

HB

217

# HOUSE COMMITTEE REPORT

(9) Date Referred: March 10, 1993 FURTHER REFERRALS: Judiciary

Date of Committee Action: 3-24-93

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 217

HOUSE BILL NO. 217 NATIVE CORPORATION DIVIDENDS TO MINORS

"An Act relating to Native corporation dividends and other distributions due to minors in state custody."

- RECOMMENDATIONS: [ ] the same title  
 be replaced with \_\_\_\_\_ [ ] a new title
- [ ] have attached amendments(s)  
 do pass  
 [ ] do not pass  
 [ ] no recommendations  
 [ ] individual recommendations  
 [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

- ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)
- [ ] fiscal impact \_\_\_\_\_ [ ] fiscal note(s) \_\_\_\_\_
- zero fiscal note H+SS [ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>		<i>[Signature]</i>	X		
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	
Betty Davis	✓				
Irene Nicholas	✓				
Tom Bruce	✓				

*[Signature]*  
 CHAIRMAN'S SIGNATURE

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 217

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: An Act relating to Native corporation BRU: Family and Youth Services  
dividends and other distributions due to minors in state.." Component: Southeast, Southcentral, Northern, &  
 Sponsor: REPRESENTATIVE MACLEAN Central Office  
 Requestor: HOUSE HESS Committee COMPONENT SERIAL NO. 0258 0254 0255 0259

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE</b>						
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**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: NONE

**ANALYSIS:** (Attach a separate page if necessary)

There would be no fiscal impact to the department if this bill were to become law. Any additional administrative support or line staff services needed would be absorbed by already existing resources.

Prepared by: Deborah R. Wing, Director *Deborah R. Wing* Phone: 465-3191  
 Division: Department of Health & Social Services Date: 03/16/93

Approved by Commissioner: Theodore A. Mala, MD, MPH *Theodore A. Mala* Date: 3/22/93  
 Agency: Department of Health & Social Services

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*Fiscal Note - H+SS*

## SPONSOR STATEMENT

HB 217

Representative Eileen P. MacLean

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The purpose of HB 217 is to require Native corporation's under the Alaska Native Claims Settlement Act (ANCSA) to hold a minor's dividends in an interest bearing account while the minor is in custody of the state.

With the passage of ANCSA on December 18, 1971, unique Native regional corporations were established and every Alaska Native became eligible to receive 100 shares of a regional corporation stock. Under the original act, the stock was inalienable and could not be sold or otherwise transferred, (except by inheritance), until December 18, 1991. Stock was limited to living Natives as of December 18, 1971. Those born after that date, "afterborns", could only acquire stock by inheritance.

The creation of ANCSA corporations resulted in a new class of minor's who were similarly situated in that they were eligible for 100 shares of Native corporation stock. In an effort to insure protection of dividend funds for minors in state custody the state filed a class action suit to assure that dividends were protected and spent for the child's benefit while in state custody. Because the stock was issued only to Alaska Natives living on December 18, 1971 and the restrictions on stock ownership were set to expire on December 18, 1991, the issue of protecting dividends of minors in state custody was temporary.

In 1987, Congress amended ANCSA and extended the alienability of Native corporation stock indefinitely. The federal amendments to ANCSA have brought back the issue of dividend protection for children in state custody and raised the need for a permanent solution. As a result, the Department of Health and Social Services and Native corporations have requested this legislation.

HB 217 adds a new section to corporations organized under the Alaska Native Claims Settlement Act requiring the corporation to set up interest bearing accounts for minors held in state custody under the child-in-need-of-aid category. The bill prohibits the corporation from using the property in the account unless approved by a court and specifies when corporations can distribute property.

*Sponsor Statement*

Sponsor Statement

HB 217

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HB 217 exempts the retention and distribution of dividends and distributions under this legislation from the Uniform Transfers to Minors Act (UTMA). UTMA sets out requirements for custodians of Native corporation stock. HB 217 does not affect the procedure or requirements for custodians of Native corporation stock, it requires Native corporations to hold dividends in an interest bearing account while a minor is in state custody.

The Department of Health and Social Services is in support of the bill. HB 217 has a zero fiscal note.

DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

COPY

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FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

MEMORANDUM

March 10, 1993

**SUBJECT:** Sectional Summary of HB 217

**TO:** Representative Eileen MacLean  
Attn: Rena

**FROM:** Theresa L. Bannister *TB*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Adds a new section to the chapter on for-profit corporations.

Sec. 10.06.961(a) requires a Native corporation organized under AS 10.06 and under the Alaska Native Claims Settlement Act (ANSCA) to retain a minor's dividends and other distributions in an interest-bearing account while the minor is in the custody of the state under AS 47.10.010(a)(2) (child-in-need-of-aid category).

Sec. 10.06.961(b) prohibits the corporation from using the property in the account unless the use is approved by a court.

Sec. 10.06.961(c) tells the corporation when it can distribute the property in the account.

Sec. 10.06.961(d) states that the retention and distribution of dividends and distributions under this section is not subject to the Alaska Uniform Transfers to Minors Act (AS 13.46).

Sec. 10.06.961(e) defines "minor" for the section.

Section 2. Is a transition provision for sec. 1. States that sec. 1 doesn't apply to dividends paid, or distributions made by the corporation before sec. 1 takes effect.

TLB:gc  
93-219.glc

Sectional Summary

POSITION PAPER

HB 217

For An Act Entitled: "An Act relating to Native corporation dividends and other distributions due to minors in custody."

Background

When the Alaska Native Claims Settlement Act (ANCSA) became law on December 18, 1971 every living Alaska Native was entitled to 100 shares of stock in a regional native corporation and depending on the residence location to become a shareholder in a village corporation as well. Alaska Natives born after December 18, 1971 ("afterborns") could become shareholders only by inheritance.

With very limited exceptions, corporate stock in regional and village corporations could not be sold or otherwise disposed of until December 18, 1991. On that date the stock in regional and village corporations was to be canceled and new shares issued. The new stock was to be with out the restrictions or alienation that was required originally issued under ANCSA. Congress amended ANCSA prior to December 18, 1991 and retained the alienability of native corporation stock. This action holds the stock to the original restrictions under the act.

A class action suit was brought on behalf of children in the custody of the department (Ak. v Ahtna) to assure that stock dividends were protected from irresponsible expenditure by the minor's parent(s). Trust accounts were established at Alaska banks on behalf of those children in custody of the department and notice was given to the trust officer by the department when a child entered or left state custody. This process ended when the original dividend holders reached the age of majority and protection of their assets was no longer a fiduciary issue.

Now the issue of "after born" dividend holders has brought back the need for protection of dividend funds for minors that are in the department's custody.

Analysis/Program Impact

The department recognizes the need for protection of dividends paid to minors in the department's custody. Failure to establish these protection exposes children to exploitation by irresponsible parents or guardians.

The department believes that the native corporations are best able to protect dividends that are issued to "after born " children. This belief supports self determination for Alaska Native children by enabling the corporations to act in the best interests of the child by ensuring that the child is the ultimate benefactor of the dividend.

The department would work with corporations to identify children enrolled in corporations distributing dividends when those children enter and leave custody. When custody orders are entered for a Alaska Native youth enrolled in an ANCSA corporation the department will provide the information to the corporation so that the proper account for the funds may be established.

DEPARTMENTS POSITION

The department strongly supports this bill as it would protect the dividends of the "after born" children entering or leaving state custody. It supports the underpinnings of the department's mission to act in the best interests of the child while at the same time supporting self determination by enabling the corporation to act as the child's fiduciary.

Recommended: Deborah R. Wing Date: 3/22/93

Deborah R. Wing, Director  
Division of Family and Youth Services

Approved: Theodore A. Mala Date: 3/22/93

Theodore A. Mala MD, MPH  
Commissioner  
Department of Health and Social Services

*Flewa*



March 12, 1993

Representative Eileen MacLean  
House of Representatives  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear Eileen:

This letter is being sent in support of HB 217 which will give native corporations authority to create dividend accounts for minor shareholders under state custody.

Arctic Slope Regional Corporation has received requests from shareholders for the Board of Directors to authorize the establishment of accounts for minors under State custody to insure that the minors' benefits are protected, so the passage of HB 217 will be of benefit for our shareholders.

HB 217 will help give ASRC authority to create dividend accounts and save the dividends of the minor shareholders so that these dividends can be used on their behalf or dividends can be held in that account until the minor reaches the age of 18 years.

ASRC has minor shareholders under the care of immediate family members because natural parents are incarcerated but custodianship is still under the natural parents and they are not willing to relinquish custodianship. Unless there is a court order terminating parental rights and legal guardianship appointed dividends have to be issued to the custodian of record.

I have asked our legal counsel to review this proposal further to see if there are additional matters we would like to see addressed in this Bill and will advise you as soon as possible if there are such additional matters.

Arctic Slope Regional Corporation highly recommends the passage of HB 217 so that the rights of minor shareholders can be protected.

Quyanaqpak, Eileen!

Sincerely,

A handwritten signature in cursive script that reads "Flossie Chrestman".

Flossie Chrestman  
Corporate Secretary

*Letters of Support*

COOK INLET REGION, INC.

March 23, 1993

Eileen MacLean  
House of Representatives  
State Capitol  
Room 507  
Juneau, AK 99801-1182

Re: House Bill No. 217, "An Act relating to Native corporation dividends and other distributions due to minors in state custody"

Dear Representative MacLean:

CIRI strongly supports House Bill No. 217 as an attempt to close a gap in the law that endangers the interests of minor shareholders who have been placed in the custody of the state as children in need of aid.

The Alaska Uniform Transfers to Minors Act ("AUTMA") requires Native corporations such as CIRI to make distributions on behalf of a minor shareholder to the adult who has been appointed custodian for that minor's stock pursuant to the AUTMA. That requirement creates a troubling situation when the State has removed physical custody of the child from that adult, who nevertheless remains custodian of the stock presumably until the special provisions of the AUTMA for terminating stock custodianships have been invoked. House Bill No. 217 should remedy that situation and help protect the minor shareholder's dividends from misuse.

I do have two comments regarding the legislation as currently drafted. First, I note that it applies only to minors in the custody of the State of Alaska and not to those in the custody of other states. CIRI (and, we believe, many other Native corporations) typically has several minor shareholders at any given time who are in the custody of states other than Alaska. The Alaska Statutes (A.S. 13.16.705(e)) make Alaska the situs of ANCSA stock regardless of where the shareholder lives, thus affording all Alaska Natives—residents of Alaska and non-residents alike—uniform and consistent rules regarding their ANCSA stock. The AUTMA itself purports to apply to all custodianships of ANCSA stock, again without regard to the residence of either the transferee or transferor shareholder. I suggest that House Bill No. 217 be broadened to extend the same protection to minors in the custody of other states, since in all other aspects their situation is the same as that of children in need of aid in Alaska.

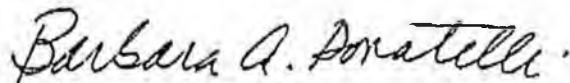
Eileen Mac'lean  
March 23, 1993  
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Second, the draft legislation provides for the distribution to the legal guardian of the minor of all monies held if state custody terminates while the minor is under eighteen. I note this potential problem: Unless the original stock custodian has been removed by court order in accordance with the AUTMA, and a new custodian appointed, the question will arise whether subsequent distributions must still be delivered to the original stock custodian, even if physical and legal custody of the child himself has been removed from that person.

On behalf of CIRI, I am gratified that efforts are being made to fill a gap in the statutes to resolve a problem that seriously affects certain of our shareholders.

Very truly yours,

COOK INLET REGION, INC.



Barbara A. Donatelli  
Vice President, Administration

cc: Roy Huhndorf  
Carl Marrs

Date: March 11, 1993

To: The Board of Directors of Arctic Slope Regional Corporation  
P.O. Box 129  
Barrow, Alaska 99723

Dear: Members of the Board:

Hello, my name is Bertha E Akpik, Akootchook, I am a shareholder of Arctic Slope Regional Corporation. On behalf of the minor children involved, I would like to take time to put in writing my concern which has been on my mind for quite some time now, and because I believe that it is a very sensitive issue which may affect and address some shareholders and their children of this corporation, I feel it is best and appropriate for me to put it into writing for the record instead of addressing it to the general public so that I may unintentionally direct it to anyone who may fall under this category.

As you all may know, my younger sister, Nellie Ruth Akpik Itta died of an untimely death as a result of domestic violence, and because of the nature of her death the children have been pretty much left as orphan's since their father, by law; has been granted an order not to have any contact with the minor children.

Since the tragedy, the immediate family of Nellie R Itta has taken on the responsibility of raising these four children.

Leonard and I have been granted physical custody of Nora Marie and Robert Thomas Jr., Mr. and Mrs. Max Akpik of Wainwright have been granted the physical custody of Ellis Mathew, and my mother Mrs. Marjorie Akpik and Miss Theresa Akpik have been granted dual physical custody of the youngest child, Ellen Joyce.

By State law, Division of Family and Youth Services have obtained legal custody of the minor children of Robert and Nellie Itta (deceased). But according to the Arctic Slope Regional Corporation Stock records, these children are still in the under the legal guardianship of Robert Allen Itta, Sr,. As we know, A.S.R.C. dividends were distributed in December of 1992. and since the stock records show that Robert Itta, Sr. is still the legal guardian of the minor children involved; we, the PHYSICAL CUSTODIANS were unable to retrieve the dividends for these children. I have unsuccessfully requested from Robert Itta Sr to sign an ASRC "Waiver" of Custodianship and turn over the legal guardianship regarding ASRC shares over to the members of the family but have only received negative response from him. That is why I am requesting your support to consider awarding those dividends which are still being held at A.S.R.C. to the children to be used for the benefit of the children. I would also like to thank Michael Stotts and his staff for their efforts to assist me.

In closing , I highly recommend that the Board of Directors establish an account program similar to the Alaska Permanent Dividend Fund application to insure that the rightful gaurdian receives the dividend on behalf of the minor child who is living with them, whether he or she is, or isn't in State Custody. i.e: aunt, uncle, grandparents., and, or establish a trust fund account for other children who are in long-term legal custody of the state.

Thank you for your time in voicing my concern. If you have any questions you can reach me at 852-5590.

Sincerely,

*Bertha E. Akootchook*

Bertha E Akootchook  
P.O. Box 251  
Barrow, Alaska 99723

C.C: Dept of H.S. S.