howard.trickey@hklaw.com
peter.scully@hklaw.com

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

THE ALASKA LEGISLATIVE COUNCIL, on behalf of THE ALASKA STATE LEGISLATURE,

Plaintiff,

v.

HONORABLE MICHAEL J. DUNLEAVY, in his official capacity as Governor for the State of Alaska, KELLY TSHIBAKA, in Her official capacity as Commissioner of Administration for the State of Alaska, and MICHAEL JOHNSON, in his official capacity as Commissioner of the Alaska Department of Education and Early Development,

Defendants.

COALITION FOR EDUCATION EQUITY,

Intervenor.

Case No. 1JU-19-00753 CI

COALITION FOR EDUCATION EQUITY'S OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

The Governor's motion for summary judgment starts by acknowledging that "[t]he drafters of Alaska's Constitution established a comprehensive system governing the expenditure of state funds."[1] But the constitutional rule against forward funding that the

[1] Defendants' Motion for Summary Judgment at 1 (Defs. MSJ) (September 13, 2019).

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

D 8 opp inter.

Governor asks the Court to adopt is conspicuously missing from this "comprehensive system." This court is "not vested with the authority to add missing terms" to the Constitution, and the Governor's arguments must therefore be rejected.[2]

The Governor also advocates for an expansive interpretation of his Article II veto authority, contending that any encroachment on this authority violates the separation of powers doctrine. But the Governor's analysis is exactly backwards. As the Alaska Supreme Court has explained, the starting point for evaluating an alleged violation of the separation of powers doctrine is determining whether the disputed constitutional power is a legislative or executive function.[3] In this case, there is no dispute that the constitutional powers to appropriate state funds and maintain a system of public education are both legislative functions. The Governor's veto, which is established among other legislative powers in Article II, also serves a legislative function. The plain language of the veto clause therefore establishes the "maximum parameters" of the Governor's veto power, and the "full extent of the constitution's express grant" to the executive branch of checks on the Legislature's appropriation and education powers.[4] The Governor's effort to expand his veto powers beyond those granted in the text of Article II, section 15 must be rejected.

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2 *Hickel v. Cowper*, 874 P.2d 922, 927–28 (Alaska 1994).

3 *Bradner v. Hammond*, 553 P.2d 1, 6–7 (Alaska 1976) ("In determining if Chapter 82 violates the doctrine of separation of powers, which is implicit in Alaska's constitution, it is necessary to answer the threshold question whether the appointment of executive officers is a legislative or executive function.").

4 *Id.* at 7.

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

The Governor next argues that affirming the constitutionality of the advance appropriations in Ch. 6, SLA 2018 will set a dangerous precedent because there is no limiting principle to reign in runaway legislatures from appropriating funds years or decades into the future. But this argument ignores reality and the natural checks that are built into our democratic system of government. The suggestion that the Legislature, which struggles to agree even on annual operating budgets, will come together to forward fund the entire state budget for years to come is farfetched. And even in that unlikely event, such legislation would be subject to the same limiting principles as any other piece of legislation: political accountability, elections, and the legislature's ability to undo its previous work.

Finally, the Governor attempts to reassure the Court that striking down Ch. 6, SLA 2018 will do no harm to Alaska's schools because his "expectation" is that "the Legislature will promptly fund the amount necessary for FY20 education."[5] The Governor's "expectations" are inadequate given the turmoil that will result if these expectations are wrong. The Governor's expectations are also unduly optimistic. Regardless of who prevails in this case, an appeal to the Supreme Court is virtually guaranteed. That process is likely to take weeks or months, even if the Supreme Court agrees to take it up on an expedited basis. And in the event the Legislature must reconvene to pass a new spending bill, there is no telling how long that might take. Given the well-publicized disagreement over budgeting priorities between the Governor

[5] Defs' MSJ at 8.

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

and the Legislature, and between different factions within the legislature, it is far from certain that a new appropriations bill could be passed quickly enough to avoid harm to Alaska's schools and students.

II. ARGUMENT

The Governor spends much of his brief arguing that the Alaska Constitution contemplates that the State will follow an annual budgeting model. But that proposition is unremarkable, and does not resolve the constitutional issues presented in this case. The fact that the Governor and Legislature have various annual budgeting obligations does not imply an inflexible and categorical constitutional prohibition against multi-year appropriations. Lacking any express constitutional prohibition on forward funding, the Governor asks the Court to infer one from the separation of powers doctrine and some amalgamation of the veto, appropriation, and dedicated funds clauses. But for the reasons stated below, none of these provides a basis for the Court to add limitations to the Legislature's appropriation power that the Governor believes are "missing" from the Constitution.

A. Ch. 6, SLA 2018 Does Not Violate the Separation of Powers Doctrine

The Governor asserts that the advance appropriations in Ch. 6, SLA 2018 violate the separation of powers doctrine because they are "being used to thwart his veto power."[6] But his argument fails to engage in the separation of powers analysis

[6] Defs. MSJ at 18. As the legislative history makes clear, the advance appropriations in Ch. 6, SLA 2018 were not intended to thwart yet-to-be elected Governor Dunleavy's veto power. They were intended remedy a budgeting problem plaguing Alaska's public schools.

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

established in our case law. That analysis is fatal to the Governor's claims.

The Alaska Supreme Court adopted an analytical framework for separation of powers disputes in *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976). In that case, Governor Hammond refused to comply with a law that required him to submit subcabinet officials and division heads for legislative confirmation. The Governor contended that the legislature's confirmation power under Article III, section 25 was limited to approving "the head of each principle department," and that requiring confirmation of lower officials intruded on his appointment powers.

The Supreme Court analyzed the dispute under the separation of powers doctrine. It held that the "threshold question" in separation of powers cases is whether the governmental power at issue "is a legislative or executive function."[7] The Court concluded that the appointment power was an executive function, that legislative confirmation was "a delegated function taken from an executive function, [and that] …the breadth of this delegated authority must be strictly construed."[8] Accordingly, the Court held that Article III, section 25 set the ceiling, rather than the floor, of the legislature's confirmation power, and that the express provisions of that section:

> embody[ ] not only the maximum parameters of the delegation of the executive appointive authority through the legislative confirmation function but, further, that they delineate the full extent of the

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7 *Bradner v. Hammond*, 553 P.2d 1, 6 (Alaska 1976) ("In determining if Chapter 82 violates the doctrine of separation of powers, which is implicit in Alaska's constitution, it is necessary to answer the threshold question whether the appointment of executive officers is a legislative or executive function.").

8 *Id.* at 4.

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

> constitution's express grant to the legislative branch of checks on the governor's power to appoint subordinate executive officers.[9]

In the present case, the analysis is the same but the polarity is reversed. The appropriation power and the obligation to fund Alaska's public education system are core legislative functions.[10] The Governor's veto power under Article II, section 15 is quite clearly a "delegated function" taken from these legislative functions—the veto power is set forth in Article II of the Constitution, which establishes the legislative powers of state government. Accordingly, as in *Bradner*, "the breadth of this delegated authority must be strictly construed."[11] The express and unambiguous language of Article II, section 15 must be interpreted as "embodying not only the maximum parameters of the delegation" of the legislative appropriation power, but also as "delineat[ing] the full extent of the constitution's express grant"[12] to the executive branch of checks on the legislature's power to appropriate state funds in furtherance of its public education obligations. In sum, the Governor's veto power is no greater than what is provided by the express language of Article II, section 15 — he may veto or reduce items in appropriations bills passed while he is in office and nothing more.

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9 *Id.* at 7.

10 *See Alaska Legislative Council v. Knowles,* 21 P.3d 367, 371 (Alaska 2001) (noting that the Alaska Constitution "gives the legislature the power to legislate and appropriate"); *see also* Alaska Const. art. IX, § 13 ("No money shall be withdrawn from the treasury except in accordance with appropriations made by law."); *id.* at art. VII, § 1 ("The legislature shall by general law establish and maintain a system of public schools open to all children of the State....").

11 *Bradner*, 553 P.2d at 4.

12 *Id.* at 7.

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

The Governor's separation of power argument ignores this analysis. He repeatedly insists that he has "enhanced" authority over the budget, the contours of which are ill-defined but nevertheless require the Court to broadly construe his veto power. Describing this grand budgetary authority, the Governor asserts that he has: "robust veto power";[13] "enhanced authority over the budget";[14] "constitutional power to limit state spending;"[15] "a greater role in the development and control of the state's budget";[16] "especially strong veto power over appropriations";[17] "greater authority over legislative decisions regarding state spending";[18] "expanded power with respect to budget issues";[19] and "enhanced authority to check legislative spending."[20] Relying on this general aura of budgetary authority, the Governor asks the Court to expand his veto power beyond the constitutional text and graft limitations onto the Legislature's appropriation power that the Constitution does not impose.

The Governor's analysis is exactly backwards. His veto power is a delegated legislative function and, under *Bradner*, must be narrowly construed. However "robust" or "enhanced" that power is, it is completely circumscribed by the express language of

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13 Defs. MSJ at 1.

14 *Id.* at 9.

15 *Id.*

16 *Id.* at 10.

17 *Id.* at 12.

18 *Id.* at 14.

19 *Id.*

20 *Id.* 18.

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

the Constitution, *i.e.* the veto clause "delineates the full extent" of the Governor's veto power. It cannot be interpreted to grant powers beyond those expressly given, or to add limitations to the Legislature's appropriation that do not exist in the text of the Constitution. As amici point out, the Constitution does impose express limitations on the Legislature's appropriation power.[21] But the temporal limitation the Governor proposes is not among them, and this Court is not "vested with the authority to add missing terms [to the Constitution] or hypothesize differently worded provisions in order to reach a particular result."[22] This is especially so where the Governor asks the Court to add missing terms by broadly construing his delegated legislative powers, in violation of the analysis required by *Bradner*. The advance appropriations in Ch. 6, SLA 2018 were subject to executive veto by the Governor in office when it was passed. That is all the Constitution requires.

The Governor's logic also has some fairly glaring holes. He contends, for example, that the three-fourths majority required to override appropriation vetoes under Article II, section 16 demonstrates his "enhanced" budgetary powers, and supports placing a temporal limitation on appropriation bills.[23] But Article II, section 16 also

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21 Brief of Amici at 8–17 (noting the three express limitations on the Legislature's appropriation power).

22 *Hickel v. Cowper*, 874 P.2d 922, 927–28 (Alaska 1994).

23 Defs. MSJ at 14 ("[T]he framers of Alaska's constitution gave the governor greater authority over legislative decisions regarding state spending than over other legislative enactments. The legislature needs only a two-thirds majority to override the veto of regular legislature under Art. II, § 16, but the agreement of three-fourths of the legislature is necessary to override the veto of an item in an appropriations bill.").

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

imposes a three-fourths requirement for overriding ***revenue*** bill vetoes.[24] Yet, there is no plausible argument that the Constitution limits the Legislature's ability to pass multi-year revenue bills. The Court can no more infer a temporal limitation for appropriation bills under Article II, section 16 than it can infer such a limitation for revenue bills.[25]

The Governor also complains that if the advance appropriations in Ch. 6, SLA 2018 are constitutional, then there is no meaningful limit to the Legislature's forward funding power. He envisions an extreme scenario in which the Legislature forward funds the entire operating budget for years and decades in advance in order to tie the hands of future lawmakers and subvert the will of the people. As a preliminary matter, the Governor's hypothetical worst-case scenario is not before the Court. The appropriations at issue in this lawsuit forward fund a single state service (education) for a single year, and are intended to remedy a specific and unique budgeting problem. And the scenario the Governor envisions is highly unlikely to ever happen. The legislature that attempted to future fund state government for an extended time frame would be acting without sufficient facts, funding information, or information about future needs to have any kind of rational basis for its appropriations. Given the difficulty that the Legislature has

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[24] Alaska Const. art. II, § 16 ("Bills to raise revenue and appropriation bills or items, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature.").

[25] The Governor also raises a novel separation of powers argument. He contends that by passing the advance appropriations in Ch. 6, SLA 2018, the Legislature is actually encroaching on its own legislative power. *See* Defs. MSJ at 18–19. This argument is creative, but has no support in the case law. The Governor fails to cite a single case from any court holding that one branch of government can violate the separation of powers doctrine by encroaching on its own constitutional powers.

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

historically had reaching agreement on even an annual operating budget, the prospect of a future legislature forward funding state government for years to come is pure fantasy. Adopting a new non-textual constitutional rule based on a hypothetical parade of horribles that is virtually certain not to occur is a recipe for bad law. Moreover, the Governor's contention that there would be no check on a future legislature or governor inclined to abuse advance appropriations is incorrect. The Legislature and the Governor are politically accountable. An engaged electorate would serve as a check on the incompetence or abuse of power by either or both branches, or more generally, by the political parties represented in office. In the absence of an express or implied prohibition, the Constitution entrusts these disputes to the democratic process. Appropriations are no exception.

For all of the foregoing reasons, the Governor's separation of powers argument fails. His veto authority is a delegated legislative function and must be strictly construed according to the express language of the Constitutional grant. It cannot serve as a basis for grafting new and unexpressed limitations onto the Legislature's appropriation power. In this case, Ch. 6, SLA 2018 was fully consistent with the Legislature's appropriation power and properly subject to gubernatorial veto, which is all that the Constitution requires.

B. Ch. 6, SLA 2018 Does Not Violate the Dedicated Funds Clause because It Does Not Dedicate a Specific Revenue Stream

The Governor argues that Ch. 6, SLA 2018 violates the dedicated funds clause

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

because it appropriates "future" rather than "current revenues." According to the Governor, whether legislation survives a dedicated funds challenge "has depended on whether the means involved use current or future money and whether they are binding self-executing appropriations or only guidelines requiring future legislative action."[26] This is decidedly ***not*** the analysis the Supreme Court has applied to evaluate whether legislative enactments violate the dedicated funds clause. In each and every case, the Court has instead considered whether a *specific stream of future revenue* has been impermissibly set aside, *i.e.* whether the "proceeds of any state tax or license" have been dedicated to a particular purpose.[27]

For example, in *State v. Alex*, 646 P.2d 203 (Alaska 1982), the specific stream of revenue was a mandatory tax on the sale of salmon, the proceeds of which were to be allocated to regional associations for enhancement of salmon production. In *Sonneman v. Hickel*, 836 P.2d 936 (Alaska 1992), the specific stream of revenue consisted of Alaska Marine Highway System receipts, which were to be deposited into a special account within the general fund. In *State v. Ketchikan Gateway Borough*, 366 P.3d 86 (Alaska 2016), the specific stream of revenue under consideration was the required local contribution of cities and the borough towards public education, which the Supreme Court concluded did not constitute the "proceeds of any state tax or license." *Id.* at 91. In *Wielechowski v. State*, 403 P.3d 1141 (Alaska 2017), the specific stream of revenue at

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26 Defs. MSJ at 2.

27 Alaska Const. art. IX, § 7.

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420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

issue was investment income from the Permanent Fund income. *Id.* at 1143. In *Southeast Alaska Conservation Council v. State*, 202 P.3d 1162, 1164 (Alaska 2009), the specific stream of revenue was the "net proceeds from the University's sale or use" of roughly 250,000 acres of state land. In *City of Fairbanks v. Fairbanks Convention & Visitors Bureau*, 818 P.2d 1153, 1153 (Alaska 1991), the specific revenue stream was the proceeds of a "motel and hotel bed tax." And in *Myers v. Alaska Housing Finance Corp.*, 68 P.3d 386, 387 (Alaska 2003), the specific revenue stream consisted of annual payments from a tobacco settlement fund.

The common question in all of these cases is whether *a specific source of state revenue* had been dedicated in violation of Article IX, section 7. That is the required analysis because, as the Supreme Court has noted, a legislative enactment "cannot implicate the prohibitions of section 7" if the act "does not dedicate any state *revenue* to any particular fund."[28] This analysis is consistent with the framers' intent that the dedication clause "apply to the allocation of particular taxes to a particular purpose and no more than that."[29] The Governor's contention that the validity of an appropriation under Article IX, section 7 turns on a distinction between "current and future money" is therefore inconsistent with the plain language of the Constitution, the framers' clearly

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28 *Hickel v. Cowper*, 874 P.2d 922, 927 n.8 (Alaska 1994) (emphasis added).

29 4 PACC 2405 (Jan. 17, 1956). *See also* 4 PACC 2969 (Jan. 24, 1956) ("[W]hat we are trying to get at is the allocation or dedication or earmarking of the proceeds of a particular tax to a particular purpose."); *id.* at 2971 ("A 'dedicated' revenue, for instance, is the idea that tobacco taxes are used for school construction or maintenance. That is a 'dedicated' revenue right from the time it is collected. It can't be used for anything else.").

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

expressed intent, and the long line of case law interpreting the dedicated funds prohibition.

Any analytical distinction between "current and future money" would also be impossible to apply. The Governor does not explain what he means by "current money," but to the extent he is suggesting that the Legislature can only appropriate funds that are sitting in the treasury, he is clearly mistaken. Appropriation bills *always* authorize the expenditure of "future money," *i.e.* anticipated revenues that have neither been received by the state nor deposited in the treasury. The State could not function if the Legislature lacked the authority to appropriate funds in advance of receipt. And the Supreme Court has expressly recognized that the "availability" of funds is not a pre-requisite for appropriation.[30]

Moreover, the Governor's contention that the Alaska Constitution categorically prohibits the Legislature from making appropriations that obligate future-year funds is at odds with express provisions that allow exactly that. Article IX, section 10 permits the state to borrow money to meet appropriations in one fiscal year and repay that money with subsequent fiscal year funds. Accordingly, the Constitution expressly contemplates that multi-year budgeting may be necessary, and does not mandate the type of inflexible, categorical rules the Governor proposes. To the contrary:

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[30] *See Hickel*, 874 P.2d at 931 ("The 'amount available for appropriation' would include…all monies from which the legislature can make an appropriation and which require a legislative appropriation before they can be expended, *as well as any amount which would not otherwise be counted as 'available' but from which the legislature does in fact appropriate*.") (emphasis added).

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

> In allocating power and responsibility under the Alaska Constitution, the delegates sought to provide the State with room to grow and to adapt. They designed the constitution to be flexible so that the legislature could fill in the exact details [later]. Though the delegates sought to limit certain powers and to avoid certain pitfalls, they did not intend to compel the State to unravel existing programs nor did they intend to prevent the State from experimenting and adapting to changing circumstances.[31]

C. The Education Clause is Patently Relevant to this Case

The Governor contends that the education clause of the Alaska Constitution is irrelevant to this case because the prohibition against dedicated funds applies even when revenues are dedicated to a deserving or worthy purpose. This argument misses the mark for at least five reasons.

First, there is no dedicated funds problem for the reasons stated above. Ch. 6, SLA 2018 does not allocate "the proceeds of any state tax or license" and therefore "cannot implicate the prohibitions of section 7." The premise of the Governor's relevance argument fails, and the education clause is patently relevant to his remaining constitutional arguments.

Second, the education clause is patently relevant to the Governor's separation of powers argument. As noted above, the threshold question in a separation of powers analysis is whether the powers being exercised further an executive or legislative function. In this case, establishing a system of public education, and maintaining that system with constitutionally adequate funding, are squarely and exclusively legislative

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31 *State v. Ketchikan Gateway Borough*, 366 P.3d 86, 94–95 (Alaska 2016) (internal quotations and citations omitted).

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420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

functions.[32] The Court must therefore evaluate the Governor's separation of powers argument in light of the mandates of Article VII, section 1.

Third, the Alaska Supreme Court has explicitly recognized that legislative actions in the public school financing arena are entitled to respect so long as they are "within the limits of rationality":

> The very complexity of the problems of financing and managing a statewide public school system suggests that "there will be more than one constitutionally permissible method of solving them," and that, within the limits of rationality, "the legislature's efforts to tackle the problems" should be entitled to respect.[33]

Because the advance appropriations in Ch. 6, SLA 2018 were made in furtherance of the Legislature's obligations under the education clause, they are entitled to heightened deference and must be upheld unless they exceed the bounds of reason.

Fourth, the Alaska Supreme Court has further held that the cooperative state-local education funding formula adopted in furtherance of the Legislature's education clause obligations, of which Ch. 6, SLA 2018 is a part, is not subject to the prohibition against dedicated revenues:

> [T]he delegates did not intend for state-local cooperative programs like the school funding formula to be included in the term "state tax or license." These factors distinguish this case from previous cases where we found that state funding mechanisms violated the dedicated funds clause. We therefore

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32 *See Macauley v. Hildebrand*, 491 P.2d 120, 122 (Alaska 1971) (noting that "no other unit of government shares responsibility or authority" with the legislature under the education clause).

33 *Hootch v. Alaska State-Operated Sch. Sys.*, 536 P.2d 793, 803–04 (Alaska 1975) (quoting *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 42 (1973)).

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

> hold that the existing funding formula does not violate the constitution, and we reverse the superior court's grant of summary judgment.[34]

And fifth, the education clause will be unavoidably implicated if this Court strikes down Ch. 6, SLA 2018 as unconstitutional. As CEE explained in its opening brief, and as further set forth below, the education clause obligates the State to fund public education to constitutionally adequate levels, and confers a corresponding constitutional right on every school age child to receive that education. In the event the Court invalidates Ch. 6, SLA 2018, the current stipulation between the Governor and Legislature will lapse, public school funding will cease, and the State will be in immediate violation of its constitutional obligations under the education clause. The Governor cannot simply ignore that possibility in the midst of his power struggle with the Legislature.

D. The Governor's "Expectation" that School Funding Will Not be Interrupted by a Ruling in His Favor is Inadequate and Misplaced

The State has a constitutional obligation to maintain a system of public education by funding Alaska's public schools to a constitutionally adequate floor. Alaska's children have a corresponding constitutional right to receive the education that the framers promised them. The current stipulation between the Governor and the Legislature does not take these constitutional obligations and guarantees seriously. The stipulation, and all state public school funding, will immediately lapse if the Court rules

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34 *State v. Ketchikan Gateway Borough*, 366 P.3d 86, 87 (Alaska 2016).

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420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

in the Governor's favor. In response to this serious problem, the Governor can only offer his "expectation that should the Court rule that HB 287 does not validly fund education for this year, the Legislature will promptly fund the amount necessary for FY20 education."[35]

The Governor's "expectations" are inadequate and unrealistic under the circumstances. First, it is virtually certain that there will be an appeal from whatever judgment this Court enters. Even if the Supreme Court agrees to hear an appeal on an expedited basis, it will likely be several weeks or months before it issues a decision. If the Governor prevails in this court, how will the State meet its constitutional obligation to fund public education during the pendency of the appeal? The current funding stipulation provides no assurances.

Second, the notion that the Governor and Legislature will quickly pass a FY20 education budget is hopeful, but by no means guaranteed. If recent history is any guide, even a limited appropriation bill for public education is likely to be contentious and drawn out. There is already significant disagreement between the Governor and Legislature on this issue, with the Governor seeking to cut roughly 25% of the amount necessary to fully fund public education under the statutory formula that has been in place for decades,[36] as well as the entirety of the Legislature's $30 million supplemental

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35 Defs. MSJ at 8.

36 The Governor's insistence that the Legislature "follow the law" by fully funding the PFD in accordance with the statutory formula is ironic in light of his willingness to defund public education by ignoring a similar statutory formula for public school funding.

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

appropriation.[37] These are not minor disagreements. While CEE is hopeful that the Governor and Legislature would be able to put their differences aside in order to mitigate harm to Alaska's public schools, a concern for education has not been a priority for the Dunleavy administration, and he has not hesitated to sacrifice the needs of Alaska's students in furtherance of his own agenda and outsized view of executive power.

The Governor must do more than hope that the Court's ruling in this case will not create chaos for Alaska's schools, students and families. This Court should require adequate assurances that the State will meet its constitutional obligation to adequately fund public education during the pendency of any appeal, and during any gap in time between a ruling for the Governor and passage of a new appropriations bill.

III. CONCLUSION

For all of the foregoing reasons, Defendants' motion for summary judgment must be denied, and CEE and the Alaska Legislative Council's motions for summary judgment should be granted.

DATED at Anchorage, Alaska this 27th day of September, 2019.

HOLLAND & KNIGHT LLP
Attorneys for Intervenor Coalition for
Education Equity, Inc.

By: _____
Howard S. Trickey, Alaska Bar No. 7610138
Peter A. Scully, Alaska Bar No. 1405043

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

[37] *See* Legislative Council's Motion for Summary Judgment at 8–9 (September 13, 2019).

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September, 2019, a true and correct copy of the foregoing was served by email and mail, postage prepaid, upon the following:

Hilary V. Martin
Megan A. Wallace
Alaska State Legislature
Legislative Affairs Agency
Division of Legal and Research Services
120 4th Street, State Capitol, Room 3
Juneau, AK 99801
hilary.martin@akleg.gov
megan.wallace@akleg.gov

William E. Milks, Asst. Attorney General
Attorney General's Office
Legislation & Regulations Section
P.O. Box 110300
Juneau, AK 99811
bill.milks@alaska.gov

Margaret Paton-Walsh, Statewide Section Chief
Attorney General's Office
Special Litigation Section
1031 W. Fourth Avenue, Suite 200
Anchorage, AK 99501
margaret.paton-walsh@alaska.gov

Kathryn R. Vogel, Asst. Attorney General
Office of the Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, AK 99501
kathryn.vogel@alaska.gov

Jahna M. Lindemuth
Scott Kendall
Holmes Weddle & Barcott, PC
701 W. 8th Avenue, Ste. 700
Anchorage, AK 99501
JLindemuth@hwb-law.com
SMKendall@hwb-law.com

Jeanine M. Huston

Jeanine M. Huston

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

THE ALASKA LEGISLATIVE COUNCIL, on behalf of THE ALASKA STATE LEGISLATURE, Plaintiff, v. HONORABLE MICHAEL J. DUNLEAVY, in his official capacity as Governor for the State of Alaska, KELLY TSHIBAKA, in Her official capacity as Commissioner of Administration for the State of Alaska, and MICHAEL JOHNSON, in his official capacity as Commissioner of the Alaska Department of Education and Early Development, Defendants.	Filed in the Trial Courts STATE OF ALASKA, FIRST DISTRICT AT JUNEAU SEP 27 2019 By AS Deputy Case No. 1JU-19-00753 CI
COALITION FOR EDUCATION EQUITY, Intervenor.	

[PROPOSED] ORDER DENYING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Upon consideration of Defendants' Motion for Partial Summary Judgment, all Oppositions to that motion, and any reply thereto, Defendants' motion is DENIED.

DATED at Juneau, Alaska this _____ day of _____, 2019.

_____
Hon. Daniel Schally
Superior Court Judge

LODGED 09/27/19 DATE BY AS INITIALS

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September, 2019, a true and correct copy of the foregoing was served by email and mail, postage prepaid, upon the following:

Hilary V. Martin
Megan A. Wallace
Alaska State Legislature
Legislative Affairs Agency
Division of Legal and Research Services
120 4th Street, State Capitol, Room 3
Juneau, AK 99801
hilary.martin@akleg.gov
megan.wallace@akleg.gov

William E. Milks, Asst. Attorney General
Attorney General's Office
Legislation & Regulations Section
P.O. Box 110300
Juneau, AK 99811
bill.milks@alaska.gov

Margaret Paton-Walsh, Statewide Section Chief
Attorney General's Office
Special Litigation Section
1031 W. Fourth Avenue, Suite 200
Anchorage, AK 99501
margaret.paton-walsh@alaska.gov

Kathryn Rebecca Vogel, Asst. Attorney General
Office of the Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, AK 99501
kathryn.vogel@alaska.gov

Jahna M. Lindemuth
Scott Kendall
Holmes Weddle & Barcott, PC
701 W. 8th Avenue, Ste. 700
Anchorage, AK 99501
JLindemuth@hwb-law.com
SMKendall@hwb-law.com

Jeanine M. Huston

Jeanine M. Huston

HOLLAND & KNIGHT LLP
420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345