



# LAWS OF ALASKA

## 1994

**Source**  
SCS CSHB 505(FIN) am S

**Chapter No.**  
14

### AN ACT

Making appropriations to the constitutional budget reserve fund established under art. IX, sec. 17, Constitution of the State of Alaska; making an appropriation to the Department of Education for support of kindergarten, primary, and secondary education and community schools programs and for school construction debt retirement; and making appropriations from the constitutional budget reserve fund under art. IX, sec. 17(c), Constitution of the State of Alaska; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

**Approved by the Governor:** April 14, 1994

**Actual Effective Date:** April 15, 1994; sections 2 - 4 are retroactive to July 1, 1993

AN ACT

1 Making appropriations to the constitutional budget reserve fund established under art. IX, sec.  
2 17, Constitution of the State of Alaska; making an appropriation to the Department of  
3 Education for support of kindergarten, primary, and secondary education and community  
4 schools programs and for school construction debt retirement; and making appropriations from  
5 the constitutional budget reserve fund under art. IX, sec. 17(c), Constitution of the State of  
6 Alaska; and providing for an effective date.

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

11 (1) created a constitutional budget reserve fund;

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

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

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

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

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

25 (e) During the 1993 legislative session, the legislature passed several appropriation  
26 bills. For example, HB 45, the education budget, was passed by the House February 22, 1993,  
27 by a vote of 36-0, and was passed by the Senate March 15, 1993, by a vote of 15-4. Senate  
28 Bill 60, regarding school construction grants, was passed by the Senate April 24, 1993, by a  
29 vote of 12-8, and by the House May 11, 1993, by a vote of 39-1, and the Senate concurred  
30 in the final version by a vote of 17-3 on May 11, 1993. Other appropriations passed by the  
31 legislature in 1993 include HB 55, the operating budget; SB 183, the capital budget; and

1 SB 126, intertie loans and grants and power cost equalization fund. For fiscal year 1994, the  
2 legislature approved appropriations from the general fund in excess of \$3,163,100,000.

3 (f) In passing the appropriation bills in 1993, the legislature authorized the expenditure  
4 of anticipated revenue in the general fund, including amounts deposited in that fund as a result  
5 of settlement of informal tax conferences. At the time the legislature passed those  
6 appropriations for fiscal year 1994, revenue forecasts showed a surplus in the general fund.  
7 Thus, the legislature did not anticipate that all money derived from the settlement of informal  
8 tax conferences would be spent. Due to the unanticipated decrease in state revenue, the state  
9 treasury has less money than was anticipated at the time that the legislature made its  
10 appropriations in 1993. Because of this shortfall, any anticipated surplus representing  
11 settlements of informal tax conferences, and amounts received to date from informal tax  
12 conference settlements must be expended to fully fund the capital and operation appropriations  
13 enacted in 1993.

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

19 (h) On November 19, 1993, the court issued its decision which concluded that art. IX,  
20 sec. 17, of the Constitution of the State of Alaska, applied to informal tax conferences. On  
21 November 29, 1993, the state presented evidence that retroactive application of the court's  
22 ruling, requiring transfer of over \$940,000,000 from the general fund, would disrupt state  
23 finances and put at risk the justifiable reliance interests of Alaskans and municipalities  
24 throughout the state.

25 (i) The superior court dismissed the state's request that the ruling be applied  
26 prospectively only. The court found the evidence of hardship "very compelling," but noted  
27 that the hardship could be relieved if the legislature reappropriated the money for fiscal year  
28 1994. The court ordered the governor to fully restore the constitutional budget reserve fund  
29 with interest and to comply with its decision by the end of the 1994 legislative session. The  
30 superior court noted "it is not clear that the Governor could legally remove the improperly  
31 placed funds from the general fund [to the Budget Reserve Fund] without an appropriation

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1 authorizing it."

2 (j) Following appeal to the Alaska Supreme Court, the court in *Hickel v. Halford*  
3 (Supreme Court No. S-6124/6134) (Alaska Jan. 27, 1994) determined that all income that  
4 resulted from the settlement or other termination of informal administrative proceedings  
5 involving certain taxes since July 1, 1990, should have been deposited into the budget reserve  
6 fund created by art. IX, sec. 17, of the Constitution of the State of Alaska.

7 (k) The Alaska Supreme Court ordered the governor to restore the constitutional  
8 budget reserve fund, with interest from the date of receipt by the state of money described in  
9 (j) of this section.

10 (l) The amount required to restore the constitutional budget reserve fund consistent  
11 with the initial judicial interpretation is \$932,762,996, plus interest that would have been  
12 earned upon investment of this money, calculated from the date of receipt by the state.

13 (m) The amount required to restore the constitutional budget reserve fund consistent  
14 with the subsequent judicial interpretation (*Hickel v. Halford* (Supreme Court No. 4069)  
15 (Alaska April 4, 1994)) is \$73,275,478, plus interest that would have been earned upon  
16 investment of this money, calculated from the date of receipt by the state.

17 (n) As of April 1994, there is not sufficient unappropriated money in the general fund  
18 to allow the governor to unilaterally transfer the money needed to fully restore the  
19 constitutional budget reserve fund.

20 (o) It is the intent of the legislature that the orders of the Alaska Supreme Court and  
21 the Alaska Superior Court be complied with by appropriations from the general fund to the  
22 constitutional budget reserve fund, retroactive to July 1, 1993, of the principal and interest that  
23 should have been deposited into that budget reserve fund. This appropriation will restore all  
24 money to the constitutional budget reserve fund that should have been deposited there since  
25 July 1, 1990, under the provisions of art. IX, sec. 17, of the Constitution of the State of  
26 Alaska.

27 \* **Sec. 2.** The sum of \$932,762,996 is appropriated from the general fund to the budget  
28 reserve fund established by art. IX, sec. 17, Constitution of the State of Alaska, to comply  
29 with the order in *Hickel v. Halford* (Supreme Court No. S-6124/6134) (Alaska Jan. 27, 1994).

30 \* **Sec. 3.** The sum of \$73,275,478 is appropriated from the general fund to the budget  
31 reserve fund established by art. IX, sec. 17, Constitution of the State of Alaska, to comply

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1 with the decision in *Hickel v. Halford* (Supreme Court No. 4069) (Alaska April 4, 1994).

2 \* **Sec. 4.** An amount equal to the interest that would have been earned on money received  
 3 by the state after June 1, 1990, as a result of tax assessments or termination through settlement  
 4 or otherwise of administrative proceedings involving taxes imposed on mineral income,  
 5 production, or property, and subsequently deposited in the general fund, is appropriated from  
 6 the general fund to the budget reserve fund established by art. IX, sec. 17, Constitution of the  
 7 State of Alaska, to comply with the order in *Hickel v. Halford* (Supreme Court No. S-  
 8 6124/6134)(Alaska Jan. 27, 1994) and the decision in *Hickel v. Halford* (Supreme Court No.  
 9 4069) (Alaska April 4, 1994).

10 \* **Sec. 5.** (a) The sum of \$696,527,188 is appropriated from the general fund and from  
 11 other funds in the amounts listed to the Department of Education for the purposes expressed  
 12 and allocated in the amounts listed for operating expenditures for the fiscal year ending  
 13 June 30, 1995:

14	FUND SOURCE	AMOUNT
15	General fund	\$635,181,888
16	General fund/mental health trust income account	
17	(AS 37.14.011)	8,054,500
18	Public school trust fund (AS 37.14.110)	6,816,600
19	School fund (AS 43.50.140)	2,668,100
20	P.L. 81-874	21,806,100
21	Federal receipts other than	
22	P.L. 81-874	22,000,000
23	PURPOSE	ALLOCATION AMOUNT
24	Foundation program	\$629,938,000
25	Child nutrition/student lunch program	22,000,000
26	Cigarette tax distribution	2,668,100
27	Tuition students	1,887,600
28	Boarding home grants	355,000
29	Youth in detention	800,000
30	Pupil transportation	31,638,148
31	Schools for the handicapped	3,447,600

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1	Community schools	600,000
2	Additional district support	3,192,740.

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

5	SCHOOL DISTRICT	ALLOCATION AMOUNT
6	Annette Island School District	\$166,530
7	Cordova School District	217,160
8	Craig City School District	151,890
9	Dillingham City School District	250,100
10	Galena City School District	156,160
11	Hoonah City School District	126,270
12	Hydaburg City School District	102,480
13	Kake City School District	136,640
14	Kashunamiut School District	206,180
15	Klawock City School District	158,600
16	Nenana City School District	164,090
17	Nome City School District	264,740
18	Pelican City School District	56,730
19	Petersburg City School District	199,470
20	St. Mary's School District	119,560
21	Skagway City School District	115,290
22	Tanana City School District	122,000
23	Unalaska City School District	200,690
24	Wrangell City School District	151,890
25	Yakutat City School District	126,270.

26 \* Sec. 6. (a) The sum of \$103,345,264 is appropriated from the general fund to the Alaska  
27 debt retirement fund (AS 37.15.011).

28 (b) The sum of \$103,345,264 is appropriated from the Alaska debt retirement fund  
29 (AS 37.15.011) to the Department of Education for state aid for costs of school construction  
30 under AS 14.11.100.

31 \* Sec. 7. (a) The sum of \$416,600,000 is appropriated under art. IX, sec. 17(c), of the

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1 Constitution of the State of Alaska, from the budget reserve fund established by art. IX,  
2 sec. 17, of the Constitution of the State of Alaska, to the general fund.

3 (b) The appropriation made by (a) of this section is to fund the portion of the fiscal  
4 year 1994 appropriations enacted in 1993 that was intended to be funded from amounts  
5 deposited in the general fund representing a portion of the revenue received from informal tax  
6 conference settlements and tax assessments.

7 (c) The sum of \$516,162,996 is appropriated under art. IX, sec. 17(c), of the  
8 Constitution of the State of Alaska, from the budget reserve fund established by art. IX, sec.  
9 17, of the Constitution of the State of Alaska, to the general fund.

10 (d) The sum of \$73,275,478 is appropriated under art. IX, sec. 17(c), of the  
11 Constitution of the State of Alaska, from the budget reserve fund established by art. IX, sec.  
12 17, of the Constitution of the State of Alaska, to the general fund.

13 (e) The appropriations made by (c) and (d) of this section are to fund the portion of  
14 the fiscal year 1994 appropriations enacted in 1993 that was anticipated as being funded from  
15 the general fund but, due to shortfalls created by declining state oil revenue, requires  
16 expenditure of revenue received from informal tax conference settlements and tax assessments.

17 \* Sec. 8. An amount equal to the amount appropriated by sec. 4 of this Act is appropriated  
18 under art. IX, sec. 17(c), Constitution of the State of Alaska, from the budget reserve fund  
19 established by art. IX, sec. 17, Constitution of the State of Alaska to the general fund.

20 \* Sec. 9. In addition to the amounts appropriated by secs. 7 and 8 of this Act, if the  
21 unrestricted state revenue available for appropriation in fiscal year 1994 is insufficient to cover  
22 the fiscal year 1994 general fund appropriations, the amount necessary to balance revenue and  
23 general fund appropriations is appropriated under art. IX, sec. 17(c), Constitution of the State  
24 of Alaska from the budget reserve fund established under art. IX, sec. 17, Constitution of the  
25 State of Alaska, to the general fund.

26 \* Sec. 10. The appropriations from the budget reserve fund (art. IX, sec. 17, Constitution  
27 of the State of Alaska) contained in secs. 7 - 9 of this Act are made under art. IX, sec. 17(c),  
28 Constitution of the State of Alaska.

29 \* Sec. 11. Sections 2 - 4 of this Act are retroactive to July 1, 1993.

30 \* Sec. 12. The appropriations contained in secs. 2 - 6 of this Act take effect only if the  
31 appropriations from the budget reserve fund contained in secs. 7 - 9 of this Act take effect.

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- 1** \* Sec. 13. This Act takes effect immediately under AS 01.10.070(c).