

STATE OF ALASKA

DEPARTMENT OF LAW

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March 30, 2000

The Honorable Tony Knowles
Governor
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

Re: CCS SB 250 -- Making Supplemental Appropriations; Amending Appropriations; Making an Appropriation to Capitalize a Fund; Making a Reappropriation under Art. IX, sec. 7(c), Constitution of the State of Alaska, from the Constitutional Budget Reserve Fund
A.G. file no: 883-00-0010

Dear Governor Knowles:

At your legislative office's request on your behalf, we have reviewed CCS SB 250, the "fast-track" supplemental appropriations bill for FY 2000. This bill is quite straightforward, and we see no legal problems with it. Indeed, only a few sections even warrant legal comments.

Subsection 4(b) of the bill reduces an allocation in an appropriation by slightly over \$2,000,000, and subsec. 4(c) increases an allocation in the same appropriation by the same amount. You could, of course, administratively accomplish the same thing by following the procedures in AS 37.07.080(e). However, the enactment of these two subsections would obviate the need for that. We would stress that nothing in either subsection prevents your administration from further transfers between these two allocations. If the Department of Education and Early Development (DEED) determines that a greater sum should be transferred from the foundation program (or from some other allocation in the K-12 Support appropriation) to pupil transportation, or that too much was transferred to pupil transportation and some should be transferred to another allocation in the appropriation, the DEED is free to make such a transfer, with the Office of Management and Budget (OMB) approval.

Section 12 of the bill is slightly unusual, in that it is an operating appropriation covering two fiscal years - the current fiscal year and fiscal year 2001. However, the

Legislature's intent is clear, and we see no legal obstacles to such an appropriation. It is our opinion that the Department of Revenue (DOR) may split the appropriation between the two fiscal years in any way that DOR sees fit (subject, of course, to any restrictions on the federal money).

Section 16 of the bill would change the object of a \$31,600,000 allocation in last year's capital budget (ch. 2, FSSLA 1999) from "Sitka Shuttle Vessel" to "Sitka to East Baranof Island Terminal Road." Department of Transportation and Public Facilities (DOTPF) would not be committed to expending this sum on the terminal road, as DOTPF (with OMB approval) could reallocate this sum, or any part of it, to another allocation in the \$77,882,000 Marine Transportation Projects appropriation (again, subject to any restrictions on federal money). However, since there would no longer be an allocation for the Sitka Shuttle Vessel, no money could be spent on it. See 1981 Inf. Op. Att'y Gen. 1341 (J-66-259-82; Oct. 21). Because sec. 16 clearly constitutes an item in an appropriation bill, you have the authority under art. II, sec. 15 of the Alaska Constitution to veto it, and retain the Sitka Shuttle Vessel as the object of the \$31,600,000 allocation. In that case, of course, DOTPF would not have the authority to spend money on the East Baranof Island Terminal Road.

As noted above, we find no constitutional or other legal problems with the bill.

Sincerely,

Bruce M. Botelho
Attorney General

BMB:JBG:jf