

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-2450
LAA.Legal@akleg.gov
120 4th Street, Room 3

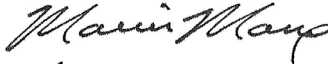
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

May 8, 2021

SUBJECT: Repeal of and amendment to funds
(Work Order No. 32-LS0830)

TO: Representative James Kaufman
Attn: Matthew Harvey

FROM: Marie Marx 
Legislative Counsel

You requested a draft bill that repeals various government programs and funds. Once you have reviewed this memorandum, please let me know how you would like to proceed.

1. Single subject issue. As we discussed, repealing and amending in a single bill all the funds and programs you listed raises a single subject concern under art. II, sec. 13, of the Alaska Constitution, which states "every bill shall be confined to one subject." Under the single subject rule, all matters in an act must "fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject." All of the sections you propose to repeal relate to funds. However, that does not mean the single subject would be "funds," because repeal of many of the statutes you listed would require amending or repealing other provisions in the statutes relating to programs and things other than funds.

For example, you requested that the draft bill repeal the Alaska World War II veterans' revolving fund (AS 26.15.090 - 26.15.095). However, AS 26.15.040(d), relating to veterans' loans, provides that money received in repayment of veterans' loans must be turned over to the commissioner of revenue for deposit in the Alaska World War II veterans' revolving fund. Repealing this fund would require amending the provision relating to repayment of veterans' loans, either by replacing the Alaska World War II veterans' revolving fund with another fund or otherwise substantively amending the veterans' loan repayment statutes.

Each of these funds could be repealed, making the necessary changes to related statutes, in separate pieces of legislation. However, because of the changes to other associated statutes, repealing all of the funds in a single bill likely violates the single subject requirement. A court could invalidate the entire bill if it finds the bill violates the single subject requirement.

2. Fund categories. As we also discussed, repealing some of the funds you listed would probably be fairly straightforward, while repealing some of the others is more complex. I have categorized these funds into two groups: (A) funds that appear to require repeal only of the statute that creates the fund, and (B) funds that require repeal of the applicable fund statute and other statutory changes, including substantive changes to other statutes. As you requested, I have briefly described these categories and the funds below. Please be aware that my comments below are based on a brief review of statutes relating to the funds you listed. There may be additional changes required or other issues that arise during the course of drafting the requested bill or bills, and consideration of them by the body.

It may be possible to repeal the funds described in (A) below in one single bill, under the subject of "disestablishing funds and accounts." If you would like us to explore this possibility further, please let me know. However, it is clear that repealing the funds in group B will require other changes to the statutes, and that those repeals would need to be made in separate bills that have a single subject.

A. Funds that appear to require repealing only the applicable fund statute:

1. Curriculum improvement and best practices fund (AS 14.07.182)
2. Fuel emergency fund (AS 26.23.400)
3. Abandoned motor vehicle fund (AS 28.11.110)
4. Railbelt energy fund (AS 37.05.520)
5. Alaska affordable energy fund (AS 37.05.610)
6. Alaska Historical Commission receipts account (AS 41.35.380)
7. Rural electrification revolving loan fund (AS 42.45.020)
8. Southeast energy fund (AS 42.45.040)
9. Exxon Valdez oil spill unincorporated rural community grant fund (AS 44.33.115)

B. Funds that require repealing the applicable fund statute and making other changes:

1. Mortgage loan originator surety fund (AS 06.60.500). This repeal requires repeal of or amendment to statutes relating to fund claims against mortgage loan originator licensees including AS 06.60.060(3)(C), 06.60.085(a)(4)(D), 06.60.210, 06.60.500 - 06.60.750, 06.60.990(10) - (12), and AS 44.64.030(a)(5).
2. Fund for the improvement of school performance (AS 14.03.125). Repealing this section would also repeal the school performance grant program created in the same section. This repeal requires making conforming changes to AS 14.07.020(a)(2) and AS 14.07.165(a)(2).
3. Alaska World War II veterans' revolving fund (AS 26.15.090). This repeal requires changes to AS 26.15.040 and either repealing or amending AS 26.15.095.
4. Mining loan fund (AS 27.09.010). This repeal requires also repealing AS 27.09.015, which creates an account within the fund, and making changes to or repealing the rest of the mining loan fund program (AS 27.09.010 - 27.09.060).
5. Educational facilities maintenance and construction fund (AS 37.05.560). This repeal requires making a change to AS 14.11.008(a).
6. Alaska veterans' cemetery fund (AS 37.05.600). This repeal requires making a change

- to AS 28.10.421(d)(16).
7. Municipal capital project matching grant program (AS 37.06.010). This repeal requires repealing the municipal capital project matching grant program (AS 37.06.010 - 37.06.090), and making a change to AS 36.10.180(a)(2).
 8. Alaska children's trust (AS 37.14.200). This repeal requires repealing the Alaska children's trust statutes (AS 37.14.200 - AS 37.14.270), and making changes to AS 18.50.225(d), AS 18.50.272(e), AS 28.10.181(t), AS 28.10.421(d)(14) and (24), and AS 37.05.146(c)(19).
 9. Alaska debt retirement fund (AS 37.15.011). This repeal requires repeal of or amendment to statutes relating to bonds (AS 37.15.012, 37.15.015, and 37.15.170).
 10. Knik Arm Bridge funds (AS 37.15.230, 37.15.240, 37.15.245, and 37.15.260). Repeal of the funds relating to the Knik Arm Bridge requires repeal of or amendment to statutes relating to the Knik Arm Bridge including AS 19.75.021(b), AS 37.15.225 - 37.15.290. You may also wish to repeal the Knik Arm Bridge and Toll Authority Act (AS 19.75).
 11. State land reforestation fund (AS 41.17.300). This repeal requires repealing AS 41.17.310 and 41.17.320.
 12. Power cost equalization and rural electric capitalization fund (AS 42.45.100). This repeal requires repealing the power cost equalization and rural electric capitalization fund program (AS 42.45.100 - 42.45.190). This repeal also requires making changes to AS 37.05.530(g), AS 42.05.141(b), AS 42.45.080(a), and AS 42.45.085(a).
 13. Gambling tax revenue (AS 43.35.220). You requested a change to where gambling tax revenue is deposited. This change requires an amendment to the gambling tax revenue statute, along with conforming changes.
 14. Child care facility revolving loan fund (AS 44.33.240). This repeal requires repealing the child care facility revolving loan fund program (AS 44.33.240 - 44.33.275).
 15. Tourism revolving fund (AS 45.81.100). This repeal requires repealing the tourism revolving fund loan program (AS 45.81.100 - 45.81.190).
 16. Small business revolving loan fund (AS 45.81.200). This repeal requires repealing the small business revolving loan fund program (AS 45.81.200 - 45.81.290).
 17. Alternative energy conservation revolving loan fund (AS 45.88.010). This repeal requires repealing the alternative energy conservation revolving loan fund program (AS 45.88.010 - 45.88.090).
 18. Residential energy conservation fund (AS 45.88.100). This repeal requires repealing the residential energy conservation fund program (AS 45.88.100 - 45.88.190).
 19. Historical district revolving loan fund (AS 45.98.010). This repeal requires repealing AS 45.98.015 and making a change to AS 41.35.350(a)(12).

3. Alaska Capstone Avionics revolving loan fund. You requested that the draft bill repeal the Alaska Capstone Avionics revolving loan fund (AS 44.33.650 - 44.33.690). However, this fund has already been repealed.

4. Alaska Housing Finance Corporation - Alaska capital fund. You requested that the draft bill repeal the "Alaska Housing Finance Corporation - Alaska Capital Fund" and you provided a broad statutory reference of AS 10.20. Is the "AHCC" referring here to

Representative James Kaufman

May 8, 2021

Page 4

the Alaska Housing Capital Corporation, a subsidiary of AHFC? This fund may have been created under the authority of the Alaska Statutes, but there is not a specific statute section creating the fund, so there does not appear to be anything to repeal.

5. Medical facilities special bond guarantee account. Repealing the medical facilities special bond guarantee account (AS 18.26.260) could interfere with bonds issued by the Alaska Medical Facility Authority, especially if the assets of this account were pledged to guarantee bonds or bond anticipation notes under AS 18.26.260. I would recommend consulting with the Alaska Medical Facility Authority about any existing bonds that may be affected by repealing this account. I would also recommend contacting bond counsel to discuss any potential effects on bonds that may have already been issued under AS 18.26.260.

6. Review by other agencies. You may wish to consult with the Department of Commerce, Community, and Economic Development, legislative finance, and other relevant agencies to evaluate whether repealing these funds, and amending or repealing other statutory language relating to these funds, will have any unintended consequences.

As you can see, repealing one statute often affects a number of other sections. If you would like to further explore the options here, I would be happy to work with you during the interim. Please let me know if I may be of further assistance.

MYM:mjt
21-229.mjt