

STATE OF ALASKA

DEPARTMENT OF LAW

SARAH PALIN, GOVERNOR

P.O. Box 110300
Juneau, Alaska 99811-0300
Phone: (907) 465-3600
Fax: (907) 465-2075

August 18, 2008

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

Re: SCS CSHB 4001(FIN) – making supplemental appropriations, capital appropriations, and other appropriations; and making appropriations to capitalize funds
Our file: 883-09-0003

Dear Governor Palin:

At the request of your legislative office, we have reviewed SCS CSHB 4001(FIN), making supplemental appropriations, capital appropriations, and other appropriations; and making appropriations to capitalize funds. The bill provides various appropriations with respect to measures passed during the fourth special session.

Section 1(a) of the bill appropriates \$30 million from general fund to the Alaska Gasline Inducement Act (AGIA) reimbursement fund for purposes of making the AGIA construction inducement. Section 9(a) provides that this appropriation is for the capitalization of funds and does not lapse.

Section 1(b) of the bill appropriates approximately \$744.6 million from the general fund to the Department of Revenue for payment of a \$1,200 resource rebate to eligible Alaskans and to pay related administrative costs. The apparent intent behind this appropriation is the recognition that the general fund has experienced a substantial surplus given the high market price for the state's oil, and that the surplus should be shared with Alaskan residents who are eligible for the permanent fund dividend.

Section 2 of the bill appropriates \$600,000 for additional power cost equalization payments for FY 2008, and approximately \$23 million for additional power cost equalization payments for FY 2009. Section 10 of the bill makes the FY 2008 appropriation retroactive to June 30, 2008.

Section 3 of the bill appropriates approximately \$1.9 million to the Department of Health and Social Services to implement the resource rebate program to allow for continued eligibility for certain assistance programs and veterans' benefits and to pay for related administrative costs.

Section 4 of the bill appropriates \$60 million from the general fund for Alaska Housing Finance Corporation (AHFC) energy efficient home grants. Section 9(b) provides that this appropriation is for a capital project and lapses under AS 37.25.020.

Section 5 of the bill appropriates various amounts related to fuel purchase assistance. Section 9(a) provides that the appropriations in subsections (a) and (b) of sec. 5 are for the capitalization of funds and do not lapse. Section 5(d) appropriates \$20 million as a loan to the Alaska Village Electric Cooperative. Section 11(b) makes this sec. 5(d) appropriation contingent on an agreement that the loan will be repaid within one year, at a specified rate of interest. This contingency is probably enforceable under the five *Hammond* factors.¹

Section 6 of the bill transfers \$50 million from the general fund to the renewable energy grant fund. Section 9(a) provides that this appropriation is for the capitalization of funds and does not lapse.

Section 7 of the bill appropriates approximately \$100,000 to hold municipalities harmless from the suspension of motor fuel taxes by sec. 6 of SB 4002, also passed during this special session.

¹ In *Alaska State Legislature v. Hammond*, Judge (now Justice) Carpeneti adopted a five-factor test to determine whether certain language in appropriate bills violates the confinement clause:

[T]he qualifying language must be the minimum necessary to explain the Legislature's intent regarding how the money appropriated is to be spent. It must not administer the program of expenditures. It must not enact law or amend existing law. It must not extend beyond the life of the appropriation. Finally, the language must be germane, that is, appropriate, to an appropriations bill.

Section 8 appropriates \$5.5 million to the Department of Natural Resources of gas pipeline implementation during FY 2009.

Section 12 provides for an immediate effective date.

This bill presents no significant legal or other issues.

Sincerely,

Talis J. Colberg
Attorney General

TJC:MAB:ajh