

STATE OF ALASKA

DEPARTMENT OF LAW

SARAH PALIN, GOVERNOR

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April 30, 2007

The Honorable Sarah Palin
Governor
State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

Re: CSSB 61(FIN) am -- transferring funds
to the public education fund; making
supplemental and other appropriations;
and amending appropriations
Our file: 883-07-0017

Dear Governor Palin:

At the request of your legislative office, we have reviewed CSSB 61 (FIN) am, transferring funds to the public education fund; making supplemental and other appropriations; and amending appropriations. The bill presents no significant legal issues. This letter will describe the various appropriations.

Section 1 of the bill appropriates \$1,000,000,000 from the general fund to the public education fund created in AS 14.17.300. The money in the fund must be spent in accordance with AS 14.17, the state's school finance system. Under AS 14.17.300(b), appropriations to the fund do not lapse, thus providing the mechanism for appropriation for forward funding for K - 12 education. Currently school districts must complete budget work before knowing what the state legislature would appropriate for education. It is believed that this deposit would allow school districts with an opportunity to prepare their budgets with greater certainty. The interest from the fund may, but need not be, appropriated to the fund. As we discussed in our review of the legislation that enacted AS 14.17.300 in its current form, this deposit does not offend the constitutional prohibitions against dedicated funds under art. IX, sec. 7 of the Alaska Constitution, nor is considered otherwise unavailable for appropriation under art. IX, sec. 17(b) and (d). 2005 Inf. Op. Att'y Gen. at 2 - 3 (883-05-0005; March 23).

Section 2(a) of the bill appropriates seafood development tax collected in fiscal year 2005 to the Department of Commerce, Community, and Economic Development to

provide grants to qualified regional seafood development associations. This appropriation was left out of the fiscal year 2006 budget through an oversight.

Section 2(b) of the bill appropriates \$1,350,000 to the Regulatory Commission of Alaska from its receipts for litigation costs in fiscal year 2007, fiscal year 2008, and fiscal year 2009.

Section 3 of the bill appropriates \$3,903,400 and \$1,082,700 from the general fund to the Department of Corrections for fiscal year 2007 increased costs related to inmate health care and increased Anchorage Correctional Complex operating costs, respectively.

Section 4 of the bill appropriates \$740,271 from the general fund for a capital project (Chenega Bay School roof replacement). That project is at the top of the Department of Education and Early Development's major maintenance priority list for fiscal year 2008, as developed under AS 14.11.015. The legislature has appropriated funds for the project to the construction fund under AS 14.11.005 rather than the major maintenance fund under AS 14.11.007 but the appropriation is nonetheless proper.

Section 5(a) of the bill appropriates \$2,315,000 from federal receipts and the general fund to the Department of Health and Social Services for costs related to the Legislative Medicaid Program Review Report.

Section 5(b) of the bill amends an appropriation from the fiscal year 2006 budget to expand the scope of an appropriation for pioneer home roof replacement.

Section 5(c) of the bill appropriates \$6,500,000 from the general fund and interest on certificates of participation to the Department of Health and Social Services for the completion of the Fairbanks virology lab.

Section 6 of the bill appropriates \$415,400 from the public employees' retirement system fund and the teachers' retirement system fund to the Department of Law for investigation costs incurred in fiscal year 2007 related to a potential actuarial malpractice claim.

Section 7 of the bill amends several Department of Transportation and Public Facilities appropriations in the fiscal year 2007 capital budget. The amendments include funding increases from other funds, and new allocations for various transportation capital projects. Section 5(g) reappropriates the unexpended and unobligated balance from the fiscal year 2006 appropriation for the Chitina personal use dip net fishery to the Department of Transportation and Public Facilities for Chitina fishery access and facility improvements.

Section 8 of the bill appropriates \$775,000 from the general fund to the division of elections for the costs of the April 3, 2007, special advisory election required by ch. 1, 4SSLA 2006, for the fiscal year ending June 30, 2007.

Section 9 of the bill reappropriates the unexpended and unobligated balance from the fiscal year 2007 operating budget for committee expenses of the Legislative Budget and Audit Committee to the Legislative Council for special session expenses for fiscal year 2007.

Section 10(a) of the bill provides that the appropriation in sec. 5(a) (Legislative Medicaid Program Review Report) lapses on June 30, 2009.

Section 10(b) of the bill provides that the appropriations in sec. 4 (Chenega Bay School roof replacement), 5(c) (Fairbanks virology lab completion) and 7(g) (Chitina fishery access) are for capital projects and lapse as provided under AS 37.25.020 (requiring a statement to be submitted to the Department of Administration to continue the appropriation in subsequent years).

Section 11 of the bill provides that the appropriations in secs. 2 (seafood development tax), 6 (actuarial investigation costs) and 8 (special advisory election) are retroactive to various dates in fiscal year 2007.

Section 12 of the bill provides for an immediate effective date. This provision passed with the requisite two-thirds vote in both bodies.

This bill presents no significant legal or other issues.

Sincerely,

Talis J. Colberg
Attorney General

TJC:MAG:ajh