

# STATE OF ALASKA

## DEPARTMENT OF LAW

**SARAH PALIN, GOVERNOR**

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June 5, 2007

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

Re: CCS HB 96 -- FY08 mental health budget  
Our file: 883-07-0069

Dear Governor Palin:

At the request of your legislative director, the Department of Law has reviewed CCS HB 96, the mental health budget for fiscal year 2008, introduced at your request. The final bill raises some legal issues.

### **I. Required Reports**

With the transmittal of original HB 96 to the House, the report required by AS 37.14.003(b), explaining any differences between your proposed mental health appropriations and the appropriation requests proposed to you by the Alaska Mental Health Trust Authority (trust authority), was submitted. A similar report is required by AS 37.14.005(c), which provides that if the appropriations in the bill passed by the legislature differ from the appropriations proposed by the trust authority, "the bill must be accompanied by a report explaining the reasons for the differences between the appropriations in the bill and the authority's recommendations for expenditures from the general fund...." The appropriations in CCS HB 96 do differ from the appropriations proposed by the trust authority, so a report is required to accompany the bill. We have reviewed the legislature's report that was submitted to the Alaska Mental Health Trust Authority and have identified no legal problems with it.

If you decide to veto all or part of an appropriation in this bill, AS 37.14.003(c) requires that you must explain the veto "in light of the authority's recommendations for expenditures from the general fund for the state's integrated comprehensive mental health program." There is some question as to whether this statutory provision actually requires a more vigorous explanation of a veto than does art. II, sec. 15, of the Alaska Constitution, which requires that any vetoed bill be returned to the house of origin with a statement of objections. If you determine that a veto of an item in this bill is desirable, the Department of Law would be available to advise you further with regard to the wording of a veto message.

## **II. Analysis**

CCS HB 96 contains a number of expressions of legislative intent. Each of the statements appears to be pure expression of intent. Consequently, each is non-binding. Under *Alaska Legislative Council v. Knowles*, 21 P.3d 367 (Alaska 2001), a statement of intent accompanying an appropriation may not be vetoed separately from the appropriation to which it applies. Our review of the fiscal year 2008 operating budget, CCS HB 95(Corrected), contains further discussion of these issues.

The legislature has also attached the same abortion financing condition to appropriations in this bill as it attached to appropriations in the operating budget bill. CCS HB 96 (the mental health budget) contains a statement, beginning on page 3, line 11, prohibiting the expenditure of money appropriated to the Department of Health and Social Services on an abortion that is not a mandatory service under AS 47.07.030(a). We note that condition in this review, but refer you to the detailed analysis contained in our review of the operating budget, CCS HB 95(Corrected).

Section 1 of CCS HB 96 (the mental health budget bill) sets out the appropriations, funding sources, and other items for the fiscal year 2008 mental health operating budget. Section 2 of the bill sets out the funding by agency for the appropriations made in sec. 1 of the bill. Section 3 of the bill sets out the statewide funding for the appropriations made in sec. 1 of the bill. Section 4 of the bill sets out appropriations for mental health capital projects and grants. Section 5 of the bill sets out the funding by agency for the appropriations made in sec. 4 of the bill. Section 6 of the bill sets out the statewide funding for the appropriations made in sec. 4 of the bill. Section 7 of the bill sets out the purpose of the bill, which is to make appropriations for the state's integrated comprehensive mental health program. Section 8 of the bill would provide for appropriation of mental health trust authority authorized receipts or administration receipts that are above the amounts appropriated in the bill, and for a reduction in an appropriation affected by a shortfall in receipts. Section 9 of the bill would provide that the appropriations made in sec. 1 of the bill include amounts for labor costs for employees in specified collective bargaining units and for non-covered employees. It would also provide for a corresponding reduction if the collective bargaining agreements are not ratified. Section 10 of the bill would provide for an effective date of July 1, 2007.

## **III. Conclusion**

Other than the issues identified above, we find no significant constitutional or other legal issues for your consideration.

Sincerely,

Talis J. Colberg  
Attorney General

TJC:CJM