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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

DD/GB/PC
STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

February 23, 1990

The Hon. Dave Donley, Chair
House Labor & Commerce Committee
P.O. Box V
Juneau, AK 99811

Re: SB 88 -- Investment Securities
under the UCC

Dear Representative Donley:

This bill, which revises Article 8 of the Uniform Commercial Code (AS 45.08) to deal with uncertified securities, unanimously passed the Senate last month. It is currently pending before the House Labor and Commerce Committee. By letter dated February 2, 1990, Art Peterson requested an early hearing on this bill in your committee. I would like to reiterate that request at this time.

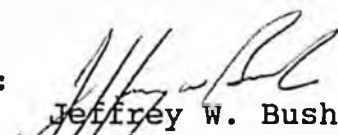
Enclosed for your reference is a copy of an article recently published by the National Conference of Commissioners on Uniform State Laws. This article concludes that it is very important for those few states that have not yet adopted the revised UCC Article 8 to do so, in order to avoid federal preemption in this area. I therefore urge your committee's prompt action on this measure.

Thank you for your consideration of this request. Please feel free to contact Art Peterson or me if you have any questions or need any additional information.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By:


Jeffrey W. Bush
Assistant Attorney General and
Dept. of Law Legislative Liaison

The Hon. Dave Donley, Chair
House Labor & Commerce Committee

February 23, 1990
Page 2

JWB:jf

cc: Arthur H. Peterson, Assistant Attorney General
Department of Law

Bob Evans, Legislative Liaison
Office of the Governor

Willis Kirkpatrick, Director
Division of Banking, Securities and Corporations
DCED

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 406
FAIRBANKS ALASKA 99701-4679

February 2, 1990

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

Hon. Dave Donley, Chair
House Labor & Commerce Committee
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Re: SB 88, investment securities under
the UCC

Dear Rep. Donley:

Please schedule an early hearing for this bill, which is now in your committee. As I have mentioned, and as John McCabe, of the National Conference of Commissioners on Uniform State Laws, testified at the joint House/Senate Labor and Commerce Committee hearing last April, the bill, although lengthy, presents a single basic idea: provide a statutory basis for uncertificated securities. In doing so, it answers a great number of questions that Alaska law does not now cover. Only a few states, including Alaska, have not yet enacted these amendments.

Thank you for your consideration.

Yours truly,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

AHP:cl

cc: Willis Kirkpatrick, Dir.
Division of Banking, Securities
and Corporations
Department of Commerce &
Economic Development

Bob Evans, Legis. Liaison
Governor's Office

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

88

January 9, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

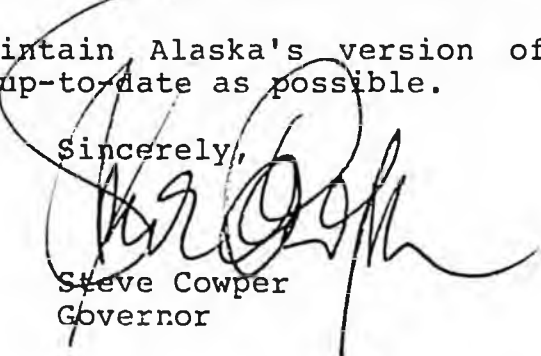
Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to enact the 1977 amendments to Article 8 of the Uniform Commercial Code, on investment securities. These amendments were developed by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in cooperation with the American Law Institute and the American Bar Association. These amendments, already enacted in 35 states, are essential to update Alaska's version of the Uniform Commercial Code (UCC) and recognize modern methods and necessities of financial transactions.

In trading securities, electronic transfers have become quite common and may, ultimately, make paper certificates obsolete. This bill proposes to keep up with these changes in the securities industry by introducing the concept of uncertificated securities. In the new Article 8 (AS 45.08 in Alaska's version of the UCC), the term "instrument" will no longer imply the existence of specific pieces of paper that act as evidence of obligations between people. These amendments have been endorsed by the Securities Industry Committee of the American Society of Corporate Secretaries.

This bill proposes to maintain Alaska's version of the Uniform Commercial Code as up-to-date as possible.

Sincerely,


Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to investment securities
under the Uniform Commercial Code."
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached

The zero fiscal projection continues through 1996. 1/11/90 MSL

Prepared by: Richard I. Peques, Director
Division: Administrative Services
Approved by Commissioner: Grace Berg. Schaible, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: November 10, 1988
Date: November 10, 1988

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. _____

This bill substantially amended Article 8 of the Uniform Commercial Code (AS 45.08 in Alaska's version) in accordance with recommendations of the National Conference of Commissioners on Uniform State Laws (NCCUSL) in cooperation with the American Law Institute and the American Bar Association. This amended version of Article 8 modernizes the regulation of investment securities by recognizing the existence of uncertificated securities that have resulted from computerized securities transactions. Many of the investment securities financial transactions that take place today are accomplished by electronic means, without the issuance of certificates, because of the shear load of paper certificates that have hampered and burdened the financial markets. The amendments to Article 8 contemplate the elimination of much of the paper certificates formerly used in financial transactions. These amendments have been endorsed by the Securities Industry Committee of the American Society of Corporate Secretaries, and they have already been adopted by 35 states. It is not anticipated that the changes proposed in the UCC will have any direct fiscal impact on the Department of Law, because they deal with private sector transactions.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 88 (b)
PUBLISH DATE: 1/9/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Investment Securities under the
Uniform Commercial Code
Sponsor: Rules
Requestor: Governor

Agency Affected: Department of Revenue
BRU: Treasury
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: December 29, 1988

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: December 29, 1988

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

The zero fiscal projection continues through 1996. MGL 1/11/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: UCC investment securities
Sponsor: Rules Committee
Requestor: Governor Cowper

Agency Affected: Natural Resources
BRU: Management and Administration
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This bill does not affect the Department of Natural Resources.

The zero fiscal projections continue through 1996. MGL 1/11/90

Prepared by: Carol Wilson Phone: 465-2400
Division: Commissioner's Office Date: 11/23/88

Approved by Commissioner: *Sennie Grosch* Date: 11-28-88
Agency: Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 17, 1990

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 3/20/90

The LABOR & COMMERCE Committee considered:

SB 88

SENATE BILL NO. 88

UCC - INVESTMENT SECURITIES

"An Act relating to investment securities under the Uniform Commercial Code."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
- [] have attached amendment(s) [] a new title
- [] do pass
- [] do not pass
- [✓] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): _____ APPROVES PREVIOUS: _____
 (Dept) (Date/Dept)

- [] fiscal impact _____ [] fiscal note(s) _____
- 2 [✓] zero fiscal note Dept. Revenue Natural Resources [] zero fiscal note(s) _____
- [✓] zero with analysis Dept of Law [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
 (Check approv. column)

		Do Not Pass	No Rec	Amend
_____	Dave Douby	✓		
Member Boyer	Paul H. Finley	✓		
Mr. [unclear] Granberg	Ed O. [unclear] Bowler	✓		
Soren A. [unclear] [unclear]	[unclear] Collins	✓		



 Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: March 22, 1990
 Title: "An Act relating to investment securities under the Uniform Commercial Code."
 Sponsor: Rules Committee/By Request of Governor
 Requestor: House Labor and Commerce
 Agency Affected: Department of Law
 BRU: Legal Services
 Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard L. Pegues

Prepared by: Richard L. Pegues, Director
 Division: Administrative Services

Phone: 465-3672
 Date: March 22, 1990

Approved by Commissioner: Douglas B. Bailly, Attorney General
 Agency: Department of Law

Date: March 22, 1990

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 88

This bill substantially amends Article 8 of the Uniform Commercial Code (AS 45.08 in Alaska's version) in accordance with recommendations of the National Conference of Commissioners on Uniform State Laws (NCCUSL) in cooperation with the American Law Institute and the American Bar Association. This amended version of Article 8 modernizes the regulation of investment securities by recognizing the existence of uncertificated securities that have resulted from computerized securities transactions. Many of the investment securities financial transactions that take place today are accomplished by electronic means, without the issuance of certificates, because of the shear load of paper certificates that have hampered and burdened the financial markets. The amendments to Article 8 contemplate the elimination of much of the paper certificates formerly used in financial transactions. These amendments have been endorsed by the Securities Industry Committee of the American Society of Corporate Secretaries, and they have already been adopted by 35 states. It is not anticipated that the changes proposed in the UCC will have any direct fiscal impact of the Department of Law, because they deal with private sector transactions.

Federal Preemption Remains a Serious Threat to the UCC

Article 8 of the Uniform Commercial Code once again faces a serious threat from the Federal Government. The Market Reform Act of 1989, which has been proposed to the U.S. Congress jointly by the Securities and Exchange Commission (SEC) and the Treasury Department, would, if enacted, amend the Securities Exchange Act of 1934 and preempt an undetermined portion of Article 8 and affect Article 9 as well.

The Market Reform Act (Senate Bill 648) will most likely move to the floor sometime in the coming year. The bill has four principal provisions dealing with: large stock and options trader reporting; risk assessment for holding company systems of securities firms; coordinated clearing and settlement of securities transactions, including federal preemption of UCC Article 8; and emergency market trading suspensions.

The threat of preemption actually started with the stock market crash of October 1987. The huge market movements that occurred created margin and other settlement obligations within the stock, option, and futures markets that involved extremely large cash payments. Because many of the participants in each of these markets also participate in other markets, the size of these cash flows were larger than would have been required if clearance and settlement of products in these markets were coordinated. The tremendous cash flows necessitated by the lack of coordinated settlements placed great strains on our nation's payment systems, and deprived the trading markets of liquidity at a time when it was most needed.

Several reports noted this problem and suggested that improvements in clearance and settlement, and specifically increased intermarket coordination, are among the important reforms needed. The SEC report cites the lack of uniformity between the states in the area of transfers and pledges of uncertificated securities as a contributing factor. The report specifically notes that not all the states have adopted the Article 8 Amendments to the UCC.

Section 17A(f)(1) of the Securities Exchange Act, as amended, would authorize the SEC to promulgate rules concerning the transfer and pledge of certificated and uncertificated securities. Paragraph (f)(1) would authorize the SEC to preempt state commercial laws (such as Article 8 of the Uniform Commercial Code) governing transfer and pledge of securities, but only upon making three affirmative findings: (1) that the rule is necessary or appropriate for the protection of investors or in the public interest and is reasonably designed to promote the prompt, accurate, and safe clearance and settlement of securities transactions; (2) that in the absence of a uniform rule, the safe and efficient operation of the national system for clearance and settlement of securities transactions will be, or is, substantially impeded (for example, due to the lack of scope or inconsistent standards of such state laws); and (3) that to the extent such rule will impair or diminish directly or indirectly rights of investors under state law concerning transfers of securities, that the benefits of such rule exceed the detriment to investors.

Obviously this is a serious threat to Article 8 of the UCC. The Article 8 Amendments have still not been adopted in ten states and the District of Columbia. Five states picked up the legislation in 1989, but this is not enough. The only sure way to stop federal preemption is to complete adoptions of UCC-8 everywhere.

The Market Reform Act of 1989 is likely to go to the floor for discussion early in the new year. With 11 jurisdictions still without Article 8, federal preemption is a real possibility, but one that can certainly be avoided with prompt action on our part.

To maintain the UCC as the preeminent work of the Conference will require diligent effort on all our parts. Changes in business practices and technological developments have assured changes in the UCC. It must evolve as business practices do. Commissioners cannot be slow in pressing for adoption of UCC amendments as they are completed.