

HJR

103

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

June 21, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a resolution relating to an appropriation or "spending" limit. This resolution gives voters the chance to directly voice their opinion on a spending limit at the ballot box. A spending limit is an integral part of the transition to a long-range fiscal plan for Alaska.

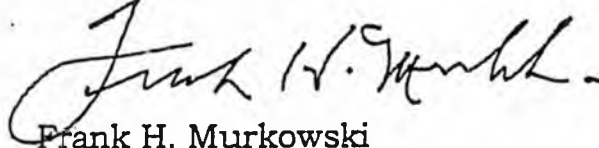
I have used as a model for this resolution the final Senate version of House Joint Resolution 9 (HJR 9), which was rejected by the Senate during the last regular session of the Legislature (SCS CS HJR 9(FIN)(fld S)). This joint resolution differs from SCS CS HJR 9(FIN)(fld S) in that it contains some technical changes that were recommended by the Department of Law. In the list of appropriations excluded from the appropriation limit, references to "state lease debt" have been changed to "capital leases" to more accurately reflect the description of these obligations in governmental accounting. Other technical language changes were made to more clearly provide that the "excluded" appropriations are to be excluded from the appropriation limit itself as well as from calculation of the appropriation limit.

The resolution presents the public with the opportunity to approve a spending limit with "teeth" in it. If approved by the Legislature and passed by the voters, it will control government spending. A leaner and more efficient state government will be produced. Passage of the resolution sends the signal the Legislature has heard the public's message and will allow Alaskans to vote on the issue.

The Honorable Gene Therriault
June 21, 2004
Page 2

I urge your prompt and favorable action on this resolution.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is written in a cursive style with a large initial "F" and a long horizontal stroke at the end.

Frank H. Murkowski
Governor

Enclosure

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OFFICE OF THE GOVERNOR
JUNEAU

June 21, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a resolution relating to an appropriation or "spending" limit. This resolution gives voters the chance to directly voice their opinion on a spending limit at the ballot box. A spending limit is an integral part of the transition to a long-range fiscal plan for Alaska.

The model for this resolution is the version of Committee Substitute House Joint Resolution 9 (CS HJR 9) as it passed the House in the regular session (CS HJR 9(FIN) am). There are some technical changes, which were recommended by the Department of Law. Specifically, in the list of appropriations excluded from the appropriation limit, references to "state lease debt" have been changed to "capital leases" to more accurately reflect the description of these obligations in governmental accounting. Other technical changes were made to more clearly provide that the "excluded" appropriations are to be excluded from the appropriation limit itself as well as from calculation of the appropriation limit.

The resolution presents the public with the opportunity to approve a spending limit with enough "teeth" in it to be effective. If approved by the Legislature and passed by the voters, it will prevent government spending from growing too large, too fast. Alaskans want spending controlled to produce a leaner, more efficient, effective state government. Passage of the resolution sends the signal the Legislature has heard the message and will allow Alaskans to vote on the issue.

I urge your prompt and favorable action on this resolution.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HJR 103
 (H) Publish Date: 6/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: GOV
 Title Constitutional amendment relating RDU Elections
 to spending limits. Component Elections
 Sponsor Rules
 Requester Governor Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Lauri Allred Phone 465-5347
 Division: Division of Elections Date/Time 6/7/04 2:46 PM
 Approved by: Laura A. Glaiser, Director Date 6/7/2004
 Agency: Office of the Lt. Governor, Division of Elections

**Spending Limit – Proposal to the House
Based on CSHJR 9 (FIN) am**

Sectional Analysis

Section 1. Article IX, Appropriation Limit

Repeals and replaces the existing Appropriation Limit in Article IX, Section 16 of the Alaska Constitution with the following:

(a) Establishes a moving three-year average as the base for the application of the limit. The intent is to smooth out year-to-year variations to provide a more predictable limit for long-range planning.

The base is tied to actual appropriations, which are generally available two years prior to the fiscal year being considered. Thus the moving average is based on the earliest three of the previous four fiscal years. Each year's limit is computed separately from the previous year limit.

(1) The rate of allowable annual change in the limit is determined by adding the two variables (inflation plus population growth) multiplied by 0.75.

(A) Establishes the average of the Anchorage Consumer Price Index (CPI) as one of the variables for determining the annual change in the spending. Like the base, the CPI used is a three-year average derived from the calendar years corresponding to the fiscal years upon which the base is determined.

(B) Sets the second variable in calculating the change in the spending limit as the average rate of annual population change for the same calendar years as the CPI variable.

(2) Further restricts the rate of allowable change in the limit to be not more than annual growth in personal incomes of state residents.

(b) Provides that the Legislature will implement by law the limit's calculation stipulated in (a).

(c) Allows the limit to be exceeded by:

- Up to two percent through an affirmative vote of two thirds of the members of each house of the legislature; and
- Up to four percent with a three-fourths vote.

- (d) Allows certain appropriations to remain exempt from the base limit calculation:
- (1) appropriations to the Permanent Fund
 - (2) appropriations of Permanent Fund dividends
 - (3) appropriations for a natural disaster declared by the Governor
 - (4) duplicated expenditures
 - (5) GO and revenue bond proceeds and capital lease financing proceeds
 - (6) GO and revenue bond debt service and capital lease finance obligations
 - (7) federal funds
 - (8) reappropriations
 - (9) reimbursable services agreements and interagency transfers
 - (10) monies held in trust
 - (11) University of Alaska tuition receipts
 - (12) gifts, grants, bequests or contracts
 - (13) deposits to the CBR and reverse sweep of GF accounts
 - (14) dedicated funds
- (e) Excludes from the limit's calculation the amount by which the limit was overridden by a supermajority of the legislature as provided in Section 1, Subsection 2 (c) above.

Section 2. Amends Article XV. Schedule of Transitional Measures.

(a) Specifies that the constitutional limit first applies to FY 2006 appropriations and establishes artificial base year limits of \$3.3 billion in FY 04 and \$3.4 billion in FY 05 to feed into the 3 year average for purposes of calculating the FY 06 appropriation limit.

(b) Sets a July 1, 2009 sunset date for the amendment.

Section 3.

Provides for the amendment to go before voters in the 2004 general election.

**Spending Limit – Proposal to the Senate
Based on SCS CSHJR 9 (FIN) (fld S)**

Sectional Analysis

Section 1. Article IX, Appropriation Limit

Repeals and replaces the existing Appropriation Limit in Article IX, Section 16 of the Alaska Constitution with the following:

(a) Establishes a moving three-year average as the base for the application of the limit. The intent is to smooth out year-to-year variations to provide a more predictable limit for long-range planning.

The base is tied to actual appropriations, which are generally available two years prior to the fiscal year being considered. Thus the moving average is based on the earliest three of the previous four fiscal years. Each year's limit is computed separately from the previous year limit.

(1) The rate of allowable annual change in the limit is determined by adding the two variables (inflation plus population growth) multiplied by 0.75.

(A) Establishes the average of the Anchorage Consumer Price Index (CPI) as one of the variables for determining the annual change in the spending. Like the base, the CPI used is a three-year average derived from the calendar years corresponding to the fiscal years upon which the base is determined.

(B) Sets the second variable in calculating the change in the spending limit as the average rate of annual population change for the same calendar years as the CPI variable.

(2) Further restricts the rate of allowable change in the limit to be not more than annual growth in personal incomes of state residents.

(b) Provides that the Legislature will implement by law the limit's calculation stipulated in (a).

Provides a "no ratchet-down" clause that stipulates if the calculated appropriation limit is less than the previous years' appropriation level, the default limit will be the previous year's appropriation level.

- (c) Allows the limit to be exceeded by:
 - Up to two percent through an affirmative vote of two thirds of the members of each house of the legislature; and
 - Up to four percent with a three-fourths vote.

- (d) Allows certain appropriations to remain exempt from the base limit calculation:
 - (1) appropriations to the Permanent Fund
 - (2) appropriations of Permanent Fund dividends
 - (3) appropriations for a natural disaster declared by the Governor
 - (4) duplicated expenditures
 - (5) GO and revenue bond proceeds and capital lease financing proceeds
 - (6) GO and revenue bond debt service and *capital lease finance* obligations
 - (7) federal funds
 - (8) reappropriations
 - (9) reimbursable services agreements and interagency transfers
 - (10) monies held in trust
 - (11) University of Alaska tuition receipts, *fees, contract receipts, or other non-General Fund sources*
 - (12) gifts, grants, bequests or contracts
 - (13) deposits to the CBR and reverse sweep of GF accounts
 - (14) dedicated funds

- (e) Excludes from the limit's calculation the amount by which the limit was overridden by a supermajority of the legislature as provided in Section 1, Subsection 2 (c) above.

Section 2. Amends Article XV. Schedule of Transitional Measures.

- (a) Specifies that the constitutional limit first applies to FY 2006 appropriations and establishes artificial base year limits of \$3.15 billion in FY 04 and \$3.25 billion in FY 05 to feed into the 3 year average for purposes of calculating the FY 06 appropriation limit.

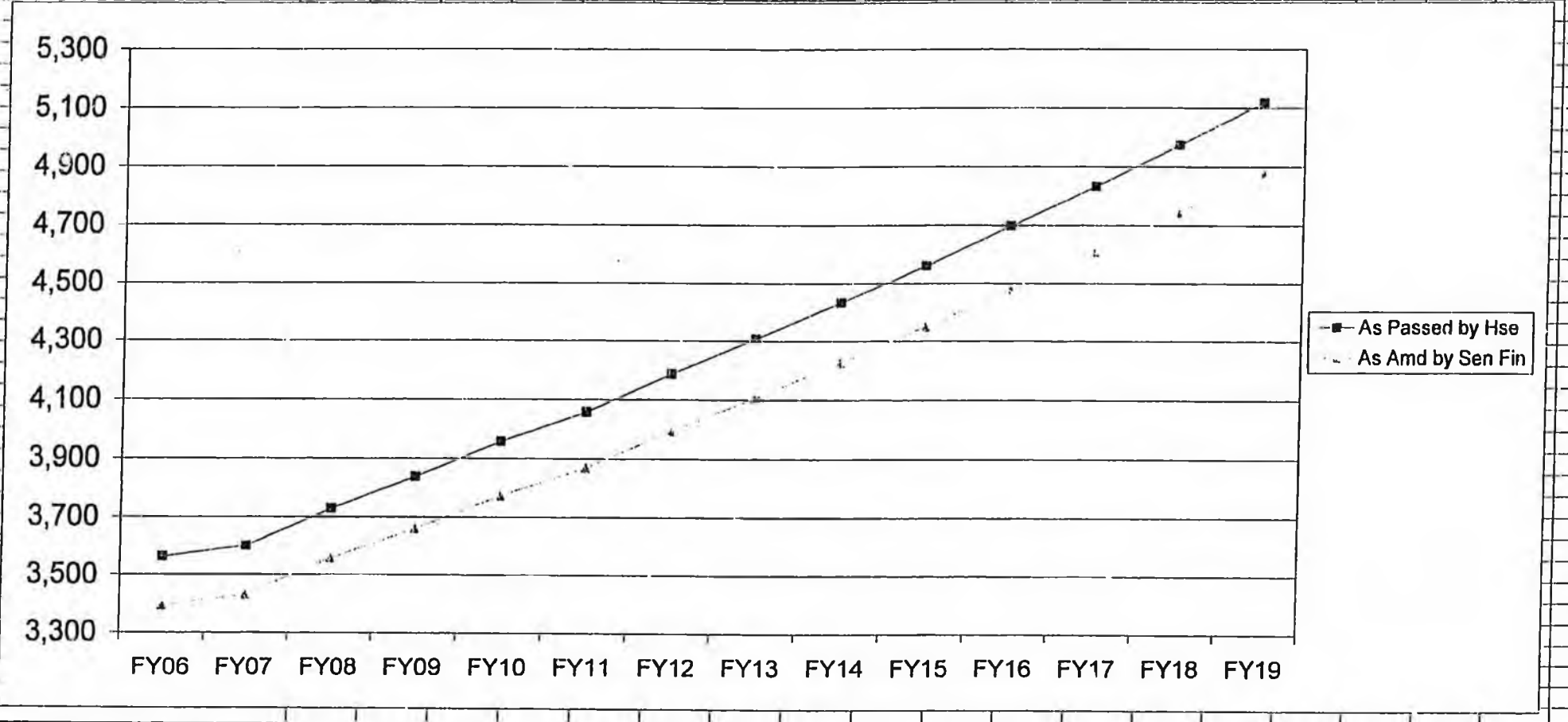
- (b) Sets a July 1, 2009 sunset date for the amendment.

Section 3.

Provides for the amendment to go before voters in the 2004 general election.

Variables:		Spending Limit Comparison (As passed by House and amended by Sen Fin)																	
Inflation	3.0%																		
Population	1.0%																		
	4.0%																		
	9.0%																		
CS HJR 9 (FIN) am (as passed by House)		FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
annual growth		3,297	3,213	3,300	3,400	3,564	3,602	3,729	3,839	3,959	4,058	4,188	4,308	4,435	4,561	4,698	4,834	4,976	5,121
annual % change					362	164	37	128	110	120	100	130	120	127	127	137	136	142	145
							1.05%	3.54%	2.94%	3.12%	2.52%	3.20%	2.85%	2.94%	2.86%	3.00%	2.89%	2.93%	2.91%
	9.0%																		
CS HJR 9 (FIN) am (as amended by Sen Fin)		FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
annual growth		3,143	3,046	3,150	3,250	3,393	3,432	3,558	3,661	3,773	3,870	3,994	4,107	4,228	4,349	4,479	4,608	4,744	4,882
annual % change					2,861	143	39	126	102	112	97	124	113	121	121	130	129	135	138
							1.14%	3.68%	2.88%	3.06%	2.58%	3.20%	2.83%	2.95%	2.87%	2.99%	2.88%	2.94%	2.92%

FY05 Conference Committee numbers after exemptions. The difference (\$362 or \$389) is to allow for all circumstances that may arise in the FY05 final budget and for expected growth such as PERS/TRS & medicaid in the next several years.



AMENDMENT # 1A

OFFERED IN THE HOUSE
TO: HJR 103

BY REPRESENTATIVE GARA

- 1 Page 1, lines 9 - 10:
2 Delete "the lesser of
3 (1) seventy-five percent of"
4
5 Page 1, line 11:
6 Delete "(A)"
7 Insert "(1)"
8
9 Page 1, line 14:
10 Delete "(B)"
11 Insert "(2)"
12
13 Page 2, line 1:
14 Delete "; or"
15 Insert "."
16
17 Page 2, lines 2 - 4:
18 Delete all material.
19
20 Page 3, line 16:
21 Delete "."
22 Insert ";"
23

24
5r

Amendment # 1 B

1 Page 3, following line 16:

2 Insert a new paragraph to read:

3 "(15) that portion of an appropriation for elementary or secondary
4 public school operations that exceeds the amount appropriated for the immediately
5 preceding fiscal year for elementary or secondary public school operations."

3 y McGuire
4 n

Gruenberg moved to divide

Logic:
Inflation has caused education funding to
be underfunded by \$50 million until this year.

23-GH2167A.1
Cook
6/22/04

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE MCGUIRE

TO: HJR 103

- 1 Page 1, line 1:
2 Delete "amendments"
3 Insert "an amendment"
4
5 Page 1, line 6, through page 3, line 29:
6 Delete all material and insert:
7 "Section 16. Appropriation Limit. Appropriations for a fiscal year shall not
8 exceed the amount available for appropriation during that fiscal year. The following
9 are excluded from this section:
10 (1) amounts in or transferred from the permanent fund that are
11 available for appropriation or are appropriated; and
12 (2) amounts in the budget reserve fund or appropriated from the fund
13 under Section 17 of this article."
14
15 Page 3, line 30:
16 Delete "amendments"
17 Insert "amendment"
- Not offered*

23-LS2032A
Cook
6/17/04

Amendment #2

HOUSE JOINT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY REPRESENTATIVE BERKOWITZ *Gara & Gruenberg*

Introduced:
Referred:

A RESOLUTION

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

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

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

6 **Section 16. Appropriation Limit.** General fund appropriations by the
7 legislature shall not exceed anticipated revenue.

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

*24
5A*

ing philosophies concerning the propriety of making cash payments directly to residents, which this sec-

tion expressly reserves to it. 1983 Op. Att'y Gen. No. 01.

NOTES TO DECISIONS

Expectancy is not a financial interest. — In a suit in federal court seeking injunctive relief barring state trial judges and jurors from deciding a dispute over royalties allegedly due from a plaintiff corporation to the state for oil drilled on state land, where the plaintiff contended that its counterclaims in the royalty litigation might conceivably affect the quantity of money in Alaska's Permanent Fund, and where the United States District Court Judges for this District of Alaska received dividends, as do all resident Alaska judges, recusal of the judge was not warranted because the expectancy a citizen has in receiving Per-

manent Fund dividends is not a financial interest but is subject to legislative whim. *Exxon Corp. v. Henry*, 792 F. Supp. 72 (D. Alaska 1992).

Quoted in *Williams v. Zobel*, 619 P.2d 422 (Alaska 1980); *Alaska Oil Co. v. Alaska*, 45 Bankr. 356 (Alaska 1985); *State v. Anthony*, 810 P.2d 155 (Alaska 1991); *State, Dept of Revenue v. Cosio*, 858 P.2d 621 (Alaska 1993).
 Stated in *Zobel v. Williams*, 457 U.S. 55, 102 S.Ct. 2309, 72 L. Ed. 2d 672 (1982).

Cited in *United States v. Pleier*, 849 F. Supp. 132 (D. Alaska 1994).

Section 16. Appropriation Limit. Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

Effective dates. — This section took effect December 24, 1982 (12th Legislature's FSS FCCSSJR 4 (1981)).

Opinions of attorney general. — This section imposes an appropriation limit rather than a spending limit. The legislature may make appropriations which exceed available revenues, but obligations may not be paid under those appropriations unless there is enough surplus money available in the treasury. 1983 Op. Att'y Gen. No. 01.

There is history which supports a liberal interpretation of the term "capital project" as used in this section. 1983 Op. Att'y Gen. No. 01.

If the legislature enacts any other distribution program which is consistent with the intent of the permanent fund dividend law (AS 43.23), any appropriation to implement that program will be exempt from the appropriation limit of this section. 1983 Op. Att'y Gen. No. 01.

If the legislature provides that an appropriation may not be expended until a later fiscal year, the

appropriation should be counted only against the limit for that later fiscal year. 1983 Op. Att'y Gen. No. 01.

The one-third appropriation allocation reserved for capital projects and loan appropriations may be disregarded when economic conditions impose a total appropriation limit which is more restrictive than that set out in this section. 1983 Op. Att'y Gen. No. 01.

Appropriations that are available for expenditure in a fiscal year should be counted only against the appropriation limit of this section for the first fiscal year during which they could be completely expended. This should be done even if an unexpended balance is carried forward into the next fiscal year; that balance must be considered obligated for the purposes of the appropriation limit. 1983 Op. Att'y Gen. No. 01.

Appropriations to retire municipal general obligation, school bond indebtedness under AS 14.11 are "required" and qualify as an exception to the spending limit of this section. 1983 Op. Att'y Gen. No. 01.

Section 17. Budget Reserve Fund. (a) There is established as a separate fund in

the State treasury the bi permanent fund under Sec July 1, 1990, as a result administrative proceeding lease bonuses, rentals, royalties or bonuses, or property, shall be deposited shall be invested so as to yi shall be retained in the fun the fund under this subse authorized under (b) or (c).

(b) If the amount availat appropriated for the previou reserve fund. However, the may not exceed the amo appropriation, to provide fo made in the previous calen

(c) An appropriation from upon affirmative vote of thr

(d) If an appropriation i appropriated is repaid, the ation at the end of each suc fund. The legislature shall i

Effective date. — This section t January 2, 1991 (16th Legislature' (Fin) am H (1990).)

Opinions of attorney general. — This section clearly and unambiguously sta to revenues received after July 1 retrospectively to settlement proce the beginning of fiscal year 1990. This section did not take effect until Jan Op. Att'y Gen. No. 2.

This section did not repeal the reserve fund established by AS ; statutory fund continues in effect repealed by the legislature. 1993 Op.

- I. Administrative Proceedings.
- II. Appropriation Amounts.
- III. Applications.

I. ADMINISTRATIVE PRO

Attributes. — Attributes of an a ceeding include: 1) a dispute must ment reflecting the fact of the dispu function similar to that of a complain or an accusation or statement of Administrative Procedure Act, AS must be served by one party on the o the document must set in motion scribed by statute or regulation ; dispute will ultimately be resolved. 872 P.2d 171 (Alaska 1994).

Rulemaking proceedings. — Rulemaking administrative procee not included within the meaning of istrative proceeding" used in subsec