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FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/20/94

FURTHER:

DATE TURNED INTO OFFICE: 4-27-94

The Finance Committee considered SENATE BILL NO. 56

"An Act relating to the budget reserve fund established under art. IX, sec. 17, Constitution of the State of Alaska."

and recommends:

replace with _____ CS SB 56 (FINANCE)
 or adopt previous _____ CS _____
 attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts _____ Letter of Intent
 further referral to the _____

*CS (Fin)
to follow*

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
<i>SSTA/None</i>	<i>2/9/93</i>	<i>0</i>	

Appropriation No Fiscal Note

DO PASS.

T. Kelly
[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS:

[Signature]

1. *[Signature]* DO PASS
 Co-Chair: Signature/Recommendation

2. *[Signature]* 10/28A
 Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 1
Bill Version: CSSB 56 (STA)

Revision Date: February 9, 1993 Dept. Affected: NONE
Title: "Relating to the Budget Reserve Fund and Providing an Effective Date" BRU: _____
Sponsor: Rules, Legislative Budget and Audit Component: _____
Requestor: Senate State Affairs COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY00
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0

REVENUE FUND SOURCE: _____

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact \$ 0

ANALYSIS: (Attach a separate page if necessary)

Changes in SBS6 (STA) have no fiscal impact. This fiscal note is appropriate.
[Signature]
 date 2-10-93 Comce: [Signature] (initial)

Prepared by: Portia Babcock, Committee Aide Phone: 465-4522
 Division: Senate State Affairs Date: 2-9-93
 Approved by Commissioner: Senator Loren Lemman, Chairman Date: 2-9-93
 Agency: Senate State Affairs

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Back-up

4/27/94
Adopted

SENATE AMENDMENT

CS for Senate Bill No. 56()

Page 1, line 6 after the word "fund" add the following:

for a fiscal year or any previous fiscal year

Page 1, line 11 after the word "made" delete the remainder of the sentence and add the following:

after the annual financial report is filed with the governor under AS 37.05.210(2) for a succeeding fiscal year.

SENATE FINANCE
COMMITTEE

Amendment Number: ①

Bill Number: SB 56

Sponsor: _____ Date: 4/27/94

Logged In By: Bm

STATE OF ALASKA
 STATEWIDE ACCOUNTING SYSTEM
 INDENTED STRUCTURE REPORT
 1993 FUND 10001 TO LOGICAL LEVEL 99

LEV NUM	ENTITY NUMBER	DESCRIPTION	BEG SEQ NUM	END SEQ NUM	REPORTS TO ENTITY	LOG LEV NUM	ACTIVE?	DUE TO FUND ACCT	TREAS CASH ACCT	TREAS POOL FUND	SUFFC ACCT COUNT	HAND APPN?
1	00001	STATE OF ALASKA FUND	1	277		1	Y					N
2	00009	TREASURER'S FUNDS	2	28	00001	4	Y					N
3	00090	TREASURY FUNDS	3	28	00009	5	Y					N
4	90000	GENERAL & SEGREGATED	4	19	00090	10	Y					N
5	90100	GENERAL INVESTMENT	5	5	90000	30	Y	22310	10191	90100	1	Y
5	90200	INTERNAT'L AIRPORT	6	6	98000	30	Y	22315	10192	90100		Y
5	90250	AK CONSTR SERIES 6	7	7	98000	30	Y	22317	10194	90100		Y
5	90300	PUB SCH PERM FD	8	10	98000	20	Y					N
6	90310	PS PERM FD-PRINCIPAL	9	9	90300	30	Y	22321	10193	90100		Y
6	90320	PS PERM FUND-INT	10	10	90300	30	Y	22322	10193	90100		Y
5	90400	UA PERMANENT FUND	11	13	90000	20	Y					N
6	90410	UA PERM FD-PRINCIPAL	12	12	90400	30	Y	22326	10194	90100		Y
6	90420	UA PERM FUND-INTERST	13	13	90400	30	Y	22327	10194	90100		Y
5	90600	STUNT LN SECURED LMS	14	14	90000	30	Y	22355	10199	90100		Y
5	90650	ASLC BOND PROC/DISA	15	15	90000	30	Y	22367	10291	90100		Y
5	90655	ASLC BOND PROC/RCPT	16	16	90000	30	Y	22368	10292	90100		Y
5	90700	AK CHILDREN'S TRUST	17	19	90000	20	Y					N
6	90710	CHILD TRUST PRINCIPAL	18	18	90700	30	Y	22359	10103	90100		Y
6	90711	CHILD TRUST-INTEREST	19	19	90700	30	Y	22360	10103	90100		Y
4	90260	BOND CONSTRUCTION FU	20	20	00090	30	Y	22371	10295	90100		Y
4	90800	BUDGET RESERVE FUND	21	21	00090	30	Y	22364	10289	90100		Y
4	90900	ADVANCE TUITION FUND	22	22	00090	30	Y	22369	10293	90100		Y
4	91000	PUB EMPL RETIREMENT	23	23	00090	30	Y	22335	10198	90100		Y
4	92000	TEACHERS' RETIREMENT	24	24	00090	30	Y	22340	10197	90100		Y
4	93000	JUDICIAL RETIREMENT	25	25	00090	30	Y	22345	10188	90100		Y
4	94000	MILTRY RETIRMNT TRUS	26	26	00090	30	Y	22350	10189	90100		Y
4	95000	SUPP BENEFITS FUND	27	27	00090	30	Y	22365	10288	90100		Y
4	96000	INVESTMENT LOSS TRST	28	28	00090	30	Y	22370	10294	90100		Y
2	00010	AGENCY FUNDS	29	217	00001	4	Y					N
3	00100	FINANCE FUNDS	30	186	00010	5	Y					N
4	10000	GOVERNMENTAL FUND	31	112	00100	7	Y					N
5	11000	GENERAL FUND GROUP	32	68	10000	10	Y					N
6	11100	GENERAL FUND	33	33	11000	20	Y	21460		90100	2	Y
6	11102	AHFC SPECIAL PLEDGE	34	34	11000	30	Y	21465		90100	2	Y
6	11103	HOME OWNERSHIP	35	35	11000	30	Y	21470		90100	2	Y
6	11104	MULTIPLE FAMILY	36	36	11000	30	Y	21475		90100	2	N
6	11110	FICA ADMIN FUND	37	37	11000	30	Y	21480		90100	2	Y
6	11111	AK HISTORICAL COMM	38	38	11000	30	Y	21482		90100	2	Y
6	11112	AK SURPLUS PROPERTY	39	39	11000	30	Y	21484		90100	2	Y
6	11116	STATE SML BUS ENTERP	40	40	11000	30	Y	21492		90100	2	Y
6	11117	SECOND INJURY FUND	41	41	11000	30	Y	21494		90100	2	Y
6	11118	RANDOLPH SHEPPARD SB	42	42	11000	30	Y	21495		90100	2	Y
6	11119	SICK/DISABLED FISHERM	43	43	11000	30	Y	21496		90100	2	N
6	11120	DONATED COMMODY FEES	44	44	11000	30	Y	21498		90100	2	Y
6	11121	REAL ESTATE SURETY	45	45	11000	30	Y	21499		90100	2	N
6	11122	OIL/HS RESPONSE FUND	46	46	11000	30	Y	21468		90100	2	N

P.1/2

APR 22 '94 04:00PM LEGISLATIVE AUDIT 507 465 2347

STATE OF ALASKA
 STATEWIDE ACCOUNTING SYSTEM
 INDENTED STRUCTURE REPORT
 1993 FUND 00001 TO LOGICAL LEVEL 99

LEV NUM	ENTITY NUMBER	DESCRIPTION	BEG SEQ NUM	END SEQ NUM	REPORTS TO ENTITY	LOG LEV NUM	ACTIVE?	DUE TO FUND ACCT	TREAS CASH ACCT	TREAS POOL FUND	SUFFC ACCT CF INT	APP APP
6	11123	RAILBELT ENERGY FUND	47	47	11000	30	Y	21497		90100	2	
6	11124	ART IN PUBLIC PLACES	48	48	11000	30	Y	21469		90100	2	
6	11125	FUEL EMERGENCY FUND	49	49	11000	30	Y	21464		90100	2	
6	11126	FHWA-AIRSPACE LEASES	50	50	11000	30	Y	21463		90100	2	
6	11127	RAILBELT INTERTIE RS	51	51	11000	30	Y	21489		90100	2	
6	11130	PUBLIC ACCESS FUND	52	54	11 00	20	Y					
7	11131	PUBLIC ACCESS - APPNS	53	53	11130	30	Y	21491		90100	2	
7	11132	PUBLIC ACCESS DONATE	54	54	11130	30	Y	21493		90100	2	
6	11133	ST INSURANCE CATASTRO	55	55	11000	30	Y	21476		90100	2	
6	11134	EMP ASSIST & TRNG	56	56	11000	30	Y	21477		90100	2	
6	11135	HEALTH & LIFE INS FU	57	57	11000	30	Y	21479		90100	2	
6	11136	STORAGE TANK ASST FU	58	58	11000	30	Y	21478		90100	2	
6	11137	AMHS VESSEL REPLACE	59	59	11000	30	Y	21581		90100	2	
6	11138	AK DEBT RETIREMNT FU	60	60	11000	30	Y	21502		90100	2	
6	11139	OIL LITIGATION ACCT	61	61	11000	30	Y	21503		90100	2	
6	11141	ADMIN SETTLEMNT FUND	62	62	11000	30	Y	21505		90100	2	
6	11143	SCHOOL CONST GRANT	63	63	11000	30	Y	21507		90100	2	
6	11145	IMPRV SCHOOL PERFORM	64	64	11000	30	Y	21509		90100	2	
6	11146	MUNI CIP MATCH GRANT	65	65	11000	30	Y	21511		90100	2	
6	11147	UNINCORP CIP MATCH	66	66	11000	30	Y	21512		90100	2	
6	12135	AK MARINE HWY FUND	67	67	11000	30	Y	21560		90100	2	
6	21636	ALASKA GRAIN RESERVE	68	68	11000	30	Y	22065		90100	2	
5	12000	SPECIAL REVENUE	69	82	10000	10	Y					
6	12120	DISASTER RELIEF FUND	70	70	12000	30	Y	21510		90100	2	
6	12121	TRAINING & BUILDING	71	71	12000	30	Y	21515		90100	2	
6	12122	FISH AND GAME FUND	72	77	12000	20	Y					
7	12124	FISH FUND	73	73	12122	30	Y	21530		90100	2	
7	12145	GAME FUND	74	77	12122	25	Y					
8	12146	WATERFOWL SUBFUND	75	75	12145	30	Y	21533		90100	2	
8	12147	FUR BEARER SUBFUND	76	76	12145	30	Y	21534		90100	2	
8	12148	GAME SUBFUND	77	77	12145	30	Y	21536		90100	2	
6	12123	SCHOOL FUND	78	78	12000	30	Y	21520		90100	2	
6	12128	FED REV SHARING	79	79	12000	30	Y	21540		90100	2	
6	12129	POWER DEVELOPMENT	80	80	12000	30	Y	21545		90100	2	
6	12130	STATE REFORESTATION	81	81	12000	30	Y	21550		90100	2	
6	12131	NATL PETRO RESERVE	82	82	12000	30	Y	21555		90100	2	
5	13000	CAPITAL PROJECTS	83	109	10000	10	Y					
6	13100	PUBLIC SCHOOL	84	85	13000	20	Y					
7	13105	80 EDUCATION FAC	85	85	13100	30	Y	21625		90100	2	
6	13300	HIGHWAYS AND FERRIES	86	88	13000	20	Y					
7	13303	78 BOND TRANSPORT	87	87	13300	30	Y	21730		90100	2	
7	13305	80 HWY AND FERRY	88	88	13300	30	Y	21740		90100	2	
6	13400	AIRPORT CONSTRUCTION	89	91	13000	20	Y					
7	13405	74 TRUNK AIRPORTS	90	90	13400	30	Y	21770		90100	2	
7	13408	IAR CONSTR SERIES G	91	91	13400	30	Y	21777		90258	2	
6	13500	H & SS CONSTRUCTION	92	97	13000	20	Y					

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Sen. Randy Phillips
Chairman

Rep. Terry Martin

Vice Chairman

Sen. Al Adams

Sen. Steve Frank

Sen. Steve Rieger

Sen. Bert Sharp

Sen. Jay Kertulla

Rep. John Davies

Rep. Mark Hanley

Rep. Ron Larson

Rep. Eileen MacLean

Rep. Sean Parnell

State of Alaska



Session

Rm. 103

State Capitol

near, AK 99801

(907) 465-4949

Interim

P.O. Box 142

Eagle River AK 99577

(907) 694-4949

Legislative Budget and Audit Committee

Memorandum

TO: Senator Drue Pearce, CoChair
Senate Finance Committee

Senator Steve Frank, CoChair
Senate Finance Committee

FROM: Senator Randy Phillips, Chairman *REP*
Legislative Budget and Audit Committee

DATE: April 22, 1994

RE: Sponsor Statement for: Senate Bill 56,
"An Act relating to the budget reserve fund established under
art. IX, sec. 17, Constitution of the State of Alaska."

Article IX, Section 17(d) of the Constitution of the State of Alaska provides that if an appropriation is made from the Constitutional Budget Reserve Fund, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be transferred to the budget reserve fund. The Constitution further provides that this subsection shall be implemented by law.

House Bill 58 which passed the Legislature and was signed by the governor contained a section that implemented Article IX, Section 17(d). This section was found unconstitutional by the state superior court. The proposed CS for SB 56 attempts to provide for a mechanism to repay the constitutional budget reserve in a manner that limits the funds required to be used for repayment to those in the general fund. At the same time this proposed CS seeks to include those funds necessary to meet the Constitutional requirements set out by the courts.

FY94/95 SENATE SPENDING PLAN
All General Funds and Mental Health Trust Funds
(in millions of dollars)

Statutory Budget Reserve Balance	0.91	Balance as of 6/30/93 per AFR
Constitutional Budget Reserve Balance	1,534.31	Balance as of 6/30/93 per AFR
Mental Health Trust Income Account Balance	96.81	Unres/undes balance as of 6/30/93 per AFR

FY94 REVENUES

Unrestricted General Fund	1,635.9	DOR Spring Forecast, Mid Case, \$13.70/bbl.
Revenue Adjustments	61.7	See attached schedule
From Other Sources	154.1	See attached schedule
From Statutory Budget Reserve	0.9	Section 36, Chapter 65, SLA 1993
From Mental Health Trust Income Account	-47.9	To balance MH revenues and expenditures
FY94 General Fund Settlement Receipts & Int.	205.3	-
From General Fund to CBR	-205.3	Sections 2-4, SCS CSHB 505 (FIN)
From Constitutional Budget Reserve	1,054.6	Sections 7 and 8, SCS CSHB 505 (FIN)
From Constitutional Budget Reserve	255.6	Sec. 9, SCS CSHB 505 (FIN), Estimated
FY94 AVAILABLE	3,210.7	

FY94 Expenditures

Operating	2,239.5
Debt Service	144.9
Capital	616.0
Loans	60.1
Special Appropriations/Fund Transfers	110.2
Supplementals (estimated)	40.0
FY94 EXPENDITURES	3,210.7

DRAFT

Constitutional Budget Reserve Balance	670.41	Estimated as of 6/30/94
Mental Health Trust Income Account Balance	36.61	Estimated as of 6/30/94

FY95 REVENUES

Unrestricted General Fund	1,696.9	DOR Spring Forecast, Mid Case, \$13.97/bbl.
Revenue Adjustments	38.2	See attached schedule
FY95 AHFC Dividend	200.0	Section 17(d), SCS CSHB 370 (FIN)
AIDEA	60.0	Section 39(b), SCS CSHB 370 (FIN)
Executive Life/ILTF Recovery	37.6	Section 39(a), SCS CSHB 370 (FIN)
From Mental Health Trust Income Account	15.1	To balance MH revenues and expenditures
From Constitutional Budget Reserve	68.7	Section 40, SCS CSHB 370 (FIN)
From Constitutional Budget Reserve	347.2	Section 39(c), SCS CSHB 370 (FIN)
FY95 AVAILABLE	2,463.7	

FY95 Expenditures

Operating	1,548.5	SCS CSHB 370 (FIN)
Education, Formula, Debt Service, Single Sites	746.6	SCS CSHB 505 (FIN)
Debt Service	29.7	Sec 10(a) and 11(a) SCS CSHB 370 (FIN)
Capital	100.0	
Special Appropriations/Fund Transfers	31.9	SCS CSHB 370 (FIN)
New Legislation	7.0	
FY95 EXPENDITURES	2,463.7	

Constitutional Budget Reserve Balance	254.51	Projected as of June 30, 1995
Mental Health Trust Income Account Balance	21.51	Projected as of June 30, 1995

FY94/95 SENATE SPENDING PLAN
All General Funds and Mental Health Trust Funds
(in millions of dollars)

Statutory Budget Reserve Balance	0.91	Balance as of 6/30/93 per AFR
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Constitutional Budget Reserve Balance	254.51	Projected as of June 30, 1995
Mental Health Trust Income Account Balance	21.51	Projected as of June 30, 1995

DRAFT

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

1 STEVE COWPER,

2 Plaintiff,

3 v.

4 WALTER J. NICKEL,
5 Governor of the
6 State
7 of Alaska, et al.,

8 Defendants.

Case No. JAN-93-6848 Civil

9
10
11
12 EXPANDED DECISION FINDING CHAPTER 5,
13 SLA 1994 TO BE UNCONSTITUTIONAL.

14
15
16 Procedural History:

17
18 While jurisdiction over this matter was in the
19 Supreme Court, Plaintiff Cowper applied to add to the
20 case claims related to the enactment of Chapter 5, SLA
21 1994. The Supreme Court remanded the questions raised
22 to the Superior Court for a decision on whether to allow
23 an amended complaint to pursue those issues, and if so,
24 to resolve them. This court allowed the supplemental
25

pleading, arranged with counsel for expedited briefing and an expedited oral argument which was heard on April 7, 1994. A summary order finding Ch. 5, SLA 1994 to be unconstitutional was entered on April 3, 1994. This order will state the reasons for the finding of unconstitutionality.

Factual History:

The Constitutional Budget Reserve Fund, Article IX, Section 17, Constitution of the State of Alaska, was created to serve two budgetary functions. First, it is to be a source of funds available to the government for appropriations if the amount "available for appropriation" is less than the amount actually appropriated during the prior legislative session. Sec. 17 (b). A shortfall meeting these requirements can be withdrawn with a simple majority vote of the legislature approved by the governor.

The second function is to be a source of funds to the government without regard to what other money is "available for appropriation", or the prior year's appropriation level. Withdrawal in this case is much more restricted, requiring a three-fourths vote of each house of the legislature, and agreement of the governor.

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Sec. 17 (c).

In either case, the fund is to be repaid with any money remaining in the general fund which is available for appropriation at the end of each succeeding fiscal year. Sec. 17 (d).

Facing serious budgetary problems, on March 16, 1994, the legislature and governor enacted into law Chapter 3, SLA 1994, which in many ways addresses the use of the Constitutional Budget Reserve Fund. Whether this law is constitutional is the question.

Chapter 3, SLA 1994, created two new statutes, A.S. 37.10.410 and A.S. 37.10.420. Section 410 deals with what money goes into the Constitutional Budget Reserve Fund (CBRF), and section 420 relates to withdrawals from that fund.

Analysis:

410 (a).

A.S. 37.10.410 (a) purports to place in the CBRF informal and formal administrative appeal collections under A.S. 41.05.240. On April 4, 1994, the Supreme Court ruled that the money to be placed in the fund

1 included collections resulting from assessments under
 2 A.S. 43.05.170, a stage prior to the informal and formal
 3 appeal procedures. Walter J. Rickal, et al. v. Rickal
 4 Halford, et al. and Steve Cowan, P.3d, (Alaska
 5 1994), Opinion No. 4069, at page 26. In light of this
 6 decision, section 410 (a) is an unconstitutional limit
 7 on the money required to be placed in the CSRF.

8 410 (b)(1).

9 A.S. 37.10.410 (b) purports to designate money not
 10 to be placed in the CSRF. Subsection (b)(1) excludes
 11 money resulting from the termination of informal or
 12 formal administrative proceedings when the money was not
 13 due at the time of initiation of the proceeding. It
 14 would seem that this situation would be rare, but even
 15 so, if the collection resulted from the termination of
 16 an administrative proceeding, it would clearly fall
 17 within the scope of the constitution.

18 410 (b)(2).

19 Subsection (b)(2) would appear to be unrelated to
 20 the issues before the court, covering money paid prior
 21 to an audit. Without an audit there is no assessment,
 22 and therefore no administrative proceeding is involved.
 23 Although no constitutional breach is indicated, this
 24 section is not severable from the remainder of the act,
 25

as it would be extremely unlikely the legislature intended to point out only one of many sources of funds unrelated to the CERF.

410 (b)(3).

Subsection (b)(3) excludes collections received after assessment but before filing of a notice of appeal by the taxpayer. Since assessment begins the administrative sequence according to the April 4, 1994 Supreme Court decision, Id., this section would violate the meaning of the CERF.

All of A.S. 37.10.410 is therefore unconstitutional.

420.

The second statute enacted, A.S. 37.10.420, has four parts which address section 17 (b) of the CERF, the process for withdrawing money from the fund.

420 (a)(1).

Section 420 (a)(1) defines the "the amount available for appropriation" or "funds available for appropriation", listing four categories. The focus of the difficulty with this subsection is another provision of the constitution, Art. IX, sec. 7, the Dedicated Funds provision, and the decision in Sonnenman v. Hickel, 836

P.2d 936 (Alaska 1992).

1 Art. IX, sec. 7 states that state taxes are not to
 2 be dedicated to any special purpose, other than the
 3 Permanent Fund, or as required by a federal funding
 4 source. In Sonnenman, the Supreme Court ruled on the
 5 constitutionality of a law which limited the power of the
 6 executive to request funds from the Alaska Marine Highway
 7 System Fund. In voiding that provision of the law the
 8 Supreme Court said

9
 10 ...The constitutional clause prohibiting
 11 dedicated funds seeks to preserve an annual
 12 model which assumes that not only will the
 13 legislature remain free to appropriate all
 14 funds for any purpose on an annual basis, but
 15 that governmental departments will not be
 16 restricted in requesting funds from all
 17 sources. 836 P.2d at 940.

18
 19 Of course, there are government funds in addition
 20 to federal matching funds and the Permanent Fund, which
 21 are not legally available to the legislature for
 22 appropriation for any purpose it chooses. Included in
 23 this would be funds owned by third parties, such as the
 24 Public Employees Retirement System funds, or the Mental
 25 Health Trust funds. Even though the legislature
 appropriates these funds, as it does federal funds, the
 appropriation is not controlled by the legislature but
 rather by the third party funding source limitations.

1 The key is whether the legislature has the power to
 2 choose the purpose for the appropriation. If a simple
 3 majority vote can withdraw the funds, (e.g. The Railbelt
 4 Energy Fund, the Permanent Fund Earnings Reserve
 5 Account), it is available for appropriation. If it
 6 belongs to someone else (trust funds, with vested legal
 7 rights), or would not be there without the purpose and
 8 permission of the source (federal funds of various
 9 sources), then it is not available for the legislature
 10 to exercise its unfettered constitutional discretion.

11 There are other funds which are not available, such
 12 as funds expected to be spent pursuant to the prior
 13 year's appropriations but not yet spent, or revolving
 14 loan funds expected to be loaned during the fiscal year,
 15 and funds necessary to pay contracts signed and
 16 enforceable but not yet payable. Unfettered
 17 appropriation of these funds by the legislature would
 18 violate the vested legal rights of others, or erode the
 19 integrity of the prior legislature's fiscal decisions for
 20 the current fiscal year.

21 It is necessary to use a reasoned view of each fund
 22 of money in the state accounts. No one would interpret
 23 the non-dedication clause of the constitution and the
 24 constitutional budget reserve provision together to
 25

1 require the liquidation of state assets before the
 2 reserve could be used, but it is equally improper to
 3 exclude funds simply because a prior legislature put a
 4 label on the funds, the removal of which carries
 5 political risk but no legal impediment. The legislature
 6 has the power to use many sources of funds in addition
 7 to those enumerated in section 420 (a)(1).

8
9
10 420 (a)(2).

11 A.S. 37.10.420 (a)(2), addressing "the amount
 12 appropriated for the prior fiscal year" suffers the same
 13 flaw as (a)(1): the sources are unconstitutionally
 14 limited.

15
16
17 420 (a)(3).

18 A.S. 37.10.420 (a)(3), covering the confusing phrase
 19 "the amount of appropriations made in the previous
 20 calendar year for the previous fiscal year" likewise is
 21 tied to the unconstitutionally limited enumeration of
 22 sources.

23
24
25 420 (b).

A.S. 37.10.420 (b) limits the scope of funds from
 which the legislature would be required to repay funds
 withdrawn from the CSRF. There is no constitutional
 basis for this limitation. The CSRF is not available

under Art. II, Sec. 17(b) unless all of the other money "available" is inadequate, and must be paid back first when extra funds are available.

420 (c).

A.S. 37.10.420 (c) defines terms made irrelevant by the above discussion of section 420(a).

420 (d).

A.S. 37.10.420 (d), although accurate, is not logically severable from the remainder of the act.


Sec. 2, Ch. 5, SLA 1994.

Section 2 of the act, for the above reasons, is not constitutional.

Conclusion:

Therefore, this court holds that Chapter 5, SLA 1994 is unconstitutional in its entirety.

Dated 4/12/94



JOHN REESE

Judge of the Superior Court

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/22/93

FURTHER: ~~JUDICIARY~~
FINANCE

Date of 5-Day Notice: 1-25-93
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2-10-93

STATE AFFAIRS Committee considered SB 56

"An Act relating to the budget reserve fund established under art. ~~3~~, sec. 17, Constitution of the State of Alaska."

and a majority of the committee recommends it be replaced with

and recommends:

replace with _____ CS SB 56 (STA)

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

and do pass

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FIN

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
Senate State Affairs Committee	2-9-93	<input checked="" type="checkbox"/>	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

Abrish Taylor
Mike Miller

~~Abrish Taylor~~
Stellers no rec.
Adams no rec.

Loren A. Luman do pass

Chair: Signature and Recommendation

SENATE COMMITTEE REPORT

DATE: 2/10/93

FURTHER: FINANCE

DATE TURNED INTO OFFICE: _____

JUDICIARY Committee considered SENATE BILL NO. 56

"An Act relating to the budget reserve fund established under art. IX, sec. 17, Constitution of the State of Alaska."

and recommends:

- replace with _____ CS _____
- or adopt previous _____ CS _____
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the Finance Committee

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
State State Affairs	2-9-93	0	

Appropriation No Fiscal Note

DO PASS

OTHER RECOMMENDATIONS:

Finance 4-30-94