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Governor Maintains Stance on Stimulus Funds, Favors Local Control on Building Codes

May 21, 2009, Juneau, Alaska - Governor Sarah Palin announced today that, as previously stated, she will veto the \$28.6 million in federal "stimulus" funds tied to adoption of building codes by municipalities.

"Alaskans and our communities have a long history of independence and opposing many mandates from Washington, D.C.," Governor Palin said. "This principle of maximum self-government for local communities is also set out in our constitution. There isn't a lot of support for the federal government to coerce Alaska communities to adopt building codes, but lawmakers can always exercise checks and balances by overriding my veto.

"Our 18 boroughs and unified home-rule municipalities, 145 incorporated cities, and individual Alaskans will continue to be free to fully exercise their discretion regarding local building codes. I do not support coercing our local communities to adopt building codes, which then act as a mandatory tax on Alaskans building or renovating homes or businesses."

The governor also noted her commitment to reduce energy costs with ongoing efforts. The FY2010 capital and operating budgets include \$25.5 million for Alaska Energy Authority projects, \$25 million for renewable energy, \$38 million for power cost equalization, and \$26.4 million for heating assistance, in addition to hundreds of millions of dollars in conservation efforts.

"When combined with the significant investments in the current fiscal year, including \$260 million for weatherization, \$100 million for home energy rebates, and \$100 million for renewable energy projects, our commitment is clear," Governor Palin said.

The governor asked for clarification from the U.S. Department of Energy (DOE) on the requirements for acceptance of the funds in a letter from Chief of Staff Mike Nizich to Energy Secretary Steven Chu, dated May 14.

The DOE admitted that the language of section 410 and DOE's own guidance manual and form certification is not appropriate for every state and that implementation of the actions specified in section 410(a) are "outside" the governor's authority.

"While I was encouraged by that acknowledgment, I cannot in good conscience agree to use the full authority of state government to 'promote' and advocate on behalf of Washington, D.C., that our communities adopt the building codes or their equivalent," said the governor.

Federal law and guidance require the governor to certify in writing that the state would adopt a statewide energy building code or provide an "assurance" that every jurisdiction with the authority to adopt a building code "will implement" the required one. Most of Alaska's 114 second-class cities have chosen to not even adopt regular building codes, much less a specialized energy building code with mandates even concerning the types and quantities of light bulbs in a structure.

"I am also concerned about costs in training and certifying inspectors and who will pay for their travel and other costs to look over the shoulder of Alaskans renovating part of their house, such as replacing windows," said the governor. "We're continuing our efforts at the state level to become energy efficient through funding programs such as the Alaska Housing Finance Corporation weatherization plan and to develop renewable energy sources, such as the Swan Lake-Tyee intertie, along with renewable energy projects under HB 152. Our efforts will continue without ceding control by local government, which is the most responsive and responsible level of government."

The law states in Section 410 on energy funds from the American Recovery and Reinvestment Act:

"The state, or the applicable units of local government that have authority to adopt building codes, will implement the following: ...

"(A) A building energy code (or codes) for residential buildings that meets or exceeds the most recently published International Energy Conservation Code, or achieves equivalent or greater energy savings.

"(B) A building energy code (or codes) for commercial buildings throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007, or achieves equivalent or greater energy savings.

"(C) A plan for the jurisdiction achieving compliance with the building energy code or codes described in subparagraphs (A) and (B) within 8 years of the date of enactment of this Act in at least 90 percent of new and renovated residential and commercial building space. Such plan shall include active training and enforcement programs and measurement of the rate of compliance each year."

The Official Department of Energy Guidance Manual repeats the requirements of section 410 (pp.8, 25-26, 33, and 51), and states that "All grant awards made under the program must comply with applicable legislation" (p.29, section 6.0, issued March 12, 2009).

Examples of residential energy building code requirements in the 2009 International Energy Conservation Code include:

"Lighting Equipment. ... A minimum of 50 percent of the lamps in permanently installed lighting fixtures shall be high-efficacy lamps," Section 404.1, International Energy Conservation Code, 2009.

"Replacement fenestration [windows]. Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the replacement fenestration shall meet the requirements for U-factor and SHGC in Table 402.1.1.", Section 402.3.6.

Copies of the letter to the U.S. Energy Secretary and the department's response are located on the Office of Management and Budget website at <http://omb.alaska.gov/>

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