

# LEGAL SERVICES

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## MEMORANDUM

January 20, 2017

**SUBJECT:** Supplemental dividend appropriation bills (SB 1 and SB 2 (Work Order Nos. 30-LS0042\A and 30-LS0044\A))

**TO:** Senator Mike Dunleavy  
Attn: Gina Ritacco

**FROM:** Hilary V. Martin   
Legislative Counsel

You have asked why it is necessary to have both a substantive bill and an appropriations bill to accomplish an additional payment to the people who received the 2016 permanent fund dividend (dividend) and restores the full amount of the dividend if the Governor had not vetoed a portion of the transfer to the dividend fund.

An appropriations bill (SB 1) would result in a transfer of money from the earnings reserve account to the dividend fund. Without a substantive bill directing the commissioner of revenue to pay out that money as a supplement to the 2016 dividend, the newly appropriated money would stay in the dividend fund until October, when the next dividend is calculated.<sup>1</sup> This would increase the dividend for all recipients of the 2017 dividend, but would not result in an additional payment to the 2016 dividend recipients.

The direction to the commissioner of revenue to pay an additional 2016 dividend cannot be in the same bill as the appropriation. Under art. II, sec. 13, Constitution of the State of Alaska, "[b]ills for appropriations shall be confined to appropriations." Because a directive to the commissioner of revenue to pay out a supplement or addition to the 2016 dividend attempts to amend substantive law (which does not provide for a supplemental dividend payment) that language cannot be in an appropriations bill.<sup>2</sup> Note, however, that the appropriation itself, SB 1, can be placed in any appropriations bill.

As currently drafted, a substantive bill alone (SB 2) that directs the commissioner of revenue to pay a supplemental dividend to each individual who received a 2016 dividend would have no appropriation from the earnings reserve account to the dividend fund to provide money for the supplemental dividends. It is possible to have just a substantive

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<sup>1</sup> AS 43.23.025.

<sup>2</sup> *Alaska Legislative Council v. Knowles*, 21 P.3d 367 (Alaska 2001) (establishing a five part test for substantive contingencies for an appropriation).

Senator Mike Dunleavy  
January 20, 2017  
Page 2

bill without the accompanying appropriation. This would require redrafting the substantive bill so that it describes the amount of money needed for the appropriation, and the appropriation would then be done by fiscal note in the operating or supplemental budget. The appropriation by fiscal note would still be subject to veto by the governor.

If I may be of further assistance, please advise.

HVM:mlp  
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