

LEGAL SERVICES

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MEMORANDUM

July 24, 2017

SUBJECT: Payment to restorative justice account (HB 216;
Work Order No. 30-LS0572\U)

TO: Representative Chuck Kopp
Attn: Erick Cordero-Giorgana

FROM: Hilary V. Martin *Hilary Martin*
Legislative Counsel

You have asked whether payments from offenders to reimburse the state can be placed in the restorative justice account or if the payments have to go into the general fund.

HB 216 creates the restorative justice account as a separate account in the dividend fund. Each year, the commissioner of revenue is required to transfer from the dividend fund to the restorative justice account an amount equal to the amount that would have been paid during the previous fiscal year to individuals who were ineligible to receive dividend under AS 43.23.005(d) if they had been eligible. The money in the restorative justice account is to be used for a variety of purposes, including to pay outstanding balances on orders of restitution. A person who is subject to an order of restitution and has all or part of that order paid through the restorative justice account is required to reimburse the state for the amount paid out.

Generally speaking, any money received by the state goes into the general fund. If the money paid by an offender under an order of restitution is paid directly into the restorative justice account, you risk violating the dedicated funds provision.¹ However, it is possible for the legislature to appropriate the money reimbursed to the state from the general fund to the restorative justice account. If you want to have the legislature appropriate the reimbursement back to the restorative justice account, it would be advisable to add language to that affect to the bill.

If I may be of further assistance, please advise.

HVM:boo
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¹ Art. IX, sec. 7, Constitution of the State of Alaska, states:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.