

**CS FOR HOUSE BILL NO. 505(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 3/29/94**  
**Referred: Rules**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act making appropriations to the constitutional budget reserve fund  
2 established under art. IX, sec. 17, Constitution of the State of Alaska; making  
3 an appropriation to the Department of Education for support of kindergarten,  
4 primary, and secondary education and community schools programs and for school  
5 construction debt retirement; amending certain appropriations for education  
6 programs and school construction debt retirement for fiscal year 1994 and for  
7 educational facilities maintenance and construction; making appropriations from the  
8 constitutional budget reserve fund under art. IX, sec. 17(c), Constitution of the  
9 State of Alaska; and providing for an effective date."

10 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

11 \* Section 1. **FINDINGS AND INTENT.** (a) Following ratification by the voters, art. IX,  
12 sec. 17, of the Constitution of the State of Alaska, took effect on January 2, 1991. This

1 amendment

2 (1) created a constitutional budget reserve fund;

3 (2) required that the proceeds of certain tax and mineral revenue disputes be  
4 deposited into that fund; and

5 (3) established limitations on the legislature's ability to appropriate money  
6 from that fund.

7 (b) That amendment dedicates to the constitutional budget reserve fund money from  
8 mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing  
9 payments or bonuses, and taxes imposed on mineral income, production, or property received  
10 by the state after July 1, 1990," as a result of the termination, through settlement or otherwise,  
11 of an administrative proceeding or of litigation in a State or federal court."

12 (c) Following the ratification of the budget reserve amendment, the Department of  
13 Revenue requested that the attorney general determine whether the term "administrative  
14 proceeding" in art. IX, sec. 17, of the Constitution of the State of Alaska, applied to informal  
15 conferences and audits or only to formal hearings. On April 24, 1992, the attorney general  
16 issued a formal opinion concluding that informal conferences do not constitute "administrative  
17 proceedings" for the purposes of art. IX, sec. 17, of the Constitution of the State of Alaska.  
18 The attorney general reasoned that sec. 17 applied to administrative actions that were similar  
19 to litigation, such as the formal hearings held by the Department of Revenue. The opinion  
20 concluded that informal conferences held for purposes of discussion and negotiation "fall  
21 outside the ambit of the common understanding of litigation or legal contests."

22 (d) Since July 1, 1990, the state has engaged in several formal administrative hearings  
23 and judicial proceedings to resolve oil and gas tax and mineral royalty disputes. Revenue  
24 from the termination of these disputes has been deposited into the constitutional budget reserve  
25 fund. During this period, the state also received oil and gas or mineral tax revenue from audit  
26 assessments in the informal conference phase. In conformance with the April 24, 1992,  
27 opinion of the attorney general, the Department of Revenue deposited in the general fund all  
28 revenue resulting from settlement of informal tax conferences.

29 (e) The money in the general fund was available for appropriation by the legislature  
30 and would be applied as necessary to meet any fiscal need.

31 (f) In passing the appropriation bills in 1993, the legislature authorized the expenditure

1 of anticipated revenue in the general fund, including amounts deposited in that fund as a result  
2 of settlement of informal tax conferences. At the time the legislature passed those  
3 appropriations for fiscal year 1994, revenue forecasts showed a surplus in the general fund.  
4 However, due to the unanticipated decrease in state revenue, the state treasury has less money  
5 than was anticipated at the time that the legislature made its appropriations in 1993. Because  
6 of this shortfall, any anticipated surplus representing settlements of informal tax conferences,  
7 and amounts received from informal tax conference settlements occurring after July 1, 1994,  
8 must be expended to fully fund the capital and operation appropriations enacted in 1993.

9 (g) On July 12, 1993, the senate majority filed suit challenging the Department of  
10 Revenue action of depositing into the general fund revenue resulting from informal tax  
11 conferences. *Halford v. Hickel*, (3AN-93-6297 CI). On July 27, 1993, former Governor Steve  
12 Cowper filed a similar complaint captioned *Cowper v. Hickel* (3AN-93-6848 CI). The cases  
13 were consolidated.

14 (h) On November 19, 1993, the court issued its decision which concluded that art. IX,  
15 sec. 17, of the state constitution applied to informal tax conferences. On November 29, 1993,  
16 the state presented evidence that retroactive application of the court's ruling, requiring transfer  
17 of over \$940,000,000 from the general fund, would disrupt state finances and put at risk the  
18 justifiable reliance interest of Alaskans and municipalities throughout the state.

19 (i) The superior court dismissed the state's request that the ruling be applied  
20 prospectively only. The court found the evidence of hardship "very compelling," but noted  
21 that the hardship could be relieved if the legislature reappropriated the money for fiscal year  
22 1994. The court ordered the governor to fully restore the constitutional budget reserve fund  
23 with interest and to comply with its decision by the end of the 1994 legislative session. The  
24 superior court noted "it is not clear that the Governor could legally remove the improperly  
25 placed funds from the general fund [to the Budget Reserve Fund] without an appropriation  
26 authorizing it."

27 (j) Following appeal to the Alaska Supreme Court, the court determined that all  
28 income that resulted from the settlement or other termination of informal administrative  
29 proceedings involving certain taxes since July 1, 1990, should have been deposited into the  
30 budget reserve fund created by art. IX, sec. 17, of the Constitution of the State of Alaska.

31 (k) The Alaska Supreme Court ordered the governor to restore the constitutional

1 budget reserve fund, with interest from the date of receipt by the state of money described in  
2 (j) of this section.

3 (l) The amount required to restore the constitutional budget reserve fund consistent  
4 with judicial interpretation is \$945,636,778.27, plus interest that would have been earned upon  
5 investment of this money, calculated from the date of receipt by the state.

6 (m) As of February 1994, there was not sufficient unappropriated or unrestricted  
7 money in the general fund to allow the governor to unilaterally transfer the money needed to  
8 fully restore the constitutional budget reserve fund.

9 (n) It is the intent of the legislature that the order of the Alaska Supreme Court be  
10 complied with by an appropriation from the general fund to the constitutional budget reserve  
11 fund, retroactive to July 1, 1993, of the principal and interest that should have been deposited  
12 into that budget reserve fund. This appropriation will restore all money to the constitutional  
13 budget reserve fund that should have been deposited there since July 1, 1990, under the  
14 provisions of art. IX, sec. 17, of the Constitution of the State of Alaska.

15 \* Sec. 2. The sum of \$945,636,778.27 is appropriated from the general fund to the budget  
16 reserve fund established by art. IX, sec. 17, Constitution of the State of Alaska, to comply  
17 with the judgment in Hickel v. Halford (Supreme Court No. S-6124/6134) (Alaska Jan. 27,  
18 1994).

19 \* Sec. 3. An amount equal to the interest that would have been earned on money received  
20 by the state after June 1, 1990, as a result of termination through settlement or otherwise of  
21 an informal administrative proceeding involving taxes imposed on mineral income, production,  
22 or property, and subsequently deposited in the general fund, is appropriated from the general  
23 fund to the budget reserve fund established by art. IX, sec. 17, Constitution of the State of  
24 Alaska, to comply with the judgment in Hickel v. Halford (Supreme Court No. S-6124/6134)  
25 (Alaska Jan. 27, 1994).

26 \* Sec. 4. (a) The sum of \$696,357,088 is appropriated from the constitutional budget  
27 reserve fund and from other funds in the amounts listed to the Department of Education for  
28 the purposes expressed and allocated in the amounts listed for operating expenditures for the  
29 fiscal year ending June 30, 1995:

30	FUND SOURCE	AMOUNT
31	Budget reserve fund (art. IX, sec. 17,	

1	Constitution of the State of Alaska)	\$635,149,688
2	General fund/mental health trust income account	
3	(AS 37.14.011)	7,916,600
4	Public school trust fund (AS 37.14.110)	6,816,600
5	School fund (AS 43.50.140)	2,668,100
6	P.L. 81-874	21,806,100
7	Federal receipts other than	
8	P.L. 81-874	22,000,000
9	PURPOSE	ALLOCATION AMOUNT
10	Foundation program	\$629,938,000
11	Child nutrition/student lunch program	22,000,000
12	Cigarette tax distribution	2,668,100
13	Tuition students	1,887,600
14	Boarding home grants	355,000
15	Youth in detention	800,000
16	Pupil transportation	31,638,148
17	Schools for the handicapped	3,277,500
18	Community schools	600,000
19	Additional district support	3,192,740.

20 (b) The amount allocated under (a) of this section for additional district support is  
21 further allocated to the following school districts in the amounts listed:

22	SCHOOL DISTRICT	ALLOCATION AMOUNT
23	Annette Island School District	\$166,530
24	Cordova School District	217,160
25	Craig City School District	151,890
26	Dillingham City School District	250,100
27	Galena City School District	156,160
28	Hoonah City School District	126,270
29	Hydaburg City School District	102,480
30	Kake City School District	136,640
31	Kashunamiut School District	206,180

1	<b>Klawock City School District</b>	<b>158,600</b>
2	<b>Nenana City School District</b>	<b>164,090</b>
3	<b>Nome City School District</b>	<b>264,740</b>
4	<b>Pelican City School District</b>	<b>56,730</b>
5	<b>Petersburg City School District</b>	<b>199,470</b>
6	<b>St. Mary's School District</b>	<b>119,560</b>
7	<b>Skagway City School District</b>	<b>115,290</b>
8	<b>Tanana City School District</b>	<b>122,000</b>
9	<b>Unalaska City School District</b>	<b>200,690</b>
10	<b>Wrangell City School District</b>	<b>151,890</b>
11	<b>Yakutat City School District</b>	<b>126,270.</b>

12 \* Sec. 5. (a) The sum of \$103,345,252 is appropriated from the budget reserve fund (art.  
13 IX, sec. 17, Constitution of the State of Alaska) to the Alaska debt retirement fund  
14 (AS 37.15.011).

15 (b) The sum of \$103,345,252 is appropriated from the Alaska debt retirement fund  
16 (AS 37.15.011) to the Department of Education for state aid for costs of school construction  
17 under AS 14.11.100.

18 \* Sec. 6. (a) Section 1(a), ch. 5, SLA 1993, is amended to read:

19 Section 1. (a) The sum of \$674,531,870 is appropriated from the  
20 constitutional budget reserve [GENERAL] fund and from other funds in the amounts  
21 listed to the Department of Education for the purposes expressed and allocated in the  
22 amounts listed for operating expenditures for the fiscal year ending June 30, 1994.

23	<b>FUND SOURCE</b>	<b>AMOUNT</b>
24	<b><u>Budget reserve fund (art. IX, sec. 17,</u></b>	
25	<b><u>Constitution of the State of Alaska)</u></b>	
26	<b>[GENERAL FUND]</b>	<b>\$615,783,070</b>
27	<b>General fund/mental health trust income account</b>	
28	<b>(AS 37.14.011)</b>	<b>7,489,700</b>
29	<b>Public school trust fund (AS 37.14.110)</b>	<b>8,452,700</b>
30	<b>School fund (AS 43.50.140)</b>	<b>2,721,000</b>
31	<b>Interagency receipts</b>	<b>100,000</b>

1	P.L. 81-874	21,885,400
2	Federal receipts other than	
3	P.L. 81-874	18,100,000.
4	<b>PURPOSE</b>	<b>ALLOCATION AMOUNT</b>
5	Foundation program	\$615,723,100
6	Child nutrition/student lunch program	18,100,000
7	Cigarette tax distribution	2,721,000
8	Tuition students	2,012,600
9	Boarding home grants	230,000
10	Youth in detention	800,000
11	Schools for the handicapped	3,077,500
12	Pupil transportation	28,975,900
13	Community schools	600,000
14	Additional district support	2,291,770.

15 (b) Section 2(a), ch. 5, SLA 1993, is amended to read:

16 Sec. 2. (a) The sum of \$99,795,200 is appropriated from the budget reserve  
 17 [GENERAL] fund (art. IX, sec. 17, Constitution of the State of Alaska) to the  
 18 Alaska debt retirement fund (AS 37.15.011).

19 \* Sec. 7. (a) Section 38, ch. 65, SLA 1993, page 14, line 27, is amended to read:

20	APPROPRIATION	GENERAL	OTHER
21	ITEMS	FUND	FUNDS
22	Additional district support	1,066,300	[1,066,300] <u>1,066,300</u>

23 (b) The appropriation made by sec. 38, ch. 65, SLA 1993, page 14, line 27,  
 24 as amended by (a) of this section, is funded from the budget reserve fund (art. IX,  
 25 sec. 17, Constitution of the State of Alaska).

26 \* Sec. 8. Section 1, ch. 83, SLA 1993, is amended to read:

27 Section 1. Contingent upon the establishment of an educational facilities  
 28 maintenance and construction fund by the Eighteenth Alaska State Legislature, the sum  
 29 of \$192,408,894 is appropriated from the budget reserve [GENERAL] fund (art. IX,  
 30 sec. 17, Constitution of the State of Alaska) to the educational facilities maintenance  
 31 and construction fund (AS 37.16.010).

1 \* **Sec. 9.** The appropriations from the constitutional budget reserve fund (art. IX, sec. 17,  
2 Constitution of the State of Alaska) contained in this Act are made under art. IX, sec. 17(c),  
3 Constitution of the State of Alaska.

4 \* **Sec. 10.** Sections 1 - 3, 6, 7, and 9 of this Act are retroactive to July 1, 1993.

5 \* **Sec. 11.** Section 8 of this Act is retroactive to July 17, 1993.

6 \* **Sec. 12.** Sections 1 - 3 and 6 - 11 of this Act take effect immediately under  
7 AS 01.10.070(c).

8 \* **Sec. 13.** Sections 4 and 5 of this Act take effect July 1, 1994.