HOUSE/SENATE FINANCE COMMITTEE MINUTES - 1967-1982 2719

Tape #: #2 (side 1) (side 2)

RECORDER LOG

Date: 1/24/80

Page: 9

General Subject: Education - Foundation Formula

Log #	Description
635	Moss comments on Whitt Testimony.
640	Questions from Moss, Montgomery, Moss + Whitt Response.
721	Soldotna Teleconference Fred Momoroy - Superintendent Kenai School District Testimony. Support Proposed Changes in Instructional Units Do not oppose Equalization concept. Essential that total package be funded.
766	Dick Swarner, Exec Dir/Business District Kenai School District - Testimony re: Kenai Peninsula Borough Problems
827	Moss question / Swarner Response
840 (Tape 2, Side 2)	Bob McConnel, Wrangell School District Supports Task Force Recommendations (Representing 16 of 17 SE School Districts)

Tape #: #2 (side 2) **RECORDER LOG** Date: 1/24/80

Page: 10

General Subject: Education - Foundation Formula

Log #	Description
019	Moss Questions + McConnell Response re: Fuel Cost
070	Bethel Teleconference
	Mr. Carl Peterson, Lower Kuskokwim S.D.
	Support Task Force Package
160	Moss Question + ~~Moss~~ Peterson Response re: Fuel Costs
221	Moss Questions + Peterson Responses re: new schools
314.	moss requested Scott review Legal Implications of Equalization; Scott will comply. (with Legislative Counsel
330	Teleconference Poll -
	Bethel = Pe Mr. Peterson will deliver handwritten testimony from Bethel Monday.
	Ketchikan = Rep. will Provide written testimony
	Kodiak:
375	Marilyn Pederson, Kodiak Island School Board Representative testimony re: Equity of funding & other comments
474	Moss comments.

Tape #: #2 (side 2) **RECORDER LOG** Date: 1/24/80

Page: 11

General Subject: Education - Foundation Formula

Log #	Description
490	Sitka - mr. Coffee will submit handwritten report.
516	Tom Freeman, Anchorage Superintendent Testimony. (Equity)
552	Moss Question / Freeman Clarification
559	Freeman continuation of testimony
592	Moss Question / Freeman Response Re: Fuel
613	Moss Questions / Freeman Responses Transportation Costs
[illegible]6	Scott Question / [illegible] Re: Support of Task Force Package / Freeman Response / Scott ~~Comments~~ Question + Freeman Response on Instructional Units
696	Freeman comments on SB 199
708	~~[illegible]~~ Ron Wessley, Exec. Asst. NW Arctic School District (Kotzebue) Testimony (cost of proposed changes + School District Cost/Problems - Recommend Support of Task force Proposal)
800	montgomery question re next years budget Wessley response
809	Scott request for clarification + Wessley response.

Tape #: #2 (side 2)

RECORDER LOG

Date: 1/24/80

Page: 12

General Subject: Education - Foundation Formula

Log #	Description
810	moss Questions / Wessley Response
838	ADJOURN 5:10 P.M.

Tape #: HFC - Ed. Sub. #3 **RECORDER LOG** **Date:** 1/25/80

Beg. #: 001 **Time:** 8:35

End #: **Page:** 1

General Subject: Education Subcommittee - Foundation Formula

Present: Moss, Montgomery

Dave Scott, Legis. Finance
[witnesses indicated below]
Bob Cooksey, Natl Ed Assn
Bob Greene, AK School Bds Assn

Log #	Description
001	Call to Order 8:35. Moss overview comments.
030	Leslie ~~Wesley~~ Hunter, Chairman, Lower Yukon School Board
	Additional needs of district w/8 new schools
070	Questions by Moss / Response Hunter
	Re: Fuel Costs, Moss requested written copies of Business Managers Presentation
0100	Gus Zadre, Assoc. Superintendent, Fairbanks
	Support Task Force Package, Explanation of S.D. Budget.
0170	Questions from Moss / Zadre Respone
0185	Zadre continues Testimony
221	Moss Question / Zadre Response - Base for Income
240	Scott Question / " " - Budget Policies
264	Moss Comments - S.D. $ balance
	Zadre Response - Discussion

Tape #: HFC Ed. Sub #3 (side 1) **RECORDER LOG** Date: 1/25/80

Page: 2

General Subject: Education Subcommittee - Foundation Formula

Log #	Description
368	Scott comments - Fbx. Accounting Balances
	Discussion. Scott recommendation to
	find "True Operating Costs"
458	Moss questioned Transportation costs. Zadre Response
485	Zadre will provide written comments.
490	Moss question re: voc. ed. special programs
	Zadre response initiated Agriculture Program
	Moss Comments
5[illegible]	Wayne Taylor, Nenana Public Schools
	Presented written testimony - spoke on
	highlights of testimony. Support Task Force
	Recommedations.
653	Moss Question - Taylor Clarification/Explanation
663	Taylor Continues Testimony
700	Moss Questions/Taylor Responses re: Tuition Costs
	Discussion PL874 Funds questions
	Lind (Commis. Education) Response.
	Moss, Scott [Discussion] Taylor, Speaking
	Lind: Education will work w/Scott to
	Provide Response.
810	Taylor continues Testimony
	Moss/Scott Questions - Taylor Response
(tape change #3 - side 2)	

Tape #: HFC Ed. Sub. #3 (side 2)

RECORDER LOG

Date: 1/25/80

Page: 3

General Subject: Education Subcommittee - Foundation Formula

Log #	Description
001	Taylor continues Question Response/Testimony
	Moss questions + Taylor Answer
075	Scott question - Reduction State Source Income
	Taylor Explanation
110	Taylor continues Testimony
307	Moss question to Lind re "schools going under"
	Lind response.
355	Taylor comments.
3[illegible]	Scott question re school district disolving
	Lind response. Audience Comments.
416	Recess 9:45 PM — Reconvene 11:10 am
417	Bob Cooksey: Worked with committee re: proposal
	Testimony in support of proposal
438	Cooksey: Identification and affiliation — Natl Ed Assn
466	5M and 874 money — equalization
506	Support local effort — Discussed
534	Moss: Difference between Bush rule in figures re: districts?
5[illegible]	Cooksey: Response — 6 districts
549	Scott: Local tax effort requirements
559	Cooksey: PL 874 money re: REAA

Tape #: HFC Sub Ed #3
Side 2

RECORDER LOG

Date: 1-25-80

Page: 4

General Subject: Education Subcommittee - Foundation Formula

Log #	Description
573	Scott: PL874 money — ability to find tax money (REAAs)
581	Cooksey: Option is there
591	Cooksey: End testimony
594	Bob Greene: Ex Dir Assn AK School Bds
	No formal position now — more info needed
	Feels data not 100% accurate — Assn to recheck
647	100% behind concept re: equalization
670	PL 874 funds (REAA - money taken away; city & borough keep)
	Ability to pay — Dists should be pd equally — Problem area
754	Separate Elementary Attendance Counting — problem [illegible] local effort
808	Formulas Elementary and Secondary Education / Hi Schools, 1st 50% more
828	Moss: Feel formula should be higher for High Schools?
835	Greene: Liberalize formula
842	Scott: Change elementary formula, too?
850	Greene: No statistical data
	HFC Sub Ed #4 Side 1 (11:40 am)
001	Greene: Foundation Formula statistics (personal comment) & services
096	Moss: Concerned why not work formula on past yrs — No historical data
125	Greene: 21 districts only 3 yrs old; fund balances, money availability
	21 of 52 districts not much history or wasn't generated
172	Moss: Dist by DOE don't have historical data
180	Greene: Response

Tape #: HFC Sub Ed #4
Side 1

RECORDER LOG

Date: 1-25-80

Page: 5

General Subject: Education Subcommittee - Foundation Formula

Log #	Description
191	Moss: $83M not reasonable, but $31M Gov's proposal is?
204	Greene: No Discussion figures — Assn proposed $31M last yr
277	Several districts will oppose getting last yr's figure this yr
330	Re: Dealing with in dist in State
338	Moss: Rising fuel costs — Discussed putting cap on fuel costs in dist.
360	Greene: Yes, this would have beneficial effect
400	Montgomery: Not as concerned with $83M or $31M
	Is $83M really equitable? 100% funding? Local funding:
	Consideration given to existing budget?
[illegible]	SB 199 am — Why no accept?
445	Greene: SB 199 am would not be acceptable to most school bds
	because formula was out — But concept was beneficial
486	Existing budget consideration response: Spec Ed Voc Rehab, etc
542	Montgomery: Who Reviews REAA budgets? What State Agency?
544	Greene: Really don't have any review. PL 874
580	End Green testimony
587	Hohman: Comment on Task Force recommendations re: favorable
605	Cooksey: Runaway expense in schools budgets
6[illegible]	Misc: Probably will have another hearing
621	Meeting adjourned at 12:10 pm

HOUSE FINANCE COMMITTEE
ATTENDANCE LIST

MEETING DATE: Jan 28, 1980 - UA Subcommittee

NAME	REPRESENTING
Stan Browne	SB7F
Carol Burnside	Rep. Munson
Bettie Cato	Sen Kerttula
Frank Spargo	Budget & Mgt
Kerry Romesburg	Postsecondary Educ.
Glenda Straube	House Finance
Rob Mourant	AK Student Lobby
Joseph M Jackson	ALASKA BLACK LEADERSHIP CONFERENCE

1/25/80
11:15 AM

Dave: These individuals plan on attending subcommittee hearings

Kotzebue Community College:
- ✓ Fred Muhs, President of the college
- ✓ Pam Herman Rep. of the village of Namuluk
- Dennis Tippelman member of college Policy Advisory Council
- ✓ Mary McIntyre staff member of the college
- Bert Greist or John Schaeffer from Nenana Corp.
- ✓ Sarah Walker, Science teacher

Kenai Community College:
- ✓ John Wilsey, President of the college
- ✓ Donis Thompson, Chairman of the Policy Advisory Council

Northwest Community College:
- ✓ Mike Metty, Acting President
- ✓ Blance Walters, Chairperson of the Policy Advisory Council
- ✓ Darrell Trigg, member of the Policy Advisory Council
- Mary Alexander, KAWERAK

Prince William Sound Community College:
- ✓ John Devens, Acting President
- ✓ Bill Walker, Mayor of Valdez and possible other member of the City Council
- ✓ Richard Barnes, Vice-President of ALPETCO

Ketchikan Community College:
- ✓ Rod Enos, President
- David Johnson, President of the Policy Advisory Council

Sitka Community College:
- ✓ Dave Knapp, President
- Hopefully a member of the Policy Advisory Council--name unknown

Kodiak

EL

Soldotna John Wiltze

Valdez

Kuskokwim - Bethel

Tape #: HFC - UA Sub

RECORDER LOG

Date: 1-28-80

Beg. #: 001 - Side 1 #80-2

Time: 2:45

End #: 462 - Side 2 #80-3

Page: 1

General Subject: University of Alaska Subcommittee Teleconference

Present: *Rep Rogers, Sub Chairman; Rep Montgomery, *Rep Freeman, Rep Meekins
*Dave Scott, LFD — *Rep Moss, Rep Duncan, Rep Guy, Rep

Rep Branson, Rep Fuller, Rep Pat O'Connell, Rep Zharhoff, Rep Gardiner
Kerry Romesburg, Postsecondary Ed
**Frank Spargo, Budget + Mngmt
Rob Mount, AK Student Lobby

Log #	Description
001	Rogers: (Call to order) 2:45 pm
005	Rogers: Explained schedule - Limit 5 min per person
073	Barton: Opening remarks
109	CC - Contract — Teleconference good idea.
136	Rogers: Announced Reps present
146	O'Rourke: Opening Remarks
	Budget Request figures — Div wide services costs
229	Areas of difficulty highlighted (Voc Ed, Limit Appro)
266	Rogers: How do you prioritize requests?
276	O'Rourke: Response - Explanation

Tape #: HFC - UA Sub
Tape #80-2 Side 1

RECORDER LOG

Date: 1-28-80

Page: 2

General Subject: University Subcommittee Teleconference

Log #	Description
310	Moss: Delta Junction regional learning
321	O'Rourke: Operating costs
333	Moss: Construction finished? Also Yukon area?
339	O'Rourke: Hope to be on line this fall.
365	Rogers: Next - Prince Wm Sound CC - Valdez
373	John Devens: Act Pres, Prince Wm Sound - Opening Remarks
419	Projections, support services, etc
438	Accreditation, instructional equipment - funds needed
493	Richard Barnes: VP Alpetco
528	Bill Walker Mayor of Valdez — On keeping to fund CC
559	Steve McAlpine: Prince Wm Sound CC funding — Facilities currently located in high school — Cost effectiveness
613	Rogers: Any more testimony from Valdez?
621	Fred Meeks: Description of area covered by Chukchi CC College status granted: July 1978 — Explained needed funding
655	Sarah Walker: Science teacher

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

TELECONFERENCE HEARING SCHEDULE
HOUSE FINANCE SUBCOMMITTEE
UNIVERSITY OF ALASKA
FY 81 COMMUNITY COLLEGE BUDGET REQUESTS

Monday, January 28
House Finance Committee Room
Room 519 Capitol Building, Juneau

2:30	President Barton - Fairbanks
2:40	Chancellor O'Rourke - Anchorage
3:00	Prince William Sound Community College - Valdez
3:15	Chukchi Community College - Kotzebue
3:30	Northwest Community College - Nome
3:45	Kuskokwim Community College - Bethel
4:00	Kenai Peninsula Community College - Soldotna
4:15	Kodiak Community College - Kodiak
4:30	Ketchikan Community College - Ketchikan
4:45	Sitka Community College - Sitka
5:00	Additional Testimony from individuals not able to testify within the scheduled time frame. This testimony will rotate by location in the same order as above.

Please note that representatives from the Anchorage, Tanana Valley and Mat-Su Community Colleges have presented testimony on an earlier date.

1-28-80

1/25/80
11:15 AM

Dave: These individuals plan on attending subcommittee hearings

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- David Johnson, President of the Policy Advisory Council

Sitka Community College:
- ✓ Dave Knapp, President
- Hopefully a member of the Policy Advisory Council--name unknown

Kodiak

EL

Soldotna John Wiltze

Valdez

Kuskokwim - Bethel

Tape #: HFC - UA Sub RECORDER LOG Date: 1-28-80

Beg. #: 001 - Side 1 #80-2 Time: 2:45

End #: 462 - Side 2 #80-3 Page: 1

General Subject: University of Alaska Subcommittee Teleconference

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*Dave Scott, LFD — *Rep Moss, Rep Duncan, Rep Guy, Rep

Rep Branson, Rep Fuller, Rep Pat O'Connell, Rep Zarhoff, Rep Gardiner
Kerry Romesburg, Postsecondary Ed
**Frank Sparga, Budget + Mngmt
Rob Mourant, AK Student Lobby

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Tape #: HFC - UA Sub
Tape #80-2 Side 1

RECORDER LOG

Date: 1-28-80
Page: 2

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Tape #: HFC - UA Sub #80-2 Side 1-2

RECORDER LOG

Date: 1-28-80

Page: 3

General Subject: University Subcommittee Teleconference

Log #	Description
717	Keith Laughton - Lang Arts teacher
744	Mary McIntyre - Chukchi CC staff member
766	Brad Olsen - Policy Mgmt Council
780	Anita Tuor - Bilingual program
793	Marie Schwinn - Namuluk Assn
808	Pam Herman - Namuluk village — CETA; library
842	Fred Muke - Concluding remarks
850	Rogers: Advised Rep. Schaeffer will receive info
859	Mike Motty - NWCC Nome - Budget Remarks - Must have fuller
001	[HFC - UA Sub #80-2 Side 2 — 3:30 p.m.]
100	Rogers: Rep. Jack Fuller joined meeting
108	Frank DiCostanzo - Learning Center for KAWERAK
	15 Learning Centers - NWCC provides training adult

Tape #: HFC - UA Sub #80-2 Side 2

RECORDER LOG

Date: 1-28-80

Page: 4

General Subject: University Subcommittee Teleconference

Log #	Description
188	Blanche Walters - Policy Advisory Council
239	Darrell Trigg - Policy Advisory Council
267	Mike Mitty - Concluding Remarks (Special area needs)
314	Fuller: Comments
334	Rogers: Sub program - Special interest programs
343	Moss: Ag programs
352	Rogers: Rep Guy joined meeting
356	Jerry Scott-Irwin: - Kuskokwim CC - Bethel (3:45 pm) Listed priorities [illegible] Student Housing problem in Bethel
576	Rogers: Forward info on housing to Jerrian + comments on fuel energy costs
587	Guy: Comments
594	Moss: Costs on building (student housing)
628	Don Wilsey: Kenai Peninsula CC - Soldotna (4:00 pm)

Tape #: HFC - UA Sub
#80-2 Side 2
#80-3 Side 1

RECORDER LOG

Date: 1-28-80

Page: 5

General Subject: University Subcommittee Teleconference

Log #	Description
642	Don Gilman: Kenai Borough ("Oil patch" of AK)
705	Dr Don Wilson: Introduced fellow-speaker
710	Doris Thomas - Policy Advisory Council Kenai CC 1300-1500 students
756	Rogers: Rep. Pat O'Connell joined meeting
761	Don Wilson: Introduced speaker below
764.	?
798	Don Wilson: Kenai CC growth rate / Understaffed
	Listed needs - Rep. O'Connell has list
001	[HFC - UA Sub #80-2 Side 1 - 4:11 pm]
053	Rogers: Question on credit hours in 1976? Budget
	Wilson: Response 4 to 1 return
091	Carolyn Floyd: Campus Pres. Kodiak CC -
212	Carol Haywall: Kodiak Learning Center
292	Gardner Hewitt: Television programming

Tape #: HFC - UA Sub #80-3 Side 1

RECORDER LOG

Date: 1-28-80

Page: 6

General Subject: University Subcommittee Teleconference

Log #	Description
392	Rogers: Noted over Kodiak time limit
400	? Chairperson, Advisory Council
410	Rogers: Pointed out Rep Karpoff joined
424	(4:35 pm) Rod Enos: Ketchikan CC - Pres / Discussed enrollment growth Supports UA budget & CCRE budget
[illegible]6	Dr Johnson - Chairman Policy Advisory Council (Additional Requests 5)
624	Rogers: Noted Speaker Terry Gardner joined meeting
636	Dave Knapp - Pres Sitka CC - Listed areas served by Sitka CC (4:45 pm)
771	Rogers: Concludes scheduled testimony
780	Ralph McGrath, Anchorage, Pres, AK CC Fed of Teachers (5:00) Discuss Tuition (Consider supplemental budget) Will provide detailed info to Committee
001	HFC #80-3 Side 2 #001 — 5:05 pm
012	Devens: Followup Comments

Tape #: HFC - UA Sub #80-3 Side 2

RECORDER LOG

Date: 1-28-80

Page: 7

General Subject: University Sub Committee Teleconference

Log #	Description
053	Jane Sutherland: Instructor, Kuskokwim CC - Bethel
116	Jody Morgan: (Taped message) - Bethel
184	John Williams: Soldotna AK Fed of Teachers (Kenai CC faculty) Opposing UA budget! (ACCFT Contract)
256	Rogers: Comment on contract re: increase requested ACCFT
268	Williams: Response UA should do more.
	Rogers. Legislature should not intervene.
305	Mike Powers: UA Alumni Assn) - Soldotna Support UA budget request
328	Rogers: Response 6.8M request
343	Knapp: Sitka CC - Express thanks
355	Nancy Krenig: Asst City Mgr, Bethel - Contract negotiations
378	O'Rourke: Anchorage; concluding remarks Discussed additional requests + ACCFT Contract
456	Rogers: Concluding remarks
462	Meeting adjourned at 5:25 pm

HOUSE JOURNAL

ALASKA STATE LEGISLATURE

ELEVENTH LEGISLATURE - SECOND SPECIAL SESSION

Juneau, Alaska	Monday	September 22, 1980

First Day

Pursuant to the September 4, 1980, Proclamation of the Governor calling for the convening of a special session of the Eleventh State Legislature, the House was called to order by Speaker Gardiner at 10:14 a.m.

Roll call showed all members present.

The prayer was offered by the Chaplain, Pastor John Larson of the Church of the Holy Trinity. Representative Rogers moved and asked unanimous consent that the prayer be spread on the journal. There being no objection, it was so ordered and the prayer appears as follows:

> "Almighty God, You are the Lord of creation and the source of all life. We thank You for this great state - for its people, for its natural resources, and for its opportunities. As the members of our legislature try to be responsible stewards of Your bounty, we pray that You will give them the wisdom to know Your will and the strength and courage to act upon it. Amen."

MESSAGES FROM THE GOVERNOR

"PROCLAMATION

By the authority vested in me by Article II, Section 9, of the Alaska Constitution, I call the Eleventh Alaska Legislature into special session at Juneau at 10:00 a.m., on September 22, 1980, to consider the subject of immediate tax relief, including tax refunds, for individuals and fiduciaries subject to the payment of personal income taxes under the Alaska Net Income Tax Act.

Dated at Juneau, Alaska this 4th day of September 1980.

Jay S. Hammond
Governor"

The following message dated September 22, 1980, was received:

Dear Mr. Speaker:

Governor Hammond will be pleased to address a joint session of the Alaska State Legislature at 11:00 a.m., September 22, 1980.

Sincerely,

Keith W. Specking
Legislative Assistant
to the Governor

HB 1043 HOUSE BILL NO. 1043 by the Rules Committee by request of the Governor, entitled:

"An Act suspending the Alaska Net Income Tax Act for individuals and fiduciaries; and providing for an effective date."

was read the first time and referred to the Finance Committee.

The fiscal note on HB 1043 appears in House Journal Supplement No. 1.

The Governor's transmittal letter appears as follows:

Dear Mr. Speaker:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill providing for a suspension of all state income tax for individuals and fiduciaries for a minimum of ten years. Under the bill, the suspension would remain in effect until at least tax year 1990.

A major feature of the bill is a mechanism, starting in 1989, for annually reviewing the question of whether the suspension should remain in effect. The bill would require the commissioner of revenue, on January 15 of each year starting in 1989, to certify to the legislature and to the governor the amount of "sustainable revenues" (primarily all revenues <u>except</u> those derived from mineral resource development) received during the prior fiscal year and the amount of state expenditures for that fiscal year. The first year it is demonstrated that expenditures for the prior fiscal year have exceeded sustainable revenues, the suspension would be lifted and the tax would be reimposed starting on January 1 of the next year, unless the legislature took some intervening action.

The bill also provides for a refund to individuals and fiduciaries of all income taxes paid for tax year 1979, and for a refund of withholding payments and estimated taxes for tax year 1980. Necessary technical amendments are also included in the bill, primarily to deal with those sections of chapter 22, SLA 1980, that were affected by the supreme court's ruling in <u>Williams v. Zobel</u>, ___ P.2d ___ (Ak. Sup. Ct. Op. No. 2170, Sept. 19, 1980).

Finally, the bill includes a technical amendment that is necessary to permit the continuation of the refundable credits for political campaign contributions and dependent care expenses that were enacted as part of chapter 22, SLA 1980. I have been advised by the Department of Law that these

INTRODUCTION OF CITATIONS

The following citation was received:

In Memoriam - Bob Hartig

It was referred to the Rules Committee for placement on the calendar.

INTRODUCTION, FIRST READING AND REFERENCE

OF HOUSE BILLS

HOUSE BILL NO. 1040 by the Rules Committee, entitled: HB 1040

"An Act relating to taxes; repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; and providing for an effective date."

was read the first time and referred to the Finance Committee.

HOUSE BILL NO. 1041 by the Rules Committee, entitled: HB 1041

"An Act making a special appropriation to the Department of Revenue to provide income tax and withholding payment refunds to individuals; and providing for an effective date."

was read the first time and referred to the Finance Committee.

HOUSE BILL NO. 1042 by the State Affairs Committee, entitled: HB 1042

"An Act relating to taxes; repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; and providing for an effective date."

was read the first time and referred to the Finance Committee.

refundable credits were not affected by the Zobel decision, and that they remain in effect. The bill includes a mechanism for continuing the refundable credits during the income tax suspension because it is my impression that the legislature does not wish to repeal them. Without a provision in the bill, the continued availability of the refundable credits to individuals would be unclear under a suspension of the income tax. HB 1043

Sincerely,

Jay S. Hammond
Governor

HOUSE BILL NO. 1044 by the Rules Committee by request of the Governor, entitled: HB 1044

"An Act making a supplemental appropriation to the Department of Revenue, and providing for an effective date."

was read the first time and referred to the Finance Committee.

The Governor's transmittal letter appears as follows:

Dear Mr. Speaker:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill to make a supplemental appropriation from the general fund for fiscal year 1981 to the Department of Revenue to pay the tax credits and refunds prescribed by the companion measure on tax relief which I am also submitting today.

The appropriation made by section 52, chapter 120, SLA 1980, was $90,273,500. The appropriation was made to finance tax credits and refunds under the Alaska Net Income Tax Act (AS 43.20). The Department of Revenue estimates that the total amount required under the companion bill on tax relief which I am submitting today is $112,878,500, that is, an additional $22,605,000, and that is the

HB 1044 amount appropriated by this bill. The entire amount covers both the tax credits and refunds and also the administrative overhead.

Jay S. Hammond
Governor

HB 1045 HOUSE BILL NO. 1045 by Hayes, Barnes, Beirne, Bettisworth, Branson, Chatterton, Eliason, Halford, Haugen, Martin, Metcalfe, Montgomery, O'Connell, and Phillips, entitled:

> "An Act relating to taxes; repealing the Alaska net income tax on individuals; and providing for an effective date."

was read the first time and referred to the Finance Committee.

HB 1046 HOUSE BILL NO. 1046 by Hayes, Barnes, Beirne, Bettisworth, Branson, Chatterton, Eliason, Halford, Haugen, Martin, Metcalfe, Montgomery, O'Connell and Phillips, entitled:

> "An Act relating to taxes; repealing the Alaska net income tax on individuals; and providing for an effective date."

was read the first time and referred to the Finance Committee.

HB 1047 HOUSE BILL NO. 1047 by Hayes, Barnes, Beirne, Bettisworth, Branson, Chatterton, Eliason, Halford, Haugen, Martin, Metcalfe, Montgomery, O'Connell and Phillips, entitled:

> "An Act providing for refunds of 1979 individual income taxes; and providing for an effective date."

was read the first time and referred to the Finance Committee.

HOUSE BILL NO. 1048 by Hayes, Barnes, Beirne, Bettisworth, Branson, Chatterton, Eliason, Halford, Haugen, Martin, Metcalfe, Montgomery, O'Connell and Phillips, entitled: HB 1048

> "An Act providing for refunds of 1978 individual income taxes; and providing for an effective date."

was read the first time and referred to the Finance Committee.

HOUSE BILL NO. 1049 by Randolph, entitled: HB 1049

> "An Act relating to taxes; repealing the Alaska net income tax; and providing for an effective date."

was read the first time and referred to the Finance Committee.

Representative Carney announced a Democratic Caucus upon recess.

SPECIAL ORDERS

Representative Miller moved and asked unanimous consent that the citation In Memoriam Bob Hartig be taken up as a special order of business at this time. There being no objection, it was so ordered.

LEGISLATIVE CITATIONS

Representative Miller moved and asked unanimous consent that the citation In Memoriam Bob Hartig be shown as sponsored by all members of the House. There being no objection, it was so ordered.

Representative Miller moved and asked unanimous consent that the above citation be approved by the House. There being no objection, it was so ordered.

The above citation was referred to the Chief Clerk for transmittal to the Senate.

Representative Anderson moved and asked unanimous consent that the House stand in recess until 10:55 a.m. There being no objection, the House recessed at 10:24 a.m.

AFTER RECESS

Speaker Gardiner called the House to order at 11:00 a.m., and deferred to President Tillion who called the joint session to order.

Senator Kerttula moved and asked unanimous consent that the roll call of the Senate be waived and all Senators be shown as present. There being no objection, it was so ordered.

Representative Anderson moved and asked unanimous consent that the roll call of the House be waived and all Representatives be shown as present. There being no objection, it was so ordered.

President Tillion appointed Representative Guy and Senator Kelly to escort the Honorable Jay S. Hammond, Governor of Alaska to the joint session. (The Governor's address appears in Senate and House Joint Supplement No. 1.)

Governor Hammond received a standing ovation at the conclusion of his message and was escorted from the chamber by Representative Guy and Senator Kelly.

Senator Colletta moved and asked unanimous consent that the joint session adjourn. There being no objection, the joint session adjourned at 11:12 a.m.

The Speaker ordered the House at ease to allow members of the Senate and other guests to leave the chamber.

ANNOUNCEMENTS

Representative Meekins announced a Finance Committee meeting in Court Room A at 11:30 a.m. to consider the tax bills introduced today.

Representative Carney announced a Democratic Caucus upon recess.

Representative Anderson moved and asked unanimous consent that the House recess until 3:00 p.m. There being no objection, the House recessed at 11:20 a.m.

AFTER RECESS

After recess the House was called to order at 6:10 p.m. and reverted to

REPORTS OF STANDING COMMITTEES

The Finance Committee has had HB 1040 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (same title), that it do pass and attaches a letter of intent. Concurring: Meekins (Chairman), Guy, McKinnon, Moss, Rogers, Freeman, Duncan, Smith, Montgomery and Haugen. HB 1040

HB 1040 was referred to the Rules Committee for placement on the calendar.

CSHB 1040 CSHB 1041 CSHB 1042 The letter of intent on CSHB 1040, CSHB 1041 and CSHB 1042 appears as follows:

HOUSE FINANCE COMMITTEE

LETTER OF INTENT
FOR
CSHB 1040, CSHB 1041 and CSHB 1042

The House Finance Committee has reported out three bills (HB 1040, HB 1041 and HB 1042) as Finance Committee Substitutes relating to repealing the Alaska net income tax on individuals, providing for refund of 1979 Alaska state individual income taxes paid, providing for refundable tax credits, and appropriating funds for payment of refunds, withholding, tax credits and administrative costs.

The Finance Committee has separated into two bills the provisions contained in HB 1040 as introduced. The Finance Committee Substitute for HB 1040 contains the repeal of Alaska net income taxes on individuals and the provisions for refundable tax credits effective January 1, 1979. The legislation necessary to enable refund of 1979 taxes collected is contained in the Finance Committee Substitute for HB 1042. This was done to ensure that any question of the constitutionality of a 1979 tax refund not affect the immediate repeal of the Alaska individual income tax. Retaining both repeal and 1979 refunds in one bill with a severability clause was considered. However, it was rejected in favor of the two bill approach because severability is determined by the courts, and any challenge of 1979 tax refunds would tie up the income tax repeal provisions until such time as the court ruled on the constitutionality of the bill.

The Finance Committee Substitute for HB 1041 includes the appropriations necessary to pay 1979 tax refunds and 1979 and 1980 tax credits as section 1; 1980 withholding as section 2; the administrative costs of section 1 and section 2, as section 3; a repeal of appropriations made in Ch 120, SLA 1980 for the purposes of Ch 22, SLA 1980, ruled unconstitutional by the Alaska Supreme Court as section 4; and an effective date clause as section 5. The appropriations are made separately, again to avoid any problems of a challenge of the constitutionality of 1979 tax refunds.

Russ Meekins

Russ Meekins, Chairman
House Finance Committee

The Finance Committee has had HB 1041 (special appropriation to the Department of Revenue to provide income tax and withholding payment refunds to individuals; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1041 (same title), that it do pass and attaches a letter of intent. Concurring: Meekins (Chairman), Guy, McKinnon, Moss, Rogers, Freeman, Duncan, Smith, Montgomery and Haugen. HB 1041

HB 1041 was referred to the Rules Committee for placement on the calendar.

The letter of intent on CSHB 1041 appears above on page 10 of the House Journal.

The Finance Committee has had HB 1042 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042: HB 1042

> "An Act providing for refunds of 1979 individual income taxes; and providing for an effective date."

that it do pass, and attaches a letter of intent. Concurring: Meekins (Chairman), Guy, McKinnon, Moss, Rogers, Freeman, Duncan, Smith, Montgomery and Haugen.

HB 1042 was referred to the Rules Committee for placement on the calender.

The letter of intent on CSHB 1042 appears above on page 10 of the House Journal.

Representative Carney announced a Democratic Caucus upon recess.

Representative Anderson moved and asked unanimous consent that the House recess to a call of the chair for the purpose of party caucuses. There being no objection, the House recessed at 6:12 p.m.

AFTER RECESS

The House was called to order at 11:50 p.m.

ANNOUNCEMENTS

Representative Cotten announced a Rules Committee meeting to consider HB 1040, HB 1041 and HB 1042 in the majority caucus room upon adjournment.

Representative Carney announced a Democratic Caucus upon adjournment of the Rules Committee meeting.

Representative Anderson moved and asked unanimous consent that the House adjourn until 12:05 a.m., September 23, 1980. There being no objection, the House adjourned at 11:52 p.m.

Irene Cashen
Chief Clerk

HOUSE
JOURNAL SUPPLEMENT

September 22, 1980 Monday No. 1

HB 1043

September 19, 1980

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Fiscal Note for An Act suspending the Alaska Net Income Tax Act for individuals and fiduciaries

Dear Mr. Speaker:

Attached please find fiscal notes related to the estimated revenue impact and administrative costs of the above-referenced legislation:

Revenue Impact - FY 81:

(A) Ch. 22, SLA 1980 Appropriation:

1979 Refund	$ 89,900,000	
Administrative Costs	836,500	
Refundable Credits	537,000	
Total Appropriation (See ch. 120 SLA 1980, sec. 52, page 70, line 10)		$ 90,273,500

(B) Additional Appropriation necessary to cover Incremental Cost of Total Suspension:

1979 Refund	$ 22,100,000	
Administrative Costs	-0-	
Refundable Credits	505,000	
		$ 22,605,000

(C) Total Appropriated Funds: $112,878,500

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1043

The Honorable Terry Gardiner September 19, 1980
Page Two

(D) Summary of FY 81 costs:

1.	Total Appropriated Funds:	$112,878,500
2.	Total Rebate of 1980 Withholding (No appropriation Necessary for these funds held in Trust by the State)	$ 73,500,000
3.	Total Revenues Foregone during FY 81 by virtue of repeal	$147,500,000
	TOTAL	$333,878,500

Administrative Costs:

Administrative costs under Ch. 22, SLA 1980 were estimated at $836,500. It is assumed that the original Ch. 22 appropriation remains available for use to implement the suspension or repeal and we foresee no increase in FY 81 administrative costs with the suspension program. Therefore, no additional appropriation is necessary at this time.

Three fiscal notes are attached to show the estimated effects of suspension on relevant Divisions within the Department of Revenue in FY 82. These fiscal notes assume a continuation of the Permanent Fund Dividend program, continuation of the refundable credits and suspension or repeal of AS 43.20 as of December 31, 1978. These potential reductions in funding and staff are preliminary and will be refined for inclusion in the FY 82 Detailed Budget. At that time, it should be known whether the underlying assumptions are valid.

Sincerely,

Joseph K. Donohue

for Thomas K. Williams
Commissioner of Revenue

Attachments

HB
1043

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 1043
Title An Act Suspending the Alaska Net Income Tax Act for Individuals and Fiduciaries
Requested by Governor Date

II. FISCAL DETAIL
Agency Affected
Program Category Affected
BRU, Program, or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		112.878	1.6	2.3	2.8	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Withholding in Trust		73.5				
		(147.5)	(206)	(266)	(338)	

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

$90,273,500 was previously appropriated in Ch. 120, SLA 1980, Sec. 52, p. 70, l. 10 to cover the costs of Chapter 22. That figure included $88.9 million for 1979 tax refunds, $537,000 for refundable credits and $836,500 for administrative costs. The new FY 81 figure of $112,878,000 includes $111,000,000 for 1979 tax refunds (an increase of $22.1 million), $1,042,000 for refundable credits (an increase of $505,000) and $836,500 for administrative costs (no increase). Complete suspension of the income tax is estimated to cost a total of $22,605,000 more than the graduated exemption program in FY 81 and this is the figure utilized in the appropriation bill accompanying the suspension proposal since it is assumed the original Chapter 22 appropriation remains available to implement the new bill.

The $73.5 million figure for FY 81 consists of withholding held in trust for the first three quarters of tax year 1980 that will be refunded in FY 81.

The bottom line figures represent foregone revenues due to suspension of the individual income tax.

IV. DATE PREPARED BY Vincent O. Wright
AGENCY 5-2471
PHONE

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

HB
1043

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 1043
Title An act suspending the Alaska Net Income Tax for individuals and fiduciaries
Requested by Governor Date September 22, 1980

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected Revenue Collection & Management
BRU, Program, or Subprogram(s) Affected Enforcement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		-0-	(191.3)			
200 TRAVEL		-0-	(7.8)			
300 CONTRACTUAL		-0-	(18.8)			
400 COMMODITIES		-0-	(1.9)			
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES			(2.3)			
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	(222.1)			

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		-0-	(222.1)			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		-0-	(16)			
PART TIME		-0-				
TEMPORARY		-0-				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memorandum from Fred Boetsch, Director of Enforcement Division to Joe Donohue, Deputy Commissioner, Taxation, dated August 29, 1980.

Fred Boetsch

IV. DATE 09/19/80 PREPARED BY Fred Boetsch, Director of Enforcement Divisio
AGENCY Revenue
PHONE (907) 465-2366

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

HB
1043

TO

Joe Donohue
Deputy Commissioner
Department of Revenue

DATE August 29, 1980

FILE NO

TELEPHONE NO 465-2366

FROM

Fred Boetsch, Director
Enforcement Division

SUBJECT Contingency Plan for Income Tax Repeal

The effects of a total repeal of the Alaska income tax in this organization would depend on many variables besides the mere repeal of the tax. The first item, of course, would be the effective date of any repeal. The earlier the effective date, the sooner we would expect our individual tax workload to decline. Another variable would be the Permanent Fund Dividend Program. If this program goes into effect, we will exercise our right of offset to satisfy many old warrants and thereby reduce the inventory more rapidly. The third factor would be the extent to which old revenue agent reports from the IRS are worked in the future and the warrant load which might be generated from that source.

For purposes of this analysis therefore, I have assumed that the Permanent Fund Dividend Program would remain intact and that the people assigned to the compliance unit would work on permanent fund dividend eligibility and tax compliance investigations. I have also assumed that the repeal would be effective January 1, 1979, and that Audit would continue to work Internal Revenue Service revenue agent reports through 1978. Under those conditions the changes indicated on the attached organization chart would be fully implemented by the end of calendar year 1981 (approximately halfway through fiscal year 1982). For the most part changes would be made through attrition during the course of the next 16 months. It is my hope that layoffs would not be necessary.

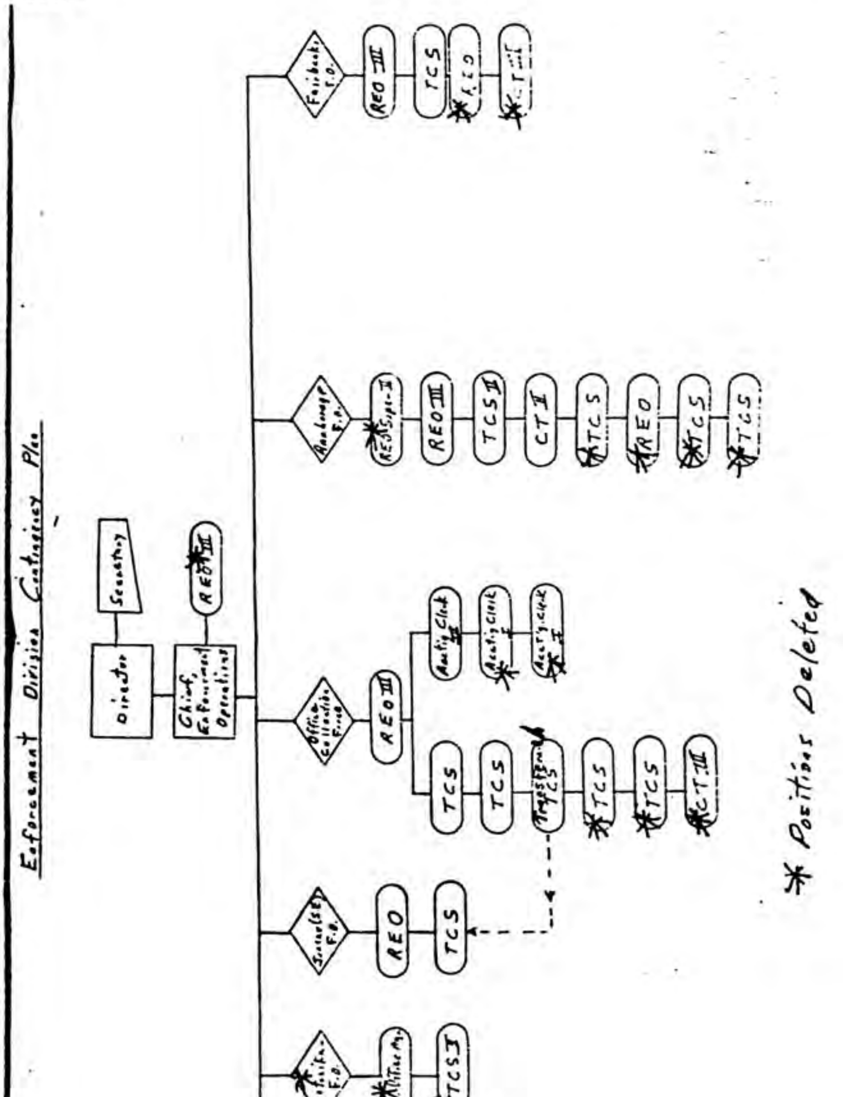
The attached chart indicates the present organization of the collection function within the Enforcement Division, including management. It does not include the permanent fund dividend and other taxes compliance unit. Those positions indicated in blue would remain after the implementation of this phase-out whereas those positions indicated in red would be deleted. Approximately 16 positions would ultimately be deleted from the collection staff and 13 positions would remain.

FB/vcy

Attachment

cc: Marilla Gemmer, Chief
Enforcement Operations

HB 1043


Enforcement Division Contingency Plan
Director
Secretary
Chief, Enforcement Operations
REO III
TCS
REO
* Positions Deleted

HB
1043

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 1043
Title An Act suspending the Alaska Net Income Tax Act for individuals and
Requested by Governor Date 9/22/80 (fiduciari

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected Fiscal Services
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		-0-	(162.3)			
200 TRAVEL		-0-	-0-			
300 CONTRACTUAL		-0-	(.6)			
400 COMMODITIES		-0-	(3.4)			
500 EQUIPMENT		-0-	-0-			
600 LAND & STRUCTURES		-0-	-0-			
700 GRANTS, CLAIMS, ETC.		-0-	-0-			
TOTAL		-0-	(166.3)			

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		-0-	(166.3)			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		-0-	(6)			
PART TIME		-0-	(5)			
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memorandum to Joseph K. Donohue dated September 19, 1980.

IV. DATE September 22, 1980 PREPARED BY [signature]
AGENCY Audit Division
PHONE 465-2320

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

HB
1043

TO

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

DATE September 19, 1980

FILE NO

FROM

Gary L. [illegible]ins
Director
Audit Division

TELEPHONE NO

SUBJECT Fiscal Impact of House/Senate Bill #1

This bill would repeal the individual income tax retroactive to January 1, 1979. It is anticipated that the Department of Revenue will issue 225,000 refunds to taxpayers for 1979 and an additional 325,000 of withholding refunds for 1980. Assuming the Legislature passes this or a similar bill during the week of September 22nd, the major impact of that legislation will be felt by this division in the next nine months. This impact will coincide with the decline of normal functions which various members of my staff have performed in the past which were necessary to the ongoing operation of the individual income tax law.

In reviewing the impact of this legislation on my division, I have continued to assume that the Permanent Fund Dividend program will survive the court test and that we will be processing claims for Permanent Fund Dividends yet this year and in subsequent years.

There are three units in the Juneau office which will be primarily impacted by the individual income tax repeal. These are: Withholding Unit, Individual Tax Examination Unit, and the Taxpayer Assistance Unit. There will also be a slight impact on the staffing of the Anchorage field office. There will be no impact on our Fairbanks and Seattle field offices.

The Withholding Unit will still be required to process all third quarter withholding reports from employers, a limited number of fourth quarter withholding reports, and an annual reconciliation from all employers, which will not be received until the month of February. It is imperative that they properly process all of these reports to ensure that employers have, in fact, withheld and paid in to us the amount of Alaska withholding which they show on their final Alaska W-2 forms. Due to the significant confusion which arose when SB 394 was enacted, with many employees becoming exempt from withholding during the middle of a quarter, and the anticipated similar problems with the enactment of the repeal law which will make all employees exempt from Alaska withholding, it is expected that there will be a much higher incidence of reporting error than we have experienced in the past. This increased incidence of error will result from

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1043

Joseph K. Donohue
September 19, 1980
Page 3

demand for their services because of the large number of questions which clearly will be raised by taxpayers regarding either how their 1979 refund will be processed, or their 1980 withholding/political campaign contribution/child care expense claim is to be prepared and submitted. There will also be an approximate doubling of our workload regarding returned checks which have incorrect addresses because of the large number of people who will have moved since their 1979 return was filed, or their 1980 claim was filed. It will require all the currently authorized staff to properly account for and reissue the anticipated 10,000 returned warrants which will be undeliverable.

It is also anticipated that the demand for taxpayer assistance services will remain high in the Anchorage area through the remainder of this fiscal year in providing assistance to individuals in regard to their 1979 refunds or their 1980 claims. Again, because the impact of the 1979 refunds will begin in early October and 1980 claims will begin in mid to late January, it is anticipated that this high demand for taxpayer services will continue through June of 1981.

It is anticipated that this repeal will result in a reduction in staff in the Audit Division of eleven positions for FY 82. This is comprised of six permanent full time and five seasonal positions. These reductions will be in the various units discussed above. The total position cost for these positions is $166,300. As I mentioned previously, we are continuing to anticipate that the Permanent Fund Dividend program will remain in effect and that the court decision upholding it will be released within the next few months. It should be noted that the position reductions do not include any positions which were authorized under the tax relief legislation. It is assumed that those positions would be terminated at the end of this fiscal year.

Joseph K. Donohue
September 19, 1980
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HB 1043

the fact that some employers have chosen to refund some of the taxes previously withheld to the employees, yet in some cases have not corrected their payroll records to reflect those refunds. If these errors are not identified and corrected, it will result in the State of Alaska issuing refunds for 1980 withholding to employees considerably in excess of the amount actually withheld and remitted to the State of Alaska. There are approximately 13,000 employers in the State of Alaska whose accounts will have to be balanced and closed out and it is anticipated that this will easily take the staff until June 30, 1981 to accomplish.

The Individual Tax Examination Unit will be impacted primarily by the refund of the 1979 individual income tax based on the returns filed. Because of the design of the data capture system, all 1979 individual tax returns which were adjusted within the Department of Revenue will have to have their 1979 refund hand-generated. The staff will be working from a computer-generated list of returns which had changes made to them. From this list they will have to pull the return from our central audit files, review the return to determine what the actual correct amount of tax paid was, and hand-generate a refund document. This will be a very time-consuming process because it will all have to be done by hand. It is anticipated that there will be 25,000 such refunds which will have to be determined by the staff of this unit. They will also be required to deal with those problem returns where the taxpayers have separated or divorced since their 1979 return was filed and want separate checks issued rather than a single check to the joint names. This unit will further be required to handle the 1980 claims which will be filed in 1981 for refund of their withholding and/or estimated tax payments, political compaign contributions, and child care expenses on which the computations are in error. Based on previous filing experience, it is anticipated that there will be at least 10,000 returns in this category. Since processing of the problem 1979 returns will begin in early October, 1980 and will carry into at least March of 1981, it is imperative that the funds which will remain from SB 394 appropriations be made available for the processing of the refunds under this bill. During the period of February, 1981 through June, 1981 we will have our regularly authorized seasonal staff to handle the remaining 1979 returns as well as all the problem claims for 1980. It is anticipated that we will be able to finish processing all of these returns by June 30, 1981.

The Juneau Taxpayer Assistance Unit will eventually be affected by a repeal; however, during the next nine months it is expected that they will continue to have a very high

HB 1043

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 1043
Title An Act Suspending the Alaska Net Income Tax Act for Individuals and Fiduciaries
Requested by Governor Date 9/22/80

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Administration and Support, Management Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		ø	(480.2)			
200 TRAVEL		ø	(2.0)			
300 CONTRACTUAL		ø	(231.2)			
400 COMMODITIES		ø	(1.0)			
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		ø	(714.4)			

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		ø	(714.4)			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		ø	(16/192mm			
PART TIME		ø	(10/50 mm			
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

100 = 384.2 Salaries
96.0 Benefits
480.2 Total Personnel Reduction

300 = 96.2 Forms/Postage
30.0 Machine Rental
100.0 DP Chargeback
5.0 Miscellaneous Contractual
231.2 Total Contractual Reduction

IV. DATE 9/22/80 PREPARED BY E. A. Hall
AGENCY Revenue
PHONE 465-2313

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

REPORTS OF STANDING COMMITTEES

HB 1040 The Rules Committee has had HB 1040 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (Rules):

"An Act relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care services; and providing for an effective date."

and that it do pass with the following amendment:

Amendment No. 1 by the Rules Committee:

Page 1, lines 24 - 29:

Delete subsection (3)

Page 5, line 24:

Delete "1979" insert "1980"

Concurring: Cotten (Chairman), Brown, Miller, Hayes, Anderson, Parr and Phillips.

HB 1040 appears on today's calendar.

HB 1041 The Rules Committee has had HB 1041 (special appropriation to the Department of Revenue to provide income tax and withholding payment refunds to individuals; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1041 (Rules):

"An Act making an appropriation to the Department of Revenue for income tax, estimated income tax, and withholding payment refunds to individuals and fiduciaries; and providing for an effective date."

and that it do pass. Concurring: Cotten (Chairman), Brown, Miller, Phillips, Hayes, Anderson and Parr.

HB 1041 appears on today's calendar.

HOUSE JOURNAL

ALASKA STATE LEGISLATURE

ELEVENTH LEGISLATURE - SECOND SPECIAL SESSION

Juneau, Alaska	Tuesday	September 23, 1980

Second Day

Pursuant to adjournment, the House was called to order at 1:55 a.m. by Speaker Gardiner.

Roll call showed all members present.

The prayer was offered by Representative Miller. Representative Miles moved and asked unanimous consent that the prayer be spread on the journal. There being no objection, it was so ordered and the prayer appears as follows:

> "Father in Heaven, for the opportunity to serve our nation, our state, our neighbors and You, we offer thanks and ask Your guidance. Amen."

Representative Anderson moved and asked unanimous consent that the final supplemental journal for the second regular session, the journal for the first day of the second special session, House Supplement No. 1 and Joint Senate and House Supplement No. 1 be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

COMMUNICATIONS

A letter dated September 22, 1980, was received from Representative Jim Duncan, Chairman of Legislative Budget and Audit Committee. Copies were placed on each member's desk and the letter and attachment appear in House Supplement No. 2 to today's journal.

CSHB 1040 (Rls) Amendment No. 1 by the Rules Committee:

Page 1, lines 24 - 19:

Delete subsection (3)

Page 5, line 24:

Delete "1979" insert "1980"

Representative Cotten moved and asked unanimous consent that Amendment No. 1 be adopted.

CSHB 1040 (Rls) am Representative Hayes objected and withdrew his objection. There being no further objection, Amendment No. 1 was adopted.

Amendment No. 2 by Randolph:

Page 2, lines 1 - 29 and
Page 3, lines 1 - 6:

Delete all of sec. 2.

Representative Randolph moved and asked unanimous consent that Amendment No. 2 be adopted.

Representative Cotten objected.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

CSHB 1040(RULES)AM AM2

Yeas: 11 Barnes, Beirne, Bettisworth, Haugen, Hayes, Martin, Metcalfe, Montgomery, Munson, O'Connell, Randolph

The Rules Committee has had HB 1042 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules): HB 1042

> "An Act relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care services; providing for refunds of 1979 individual and fiduciary income taxes; and providing for an effective date."

and that it do pass. Concurring: Cotten (Chairman), Brown, Miller, Hayes, Anderson, Parr and Phillips.

HB 1042 appears on today's calendar.

CONSIDERATION OF THE DAILY CALENDAR

Representative Anderson moved and asked unanimous consent that HB 1041 be moved to the bottom of the calendar. There being no objection, it was so ordered. HB 1041

SECOND READING OF HOUSE BILLS

HOUSE BILL NO. 1040 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) was read the second time with the Finance Committee report (page 9 of the journal) and the Rules Committee report (page 14 of the journal). HB 1040

Representative Anderson moved and asked unanimous consent that the Rules COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (page 14 of the journal) be adopted in lieu of the original bill. There being no objection, it was so ordered. CSHB 1040 (Rls)

CSHB 1040 (Rls) am Representative Anderson moved that the effective date clauses be adopted.

The question being: "Shall the effective date clauses be adopted?" The roll was taken with the following result:

CSHB 1040(RULES)AM EFD

Yeas: 40 Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Malone, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Randolph, Rogers, Schaeffer, Smith, Zharoff

Nays: 0

Not Voting: 0

And so, the effective date clauses were adopted.

CSHB 1040 (Rules)am was referred to the Chief Clerk for engrossment.

HB 1042 HOUSE BILL NO. 1042 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) was read the second time with the Finance Committee report (page 11 of the journal) and the Rules Committee report (page 15 of the journal).

CSHB 1042 (Rls) Representative Anderson moved and asked unanimous consent that the Rules COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (page 15 of the journal) be adopted in lieu of the original bill. There being no objection, it was so ordered.

Nays: 29 Anderson, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Hurlbert, McKinnon, Malone, Meekins, Miles, Miller, Moss, Osterback, Parker, Parr, Phillips, Rogers, Schaeffer, Smith, Zharoff CSHB 1040 (Rls) am

Not Voting: 0

Representative Munson changed her vote from "nay" to "yea".

And so, Amendment No. 2 was not adopted.

Representative Anderson moved and asked unanimous consent that CSHB 1040 (Rules)am be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 1040 (Rules)am was read the third time.

The question being: "Shall CSHB 1040 (Rules)am pass the House?" The roll was taken with the following result:

CSHB 1040(RULES)AM

Yeas: 40 Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Malone, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Randolph, Rogers, Schaeffer, Smith, Zharoff

Nays: 0

Not Voting: 0

And so, CSHB 1040 (Rules)am passed the House.

CSHB 1042 (Rls)

intent of the Legislature was clear in the passage of the phased tax-relief measure and the Permanent Fund dividend distribution as well as the half-billion dollar supplemental appropriations bill for capital projects. All three were intended to spur the economy, however to date very little of that has been effected. The state has a moral obligation to fulfill this widely held expectation, and this obligation is best discharged by repealing the Alaska net income tax on individuals and fiduciaries retroactive to January 1, 1978.

Page 4, line 19:

Insert the following new material:

"* Sec. 8. REFUND OF 1978 INCOME TAXES. (a) An individual is entitled to a refund of his Alaska net income taxes paid or withheld under AS 43.20 for all or part of a tax year occurring after December 31, 1977 and before January 1, 1979.

(b) A refund under this section may be made only as provided in this section. Refunds of Alaska net income taxes paid may not be made without an appropriation for that purpose.

(c) The department shall establish procedures for determining the amount of and for making the refunds described in (a) of this section.

(d) The commissioner may adopt regulations to implement this section, and those regulations may be adopted as emergency regulations under AS 44.62.040 - 44.62.290.

(e) In this section,

(1) "commissioner" means the commissioner or revenue;

(2) "department" means the Department of Revenue.

Amendment No. 1 by Randolph: CSHB 1042 (Rls)

Page 2, lines 2 - 29 and
Page 3, lines 1 - 7:

Delete sec. 2.

Representative Randolph moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative Rogers objected.

The question being: "Shall Amendment No. 1 be adopted?"
The roll was taken with the following result:

CSHB 1042(RULES) AM1

Yeas:	11	Barnes, Beirne, Bettisworth, Haugen, Hayes, Martin, Metcalfe, Montgomery, Munson, O'Connell, Randolph
Nays:	29	Anderson, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Hurlbert, McKinnon, Malone, Meekins, Miles, Miller, Moss, Osterback, Parker, Parr, Phillips, Rogers, Schaeffer, Smith, Zharoff
Not Voting:	0	

And so, Amendment No. 1 was not adopted.

Amendment No. 2 by Hayes:

Page 1, line 28:

After "refund." insert the following new language:

"There is abundant public purpose to be served by both 1978 and 1979 refunds, which is stimulation of the economy of the state in the most direct and expeditious fashion. The

CSHB 1042 (Rls) CSHB 1042(RULES)

Yeas:	40	Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Malone, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Randolph, Rogers, Schaeffer, Smith, Zharoff
Nays:	0	
Not Voting:	0	

And so, CSHB 1042 (Rules) passed the House.

Representative Anderson moved that the effective date clause be adopted.

The question being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

CSHB 1042(RULES) EFD

Yeas:	40	Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Malone, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Randolph, Rogers, Schaeffer, Smith, Zharoff
Nays:	0	
Not Voting:	0	

And so, the effective date clause was adopted.

CSHB 1042 (Rules) was referred to the Chief Clerk for engrossment.

Page 1, lines 26 and 27: CSHB 1042 (Rls)

Delete "January 1, 1979" and replace with "January 1, 1978".

Renumber all sections accordingly.

Representative Hayes moved and asked unanimous consent that Amendment No. 2 be adopted.

Representative Rogers objected.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

CSHB 1042(RULES) AM2

Yeas:	13	Barnes, Beirne, Bettisworth, Branson, Eliason, Halford, Haugen, Hayes, Martin, Metcalfe, Montgomery, O'Connell, Phillips
Nays:	27	Anderson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Freeman, Fuller, Gardiner, Guy, Hurlbert, McKinnon, Malone, Meekins, Miles, Miller, Moss, Munson, Osterback, Parker, Parr, Randolph, Rogers, Schaeffer, Smith, Zharoff
Not Voting:	0	

And so, Amendment No. 2 was not adopted.

Representative Anderson moved and asked unanimous consent that CSHB 1042 (Rules) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 1042 (Rules) was read the third time.

The question being: "Shall CSHB 1042 (Rules) pass the House?" The roll was taken with the following result:

CSHB 1041 (Rls) The question being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

CSHB 1041(RULES) EFD

Yeas:	40	Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Malone, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Randolph, Rogers, Schaeffer, Smith, Zharoff
Nays:	0	
Not Voting:	0	

And so, the effective date clause was adopted.

CSHB 1041 (Rules) was referred to the Chief Clerk for engrossment.

ENGROSSMENT

CSHB 1040 (Rls) am The following were engrossed, signed by the Speaker and the Chief Clerk and transmitted to the Senate for consideration:

CSHB 1041 (Rls)

CSHB 1042 (Rls)

CSHB 1040 (Rules)am

CSHB 1041 (Rules)

CSHB 1042 (Rules)

ANNOUNCEMENTS

Representative Branson announced a Republican Caucus at 11:00 a.m., September 23, 1980.

HOUSE BILL NO. 1041 (special appropriation to the Department of Revenue to provide income tax and withholding payment refunds to individuals; effective date) was read the second time with the Finance Committee report (page 11 of the journal) and the Rules Committee report (page 14 of the journal). HB 1041

Representative Anderson moved and asked unanimous consent that the Rules COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1041 (page 14 of the journal) be adopted in lieu of the original bill. There being no objection, it was so ordered. CSHB 1041 (Rls)

Representative Anderson moved and asked unanimous consent that CSHB 1041 (Rules) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 1041 (Rules) was read the third time.

The question being: "Shall CSHB 1041 (Rules) pass the House?" The roll was taken with the following result:

CSHB 1041(RULES)

Yeas:	40	Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Malone, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Randolph, Rogers, Schaeffer, Smith, Zharoff
Nays:	0	
Not Voting:	0	

And so, CSHB 1041 (Rules) passed the House.

Representative Anderson moved that the effective date clause be adopted.

ADJOURNMENT

Representative Anderson moved the House adjourn sine die.

In the event the House adjourned, the Speaker appointed Representatives Parker and Branson to call upon the Senate at 10:00 a.m. September 23, 1980 and inform them that the House had completed its business and adjourned sine die.

In the event the House adjourned, the Speaker appointed Representatives Chatterton and Miles to call upon the Governor at 10:00 a.m., September 23, 1980 and inform him that the House had completed its business and adjourned sine die.

The question being: "Shall the House adjourn sine die?" The roll was taken with the following result:

MOTION SINE DIE

Yeas:	36	Anderson, Barnes, Beirne, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Rogers, Schaeffer, Smith, Zharoff
Nays:	4	Bettisworth, Eliason, Malone, Randolph
Not Voting:	0	

Representative Halford changed his vote from "nay" to "yea".

And so, the House of Representatives of the Second Special Session of the Eleventh State Legislature, adjourned sine die at 2:55 a.m., September 23, 1980.

Irene Cashen
Chief Clerk

September 22, 1980

The Honorable Terry Gardiner
Speaker of the Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Speaker Gardiner:

Chapter 50, SLA 1980, Chapter 173, SLA 1980 and Chapter 120, SLA 1980, the latter containing the general appropriations bill, contain item vetoes and reductions by the governor. It is the opinion of the Legislative Budget and Audit Committee and of counsel that certain purported vetoes in the Acts exceed the authority of the governor and are therefore void.

Under AS 24.20.201(a)(8) the Legislative Budget and Audit Committee has the power to:

> "Sue in the name of the legislature during the interim between sessions if authorized by majority vote of the full membership of the committee."

Acting under this authority the committee directed action be brought seeking judicial determination that these vetoes were void. Action was commenced in Superior Court in Alaska State Legislature v. Hammond, Civil Action No. 1JU-80-1163.

Because of the special session the committee requested a legal opinion as to the effect of either attempting to override these vetoes or taking no action. That opinion has been furnished the committee and is attached.

Very truly yours,

Representative Jim Duncan
Chairman
Legislative Budget and Audit Committee

Attachment

M E M O R A N D U M September 22, 1980

SUBJECT: Legislative reconsideration of invalid vetoes of portions of appropriations; Alaska State Legislature, et al. v. Hammond, Civil Action No. 1JU-80-1163

TO: Representative Jim Duncan, Chairman
Legislative Budget and Audit Committee

FROM: Billy G. Berrier
Director
Division of Legal Services

You have asked whether the legislature should, or may, as it is authorized to do by Article II, section 16 of the Alaska Constitution, reconsider those portions of certain appropriations unconstitutionally vetoed by the governor which are the subject of Alaska State Legislature, et al. v. Hammond, Civil Action No. 1JU-80-1163. My opinion is that although the legislature may reconsider, it need not because the vetoes are unconstitutional and of no force and effect and the appropriations are law as originally enacted.

On July 25, 1980, the Legislative Budget and Audit Committee, after careful consideration of the constitutionality of the governor's vetoes of portions of items in certain appropriations bills, authorized a lawsuit to obtain a judicial declaration that these vetoes were unconstitutional, and the appropriations were law as originally enacted. The lawsuit was filed on August 29, 1980 and is pending in the Alaska Superior Court.

The governor's failure to exercise veto power in the manner prescribed by the Alaska Constitution renders his veto invalid and of no force and effect. The governor may not veto conditions or restrictions on appropriations, nor veto portions of items without vetoing the entire appropriation. See State of Alaska, Legislative Affairs Agency, Opinion, Work Order No. 12-0023 (July 21, 1980) and authorities cited therein. In addition, the governor must set out the reasons for his vetoes in detail. See, generally, State Ex Rel. Browning v. Blankenship, 175 S.E.2d 172 (W.Va. 1970). The requirements for exercise of the governor's veto power are mandatory and may not be satisfied by substantial compliance. Those portions of appropriations invalidly vetoed are valid law as originally enacted by the legislature. Therefore, no reconsideration, as authorized by Article II, section 16 of the Alaska Constitution, is necessary.

It is possible, however, even if expedited, that the lawsuit will not generate a definitive result within this fiscal year. Also, in the absence of a judicial mandate, the governor need not, and may not, disburse funds in a manner consistent with the intent of the legislature.

The legislature may determine that the public interest demands that some appropriations affected by the governor's vetoes be disbursed according to the legislature's intent prior to final judicial resolution of this dispute. If the legislature so finds, it may, without abandoning its position, reconsider such invalidly-vetoed portions of appropriations in the prescribed manner, and override the governor's purported vetoes. As to these appropriations, the governor would have no choice but to disburse the appropriations in the manner originally intended by the legislature. The lawsuit will continue, however, to determine the validity of those appropriations improperly vetoed and the limitations on the governor's veto power.

BGB:ljb

ELEVENTH LEGISLATURE - 2ND SPECIAL SESSION

HOUSE FINANCE COMMITTEE
Meeting of
September 22, 1980
11:58 a.m.

Chairman Meekins called the meeting to order at 11:58 a.m. in Courtroom A, Court Building, Juneau, Alaska. Members of the Committee in attendance: Representatives Meekins, Freeman, Rogers, Smith, McKinnon, Duncan, Moss, Schaeffer, Guy, Montgomery and Haugen. Present to testify: Attorney General Wilson Condon; Susan Burke, Assistant Attorney General; Commissioner Tom Williams, Department of Revenue; Bill Sheffield, Commonwealth North; Representatives Brown, Hayes, Bettisworth, Halford, O'Connell and Randolph; and Ken Vassar, Legislative Attorney.

Chairman Meekins advised the first order of business would be to hear from those representing the administration on the Governor's bills.

HB 1043 - "An Act suspending the Alaska Net Income Tax Act for individuals and fiduciaries; and providing for an effective date."

HB 1044 - "An Act making a supplemental appropriation to the Department of Revenue; and providing for an effective date."

Susan Burke, Assistant Attorney General, advised the purpose of HB 1043 is to suspend the net income tax for individuals starting with tax year 1979, and the suspension would remain in effect until at least 1990. She explained that at that time the reimposition of the income tax would be conditional. She referred to Page 2, Section 2, and said that on January 15, 1989 the Commissioner of the Department of Revenue would certify the amount of sustainable revenue for the previous fiscal year. She said the other sections of the bill are just technical provisions. She briefly explained some of the provisions.

In answer to a question from Chairman Meekins, Ms. Burke said these sections were not affected by the Court decision. She said that as such they don't have to be put in the bill; they added those sections to make it clear that refundable credits would still be available. She said the sections were put in for clarity.

Commissioner Tom Williams, Department of Revenue, presented the fiscal note for the bill (see attachment #1). He advised the note adds $505,000 to the amount appropriated last Session, for refundable credits that would be incurred in this fiscal year.

Chairman Meekins asked if they could have an appropriation bill adding to the appropriation passed last session, or did they need to reappropriate the funds. Commissioner Williams said they could go either way. He said the Governor's transmittal letter for HB 1043 (see attachment #2) indicates the intent is to carry the appropriation forward.

Ms. Burke said if they wanted to take the most conservative approach they could repeal the provisions appropriating the funds and appropriate the new amount.

Representative Moss asked why they should suspend the income tax rather than repealining it. Commissioner Williams said that from the point of view of the taxpayer, there is not any difference in terms of taxes until 1990. He said the question is in 1990, when they are past the peak of Prudhoe production, is it appropriate to have a mechanism that automatically reimposes the income tax unless the Legislature defers, or should it be that one house or committee chairman could stop a bill to enact a tax. He commented that it is easier to stop a bill than it is to start one and said the question is who will have the ability to throttle the tax in the event it is appropriate to reimpose it.

There was discussion on the definition of sustainable revenue. Ms. Burke commented that under the definition all income from the Permanent Fund would be considered sustainable. Chairman Meekins asked what percentage of the current budget could be provided for if they were to use sustainable revenue today. Commissioner Williams said less than 10%. He said 90% of the State's revenue is from oil. He said it will require a great deal of restraint over the next ten years in funding ongoing costs, and it will require a great deal of prudence in terms of providing the ability for the economy to diversify. There was brief discussion.

Chairman Meekins said the Committee would now receive testimony on the Rules Committee bills.

HB 1040 - "An Act relating to taxes; repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; and providing for an effective date."

HB 1041 - "An Act making a special appropriation to the Department of Revenue to provide income tax and withholding payment refunds to individuals; and providing for an effective date."

Mr. Ken Vassar explained the bill is a straight repeal of income tax as it relates to individual income taxpayers. He said it repeals 1979 and 1980 taxes paid and carries forward the refundable tax credits. There was discussion on whether or not it was necessary to include the refundable tax credits sections. Mr. Vassar said that including the sections makes it clear the tax credits are still in effect. He said the bill also outlines the procedure for collecting those credits. Chairman Meekins asked if the credits are not included in the bill, would they still be valid. Mr. Vassar said they would be. Ms. Burke said they are recommending including the sections as in the Governor's bill to make it clear the credits are still in effect.

Chairman Meekins asked for the Attorney General to testify concerning refunding of 1978 taxes. Mr. Wilson Condon said their opinion states that the refunding of 1978 income taxes would be unconstitutional. (See attachment #3.) He briefly explained the opinion.

Representative Rogers asked how the equal protection argument for refunding 1978 taxes differs from the Permanent Fund distribution program. Mr. Condon said the Permanent Fund distribution program is for a specific purpose that would give people stock in state government. He said that according to courts returning taxes simply is not a public purpose. There was further discussion.

Representative Montgomery asked if it would be better to have separate bills -- one for repeal and one for refunds. Mr. Condon said if that is a concern they could put a severability clause in the bill.

Mr. Vassar advised his opinion on refunding 1978 taxes essentially agrees with the Attorney General's opinion (see attachment #4). He briefly explained the opinion.

Mr. Vassar said as a practical matter it may be somewhat safer to use separate bills if the refunds are constitutionally reviewed; however, he said the refunds in this bill are completely severable.

Chairman Meekins commented that from the legislative point of view they are severable, but the bill still might be held up if a suit is filed. Mr. Vassar agreed. There was brief discussion.

Representative Hayes said the bottom line on considering refunding 1978 taxes is whether or not the Legislature wants to consider doing so in view of the economic condition of the state. He said he didn't think it was valid to not deal with the issue just because people say it might be challenged.

Chairman Meekins asked if he was saying the public purpose then would be the stimulus to the economy. Representative Hayes said that would be one of the overriding reasons. He said there may be others. There was further discussion.

Representative Rogers asked why they didn't also go back to 1977 then. He asked how they could go back to one year and say there is a public purpose for that year but not the previous one. Representative Hayes said they haven't limited it to just going back to 1978; however, he said they had to temper that with the amount of money that is available. There was brief discussion.

[Tape change - SS-HFC 80-1, side 2.]

Representative Bettisworth said that apparently the constitution is not as sacred as he believed. He said the Attorney General can say the constitution says one thing, and another lawyer can say it says something else. He said the Legislature should stand up and say what they want to do.

Chairman Meekins asked, if their motivation is to stimulate the economy, why they chose the tax mechanism as opposed to some other method. Representative Bettisworth said this was the mechanism the majority of their caucus decided to try. He commented further. Representative Halford commented on legal opinions. Representative O'Connell said they should be giving money back to those people who have already proved they are the stimulants of the economy.

Mr. Bill Sheffield, representating Commonwealth North, said they are uring the Legislature to make an outright repeal of the income tax. He said taxpayers are entitled to a straight out, across the board income tax repeal. He commented on the savings that would result from a repeal. He said that after repealing the personal income tax, the next step should be to repeal the small business tax. He said that for those areas where there is a sales tax, the sales tax should be eliminated. After that, they would recommend eliminating the property tax on a per capita basis. He commented on how this could be done and said it would stabilize the economy throughout Alaska.

Mr. Sheffield said they should put in motion a comprehensive tax repeal program. He said he didn't think the State would have to start collecting taxes again if they practiced restraint in spending the revenues.

Chairman Meekins commented on the amount of refunds that individuals would get, and who would get them.

Mr. Sheffield explained how refunding taxes would sitmulate the economy.

Representative Randolph said the money belongs to the people who earned it. He commented further. So people wouldn't have to pay higher federal taxes, Representative Randolph suggested providing a no interest loan program, with a five year moratorium on payments.

Representative Brown said the problem they are having with lawyers is deciding who they should and should not believe. He commented further.

Representative Freeman moved and asked unanimous consent that two finance committee substitutes be prepared, separating the repeal from the refund. Committee Substitutes will be prepared for HB 1040 and HB 1042. Representative Rogers requested that the Committee have an opportunity to review the Committee Substitutes before the Committee Report is signed. There was brief discussion. There being no objection to the motion, it was so ordered.

Representative Freeman moved that a Finance Committee Substitute be prepared for HB 1041 repealing the appropriation made for payment of tax refunds last Session, and reenacting the appropriation with the additional amount necessary for the 1979 and 1980 refunds. There being no objection, it was so ordered.

Chairman Meekins said the Committee would recess until the Committee Substitutes had been prepared. The meeting recessed at 1:25 p.m.

Chairman Meekins recalled the meeting to order at 5:40 p.m. All members of the Committee were present except Representative Schaeffer.

Chairman Meekins presented the Finance CS for HB 1040 - "An Act relating to taxes; repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; and providing for an effective date. (See Attachment #5.)

Mr. Vassar briefly explained the CS. Chairman Meekins asked if there were any objection to reporting the bill out. There being no objection, CSHB 1040 was reported out with a unanimous "do pass" recommendation.

Chairman Meekins presented the Finance CS for HB 1042 - "An Act providing for refunds of 1979 individual income taxes; and providing for an effective date." (See attachment #6.) He asked if there were any objection to reporting out CSHB 1042.

Representative Rogers objected, and asked if there was any problem with the effective date clause. Mr. Vassar said there was. Representative Rogers moved and asked unanimous consent that a new CS be prepared, deleting section 3 and replacing it with a new section 3 which would be the same as section 5 of CSHB 1041. There being no objection, it was so ordered.

Chairman Meekins asked if there was any objection to reporting out the new Finance CS for HB 1042. There being no objection, the bill was reported out with a unanimous "do pass" recommendation.

Chairman Meekins presented the Finance CS for HB 1041 - "An Act making an appropriation to the Department of Revenue for income tax and withholding payment refunds to individuals; and providing for an effective date." (See Attachment #7.) Representative Rogers asked if there was any problem with the wording "payable under this Act" in section 3. Mr. Vassar said there was no problem with that wording. Chairman Meekins asked if there was any objection to reporting out CSHB 1041. There being no objection, the bill was reported out with a unanimous "do pass" recommendation.

Chairman Meekins presented a proposed Finance Committee letter of intent for CSHB 1040, CSHB 1041 and CSHB 1042. (See attachment #8.) He asked if there was any objection to the letter of intent. There being no objection, the Letter of Intent was adopted.

The meeting adjourned at 5:45 p.m.

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TAPE - SS-HFC 80-1, Sides 1 & 2

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

465-2300

OFFICE OF THE COMMISSIONER

POUCH S – JUNEAU 99811

September 19, 1980

HB1043

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Fiscal Note for An Act suspending the
Income Tax Act for individuals and fid

Dear Mr. Speaker:

Attached please find fiscal notes related to the estimated revenue impact and administrative costs of the above-referenced legislation:

Revenue Impact - FY 81:

(A) Ch. 22, SLA 1980 Appropriation:

1979 Refund	$ 89,900,000	
Administrative Costs	836,500	
Refundable Credits	537,000	
Total Appropriation (See ch. 120 SLA 1980, sec. 52, page 70, line 10)		$ 90,273,500

(B) Additional Appropriation necessary to cover Incremental Cost of Total Suspension:

1979 Refund	$ 22,100,000	
Administrative Costs	-0-	
Refundable Credits	505,000	
		$ 22,605,000

(C) Total Appropriated Funds: $112,878,500

Attachment #1

04-D2LH

HFC 9/22/80

(D) Summary of FY 81 costs:

1. Total Appropriated Funds:	$112,878,500
2. Total Rebate of 1980 Withholding (No appropriation Necessary for these funds held in Trust by the State)	$ 73,500,000
3. Total Revenues Foregone during FY 81 by virtue of repeal	$147,500,000
TOTAL	$333,878,500

Administrative Costs:

Administrative costs under Ch. 22, SLA 1980 were estimated at $836,500. It is assumed that the original Ch. 22 appropriation remains available for use to implement the suspension or repeal and we foresee no increase in FY 81 administrative costs with the suspension program. Therefore, no additional appropriation is necessary at this time.

Three fiscal notes are attached to show the estimated effects of suspension on relevant Divisions within the Department of Revenue in FY 82. These fiscal notes assume a continuation of the Permanent Fund Dividend program, continuation of the refundable credits and suspension or repeal of AS 43.20 as of December 31, 1978. These potential reductions in funding and staff are preliminary and will be refined for inclusion in the FY 82 Detailed Budget. At that time, it should be known whether the underlying assumptions are valid.

Sincerely,

Joseph K Donohue
for Thomas K. Williams
Commissioner of Revenue

Attachments

9/22/80

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HS 1043
Title An Act Suspending the Alaska Net Income Tax Act for Individuals and Fiduciaries
Requested by Governor Date

II. FISCAL DETAIL
Agency Affected
Program Category Affected
BRU, Program, or Subprogram(s) ffected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		112.878	1.6	2.3	2.8	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Withholding in Trust		73.5				
		(147.5)	(206)	(266)	(338)	

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
$90,273,500 was previously appropriated in CH. 120, SLA 1980, Sec. 52, p. 70, l. 10 to cover the costs of Chapter 22. That figure included $88.9 million for 1979 tax refunds, $537,000 for refundable credits and $836,500 for administrative costs. The new FY 81 figure of $112,878,000 includes $111,000,000 for 1979 tax refunds (an increase of $22.1 million), $1,042,000 for refundable credits (an increase of $505,000) and $836,500 for administrative costs (no increase). Complete suspension of the income tax is estimated to cost a total of $22,605,000 more than the graduated exemption program in FY 81 and this is the figure utilized in the appropriation bill accompanying the suspension proposal since it is assumed the original Chapter 22 appropriation remains available to implement the new bill.

The $73.5 million figure for FY 81 consists of withholding held in trust

(continued)

IV. DATE PREPARED BY Vincent D. Wright
AGENCY 5-3391
PHONE

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

9/22/80

for the first three quarters of tax year 1980 that will be refunded in FY 81.

The bottom line figures represent foregone revenues due to suspension of the individual income tax.

9/22/80

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB/SB1
Title An act suspending the Alaska Net Income Tax for individuals and fiduciaries
Requested by Governor Date September 22, 1980

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected Revenue Collection & Management
BRU, Program, or Subprogram(s) Affected Enforcement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		-0-	(191.3)			
200 TRAVEL		-0-	(7.8)			
300 CONTRACTUAL		-0-	(18.8)			
400 COMMODITIES		-0-	(1.9)			
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES			(2.3)			
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	(222.1)			

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		-0-	(222.1)			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		-0-	(16)			
PART TIME		-0-				
TEMPORARY		-0-				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memorandum from Fred Boetsch, Director of Enforcement Division to Joe Donohue, Deputy Commissioner, Taxation, dated August 29, 1980.

Fred Boetsch

IV. DATE 09/19/80 PREPARED BY Fred Boetsch, Director of Enforcement Divisio
AGENCY Revenue
PHONE (907) 465-2366

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

9/22/80

MEMORANDUM State of Alaska

TO: Joe Donohue
Deputy Commissioner
Department of Revenue

DATE: August 29, 1980

FILE NO:

TELEPHONE NO: 465-2366

FROM: Fred Boetsch, Director
Enforcement Division

SUBJECT: Contingency Plan for Income Tax Repeal

The effects of a total repeal of the Alaska income tax in this organization would depend on many variables besides the mere repeal of the tax. The first item, of course, would be the effective date of any repeal. The earlier the effective date, the sooner we would expect our individual tax workload to decline. Another variable would be the Permanent Fund Dividend Program. If this program goes into effect, we will exercise our right of offset to satisfy many old warrants and thereby reduce the inventory more rapidly. The third factor would be the extent to which old revenue agent reports from the IRS are worked in the future and the warrant load which might be generated from that source.

For purposes of this analysis therefore, I have assumed that the Permanent Fund Dividend Program would remain intact and that the people assigned to the compliance unit would work on permanent fund dividend eligibility and tax compliance investigations. I have also assumed that the repeal would be effective January 1, 1979, and that Audit would continue to work Internal Revenue Service revenue agent reports through 1978. Under those conditions the changes indicated on the attached organization chart would be fully implemented by the end of calendar year 1981 (approximately halfway through fiscal year 1982). For the most part changes would be made through attrition during the course of the next 16 months. It is my hope that layoffs would not be necessary.

The attached chart indicates the present organization of the collection function within the Enforcement Division, including management. It does not include the permament fund dividend and other taxes compliance unit. Those positions indicated in blue would remain after the implementation of this phase-out whereas those positions indicated in red would be deleted. Approximately 16 positions would ultimately be deleted from the collection staff and 13 positions would remain.

FB/vcy

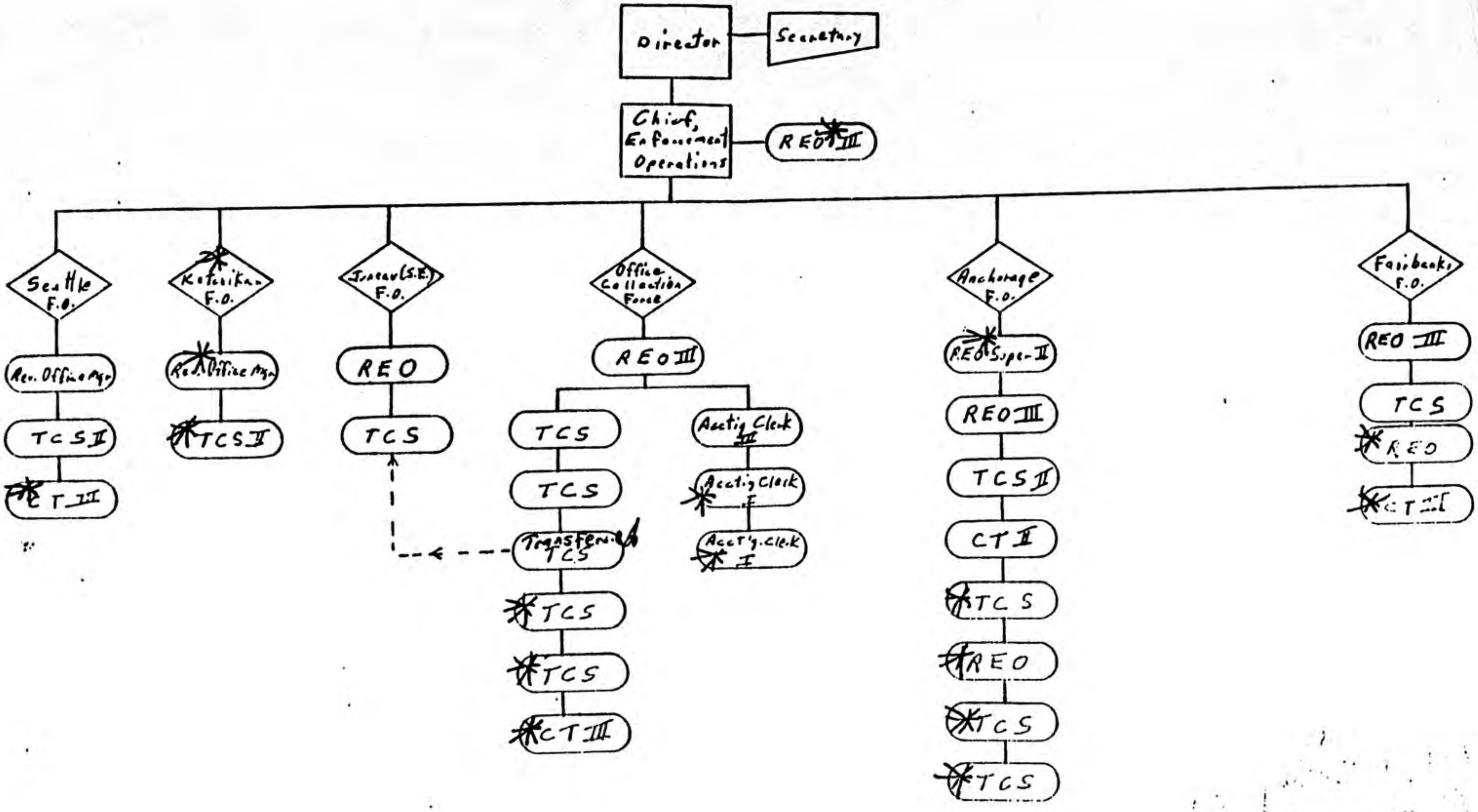
Attachment

cc: Marilla Gemmer, Chief
Enforcement Operations

9/22/80

02-001A(Rev.10/79)

Enforcement Division Contingency Plan



* Positions Deleted

6/23/80

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House/Senate Bill No. 1
Title An Act suspending the Alaska Net Income Tax Act for individuals and fiduciaries
Requested by Governor Date 9/22/80

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected Fiscal Services
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		-0-	(162.3)			
200 TRAVEL		-0-	-0-			
300 CONTRACTUAL		-0-	(.6)			
400 COMMODITIES		-0-	(3.4)			
500 EQUIPMENT		-0-	-0-			
600 LAND & STRUCTURES		-0-	-0-			
700 GRANTS, CLAIMS, ETC.		-0-	-0-			
TOTAL		-0-	(166.3)			

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		-0-	(166.3)			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		-0-	(6)			
PART TIME		-0-	(5)			
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memorandum to Joseph K. Donohue dated September 19, 1980.

IV. DATE September 22, 1980 PREPARED BY [signature]
AGENCY Audit Division
PHONE 465-2320

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

9/22/80

MEMORANDUM State of Alaska

TO: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

DATE: September 19, 1980

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: Fiscal Impact of
House/Senate Bill #1

This bill would repeal the individual income tax retroactive to January 1, 1979. It is anticipated that the Department of Revenue will issue 225.000 refunds to taxpayers for 1979 and an additional 325,000 of withholding refunds for 1980. Assuming the Legislature passes this or a similar bill during the week of September 22nd, the major impact of that legislation will be felt by this division in the next nine months. This impact will coincide with the decline of normal functions which various members of my staff have performed in the past which were necessary to the ongoing operation of the individual income tax law.

In reviewing the impact of this legislation on my division, I have continued to assume that the Permanent Fund Dividend program will survive the court test and that we will be processing claims for Permanent Fund Dividends yet this year and in subsequent years.

There are three units in the Juneau office which will be primarily impacted by the individual income tax repeal. These are: Withholding Unit, Individual Tax Examination Unit, and the Taxpayer Assistance Unit. There will also be a slight impact on the staffing of the Anchorage field office. There will be no impact on our Fairbanks and Seattle field offices.

The Withholding Unit will still be required to process all third quarter withholding reports from employers, a limited number of fourth quarter withholding reports, and an annual reconciliation from all employers, which will not be received until the month of February. It is imperative that they properly process all of these reports to ensure that employers have, in fact, withheld and paid in to us the amount of Alaska withholding which they show on their final Alaska W-2 forms. Due to the significant confusion which arose when SB 394 was enacted, with many employees becoming exempt from withholding during the middle of a quarter, and the anticipated similar problems with the enactment of the repeal law which will make all employees exempt from Alaska withholding, it is expected that there will be a much higher incidence of reporting error than we have experienced in the past. This increased incidence of error will result from

02-001A(Rev.10/79)

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the fact that some employers have chosen to refund some of the taxes previously withheld to the employees, yet in some cases have not corrected their payroll records to reflect those refunds. If these errors are not identified and corrected, it will result in the State of Alaska issuing refunds for 1980 withholding to employees considerably in excess of the amount actually withheld and remitted to the State of Alaska. There are approximately 13,000 employers in the State of Alaska whose accounts will have to be balanced and closed out and it is anticipated that this will easily take the staff until June 30, 1981 to accomplish.

The Individual Tax Examination Unit will be impacted primarily by the refund of the 1979 individual income tax based on the returns filed. Because of the design of the data capture system, all 1979 individual tax returns which were adjusted within the Department of Revenue will have to have their 1979 refund hand-generated. The staff will be working from a computer-generated list of returns which had changes made to them. From this list they will have to pull the return from our central audit files, review the return to determine what the actual correct amount of tax paid was, and hand-generate a refund document. This will be a very time-consuming process because it will all have to be done by hand. It is anticipated that there will be 25,000 such refunds which will have to be determined by the staff of this unit. They will also be required to deal with those problem returns where the taxpayers have separated or divorced since their 1979 return was filed and want separate checks issued rather than a single check to the joint names. This unit will further be required to handle the 1980 claims which will be filed in 1981 for refund of their withholding and/or estimated tax payments, political compaign contributions, and child care expenses on which the computations are in error. Based on previous filing experience, it is anticipated that there will be at least 10,000 returns in this category. Since processing of the problem 1979 returns will begin in early October, 1980 and will carry into at least March of 1981, it is imperative that the funds which will remain from SB 394 appropriations be made available for the processing of the refunds under this bill. During the period of February, 1981 through June, 1981 we will have our regularly authorized seasonal staff to handle the remaining 1979 returns as well as all the problem claims for 1980. It is anticipated that we will be able to finish processing all of these returns by June 30, 1981.

The Juneau Taxpayer Assistance Unit will eventually be affected by a repeal; however, during the next nine months it is expected that they will continue to have a very high

9/22/80

demand for their services because of the large number of questions which clearly will be raised by taxpayers regarding either how their 1979 refund will be processed, or their 1980 withholding/political campaign contribution/child care expense claim is to be prepared and submitted. There will also be an approximate doubling of our workload regarding returned checks which have incorrect addresses because of the large number of people who will have moved since their 1979 return was filed, or their 1980 claim was filed. It will require all the currently authorized staff to properly account for and reissue the anticipated 10,000 returned warrants which will be undeliverable.

It is also anticipated that the demand for taxpayer assistance services will remain high in the Anchorage area through the remainder of this fiscal year in providing assistance to individuals in regard to their 1979 refunds or their 1980 claims. Again, because the impact of the 1979 refunds will begin in early October and 1980 claims will begin in mid to late January, it is anticipated that this high demand for taxpayer services will continue through June of 1981.

It is anticipated that this repeal will result in a reductio in staff in the Audit Division of eleven positions for FY 82. This is comprised of six permanent full time and five seasonal positions. These reductions will be in the various units discussed above. The total position cost for these positions is $166,300. As I mentioned previously, we are continuing to anticipate that the Permanent Fund Dividend program will remain in effect and that the court decision upholding it will be released within the next few months. It should be noted that the position reductions do not include any positions which were authorized under the tax relief legislation. It is assumed that those positions would be terminated at the end of this fiscal year.

9/22/80

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB/SB
Title An Act Suspending the Alaska Net Income Tax Act for Individuals and Fiduciaries
Requested by Governor Date 9/22/80

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Administration and Support, Management Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		Ø	(480.2)			
200 TRAVEL		Ø	(2.0)			
300 CONTRACTUAL		Ø	(231.2)			
400 COMMODITIES		Ø	(1.0)			
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		Ø	(714.4)			

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		Ø	(714.4)			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		Ø	(16/192mm)			
PART TIME		Ø	(10/50 mm)			
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

100 = 384.2	Salaries	3.00 = 96.2	Forms/Postage
96.0	Benefits	30.0	Machine Rental
480.2	Total Personnel Reduction	100.0	DP Chargeback
		5.0	Miscellaneous Contractual
		231.2	Total Contractual Reduction

IV. DATE 9/22/80 PREPARED BY P. A. Wall
Donald H. Borne
AGENCY Revenue
PHONE 465-2313

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

9/22/80

HB 1043 HOUSE BILL NO. 1043 by the Rules Committee by request of the Governor, entitled:

"An Act suspending the Alaska Net Income Tax Act for individuals and fiduciaries; and providing for an effective date."

was read the first time and referred to the Finance Committee.

The fiscal note on HB 1043 appears in House Journal Supplement No. 1.

The Governor's transmittal letter appears as follows:

Dear Mr. Speaker:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill providing for a suspension of all state income tax for individuals and fiduciaries for a minimum of ten years. Under the bill, the suspension would remain in effect until at least tax year 1990.

A major feature of the bill is a mechanism, starting in 1989, for annually reviewing the question of whether the suspension should remain in effect. The bill would require the commissioner of revenue, on January 15 of each year starting in 1989, to certify to the legislature and to the governor the amount of "sustainable revenues" (primarily all revenues except those derived from mineral resource development) received during the prior fiscal year and the amount of state expenditures for that fiscal year. The first year it is demonstrated that expenditures for the prior fiscal year have exceeded sustainable revenues, the suspension would be lifted and the tax would be reimposed starting on January 1 of the next year, unless the legislature took some intervening action.

The bill also provides for a refund to individuals and fiduciaries of all income taxes paid for tax year 1979, and for a refund of withholding payments and estimated taxes for tax year 1980. Necessary technical amendments are also included in the bill, primarily to deal with those sections of chapter 22, SLA 1980, that were affected by the supreme court's ruling in Williams v. Zobel, ___ P.2d ___ (Ak. Sup. Ct. Op. No. 2170, Sept. 19, 1980).

Finally, the bill includes a technical amendment that is necessary to permit the continuation of the refundable credits for political campaign contributions and dependent care expenses that were enacted as part of chapter 22, SLA 1980. I have been advised by the Department of Law that these

HFC 9/22/80

HB 1043

refundable credits were not affected by the Zobel decision, and that they remain in effect. The bill includes a mechanism for continuing the refundable credits during the income tax suspension because it is my impression that the legislature does not wish to repeal them. Without a provision in the bill, the continued availability of the refundable credits to individuals would be unclear under a suspension of the income tax.

Sincerely,

Jay S. Hammond
Governor

HOUSE BILL NO. 1044 by the Rules Committee by request of the Governor, entitled: HB 1044

"An Act making a supplemental appropriation to the Department of Revenue; and providing for an effective date."

was read the first time and referred to the Finance Committee.

The Governor's transmittal letter appears as follows:

Dear Mr. Speaker:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill to make a supplemental appropriation from the general fund for fiscal year 1981 to the Department of Revenue to pay the tax credits and refunds prescribed by the companion measure on tax relief which I am also submitting today.

The appropriation made by section 52, chapter 120, SLA 1980, was $90,273,500. The appropriation was made to finance tax credits and refunds under the Alaska Net Income Tax Act (AS 43.20). The Department of Revenue estimates that the total amount required under the companion bill on tax relief which I am submitting today is $112,878,500, that is, an additional $22,605,000, and that is the

Attachment #2

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K–STATE CAPITOL
JUNEAU, ALASKA 99811
465-3600

September 22, 1980

Honorable Thomas K. Williams
Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

Dear Commissioner Williams:

You have requested an opinion from this department concerning the constitutionality of providing a retroactive refund of individual income taxes for 1979, 1978, and prior tax years. As you know, we have recently advised both your department and the Governor that as a general rule retroactive tax repeals violate Article IX, sec. 6, of the Alaska Constitution, which provides that appropriations of public money may be made only for a public purpose. You have asked for our opinion as to whether this general rule prohibiting retroactive tax repeals would apply to (1) a refund of individual income taxes for 1978 and prior tax years and (2) a refund of individual income taxes for the 1979 tax year.

It is our opinion that a refund of individual income taxes for 1978 and prior years would constitute a retroactive tax repeal and would violate the public purpose requirement of Article IX, sec. 6, of the Alaska Constitution. A

03-C5LH

Attachment #3

refund of 1978 or prior year income taxes would also raise serious equal protection questions. Enactment of a refund of 1979 individual income taxes during the upcoming special session would also constitute a retroactive tax repeal, and also raises public purpose questions. However, we believe that special circumstances exist with respect to 1979 individual income taxes that would bring a retroactive refund of those taxes within one of the recognized exceptions to the general rule regarding the invalidity of retroactive tax repeals.

I. Retroactive Refund of Individual Income Taxes for 1978 and Prior Tax Years.

The Alaska Supreme Court has not been called upon to address the question of the validity of retroactive tax repeals under the public purpose requirement of Article IX, sec. 6, of the state constitution.

Courts in other jurisdictions, however, have held that as a general rule, retroactive repeals of validly imposed taxes constitute an appropriation of public money for essentially private benefit and violate constitutional provisions similar to our Article IX, sec. 6, limiting appropriations of public money to expenditures for public purposes. See, e.g., City of Yakima v. Huza, 407 P.2d 815 (Wash. 1965); In re Skinner's Estate, 303 P.2d 745 (Cal. 1956); In re Stanford's Estate, 58 P. 462 (Cal. 1899). Although the precise language used varies with each case, the rationale of these decisions is that retroactive repeal and refund of taxes do not benefit the collective public, to whom the money in the state treasury belongs, but benefit the private individuals who receive the refunds.

There are some limited exceptions to the general rule invalidating retroactive tax repeals that have been recognized in other jurisdictions. For example, in Japan Lines, Ltd. v. McCaffree, 558 P.2d 211 (Wash. 1977), the court found that the public purpose requirement was not violated by the retroactive repeal of a municipal property tax where the local tax was simultaneously replaced by the retroactive imposition of a state tax on the same property. The effect of the repeal therefore afforded no private benefit to any taxpayers, and the shifting of the taxing authority from the municipality to the state was held to constitute a public purpose.

In San Bernadino County v. Way, 117 P.2d 354 (Cal. 1941), the court upheld a state statute authorizing the retroactive forgiveness of delinquent property taxes owed to local government road improvement districts on the ground that the forgiveness of the delinquent taxes was primarily for a public purpose even though there would be an incidental benefit to the delinquent taxpayers. The court held that forgiveness of the delinquent property taxes was in the public interest because it permitted financially overburdened improvement districts to refinance their bonded indebtedness and return the delinquent property to the active tax rolls. Courts have also recognized that a tax may be retroactively refunded without violating the public purpose requirement if the refund discharges either a legal or a moral obligation owed by the state to the taxpayers receiving the refund. See, In re Estate of Monfort, 259 N.W. 554 (Minn. 1935); State ex rel. Adams v. Crawford, 121 A.2d 800 (Conn. 1923).

A retroactive refund of income taxes for 1978 or prior tax years would not, in our view, come within any of the exceptions to the general prohibition against retroactive tax refunds that have been recognized in other jurisdictions. There is no basis for asserting that these taxes were not legally imposed or collected. Consequently there is no legal obligation to refund them. Nor does it appear that there exist any circumstances that would give rise to a moral obligation on the part of the state to return taxes collected for those tax years.

Arguably a refund of income taxes for 1978 or prior tax years would be valid under Article IX, sec. 6, despite the obvious benefits to private individuals if some valid public purpose could be advanced. San Bernadino County v. Way, supra. The most frequently mentioned (and probably the only) reason for refunding taxes for 1978 and prior years would be to stimulate the state's economy by putting cash into the hands of the public. None of the cases we have reviewed, however, has recognized stimulation of the economy as a public purpose that would be sufficient by itself to justify a retroactive tax refund. We think it is unlikely that this purpose by itself would be sufficient. First, it appears that courts have been very reluctant to expand on the types of public purposes that will justify a retroactive tax repeal. Further, if a retroactive tax repeal could be sustained as having a public purpose on the sole ground of stimulating the economy, then almost all retroactive tax refunds could be justified on that basis, since they would always tend to stimulate the economy. Thus recognizing economic stimulation as an exception to the prohibition against retroactive tax repeals or refunds would eventually render the prohibition meaningless.

Even if stimulating the economy were found to be sufficiently in the general public interest to justify a refund of 1978 or earlier taxes, there still would remain serious equal protection questions. Under the state constitution's equal protection clause, a legislative classification must bear a "fair and substantial relationship" to a valid public purpose. See, e.g., Isakson v. Rickey, 550 P.2d 362 (Alaska 1976). In other words, there must be a fairly close logical connection between the purpose of a law and the particular means chosen to implement that purpose. In the case of a refund of 1978 taxes, the purpose would be stimulating the state's economy and the particular means chosen would be to make cash payments only to persons who paid income tax for 1978. We think it is doubtful that our supreme court would find a "fair and substantial relationship" between the purpose of stimulating the state's economy through individual cash payments and a classification that effectively limits those cash payments only to individuals who had paid income taxes for 1978 or earlier years. There appears to be no valid reason to exclude from the class of persons receiving the cash payments persons who did not pay 1978 taxes but who are just as capable of stimulating the economy if they also received the payments. */

II. Refund of Individual Income Taxes for Tax Year 1979.

Because of the special circumstances applying to individual income taxes for tax year 1979, we believe that a refund of taxes for that year would not violate the public purpose requirement for expenditures of public funds. Although a refund of 1979 income taxes enacted in the upcoming special session would necessarily be retroactive, its primary purpose would be the discharge of a moral obligation.

The graduated tax exemptions enacted in AS 43.20.017 (sec. 1, ch. 22, SLA 1980) applied to individual income

*/ Chief Justice Rabinowitz in his separate concurring opinion in Williams v. Zobel, Opin. No. 2170 (Alaska September 19, 1980) stated that a retroactive tax rebate for a "reasonable period" would not violate equal protection on the ground that it distinguished past taxpayers from past nontaxpayers. He suggests, however, that there may be other equal protection grounds on which to challenge a retroactive rebate. We think there are substantial equal protection grounds on which a refund of 1978 or earlier taxes would be subject to serious question.

taxes for tax year 1979, and substantial numbers of taxpayers would have received a full tax exemption for tax year 1979 had the statute not been ruled unconstitutional. Many others would have received a partial exemption from 1979 income taxes. These taxpayers quite legitimately expected that they would receive a refund of all or a portion of their 1979 income tax, and many may even have made commitments in reliance on that expectation. Although the state has no legal obligation to meet the expectations that were raised by the enactment of the graduated tax exemptions we believe that, having raised those expectations, the state now has a moral obligation to meet them. We believe that a refund of invidividual income taxes for 1979 for the purpose of discharging that moral obligation would be an expenditure of public funds for a public purpose. See, State ex rel. Adams v. Crawford, 121 A.2d 800 (Conn. 1923).

There is also some question about the validity of the application of the tax exemptions to the 1979 tax year, and the refunds authorized for 1979 taxes based on the exemptions. The exemptions were enacted on April 15, 1980, and the legislation was made "retroactive" to January 1, 1979. In our opinion, however, it is likely that our supreme court would follow the California Supreme Court in holding that a tax repeal or refund is not retroactive for purposes of the public purpose requirement if it is enacted before the filing deadline for the applicable tax year. See, Allen v. Franchise Tax Board, 245 P.2d 297 (Cal. 1952). Under this line of authority the 1979 taxes did not "vest" in the state treasury until midnight April 15, 1980, and therefore may be returned to taxpayers since their taxes never became "owned" by the collective public.

The exemption statute and the refunds provided under it were enacted and became law before the deadline, although it was not "effective" until 12:01 a.m. Pacific Standard Time on April 16, 1980. AS 01.10.070(c) and (f)(4)(A). We do not believe that the 60 second delay between the expiration of the filing deadline and the applicability of the act unc the effective date and time provisions of AS 01.10.070(c) is significant enough to alter the result under the California cases. We should point out, however, that the holding of the California cases has been criticized, and there are cases to support the contrary view that the 1979 taxes vested with the state on December 31, 1978, the date the tax year ended. See, Comment, "Retroactive Tax Reduction Constitutional," 5 Stanford Law Review 154 (1952). If the April 15, 1980, application of the tax exemptions to 1979 income taxes were itself held invalid as a retroactive tax repeal in violation of the public purpose requirement, then our analysis of the moral obligation exception for now refunding 1979 taxes would be substantially weakened.

You have also asked whether a refund of individual income taxes for tax year 1979 would raise equal protection questions similar to those that led to the supreme court's ruling in Williams v. Zobel invalidating the graduated tax exemptions. The supreme court has just published its opinions explaining its ruling, and we have been able to review the decision only superficially to determine whether it would affect a refund of 1979 taxes. There would be, in our opinion, a fair and substantial relationship between the purpose of discharging the moral obligation we have just described and a refund of 1979 taxes to those persons to whom the state owes the obligation. Obviously some taxpayers who did not except a full refund under the graduated tax exemption statute would receive a full refund under a complete suspension of the income tax if it is made applicable to the 1979 tax year. In this sense the class receiving a full refund would be larger than the class to whom the state is morally obligated to give a full refund. However, some imprecision in drawing classifications is permissible under equal protection analysis, and the imprecision in this case is actually necessitated by the court's ruling in Zobel. We do not believe that a refund of 1979 taxes would violate the equal protection clause of the Alaska Constitution.

Sincerely,

Wilson L. Condon
Attorney General

Susan A. Burke
Assistant Attorney General

WLC/SAB/ab

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

September 22, 1980

SUBJECT: Income tax repeal
(Work Order Number 8642)

TO: Representative Russ Meekins, Jr.

FROM: Kenneth E. Vassar
Legislative Counsel

You have asked for an opinion relating to constitutional problems which may exist with refunds of 1978 and 1979 incomes taxes.

The problem has been addressed by several courts in other jurisdictions where retroactive repeals of tax laws accompanied by refunds of the taxes validly collected have been attempted. The Washington Supreme Court, applying the Washington constitutional provisions which prohibit making a gift of public money or credit (Article 8, sections 5 and 7), stated its holding succinctly:

> We are holding only that, where a tax ordinance has been previously validly enacted, it cannot be repealed retroactively, and the tax money heretofore collected validly cannot be refunded simply on the basis of the retroactive repeal. City of Yakima v. Huza, 407 P.2d 815, 820 (Wash. 1965); see also, Utz v. Newport, 252 S.W.2d 434 (Ky. 1952).

The court did note that the "situation might well be treated differently if . . . some duty existed on the part of the city to refund part of the taxes." 407 P.2d at 820.

The Wisconsin Supreme Court, construing Wisconsin's constitutional requirement that public funds be spent only for a public purpose, reached the same conclusion - that a refund of validly collected taxes would be an appropriation of public moneys to private ends and, thus, constitutionally

Attachment #4

impermissible unless there exists a moral obligation to support the refund. State v. Giessel, 64 N.W.2d 421 (Wis. 1954). The court noted the following cases which found refunds of taxes to be permissible:

> Will of Heinemann, 230 N.W. 698 (Wis. 1930) (refund of inheritance tax voluntarily paid under a statute imposing the tax which was later declared unconstitutional and void by the United States Supreme Court); State ex rel. Adams v. Crawford, 121 A. 800 (Conn. 1923) (refund of a portion of liquor license fees covering that portion of the license period when the licensees were prohibited from selling intoxicating liquors under their licenses because of the enactment of World War I federal prohibition law); Raleigh County Bank v. Sims, 73 S.E.2d 526 (W. VA. 1952) (refund of business and occupation taxes paid pursuant to a tax statute later declared to be unconstitituional and void, when such claim for refund was already barred by the statute of limitations).

Applying these cases to a refund of taxes paid for previous years, the result would very likely be a ruling that the refund is not for a public purpose and is in violation of Article IX, section 6 of the State Constitution. The taxes for 1978 have become due and should have been paid by now, and there does not appear to be a "moral obligation" to justify their refund.

There is a substantial possibility that the same result would be reached regarding a refund of 1979 income taxes. However, a finding of a "moral obligation" to make those refunds is somewhat more plausible than for the 1978 refunds. There are California cases which indicate that a refund of taxes before those taxes have become due is permissible. The California Supreme Court in In re Skinker's Estate, 303 P.2d 745 (Calif. 1956) stated:

> "The Legislature cannot by a subsequent act increase or decrease the rate, remit the tax, or in any way surrender, impair or limit rights that have become fixed. (In re Estate of Stanford, 126 Cal. 112, 118 et seq., 54 P. 259, 58 P. 462, 45 L.R.A. 788; In re Estate of Rossi, 169 Cal. 148, 149, 146 P. 430.)

> "Where a tax has become due, a subsequent act of the Legislature reducing the tax by reason of the change in the exemptions, tax rates, or for that matter in any way, is held to be a gift of state monies and is prohibited by Article IV, section 31, of the California Constitution.
>
> "Retroactive effect of such legislation is therefore prohibited." (Footnote omitted).

For the purposes of these cases it becomes important to determine the time when the rights relating to the taxes become fixed. There are two views relating to income taxes. California has concluded that a refund of income taxes for a previous calendar year is permissible when an amendment reducing the amount of the tax is enacted before April 15th of the following year. The California position is that the state's rights to the taxes do not vest until the final day for payment of the taxes. Allen v. Franchise Tax Board, 245 P.2d 297 (Calif. 1952). However, in United States v. Anderson, 269 U.S. 422 (1926), the United States Supreme Court recognized that the tax accrues or vests at the end of the tax period even though it is not due until a later date. (For a discussion of this issue, see Stanford Law Review, December, 1952, Vol. 5: Page 156).

Chapter 22, Session Laws of Alaska 1980, which was declared unconstitutional in Williams v. Zobel (Alaska Supreme Court Nos. 5400/5421) on September 4, 1980, would have eliminated income taxes for a large number of Alaska net income taxpayers and would have substantially reduced the tax burden on others. That Act was approved by the governor on April 15, 1980, and took effect at 12:01 A.M. of April 16, 1980. The Act would have provided for refunds of the 1979 taxes paid to the extent that they were reduced by the Act.

If the Alaska courts elect to follow the California precedent and determine that a refund of 1979 taxes in a bill which was passed by the legislature and approved by the governor on April 15, 1980, even though it did not take effect until the next day, is permissible, then it is conceivable that this could form the basis for a "moral obligation" for the legislature to correct its previous action, upon which Alaska taxpayers may have reasonably relied, in order to accomplish that which it had originally intended. In this