

ALASKA LEGISLATURE
HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994 1248

- 1 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
- 2 State of Alaska, and the election laws of the state.

DIVISION OF LEGAL SERVICES

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MEMORANDUM

May 4, 1994

SUBJECT: Budget Reserve Fund (CSSJR 52(FIN))

TO: Senator Drue Pearce, Co-Chair
Senate Finance Committee

FROM: Tamara Brandt Cook
Director

TBC

Here is the CSSJR 52(FIN) requested. Since this is entirely new language, I have some observations and questions.

Subsection (b)

I have no reaction to the statement of purpose in the first sentence. It may not be legally significant. On the other hand, because it appears in the constitution it may be used in litigation in creative ways with unanticipated results.

The second sentence may conflict with the statement in art. IX, sec. 17(a): "Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund." The amendment language directs that the money in the budget reserve fund "be treated as general funds." To the extent that investment of general fund money differs from the goal of achieving competitive market rates, the two subsections may conflict. Also, it is possible that the amendment will require accounting or other treatment of the money that is used for the general fund now, but that might not be ideal for the budget reserve fund. Lastly, should the reference to "prior year's amount" be the "prior fiscal year's amount"?

The third sentence is confusing. It appears to address actual expenditure of the budget reserve fund money rather than appropriation of that money. Is it intended to prevent expenditure until all other appropriations have been spent? Will this mean that particular projects funded with budget reserve fund money may not be built until all other projects are finished? Or that state operations funded with budget reserve fund money may not go forward until all other appropriations have been used? Or perhaps this simply means that money from whatever funding source

Senator Drue Pearce
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is to lapse into the budget reserve fund before it lapses into the funding source. I just don't know. Should the reference to "section" be "subsection"?

The fourth sentence gives the legislature specific authority to implement the subsection by law. This may provide the legislature with the authority to correct, by statute, problems of interpreting or applying the constitutional language as those problems arise.

Subsection (c)

The first sentence appears not to change the substance of existing subsection (c). The second sentence gives the legislature specific authority to implement the subsection by law. In the context of this subsection, I'm not sure what the legislature would do by way of implementation because the subsection appears to be absolute on its face. Again, should the reference to "prior year's level" be "prior fiscal year's level"?

Please let me know if you have further questions or if I can be of further assistance.

TBC:pl
94-300.plm

Enclosure

SENATE AMENDMENT

TO: Senate Joint Resolution 52
RE: Budget Reserve Fund
DATE: April 25, 1994
BY: _____

Page 1, line 9. After the word "unrestricted" delete all material through the end of Sec. 2 on page 1, line 15 and replace with the following:

revenue of the state is less than the total amount of appropriations made during the immediately preceding calendar year from unrestricted revenue of the state and from the budget reserve fund. For purposes of this subsection, "unrestricted revenue of the state" means money in the general fund from state sources that is not held in trust or has not been appropriated for a particular purpose or to a separate fund or account established by law within the general fund.

* Sec. 2. Article IX, sec. 17(d), Constitution of the State of Alaska, is amended to read: (d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the unreserved, undesignated balance in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law. [Amendment approved November 6, 1990. Effective January 2, 1991.]

SENATE FINANCE
COMMITTEE
Amendment Number: _____ ①
Bill Number: 5JR 53
Sponsor: _____ Date: 4/25/94
Logged In By: Bom

ATTACHMENTS TO WORK DRAFT 8-LS1890\K

Hold for ^{5/4/94}
as from Ann

Committee Reports
+
Fiscal Notes - distributed

^{5/4/94}
Ann okayed.
Called legal for
final w/ rush
instructions. Rules
to meet on this
tonight.

Katly

3:50pm

8-LS1890K
Cook
5/4/94

**CS FOR SENATE JOINT RESOLUTION NO. 52(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION**

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE FINANCE COMMITTEE

A RESOLUTION

**1 Proposing amendments to the Constitution of the State of Alaska relating to the
2 budget reserve fund.**

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

**4 * Section 1. Article IX, sec. 17(b), Constitution of the State of Alaska, is repealed and
5 reenacted to read:**

**6 (b) The purpose of the budget reserve fund is to help stabilize State spending
7 from year to year. Money in the budget reserve fund shall be treated as general funds
8 except that it may not be used to increase the amount of appropriations from the
9 general fund, including appropriations from the budget reserve fund, over the prior
10 year's amount. For purposes of this section, money from the budget reserve fund shall
11 be considered to be the last used in a fiscal year. The legislature shall implement this
12 subsection by law.**

**13 * Sec. 2. Article IX, sec. 17(c), Constitution of the State of Alaska, is repealed and
14 reenacted to read:**

**15 (c) Notwithstanding (b) of this section, appropriations of money in the budget
16 reserve fund may be made for any public purpose, including purposes that would serve**

1 to increase general fund spending over the prior year's level, upon an affirmative vote
2 of three-fourths of the members of each house of the legislature. The legislature shall
3 implement this subsection by law.

4 * Sec. 3. Article IX, sec. 17(d), Constitution of the State of Alaska, is repealed.

5 * Sec. 4. The amendments proposed by this resolution shall be placed before the voters of
6 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
7 State of Alaska, and the election laws of the state.

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 4/15/94

FURTHER: Finance

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

DATE TURNED INTO OFFICE: _____

Judiciary Committee considered SJR 52

Proposing amendments to the Constitution of the State of Alaska relating to the budget reserve fund.

and recommends:

replace with _____ CS _____

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

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

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

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

DO PASS:

OTHER RECOMMENDATIONS:

Chair: Signature and Recommendation