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LD 2110
Public Purpose Expenditures

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February 14, 1978

Honorable James R. McBreairty
House of Representatives
State House
Augusta, Maine

Dear Representative McBreairty:

This responds to your request for an opinion on the question of whether L.D. 2110 presents any constitutional problems. Specifically, we understand your interest in whether constitutional problems are presented in L.D. 2110 by its authorization of the expenditure of tax funds to subsidize a private commuter air service and the fact that the subsidized service might be in competition with other private services over part of its route.

Initially, we would note that we have no knowledge of the extent to which the service which may be subsidized as a result of L.D. 2110 would be in competition with other services. We would note that L.D. 2110 would appear to authorize an experimental subsidy for services to areas not presently served.

As to the remainder of your question, the key concern would appear to be whether the contemplated expenditures of county funds are consistent with the constitutional doctrine that public funds must be spent for public purposes. Jones v. City of Portland, 113 Me. 123 (1915), affirmed 245 U.S. 217. The initial section of the bill, presenting findings by the Legislature, would appear to indicate the importance of such a subsidized air service to the public health and welfare. We believe that the legislative statement presents a sufficient basis for the subsidy to stand the public purpose test. We would note that, particularly in the transportation area, subsidies are widely used at both the state and federal level to support private transportation services. For example, the federal government has, for a long time, subsidized the operations of many airlines.

Accordingly, we find the expenditures contemplated by L.D. 2110 are not inconsistent with the requirement that public funds be spent for public purposes and that, therefore, the expenditure of such funds would not, in itself, raise constitutional problems.

I hope this information is helpful.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec

cc: Hon. Carl W. Smith
Hon. Edward A. McHenry
Hon. Frank Peltier
Hon. Dennis Violette