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**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FIRST JUDICIAL DISTRICT AT JUNEAU**

ERIC FORRER,

Plaintiff,

v.

STATE OF ALASKA and LUCINDA  
MAHONEY, in her official capacity as  
COMMISSIONER OF THE  
DEPARTMENT OF REVENUE,

Defendants.

Filed in the Trial Courts  
STATE OF ALASKA, FIRST DISTRICT  
AT JUNEAU  
MAY 20 2020

By \_\_\_\_\_ Deputy

Case No. IJU-20-00644 CI

**STATE'S RESPONSE TO PLAINTIFF'S MOTION  
FOR EXPEDITED CONSIDERATION**

The plaintiff, Eric Forrer, filed a complaint for "declaratory relief and potential equitable relief" on Wednesday, May 13, claiming that the Legislative Budget & Audit Committee's (LB&A) approval of a number of Revised Program Legislative Requests (RPLs) relating to proposed expenditure of federal CARES Act funding violated the Alaska Constitution. The Alaska State Legislature reconvened on Monday, May 18, to consider legislation—HB 313—approving the expenditures. That same day, Mr. Forrer moved for a preliminary injunction and for expedited consideration of that motion.

The House passed HB 313 by a vote of 38 to 1 on Tuesday, May 19. Today, the Senate also passed HB 313 by a vote of 19 to 1.<sup>1</sup> The State's position is that HB 313

<sup>1</sup> It is anticipated that HB 313 will be transmitted by the legislature to the governor shortly.

D#2

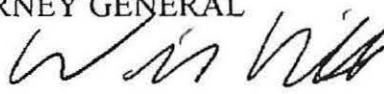
was unnecessary to authorize the Governor's proposed spending of CARES Act funding because such spending was already lawfully authorized through the LB&A process. Nonetheless, the passage of HB 313 has cured the questions about that raised by Mr. Forrer's lawsuit because the full legislature has now ratified the LB&A's approval of the Governor's proposed spending and has approved and authorized the expenditure of the federal receipts. A copy of the bill is attached for the Court's reference.

The State understands that Mr. Forrer has withdrawn his request for emergency injunctive relief to prevent the expenditure of CARES Act funding, making expedited consideration unnecessary. The State plans to file a dispositive motion arguing that this case is now moot by the deadline for its answer.

DATED May 20, 2020.

KEVIN G. CLARKSON  
ATTORNEY GENERAL

By:



Margaret Paton Walsh  
Alaska Bar No. 0411074  
Bill Milks  
Alaska Bar No. 0411094  
Assistant Attorneys General



# LAWS OF ALASKA

2020

Source  
HB 313

Chapter No.  
\_\_\_\_\_

## AN ACT

Approving and ratifying the actions of the governor and executive branch in expending certain federal receipts and of the Legislative Budget and Audit Committee in approving the expenditure of certain federal receipts during fiscal years 2020 and 2021; and providing for an effective date.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Approving and ratifying the actions of the governor and executive branch in expending  
2 certain federal receipts and of the Legislative Budget and Audit Committee in approving the  
3 expenditure of certain federal receipts during fiscal years 2020 and 2021; and providing for an  
4 effective date.

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6 \* **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section  
7 to read:

8       LEGISLATIVE FINDINGS, PURPOSE, AND INTENT. (a) The legislature finds that

9               (1) in December 2019, a novel coronavirus known as severe acute respiratory  
10 syndrome coronavirus 2 (SARS-CoV-2) was first detected in Wuhan, Hubei province,  
11 People's Republic of China, leading to outbreaks of novel coronavirus disease (COVID-19)  
12 that have now spread globally;

13               (2) on March 11, 2020, the governor issued a declaration of a public health  
14 disaster emergency under AS 26.23.020 in anticipation of the spread of COVID-19 to the

1 state; through passage and enactment into law of ch. 10, SLA 2020, the legislature extended  
2 the public health disaster emergency until November 15, 2020;

3 (3) on March 27, 2020, the President of the United States signed into law H.R.  
4 748 (P.L. 116-136, Coronavirus Aid, Relief, and Economic Security Act (CARES Act)) in  
5 response to the COVID-19 pandemic;

6 (4) on March 29, 2020, the legislature recessed the Second Regular Session of  
7 the Thirty-First Alaska State Legislature indefinitely in the face of the COVID-19 pandemic;

8 (5) on April 9, 2020, the President of the United States approved a major  
9 disaster declaration for the State of Alaska;

10 (6) on April 21, 2020, in response to the anticipated receipt of additional  
11 federal receipts appropriated to states as part of the CARES Act that were not specifically  
12 accounted for in passage of the fiscal year 2020 or fiscal year 2021 budgets, the governor  
13 issued a revised program legislative (RPL) package, including RPLs 08-2020-0250  
14 (\$562,500,000), 08-2020-0251 (\$300,000,000), 05-2020-0074 (\$48,000,000), 05-2020-0075  
15 (\$5,000,000), 05-2020-0076 (\$421,500), 08-2020-0054 (\$100,000,000), 12-2020-4049  
16 (\$3,585,351), 25-2020-8766 (\$29,000,000), 25-2020-8771 (\$49,000,000), 25-2020-8772  
17 (\$3,034,100), and 45-2020-0002 (\$5,000,000), under the authority conferred by  
18 AS 37.07.080(h);

19 (7) on May 1, 2020, the governor revised RPLs 08-2020-0250 (\$257,548,754),  
20 08-2020-0251 (\$290,000,000), 05-2020-0074 (\$44,911,411), 05-2020-0075 (\$41,869,617),  
21 05-2020-0076 (\$421,500), 12-2020-4049 (\$3,585,351), 25-2020-8771 (\$49,000,000), 25-  
22 2020-8772 (\$3,034,100), and 45-2020-0002 (\$5,000,000) and issued new RPLs 08-2020-0260  
23 through 08-2020-0382 (\$311,024,132) and 04-2020-1059 (\$10,000,000) under the authority  
24 conferred by AS 37.07.080(h);

25 (8) on May 1, 2020, the Legislative Budget and Audit Committee approved  
26 RPLs 05-2020-0074 (\$44,911,411), 05-2020-0075 (\$41,869,617), 05-2020-0076 (\$421,500),  
27 12-2020-4049 (\$3,585,351), 25-2020-8766 (\$29,000,000), and 45-2020-0002 (\$5,000,000), as  
28 revised;

29 (9) on May 7, 2020, the governor revised RPLs 25-2020-8771 (\$49,000,000)  
30 and 25-2020-8772 (\$1,350,000) and issued new RPLs 25-2020-8776 (\$1,219,100) and 25-  
31 2020-8777 (\$465,000);

1 (10) on May 11, 2020, the governor again revised RPL 08-2020-0251  
2 (\$290,000,000) under the authority conferred by AS 37.07.080(h);

3 (11) on May 11, 2020, the Legislative Budget and Audit Committee approved  
4 RPLs 08-2020-0250 (\$257,548,754), 08-2020-0251 (\$290,000,000), 25-2020-8771  
5 (\$49,000,000), 25-2020-8772 (\$1,350,000), 25-2020-8776 (\$1,219,100), 25-2020-8777  
6 (\$465,000), 08-2020-0260 through 08-2020-0382 (\$311,024,132), 08-2020-0054  
7 (\$100,000,000), and 04-2020-1059 (\$10,000,000), as revised;

8 (12) the approval of the RPLs on May 1, 2020, and May 11, 2020, was in  
9 response to the public health disaster emergency facing the state and was in no way intended  
10 to abdicate the legislature's power of appropriation;

11 (13) the approval of the RPLs has been challenged in court.

12 (b) It is the purpose of this Act to approve the expenditure of federal receipts  
13 proposed by the governor and to ratify the approval of the RPLs identified under (a) of this  
14 section by the Legislative Budget and Audit Committee, in order to remove any uncertainty as  
15 to the status of the expenditures under the RPLs.

16 (c) In authorizing the expenditure of federal receipts as proposed by the governor in  
17 the RPLs identified under (a) of this section, it is the intent of the legislature that the  
18 appropriations identified in the RPLs identified under (a) of this section are increased as  
19 approved by the Legislative Budget and Audit Committee.

20 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 **APPROVAL AND RATIFICATION.** The actions of the governor and executive  
23 branch in expending the federal receipts in accordance with the revised program legislative  
24 (RPL) package identified under sec. 1(a) of this Act and the actions of the Legislative Budget  
25 and Audit Committee in approving the expenditure of federal receipts in accordance with the  
26 RPLs identified under sec. 1(a) of this Act are approved and ratified.

27 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
28 read:

29 **SUSPENSION OF OTHER LAW.** The provisions of sec. 2 of this Act are effective  
30 notwithstanding the provisions of any other law, including AS 37.07.080(h).

31 \* **Sec. 4.** This Act is retroactive to May 1, 2020.

1      \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

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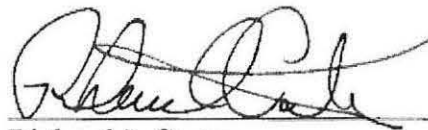
Defendants.

Case No. IJU-20-00644 CI

**CERTIFICATE OF SERVICE**

I hereby certify, that on this date, true and correct copies of the **State's Response to Plaintiff's Motion for Expedited Consideration** and this **Certificate of Service** were served via email on the following:

Joseph W. Geldhof  
Law Office of Joseph W. Geldhof  
joeg@alaskan.com



Richard J. Carter  
Law Office Manager

5/20/20  
Date