workers' compensation reform. But if we want to turbocharge the state's economy, an Oklahoma TABOR would be as good or better.

Colorado's TABOR Amendment is widely regarded as the most effective tax and spending limit in the country. Since TABOR was passed in 1992, state government in Colorado has grown less rapidly than state income. More than \$3 billion in surplus revenue has been returned to taxpayers through rebates and tax cuts. Over much of the past decade, economic growth in Colorado was among the highest in the nation.

Several key provisions should be introduced in a TABOR for Oklahoma:

- It should be constitutional rather than statutory.
- Voter approval should be required for any increase in taxes or debt.
- The growth of government at all levels should be limited to the sum of inflation and population growth.
- Surplus revenue above that limit should be returned to taxpayers through tax rebates or cuts.

An Oklahoma TABOR could stabilize the budget over the business cycle and constrain the growth of government. The TABOR limit can be linked to the rainy day fund. When the economy is experiencing rapid economic growth, as it did in the 1990s, a portion of the surplus revenue can be allocated to that fund. When a recession hits, the revenue shortfalls can be offset by transfers from the rainy day fund to stabilize spending and balance the budget.

Several recent studies reveal how TABOR could benefit the Oklahoma economy. Economist Stephen Moore has shown that with TABOR the state would have generated almost \$4 billion in surplus revenue over the past decade. Another study shows how a TABOR limit linked to a rainy day fund would have stabilized the budget over the business cycle.

An Oklahoma TABOR can be designed to achieve any desired tradeoff between constraining the growth of government and reducing the tax burden, and stabilizing the budget. The debate over TABOR can be understood in terms of a battle between citizens and special interests -- that is, between taxpayers and tax consumers. Taxpayers want to limit the burden imposed by government taxation and spending. Special interests seek to preserve what they perceive to be their rights to that spending.

Clearly, state government has to grow to keep up with population growth and inflation. That is a reasonable benchmark. But if politicians think it should grow faster than that, it's up to them to explain why. They'll have a tough go of it.

A survey conducted in May confirmed Oklahomans' fiscal conservatism. Voters think taxes are too high. They think state government is too big and wastes too much money. By a wide margin, they prefer cutting state spending to raising taxes. An overwhelming 88 percent of them believe state spending should grow at the same rate or slower than family income. And they favor an Oklahoma TABOR by a margin of 73 percent to 18 percent.

Of course, the battle for Oklahoma's TABOR won't be easy. Tax consumers won't go down without a fight. Some of their objections will be valid and some will be ridiculous, but all of them either have been answered or will be answered.

Ronald Reagan launched the tax limitation movement in California more than three decades ago. Let's make sure that when the Gipper's birthday arrives next Feb. 6, our state legislators are preparing to hold hearings on a TABOR for Oklahoma.

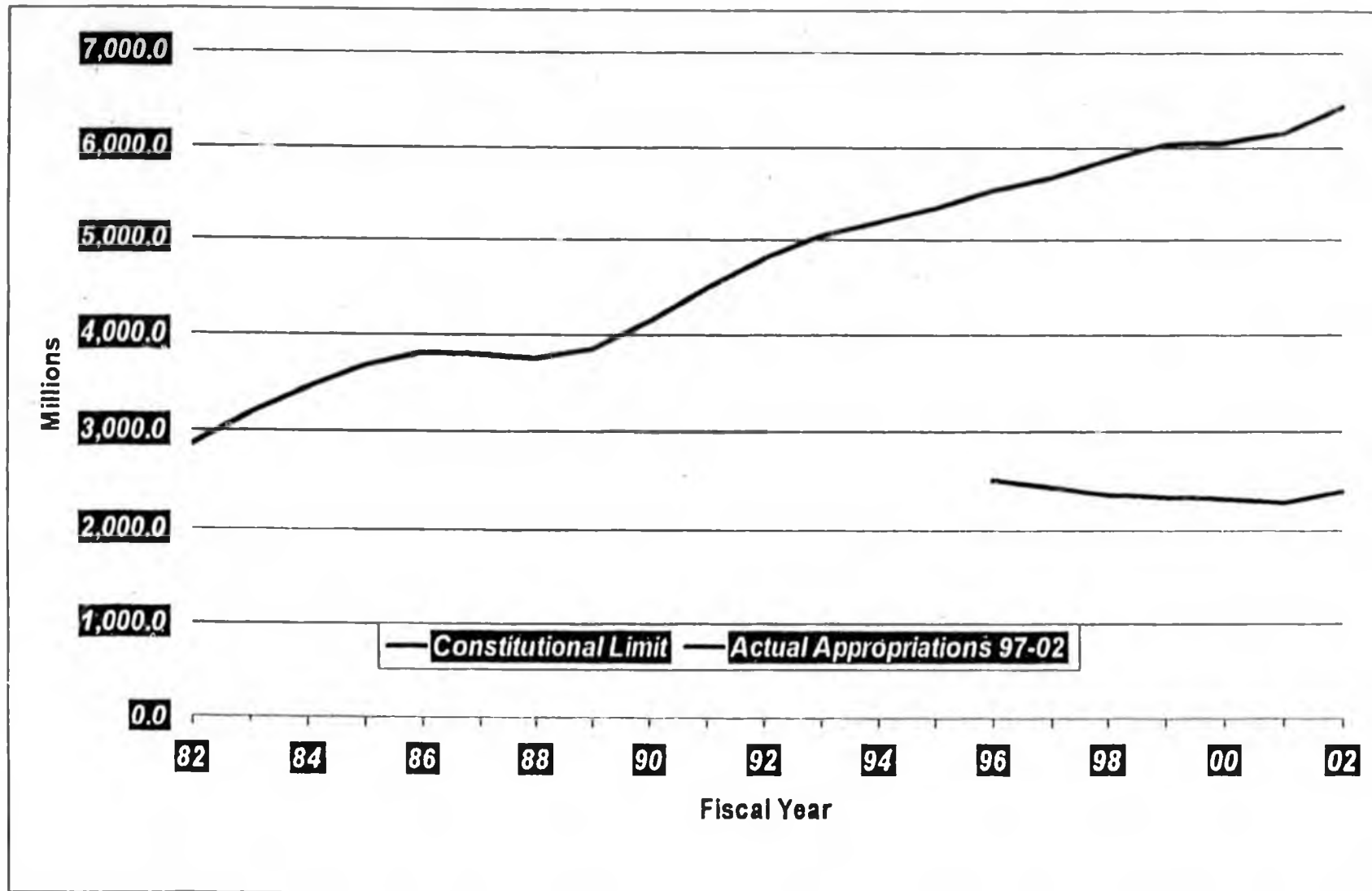
Dr. Barry Poulson is a distinguished scholar with Americans for Prosperity Foundation.

Existing Alaska Constitution
(To be repealed and replaced by SJR 1)

Section 9.16 - Appropriation Limit.

Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

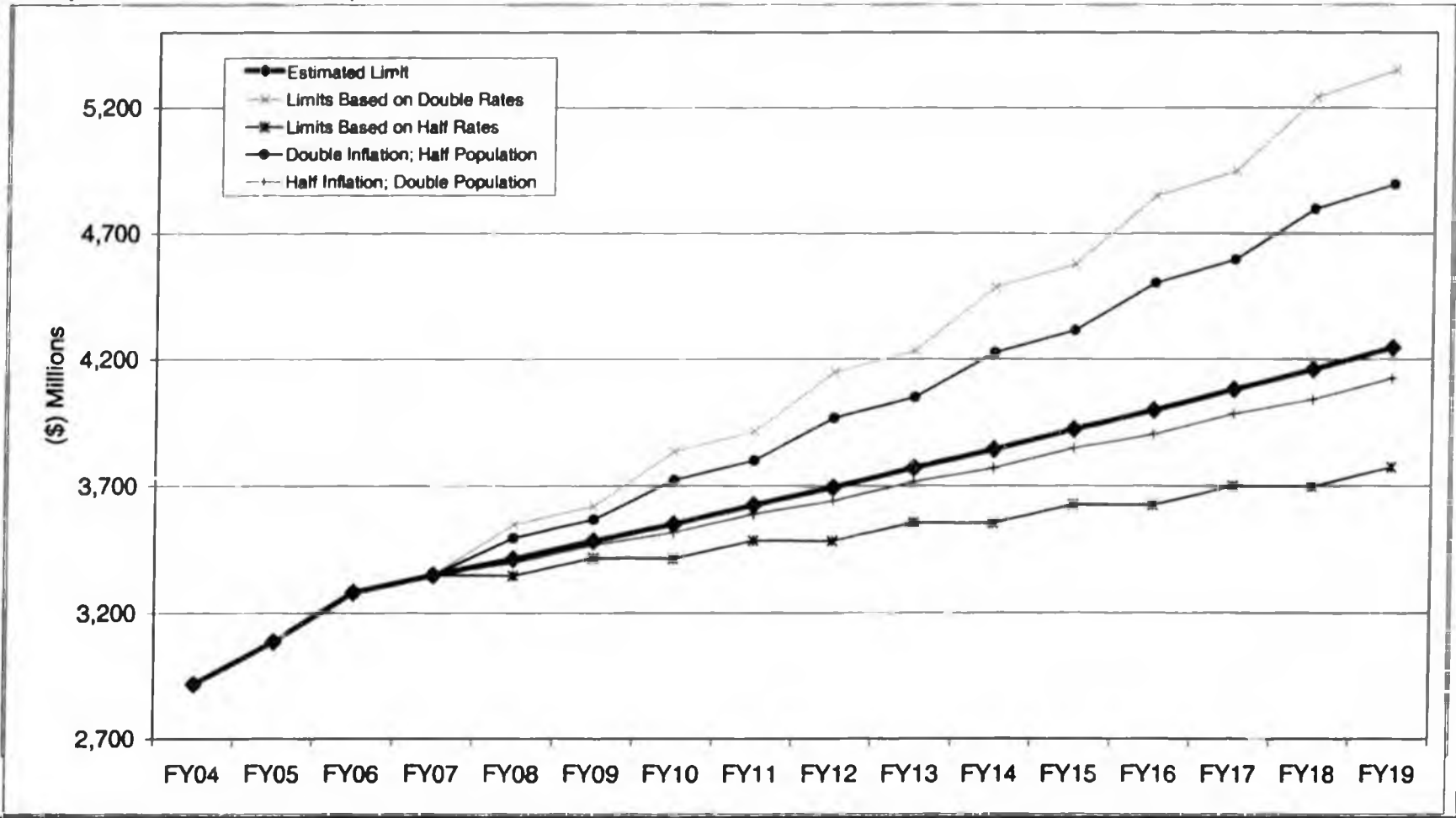
The Current Spending Limit vs Recent Appropriations



Projected Impacts of Various Population Inflation Rates of Growth

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q
1	Fixed Variables:																
2	Inflation = 3%																
3	Population = 1%																
4	Fiscal Year	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
5	Estimated Limit	2,917	3,086	3,282	3,350	3,414	3,485	3,552	3,625	3,695	3,772	3,844	3,924	3,999	4,082	4,160	4,246
6	annual growth		169	196	68	64	71	67	74	69	77	72	80	75	83	78	86
7	annual % change			6.35%	2.08%	1.92%	2.08%	1.92%	2.08%	1.92%	2.08%	1.92%	2.08%	1.92%	2.08%	1.92%	2.08%
8	Limits Based on Double Rates	2,917	3,086	3,282	3,350	3,548	3,622	3,837	3,916	4,148	4,234	4,485	4,578	4,849	4,950	5,243	5,352
9	Limits Based on Half Rates	2,917	3,086	3,282	3,350	3,348	3,417	3,415	3,466	3,484	3,556	3,553	3,627	3,625	3,700	3,698	3,774
10	Double Inflation; Half Population	2,917	3,086	3,282	3,350	3,496	3,569	3,725	3,802	3,968	4,050	4,227	4,315	4,503	4,596	4,797	4,896
11	Half Inflation; Double Population	2,917	3,086	3,282	3,350	3,398	3,468	3,518	3,591	3,642	3,717	3,770	3,849	2,904	3,985	4,041	4,125

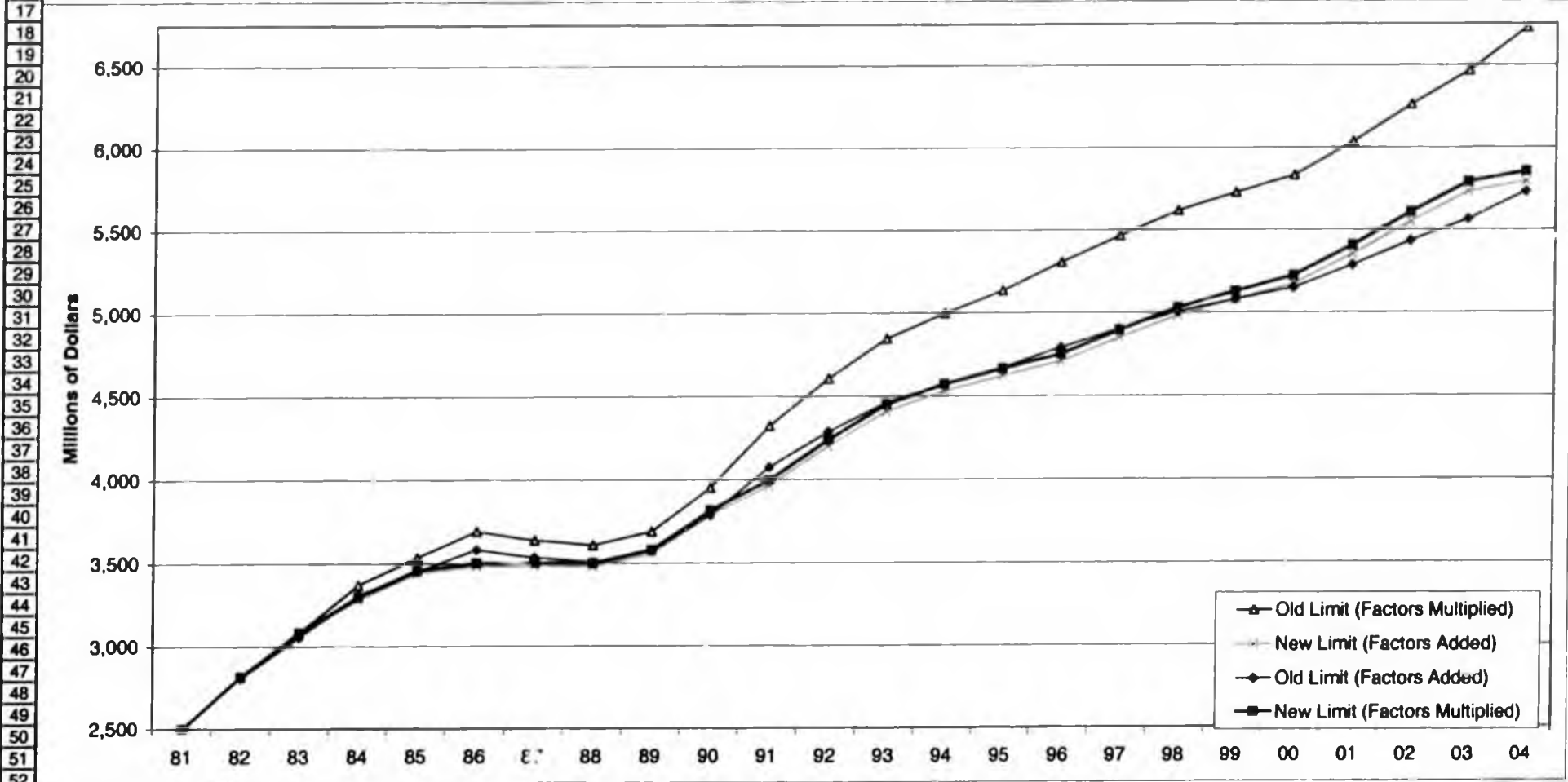
12 This chart does not reflect impact of "No Ratchet Down" provision nor the "inflation less than or equal to income" provision.
 13 Red numbers (FY04 - FY07) are fixed; they are not formulaic.
 14 FY04 actuals represent the same exclusions as proposed under SJR 1; Governor's FY06 Proposed budget = \$3,282. 3% 1%
 15 Stark step results from no "ratchet down" provision.



Comparison of Limits Applied to Historical Factors

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
1	Fiscal Year	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95
2	Cumulative Change in Inflation		5.4%	7.4%	11.8%	12.9%	16.5%	16.8%	17.2%	18.9%	24.1%	31.9%	36.4%	41.0%	44.6%	48.3%
3	Cumulative Change in Population		6.9%	14.9%	20.7%	25.2%	26.8%	24.6%	23.2%	24.1%	27.4%	31.0%	35.1%	37.4%	38.3%	38.5%
4	Old Limit (Factors Added)	2,500	2,808	3,057	3,311	3,453	3,581	3,535	3,510	3,576	3,788	4,074	4,286	4,461	4,572	4,670
5	Proposed Limit (Factors Multiplied)	2,500	2,817	3,084	3,300	3,458	3,502	3,502	3,502	3,580	3,817	3,995	4,236	4,449	4,571	4,663
6	Old Limit (Factors Multiplied)	2,500	2,817	3,084	3,372	3,534	3,692	3,639	3,610	3,690	3,953	4,322	4,606	4,845	4,999	5,134
7	Proposed Limit (Factors Added)	2,500	2,808	3,070	3,282	3,438	3,481	3,481	3,481	3,558	3,790	3,965	4,201	4,410	4,530	4,621
8																
9	End of Year Population	434,300	464,300	499,100	524,000	543,900	550,700	541,300	535,000	538,900	553,171	569,054	586,722	596,906	600,622	601,581
10	Incremental Change Population		6.9%	7.5%	5.0%	3.8%	1.3%	-1.7%	-1.2%	0.7%	2.6%	2.9%	3.1%	1.7%	0.6%	0.2%
11	End of Year CPI	92.4	97.4	99.2	103.3	104.3	107.6	107.9	108.3	109.9	114.7	121.9	126	130.3	133.6	137
12	Incremental Change CPI		5.4%	1.8%	4.1%	1.0%	3.2%	0.3%	0.4%	1.5%	4.4%	6.3%	3.4%	3.4%	2.5%	2.5%
13	End of Year Personal Income	\$15,988	\$17,951	\$18,764	\$19,120	\$19,895	\$19,578	\$19,286	\$20,167	\$21,959	\$22,809	\$23,208	\$23,868	\$24,642	\$25,161	\$25,624
14	Percent Change Personal Income		12.4%	4.5%	1.9%	4.1%	-1.6%	-1.5%	4.6%	8.9%	3.9%	1.7%	2.8%	3.2%	2.1%	1.8%

15 FY81 fixed at \$2,500; FY87 & FY88 would have been held constant due to "no ratchet down" provision under proposed limit;
 16 FY84, 86, 90, 91, 92, 93, 94, 95, 96, & 04 would have been limited by percent change of income provision under proposed limit.



Comparison of Limits Applied to Historical Factors

	Q	R	S	T	U	V	W	X	Y
1	96	97	98	99	00	01	02	03	04
2	52.3%	55.7%	58.1%	60.0%	61.5%	65.8%	69.7%	73.3%	78.4%
3	39.4%	40.4%	42.1%	43.2%	44.5%	45.8%	47.8%	49.3%	50.9%
4	4,791	4,909	5,005	5,079	5,149	5,285	5,431	5,563	5,732
5	4,750	4,894	5,030	5,129	5,223	5,405	5,606	5,790	5,854
6	5,305	5,465	5,617	5,727	5,833	6,036	6,260	6,466	6,729
7	4,707	4,849	4,982	5,080	5,173	5,352	5,549	5,730	5,793
8									
9	605,212	609,655	617,082	622,000	627,504	632,389	640,841	648,280	655,435
10	0.6%	0.7%	1.2%	0.8%	0.9%	0.8%	1.3%	1.2%	1.1%
11	140.7	143.8	146.1	147.8	149.2	153.2	156.8	160.1	164.8
12	2.7%	2.3%	1.5%	1.2%	0.9%	2.7%	2.3%	2.1%	2.9%
13	\$25,948	\$26,904	\$27,687	\$28,226	\$29,867	\$31,889	\$32,613	\$33,282	\$33,265
14	1.3%	3.7%	2.9%	1.9%	5.8%	6.7%	2.3%	2.1%	-0.1%
15	FY04 Income Estimate								
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Sensitivity Analysis
Appropriations Limit Based on FY04 Appropriations
 Additive Formula

	A	B	C	D	E	F	G	H	I	J	K
1	Percent Change Inflation										
2		\$2,917	0.0%	1.0%	2.0%	3.0%	4.0%	5.0%	6.0%	7.0%	8.0%
3	Percent Change Population	0.0%	\$2,917.1	\$2,946.3	\$2,975.4	\$3,004.6	\$3,033.8	\$3,063.0	\$3,092.1	\$3,121.3	\$3,150.5
4		1.0%	\$2,946.3	\$2,975.4	\$3,004.6	\$3,033.8	\$3,063.0	\$3,092.1	\$3,121.3	\$3,150.5	\$3,179.6
5		2.0%	\$2,975.4	\$3,004.6	\$3,033.8	\$3,063.0	\$3,092.1	\$3,121.3	\$3,150.5	\$3,179.6	\$3,208.8
6		3.0%	\$3,004.6	\$3,033.8	\$3,063.0	\$3,092.1	\$3,121.3	\$3,150.5	\$3,179.6	\$3,208.8	\$3,238.0
7		4.0%	\$3,033.8	\$3,063.0	\$3,092.1	\$3,121.3	\$3,150.5	\$3,179.6	\$3,208.8	\$3,238.0	\$3,267.2
8		5.0%	\$3,063.0	\$3,092.1	\$3,121.3	\$3,150.5	\$3,179.6	\$3,208.8	\$3,238.0	\$3,267.2	\$3,296.3
9		6.0%	\$3,092.1	\$3,121.3	\$3,150.5	\$3,179.6	\$3,208.8	\$3,238.0	\$3,267.2	\$3,296.3	\$3,325.5
10		7.0%	\$3,121.3	\$3,150.5	\$3,179.6	\$3,208.8	\$3,238.0	\$3,267.2	\$3,296.3	\$3,325.5	\$3,354.7
11		8.0%	\$3,150.5	\$3,179.6	\$3,208.8	\$3,238.0	\$3,267.2	\$3,296.3	\$3,325.5	\$3,354.7	\$3,383.8
12											
13	NOTE: This chart is intended to reflect the affect of various inflation and population percentages. It does not										
14	reflect the impact of the "No Ratchet Down" provision nor the inflation less than or equal to income limitation.										

Sensitivity Analysis
Appropriations Limit Based on FY04 Appropriations
 Multiplication Formula

	A	B	C	D	E	F	G	H	I	J	K
1	Percent Change Inflation										
2		\$2,917	0.0%	1.0%	2.0%	3.0%	4.0%	5.0%	6.0%	7.0%	8.0%
3	Percent Change Population	0.0%	\$2,917.1	\$2,946.3	\$2,975.4	\$3,004.6	\$3,033.8	\$3,063.0	\$3,092.1	\$3,121.3	\$3,150.5
4		1.0%	\$2,946.3	\$2,975.7	\$3,005.2	\$3,034.7	\$3,064.1	\$3,093.6	\$3,123.0	\$3,152.5	\$3,182.0
5		2.0%	\$2,975.4	\$3,005.2	\$3,035.0	\$3,064.7	\$3,094.5	\$3,124.2	\$3,154.0	\$3,183.7	\$3,213.5
6		3.0%	\$3,004.6	\$3,034.7	\$3,064.7	\$3,094.8	\$3,124.8	\$3,154.8	\$3,184.9	\$3,214.9	\$3,245.0
7		4.0%	\$3,033.8	\$3,064.1	\$3,094.5	\$3,124.8	\$3,155.1	\$3,185.5	\$3,215.8	\$3,246.1	\$3,276.5
8		5.0%	\$3,063.0	\$3,093.6	\$3,124.2	\$3,154.8	\$3,185.5	\$3,216.1	\$3,246.7	\$3,277.4	\$3,308.0
9		6.0%	\$3,092.1	\$3,123.0	\$3,154.0	\$3,184.9	\$3,215.8	\$3,246.7	\$3,277.7	\$3,308.6	\$3,339.5
10		7.0%	\$3,121.3	\$3,152.5	\$3,183.7	\$3,214.9	\$3,246.1	\$3,277.4	\$3,308.6	\$3,339.8	\$3,371.0
11		8.0%	\$3,150.5	\$3,182.0	\$3,213.5	\$3,245.0	\$3,276.5	\$3,308.0	\$3,339.5	\$3,371.0	\$3,402.5
12											
13	NOTE: This chart is intended to reflect the affect of various inflation and population percentages. It does not										
14	reflect the impact of the "No Ratchet Down" provision nor the inflation less than or equal to income limitation.										

SJR

4

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/26/05

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered SENATE JOINT RESOLUTION NO. 4

SJR 4 CONST AM: BUDGET RESERVE FUND

Proposing amendments to the Constitution of the State of Alaska relating to the budget reserve fund and to uses of money in the general fund available for appropriation at the end of each fiscal year; and providing for an effective date for the amendments.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			X	
			X	
			X	
CHAIR:	✓			



SENATOR FRED DYSON

Sponsor Statement

“A Resolution Proposing an Amendment to the Budget Reserve Fund”

January 10, 2005

Contact: Lucky Shultz at Senator Fred Dyson's office (907) 465-2199

The constitutional budget reserve is a key component of the state's long-term fiscal plan. It provides a mechanism for collecting and saving excess funds in good years to be used those years when revenues fall short of the state's expected expenditures. However, because deposits to the fund come from a host of various sources, the current total amount residing in the fund is not easily identified or widely known by most Alaskans. Furthermore, in most of the last several years, funds from the account have been withdrawn in order to meet annual budget gaps between what the state wants to spend and what it has available to spend. This compounds the problem of determining the fund's total assets versus the amount due to be repaid, if ever, in future years.

The constitution currently states that whenever appropriations are made from the fund, excess revenues in the general fund are not available for other uses until all withdrawals are repaid. Withdrawals to date exceed \$6,000,000,000, and must be entirely repaid before excess general fund revenues can be used elsewhere.

This proposed amendment establishes a cap on repayments to the fund. When the total amount of the fund equates to \$5,000,000,000 regardless of the source of deposits to the fund, no further repayments are required until such time as the total amount in the fund drops below the \$5,000,000,000 repayment cap. Note that this does not prohibit the fund from growing beyond \$5,000,000,000 as a result of deposits from the various other sources or from earned income. It merely makes a provision for redirecting excess general revenue funds to address critical short-term needs when the amount of the constitutional budget reserve is greater than \$5,000,000,000 while providing an acceptable cushion for addressing possible budget shortfalls.

This amendment accomplishes a number of things. It sets an easily defined target, which all citizens can easily monitor to determine the fiscal health of both the fund and the state. Once repayment target is achieved, it provides for funding which will be made available to grow the Permanent Fund, provides for distribution to Alaskans in the form of a supplement to their Permanent Fund Dividend, and provides a source of funds to address deferred maintenance of schools, roads, and highways, a growing concern of Alaskans. Finally, it retains a sufficient level of funding to meet any forecast budget demands for years to come, continues to require tight fiscal management by Alaska's state government, and provides funding for critical near term needs.

Approval of this amendment does not mean that withdrawals are forgiven. Rather, the constitutionally mandated repayments are merely redirected in a manner more clearly understood as part of the state's plan for addressing long-term issues.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SJR4
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title CONST. AM: BUDGET RESERVE FUND RDU Elections
 Component Elections
 Sponsor Senator Dyson
 Requester (S) Judiciary Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	1.5	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 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. However, only six measures can be printed on an 8 1/2 by 14 inch ballot. If this measure requires printing an 8 1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred, Admin. Assistant Supervisor Phone 465-4611
 Division: Division of Elections Date/Time 2/4/05 11:40 AM
 Approved by: Laura A. Glaiser Date 2/4/2005
 Agency: Office of the Lt. Governor, Division of Elections

SJR

10

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/28/05

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered SENATE JOINT RESOLUTION NO. 10

SJR 10 SUPPORT FEDERAL MARRIAGE AMENDMENT

Supporting the federal marriage amendment.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>			X	
<i>[Signature]</i>	X			
<i>[Signature]</i>	X			
<i>[Signature]</i>			X	
CHAIR: <i>[Signature]</i>	✓			



SENATOR FRED DYSON

SPONSOR STATEMENT

SJR 10—Supporting the Federal Marriage Amendment

The topic of same-sex marriage gained national attention in November of 2003, when the Massachusetts Supreme Judicial Court ruled that it was unconstitutional to prevent same-sex couples from obtaining legal marriage. Soon after, Massachusetts began issuing marriage licenses to same-sex couples, and a few localities have done the same, although without the same degree of legal "authority" as in Massachusetts.

With looming uncertainty regarding full faith and credit applied to these same-sex marriages in other jurisdictions, many state legislatures and/or citizen initiatives responded with efforts to enshrine the traditional and significantly popular definition of marriage as that constituted by one man and one woman.

Alaska had acted on this issue in the late 1990's. On the 1998 general election ballot, nearly 70% of voting Alaskans supported amending the Alaska Constitution to declare that, to be valid, a marriage must involve one man and one woman. Sixteen other states have also amended their constitutions in the same manner.

SJR 10 urges the United States Congress to pass Senate Joint Resolution 1, which defines marriage in the United States to consist of the union of one man and a woman. If passed, S. J. Res. 1 will amend the United States Constitution, once ratified by the legislatures of three-fourths of the states.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SJR 10
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: None
 Title Supporting the federal marriage a men RDU _____
 Component _____
 Sponsor Dyson Component No. _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact from this resolution.

Prepared by: Brad Pierce Phone _____
 Division: OMB Date/Time 3/4/05 1:14 PM
 Approved by: _____ Date 3/4/2005
 Agency: _____

SJ 1 IS

109th CONGRESS

1st Session

S. J. RES. 1

Proposing an amendment to the Constitution of the United States relating to marriage.

IN THE SENATE OF THE UNITED STATES

January 24, 2005

Mr. ALLARD (for himself, Mr. INHOFE, Mr. LOTT, Mr. ENZI, Mr. DEMINT, Mr. SANTORUM, Mr. CRAPO, Mr. SESSIONS, Mr. VITTER, Mr. THUNE, Mr. ALEXANDER, Mr. FRIST, Mr. TALENT, Mr. BURR, Mrs. HUTCHISON, Mr. KYL, Mrs. DOLE, Mr. MARTINEZ, Mr. ISAKSON, Mr. MCCONNELL, Mr. HATCH, Mr. ROBERTS, Mr. CORNYN, Mr. STEVENS, and Mr. COBURN) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relating to marriage.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

Article--

SECTION 1. This article may be cited as the 'Marriage Protection Amendment'.

SECTION 2. Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.'

END

States with Statutes Defining Marriage	States with Constitutional Language Defining Marriage	States with Neither
Alabama Alaska Arizona Arkansas California Colorado Delaware Florida Georgia Hawaii Idaho Illinois Indiana Iowa Kansas Kentucky Louisiana Maine Maryland Michigan Minnesota Mississippi Missouri Montana Nebraska Nevada New Hampshire North Carolina North Dakota Ohio Oklahoma Pennsylvania	Alaska Arkansas Georgia Hawaii Kentucky Louisiana Michigan Mississippi Missouri Montana Nebraska Nevada North Dakota Ohio Oklahoma Oregon (Const. only, no statute) Utah	Connecticut Massachusetts New Jersey New Mexico New York Rhode Island Wisconsin

South Carolina		
South Dakota		
Tennessee		
Texas		
Utah		
Vermont		
Virginia		
Washington		
West Virginia		
Wyoming		
TOTALS:	42	7

State Defense of Marriage Acts (DOMAs)



Revised February 2004

Updated November 2004