

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET

SARAH PALIN, GOVERNOR

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February 26, 2009

The Honorable Lyman Hoffman
Co-Chair, Senate Finance Committee
Alaska State Legislature
State Capitol, Room 518
Juneau, AK 99801-1182

The Honorable Bert Stedman
Co-Chair, Senate Finance Committee
Alaska State Legislature
State Capitol, Room 516
Juneau, AK 99801-1182

Dear Co-Chairs Hoffman and Stedman:

The following is provided in response to questions from the committee during Johanna Bales' presentation on Friday, January 30, 2009, on the Commercial Passenger Vessel (CPV) excise tax and Large Passenger Vessel (LPV) gambling tax. The Departments of Law, Revenue, Transportation & Public Facilities, Administration, and the Office of Management & Budget, collaborated on the response to the committee's questions.

1. In the Governor's FY09 Capital Budget submission CPV tax money was not appropriated. At the time, the administration testified that it was the legislature's responsibility to appropriate the money. In addition, the Department of Law advised the legislature to fully appropriate the money because not doing so might open the state up for class action litigation by passengers. The legislature appropriated most of the money but the Governor vetoed \$18.3 million. Given that these funds have restricted uses, there were ample funds available in the accounts, and the administration had encouraged the legislature to appropriate the funds, what was the rationale for the Governor's vetoes?

The Department of Law, Assistant Attorneys General Mike Ford and Chris Poag met with legislators and their staff last year to discuss questions they had about restrictions on the expenditure of CPV tax proceeds. They advised that not spending the money or holding these proceeds for a number of years could increase the chance of the cruise industry or its passengers filing suit. The advice was not meant to imply that all funds should be appropriated at one time to avoid potential litigation.

The Governor carefully reviewed the FY2009 capital budget and vetoed all or a portion of nine projects funded with CPV tax revenues indicating they would be considered in a future budget.

2. There were several questions about what exactly was meant by the various veto categories: "Low Priority," "Consider in the Future," etc.

Enclosed is a copy of the governor's May 23, 2008, transmittal letter that outlines the various categories and their broad definition. Each project was reviewed and considered on its own merits.

3. This year, the Governor has proposed \$39 mill in her FY10 Budget. Has the administration changed its position on who should propose spending this money? How did the administration come up with the projects that are proposed and the amount of spending proposed?

The Governor has proposed spending \$39 million on direct CPV tax funded projects. Rather than implement a new process with additional administrative costs, we asked the Departments of Transportation & Public Facilities and Commerce, Community, and Economic Development for assistance. DOTPF gathered project information from their regional planning staff. They provided information that had been coordinated with local governments. The projects were reviewed and prioritized based on need and the cruise ship industry impact to the communities and the specific projects. DCCED assisted with the review of the projects. Previously vetoed projects were included in the review.

4. Is it the administration's position that the unappropriated balances (\$32 million Regional Impact Fund/\$20 million Commercial Vessel Passenger Tax Fund) are available for legislative priorities?

The available balances are expected to be \$22 million and \$44 million, respectively, based on the Department of Revenue's forecast of FY09 receipts still to come. We have, however, proposed FY10 capital projects of \$39.2 million from the Commercial Vessel Passenger Tax Fund.

5. How is the money that is sitting in the Commercial Vessel Passenger Tax Account (CVPTA) invested? Is it generating additional revenue?

The CVPTA is part of the general fund: the amount collected is accounted for separately, but otherwise the money is in no way treated differently from any

other tax receipts. The unappropriated CVPTA money sweeps to the CBRF at the end of the fiscal year, but starting with FY2009, will be reverse swept back to the newly created subfunds. The CVPTA funds are invested in GEFONSI as part of the general fund and earnings are deposited in the unrestricted general fund. Forecast earnings are 4.07% annually: though from July 1, 2008 to December 31, 2008, a 5.29% return was realized.

6. Are there communities that are eligible for the \$5 per port call revenue sharing who didn't apply for it? Are there communities that applied for the funds that were turned down? Does the administration have a process for notifying communities of their eligibility?

There is no application process to obtain funds under the "first 5 ports of call rule." DOR accumulates the data from the cruise ship tax returns and identifies all communities eligible to receive funds. All communities entitled to share under this provision received funds.

The Administration has not implemented an application process for communities to apply for funds under the Regional Cruise Ship Impact fund or the CVPTA funds.

7. In the FY09 Operating Budget, we included language that authorized the Department of Revenue to make revenue sharing payments for the calendar year 2008 cruise session. The FY08 budget language had limited payments to the first the fiscal year. Have the 2008 payments gone out as expected? Johanna testified that the checks are going out the week of January 26. Isn't there a way to get that money out to the communities more expeditiously or on a monthly basis?

Sharing of 2008 revenues happened in January 2009. Unless there is a provision for DOR to share monthly, it is not possible for Revenue to reconcile all receipts from a specific cruise ship season and make payment before mid to late December. Since there are sailings in October, final tax returns are not due until the end of November. Since returns can be mailed, DOR does not receive all returns until around the 7th of December. DOR then has to then reconcile returns to AKSAS to ensure payment was made, input all data regarding ports of call and then verify the numbers. This process takes a couple of weeks. The only way to speed up this process would be to require monthly sharing.

8. Senators Stedman and Elton also wanted to know if Juneau and Ketchikan qualify for funds from the regional cruise ship impact fund because their local passenger levies preclude them from receiving funds under the first 5 ports of call rule.

AS 43.52.230(c) prohibits distribution of the regional tourist impact funds to municipalities "entitled to receive funds based on port call visitation as allowed by (b) of this section." Juneau and Ketchikan are entitled to receive port of call funds under AS 43.52.230(b). Juneau and Ketchikan do not receive port of call funds to which they were entitled because they did not effectuate a repeal of their local passenger tax levies under AS 43.52.250. So, under AS 43.52.230(c), Juneau and Ketchikan are not eligible to receive regional tourist impact funds because they are entitled to receive port of call funds under AS 43.52.230(b).

This interpretation makes sense in light of the fact that if a city has their own passenger fee, they are in essence receiving money under a port of call scenario. That said, we believe that money remaining in the commercial vessel passenger tax account after the first 5 ports of call receive revenue sharing can be used to fund projects in these communities. Additionally, it bears noting that the guidelines contained under AS 43.52.230 do not create dedicated funds.

9. The CVPTA Fund is currently classified as designated (a subaccount of the GF). However, federal constitutional restrictions (Tonnage Clause, Commerce Clause) effectively dedicate these funds. Should we make a statutory change?

The Alaska Constitution allows for state funds to be dedicated as a requirement of federal law, however, the Department of Law does not think we are in a position to dedicate these tax proceeds without running afoul of the state constitution. So, Law is advising that these tax proceeds not be dedicated.

10. LPV Gambling Tax is unrestricted GF but by the initiative specifies that it be deposited into the CVPTA Fund. Is this an accounting or transparency issue for Department of Revenue? Should we fix/change this legislatively?

Unappropriated tax revenue received in FY2008 has been swept to the CBR. The Division of Finance is establishing subfunds so that with the customary reverse sweep language in each year's budget bill, any unappropriated funds will revert

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back to the subfunds and be available for future appropriation. This will rectify the situation for FY2009 and future years.

Please contact me if you have additional questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen".

Karen J. Rehfeld
Director

Enclosure

cc: David Teal, Legislative Finance Division
Senate Finance Committee members

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 23, 2008

The Honorable Lyda Green
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Green:

On this date I signed with line item vetoes the following bill passed by the second regular session of the Twenty-Fifth Alaska State Legislature and am transmitting the engrossed and enrolled copies to the Lieutenant Governor's Office for permanent filing:

HCS CSSB 221(FIN) am H

"An Act making and amending appropriations, including capital appropriations, supplemental appropriations, and appropriations to capitalize funds; ratifying certain expenditures; and providing for an effective date."

Chapter No. 29, SLA 2008

The budget goals for this administration have been very clear: to slow the growth of government, live within our means, and save for the future. The capital budget presented for legislative consideration this past session was designed to meet these goals. I appreciate the careful consideration and support from the Legislature of this request.

Senate Bill 221 as passed by the Legislature contained operating and capital appropriations for Fiscal Year 2008 and FY2009, totaling \$3.9 billion. The capital budget totals nearly \$3.0 billion, including \$1.2 billion in general funds. Through line-item vetoes, I have reduced the operating and capital appropriations in SB 221 by \$268.2 million of which \$152 million is general funds. Making these reductions now means

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that this revenue will be available for additional savings and vital services for Alaskans in the future.

I appreciate the increased level of communication between my administration and the Legislature before, during, and following completion of the first 90-day session. I believe we share similar priorities for funding including basic government services for life, health, public safety, transportation, infrastructure development, and education. Alaska is blessed with the unique opportunity through this time of extraordinary revenue to invest in our communities and citizens and also be able to put a significant amount of surplus revenues into savings.

We conducted a comprehensive review of the operating and capital items included in SB 221. I asked our departments to look closely at items we included in our operating and capital budgets as well as legislative changes to the budget. I also instructed the Office of Management and Budget to contact each legislator and ask for a prioritized list of projects within each district and to ensure that we had complete backup for each project. We also contacted communities to confirm that we had correct information and understanding of the community priorities.

There are some broad areas that are important to note in the overall approach to the budget.

SB 256 Supplemental Capital Projects – We had very positive and productive meetings with legislators during the regular session to discuss specific projects that were inserted into the supplemental bill. As a result, there were 155 projects totaling \$35.4 million that I recommended be moved from SB256 for consideration in the capital budget.

The SB 256 “moved” and some of the vetoed projects were included in SB 221 in sections 7, 10, and 13. In some cases the amount of the projects increased from what was originally requested in SB 256. There were 162 projects totaling \$59.8 million. Of the 162 projects, 102 projects are funded entirely for a total of \$45.8 million, 22 projects are reduced by \$4.2 million, and 36 projects are vetoed for a total \$5.4 million. Individual reasons for those reductions are noted on the enclosed spreadsheet.

SB 221 includes a number of legislative designated grants to schools and education organizations in support of operating programs, books, and materials at local schools. While I have let a number of these appropriations remain, I believe that this is not a fair way to address the needs of schools. All schools need supplies, books, laptops, and

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ongoing repairs that are not typically funded through the state's major maintenance program.

The Anchorage School District implemented a process at the school building level to identify projects by priority and to have those projects approved by the Anchorage School Board. I appreciate the efforts of the district to develop a public process for these projects. However, I am concerned that these additions create an unfair advantage to some schools. The education funding formula is designed to create parity between school districts. Elected school boards are authorized to make funding decisions for schools within their districts. We also have a statewide school construction and major maintenance grant and debt reimbursement program to help districts pay for significant capital costs. I would encourage school districts to address their building needs through the state funding already provided and local community funding in the future.

Inclusion of operating funds to various organizations through the capital budget is also an area of concern. I have retained some of these grants, particularly where there are extraordinary circumstances or transitional funding needs. These appropriations should be considered as one-time to help the organization secure other operating funds for the future. Many of the appropriations that remain in the budget are also flagged with the caveat that these state funds are one-time and other funds should be sought for future costs. In many cases, I have vetoed funds for new programs or facilities that would require additional state funds in the future.

In reviewing the budget, I found that many of the requests included matching funds or the ability to leverage additional funds based on the state's contribution. The presence of matching funds was an important element of our decision to retain projects in the budget. A number of projects were reduced to demonstrate the state's commitment to be a partner in the project but to also encourage the recipient to seek other funds for the project.

The enclosed spreadsheet lists the projects I have vetoed including the appropriation cite, funding source, and the reason I have vetoed the appropriation. The reasons for veto fall into several categories:

1. Fund at reduced level

There are many services where the state has some responsibility and has a proper role in providing some funding. Several projects that were reduced are also flagged as one-time items.

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2. Lower priority for funding
Projects that address life, health, safety, transportation, infrastructure, and education are funding priorities. Many projects included in the budget were reduced or vetoed because they were a lower funding priority.
3. Consider in future budget
Many projects met the funding criteria and may be considered in a future budget.
4. Other funding options available
There are numerous state programs and other sources of funding that make grants and other resources available. In some instances, it may be possible to perform the work within existing agency resources.
5. Legal concerns
The Department of Law provides a review of all expenditures for compliance with state laws and regulations. Each appropriation must clearly be for services and programs that meet public funding requirements.
6. Duplicate funding
Funding for some projects was included more than once in error.
7. Request reduced or withdrawn
Recipients of funding or their legislative sponsors indicated that they no longer were requesting approval or could move forward with the project at a reduced amount.
8. Inadequate funding provided
Some projects and programs were provided insufficient amounts of money in order to provide meaningful achievement.
9. Creation of new facilities and programs
Given current funding shortfalls for existing programs and the ongoing need to address a backlog of deferred maintenance of public facilities, few projects for new facilities or programs were approved.

Our process for evaluating these projects attempted to review each appropriation based on a policy applied consistently and even-handedly. No one region, community, or legislative district was singled out at any time.

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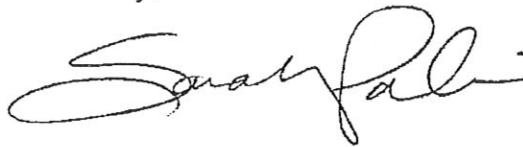
I have vetoed two appropriations from the Railbelt Energy Fund. These projects will be considered under the efforts of the Alaska Energy Authority on the unified plan to serve all the consumers in the region in a cost effective and efficient manner. The unified system plan will be a key component of the Statewide Energy Plan that will be completed later this year. It is premature to fund these distinct projects without the benefit of the unified plan.

Education is a top priority for legislators and this administration. Alaska's public schools will receive nearly \$1 billion in FY2009. SB 221 contains \$20.7 million in supplemental funds for energy relief grants to schools in addition to an increase of \$112.5 million for changes approved in the public school funding formula under HB 273.

This budget focuses on the state's basic responsibilities, schools, public safety, and needed transportation improvements that are essential to getting Alaska's infrastructure ready for the state's economic future, especially the gas pipeline.

There is more work to be done. I am committed to working with the legislature to move Alaska forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Palin", with a large, stylized initial "S".

Sarah Palin
Governor

Enclosures