

# LEGAL SERVICES

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## MEMORANDUM

April 5, 2013

**SUBJECT:** Dedicated fund question -- SB 74 (Work Order No. 28-LS0345\U)

**TO:** Senator Pete Kelly  
Attn: Heather Shadduck

**FROM:** Jean M. Mischel  
Legislative Counsel 

You have asked whether the above-referenced bill creates a dedicated fund and whether it is necessary to include the statement that it does not create a dedicated fund. In my opinion, the bill does not create a dedicated fund. The dedicated fund provision, article IX, sec. 7 directs in part that:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. . . .

The University of Alaska building fund was established as an account in the state's general fund in section 2 of the bill. It is subject to the constraints otherwise applicable to the general fund and under the Executive Budget Act, AS 37.07. The mechanism of the building fund was carefully drafted and modeled on the executive branch building fund established in AS 37.05.570, to assure, to the greatest extent possible consistent with the constraints imposed by article IX, sec. 7, that money deposited into the fund would be available only for the building fund and its authorized uses for the life of a project. However, deposits to and expenses paid from the building fund require a legislative appropriation. As you know, article IX, sec. 13 of the Constitution of the State of Alaska limits the withdrawal of money from the treasury to those appropriations made by law. Additionally, the bill states that "nothing in this section dedicates money [deposited] for a specific purpose" at page 3, lines 15 - 17 of the bill.

JMM:ljw  
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