

SB

36

<TARGET><BILL>SB 36</BILL><SUBJECT>SB
36</SUBJECT><COMM>SSTA27</COMM></TARGET>

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sponsor Statement

Senate Bill 36

“An Act relating to an opt-out charitable giving program offered by an electric or telephone cooperative”

Senate Bill 36 gives statutory authority for electric and telephone cooperatives to offer an opt-out charitable giving program to their members, when the program has been approved by a majority of the membership. More than 250 electric cooperatives across the U.S. have implemented similar successful programs.

Senate Bill 36 allows the cooperative's members the opportunity to participate in a charitable giving program that will round their monthly bill to the next whole dollar amount, not to exceed 99 cents a month.

Under SB 36, the participating cooperative would clearly have to identify on each monthly billing statement the amount voluntarily added to a member's bill, after rounding to the next whole dollar, and provide instruction on how to opt out of the program, should a member so choose.

The monies collected under SB 36 may only be used for charitable donations and members are given the opportunity to claim a full refund of all amounts they paid under the program for at least the three preceding years.

Based on the collective generosity of cooperative members, charitable donations will add up quickly. Funds will then be disbursed back into the community to benefit qualified organizations and help neighbors in need.

I urge you to join me in supporting this important charitable giving program.

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sectional Analysis

Senate Bill 36

“An Act relating to an opt-out charitable giving program offered by an electric or telephone cooperative”

Section 1: AS 10.25.010(a) Authorizes and electric or telephone cooperative to offer an charitable giving program.

Section 2: AS10.25.237 Adds a new section to statute that describes the framework and requirements for the cooperative charitable giving program.

Section 3: AS 45.45.930 Clarifies that the this charitable giving program does not conflict with AS 45.45.930.



Goodcents at a Glance

January 2011

About the program

Goodcents, in the sense that it is a round up program, is not new. More than 250 electric cooperatives across the U.S. have implemented similar programs. And they have been wildly successful.

In 2010, GVEA's Member Advisory Committee suggested the co-op initiate a round-up program. The board of directors agreed it would benefit the cooperative and an amendment to the Bylaws allowing such a program was sent out for membership vote in the 2010 elections. This is how it was worded on the ballot:

GVEA Bylaw, Section 8. Utility Bill Round-up Program

The Cooperative may establish a program to permit members to round up their bills to the nearest dollar. The monies collected shall be used for charitable purposes in the Cooperative's service area. Members may be automatically included in this program, but may voluntarily choose not to participate in the program by request to the Cooperative.

Discussion: ... "This Section allows GVEA to form a fund to assist community organizations, but members may voluntarily choose not to participate. More than 250 electric co-ops have Operation Round Up programs. Approval of this amendment would make GVEA the first in Alaska with such a community-oriented program."

More than 70 percent of the membership that cast a ballot voted in favor of a round up program.

How the program will work

Goodcents will round up a monthly electric bill to the next highest dollar. For example, a bill of \$97.65 will round up to \$98.00 with the additional 35 cents going to the Goodcents fund. The small change, about 50 cents per bill per month, will add up quickly. The funds will be dispersed to qualified organizations and individuals in need on a quarterly basis by the Goodcents Board of Trustees. The goal of the program is to help build a stronger community.

RCA Approval

In October, the RCA approved GVEA's amended tariff sheets for Goodcents. At the same time, they cautioned us that Goodcents may be in conflict with Alaska Statute 45.45.930, dealing with Opt-out Marketing Plans. Shortly thereafter, we received a letter from Senior Assistant Attorney General, Ed Sniffen, expressing the same concern.

GVEA had two options, hold fast to our attorney's written opinion that Goodcents was not in conflict with AS 45.45.930, or pursue a legislative fix. We decided the best course of action was a legislative solution.

After meeting with Assistant AG Ed Sniffen and Senator Meyer's chief of staff, Josh Applebee about the situation, both agreed to support our efforts in a legislative solution.

Where we are now

Legislation has been introduced into the 27th Legislative session to formally authorize electric and telephone cooperatives to offer opt-out charitable giving programs. Senate Bill 36 was introduced by Senator Joe Thomas (D), Fairbanks and was referred to the State Affairs and Judiciary Committees.

SB 36 includes two provisions. The first to Alaska Statute 10.25.237, were it provides authorization for telephone or electric cooperatives to offer an opt-out charitable giving program. The second is an amendment to AS 45.45.930, which provides clarification that AS 45.45.930 does not apply to telephone or electric cooperative opt-out charitable giving programs.

<http://www.gvea.com/goodcents/>

Goodcents Start Date: March 1, 2011 (earliest anticipated start date)

GVEA President and CEO Brian Newton answers two common questions.

You have good questions about the Goodcents program. Here are a couple of the most frequently asked questions answered:

What is Goodcents?

It's a program that rounds up a monthly electric bill to the next highest dollar. For example, a monthly bill of \$97.65 would be rounded up to \$98.00, with the additional 35 cents going to the Goodcents fund. This small change, about 50 cents per month, will raise thousands of dollars every year that will go to building a stronger community.

Who chose to implement this round-up program?

In the spring of 2010, all GVEA members were mailed Bylaw election ballots. The addition of a round-up program, or Goodcents, was one of the ballot initiatives members were asked to vote on. More than 70 percent voted in favor of a round up program.

Why should I participate?

Goodcents is an inexpensive and easy way to give back to your community. The average member will give \$6 per year; that's a mere 50 cents per month.

If I have multiple accounts, will they all be rounded up?

Yes. Every GVEA account will be rounded up to the nearest whole dollar. If you would prefer only certain accounts participate, please contact us.

Are my contributions tax deductible? Come tax time, how will I know how much I contributed over the year?

Yes, these contributions can be considered tax deductible, charitable donations. On your bills during first quarter of each year, we will include a line indicating how much you contributed over the previous year.

Who can apply for funds?

Non-profit groups and individuals/families in need in our service territory are welcome to apply. Groups based outside of our service territory are also welcome to apply if their works affect those in our service territory.

Why is GVEA automatically enrolling everyone in the program and requiring us to opt-out, rather than asking members to join?

Golden Valley's Member Advisory Committee and Board of Directors debated the notion of automatically enrolling all members versus voluntary enrollment. Research among the more than 250 cooperatives nationwide participating in similar programs showed we would have much better involvement if we chose the former. It's not because people don't want to participate, it's because most people simply wouldn't take the initiative to contact us to sign up.

The program is voluntary in the sense that a member can choose not to participate at any time.

What do I do if I don't want to participate in Goodcents?

If you choose not to participate, all you have to do is call GVEA at (907) 458-4522 or email goodcents@gvea.com.

In addition, if anytime in the first three years you decide you want your money back, let us know and we'll refund the entire amount you've contributed.

Members

as of Dec. 31, 2009

7,639

1,823

81,047

2,966

1,498

43,547

28,648

305

1,284

3,991

1,289

70

55,567

190

1,113

1,456

108

351

232,892

Electric Cooperatives

Alaska Village Electric Cooperative, Inc. AVEC

Barrow Utilities & Electric Cooperative, Inc. BUECI

Chugach Electric Association, Inc. CHUGACH

Copper Valley Electric Association, Inc. CVEA

Cordova Electric Cooperative, Inc. CEC

Golden Valley Electric Association, Inc. GVEA

Homer Electric Association, Inc. HEA

Inn Electric Cooperative, Inc. INNEC

Inside Passage Electric Cooperative, Inc. IPEC

Kodiak Electric Association, Inc. KEA

Kotzebue Electric Association KOTZ

Levelock Electric Cooperative

Matanuska Electric Association, Inc. MEA

Middle Kuskokwim Electric Cooperative MKEC

Naknek Electric Association, Inc. NEA

Nushagak Cooperative, Inc. NC

Tanalian Electric Cooperative TEC

Unalakleet Valley Electric Cooperative UVEC

209,603 90% Participation Rate (members)

\$ 104,801 Avg donation of \$.50 per month

\$ 1,257,617 Annual amount raised if all electric cooperatives adopted an opt-out charitable giving program



CORDOVA
ELECTRIC
COOPERATIVE, INC

P.O. Box 20, 705 Second Street, Cordova, Alaska 99574-0020 * (907) 424-5555 * Fax (907) 424-5527

February 4, 2011

Alaska State House of Representatives
House Labor and Commerce Committee
Representative Kurt Olsen, Chair

RE: House Bill 114, Opt-out Charitable Giving by Cooperatives

Dear Sirs,

Cordova Electric Cooperative supports adoption of HB 114. One of the core tenants of the Cooperative model is that of democratic membership control. As a private, non-profit corporation solely owned by the rate-paying members of the Cooperative, the members are financially vested as equity owners. Members of a Cooperative have the freedom to adopt charitable giving programs to benefit the sustainable development of their communities either by a direct vote to amend their bylaws, or by a vote of their elected board of directors to adopt a policy. The Laws of the State of Alaska should not intervene.

In the opt-out charitable giving programs, the members are free to participate or decline thus retaining their freedom of choice in the matter. I strongly encourage you to recommend this bill for adoption, recognizing that it allows Cooperatives the freedom to exercise their democratic membership control to adopt either opt-in or opt-out charitable giving programs should they choose to engage in charitable giving programs within their communities.

Sincerely,

Clay R. Koplín
CEO
Cordova Electric Cooperative



Homer Electric Association, Inc.

Corporate Office
3977 Lake Street
Homer, Alaska 99603-7680
Phone (907) 235-8551
FAX (907) 235-3313

Central Peninsula Service Center
280 Airport Way
Kenai, Alaska 99611-5280
Phone (907) 283-5831
FAX (907) 283-7122

February 4, 2011

House Labor and Commerce Committee
Representative Kurt Olson, Chair
Capitol Building, Room 24
Juneau, Alaska 99801

Dear Chair Olson, Vice-Chair Johnson and members of the House Labor and Commerce Committee:

I would like to go on record in support of an amendment to House Bill 114 that would add language to the Electric and Telephone Cooperative Act (Act) allowing electric cooperatives to finance the purchase of weatherization and energy efficiency products and services. Currently, the Act only allows cooperatives to finance the purchase of electrical and plumbing appliances, fixtures and apparatus.

Homer Electric Association, Inc. (HEA) has a Line of Credit program that offers financing to its members for the purchase of products covered under the Act. While this is a popular program, many of our members have inquired about using the Line of Credit program to purchase materials and products that would improve the energy efficiency of their home or business. Unfortunately, due to the limitations specified in the Act, HEA is unable to offer any assistance in the purchase of these types of products.

Homer Electric has worked very hard over the past several years to provide its members with information that will help lower their energy usage and manage their electric bill. Along with regular newsletter articles, web site information and media advertisements, HEA has sponsored Energy and Conservation Fairs to promote energy efficiency products and services. The fairs have attracted nearly 1,000 HEA members annually over the past two years.

As we continue to promote conservation, it makes sense to have energy efficiency and weatherization products included in the Line of Credit program.

We believe that HB 114 is an excellent bill and the proposed amendment will be a valuable addition to this legislation. Thank you for considering our request.

Sincerely,

Bradley P. Janorschke
General Manager

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

Fiscal Note Number _____
 Bill Version SB 36
 () Publish Date _____

Identifier (file name) SB036-CCED-DED-02-24-11
 Title Opt-Out Charitable Giving Program
 Sponsor Senator Thomas
 Requester Senate State Affairs
 Dept. Affected DCCED
 Appropriation Economic Development
 Allocation Economic Development
 OMB Component Number 801

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other (please identify)								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2011) cost _____

POSITIONS

Full-time								
Part-time								
Temporary								

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial Version

Prepared by Crystal Koeneman, Special Assistant
 Division Commissioner's Office
 Approved by Susan K. Bell, Commissioner
Commerce, Community and Economic Development

Phone 465-2503
 Date/Time 2/26/11 4:00PM
 Date 2/26/2011

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

BILL NO. SB 36

Analysis

Senate Bill 36 gives statutory authority for electric and telephone cooperatives to offer an opt-out charitable giving program to their members, when the program has been approved by a majority of the membership. The agency does not predict a fiscal impact as a result of the proposed legislation. Accordingly, the agency submits a zero fiscal note.

27-LS0342\B
Kane
3/2/11

CS FOR SENATE BILL NO. 36(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR THOMAS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an opt-out charitable giving program offered by an electric or**
2 **telephone cooperative; and allowing for an electric cooperative to assist persons in**
3 **acquiring and installing weatherization and energy efficiency products and services."**

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

5 *** Section 1.** AS 10.25.010(a) is amended to read:

6 (a) Except as provided in (b) of this section, an electric or telephone
7 cooperative may

8 (1) sue and be sued in its corporate name;

9 (2) have perpetual existence;

10 (3) adopt a corporate seal and alter it;

11 (4) construct, buy, lease, or otherwise acquire, and equip, maintain,
12 and operate, and sell, assign, convey, lease, mortgage, pledge, or otherwise dispose of
13 or encumber lands, buildings, structures, electric or telephone lines or systems, dams,
14 plants and equipment, and any other real or personal property, tangible or intangible,

1 that is necessary, convenient, or appropriate to accomplish the purpose for which the
2 cooperative is organized;

3 (5) buy, lease, or otherwise acquire, and use, and exercise and sell,
4 assign, convey, mortgage, pledge or otherwise dispose of or encumber franchises,
5 rights, privileges, licenses, and easements;

6 (6) borrow money and otherwise contract indebtedness, and issue
7 evidences of indebtedness, and secure the payment of the indebtedness by mortgage,
8 pledge, or deed of trust of, or any other encumbrance upon its real or personal
9 property, assets, franchises, or revenues;

10 (7) construct, maintain, and operate electric transmission and
11 distribution lines, or telephone lines along, upon, under and across publicly owned
12 lands and public thoroughfares, including, without limitation, all roads, highways,
13 streets, alleys, bridges, and causeways;

14 (8) exercise the power of eminent domain;

15 (9) become a member of other cooperatives or corporations or own
16 stock in them;

17 (10) conduct its business and exercise its powers inside or outside the
18 state;

19 (11) adopt, amend, and repeal bylaws;

20 (12) make all contracts necessary, convenient, or appropriate for the
21 full exercise of its powers;

22 (13) make donations for the public welfare or for charitable, scientific,
23 or educational purposes;

24 (14) offer an opt-out charitable giving program as described in
25 AS 10.25.237;

26 (15) do and perform any other act and thing, and have and exercise any
27 other power that may be necessary, convenient, or appropriate to accomplish the
28 purpose for which the cooperative is organized.

29 * **Sec. 2.** AS 10.25.020 is amended to read:

30 **Sec. 10.25.020. Powers of electric cooperative.** An electric cooperative may

31 (1) generate, manufacture, purchase, acquire, accumulate, and transmit

1 electric energy, and distribute, sell, supply, and dispose of electric energy to its
2 members, to governmental agencies and political subdivisions, and to other persons
3 not exceeding 10 percent of the number of its members; however, a cooperative that
4 acquires existing electric facilities may continue service to persons, not in excess of 40
5 percent of the number of its members, who are already receiving service from these
6 facilities without requiring them to become members, and these persons may become
7 members upon the terms as may be prescribed in the bylaws;

8 (2) assist persons to whom electric energy is or will be supplied by the
9 cooperative in wiring their premises and in acquiring and installing electrical and
10 plumbing appliances, equipment, fixtures, and apparatus, and weatherization and
11 energy efficiency products and services by financing them, and, in connection with
12 these services, wire or have wired the premises, and buy, acquire, lease, sell,
13 distribute, install, and repair electric and plumbing appliances, equipment, fixtures,
14 and apparatus, and weatherization and energy efficiency products and services;

15 (3) assist persons to whom electric energy is or will be supplied by the
16 cooperative in constructing, equipping, maintaining, and operating electric cold
17 storage or processing plants by financing them or otherwise;

18 (4) operate a waste heat distribution system;

19 (5) operate a heating distribution system that was in existence on
20 June 9, 1988;

21 (6) provide sewer, water, or gas utility service if the cooperative has
22 received a certificate of convenience and necessity under AS 42.05.221 - 42.05.281
23 from the former Alaska Public Utilities Commission or the Regulatory Commission of
24 Alaska for each type of service provided;

25 (7) provide direct satellite television programming services; in this
26 paragraph, "direct satellite television programming services" means a video broadcast
27 signal that is received directly from a satellite by an end user.

28 * **Sec. 3.** AS 10.25 is amended by adding a new section to article 1 to read:

29 **Sec. 10.25.237. Electric or telephone cooperative opt-out charitable giving**
30 **program.** (a) Notwithstanding AS 45.45.930 and if approved by the membership of
31 the cooperative in accordance with this chapter, an electric or telephone cooperative

1 may offer its members an opportunity to participate in an opt-out charitable giving
2 program that rounds the monthly bill of a member to the next whole dollar amount but
3 does not exceed 99 cents a month.

4 (b) To qualify as an allowable opt-out charitable giving program under this
5 section, the cooperative shall

6 (1) clearly identify on each monthly billing statement the amount
7 added after rounding to the next whole dollar amount and provide instructions on each
8 monthly billing statement explaining how to opt out of the program in person at the
9 cooperative, in writing, by telephone, or by using the Internet;

10 (2) include a notation on each monthly billing statement informing the
11 member that the amount rounded to the next whole dollar is a voluntary contribution
12 by the member;

13 (3) use the program's proceeds only for the public welfare or
14 charitable, scientific, or educational purposes but not for any political purpose or for
15 the pecuniary profit of any individual or organization; in this paragraph, a charitable
16 purpose includes the relief of poverty, distress, or other condition of public concern in
17 the state; and

18 (4) allow a member the opportunity to claim a full refund of all
19 amounts paid by the member under the program for at least the three preceding years.

20 * **Sec. 4.** AS 45.45.930 is amended by adding a new subsection to read:

21 (f) This section does not apply to an opt-out charitable giving program offered
22 by an electric or telephone cooperative under AS 10.25.237.

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

Fiscal Note Number _____
 Bill Version SB 36
 () Publish Date _____

Identifier (file name) SB036-CCED-DED-02-24-11
 Title Opt-Out Charitable Giving Program
 Sponsor Senator Thomas
 Requester Senate State Affairs
 Dept. Affected DCCED
 Appropriation Economic Development
 Allocation Economic Development
 OMB Component Number 801

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

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Services								
Commodities								
Capital Outlay								
Grants								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES								
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FUND SOURCE (Thousands of Dollars)

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1003 GF Match								
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1005 GF/Program Receipts								
1037 GF/Mental Health								
Other (please identify)								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2011) cost _____

POSITIONS

Full-time								
Part-time								
Temporary								

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial Version

Prepared by Crystal Koeneman, Special Assistant
 Division Commissioner's Office
 Approved by Susan K. Bell, Commissioner
Commerce, Community and Economic Development

Phone 465-2503
 Date/Time 2/26/11 4:00PM
 Date 2/26/2011

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

BILL NO. SB 36

Analysis

Senate Bill 36 gives statutory authority for electric and telephone cooperatives to offer an opt-out charitable giving program to their members, when the program has been approved by a majority of the membership. The agency does not predict a fiscal impact as a result of the proposed legislation. Accordingly, the agency submits a zero fiscal note.

From Serata Thomas

Proposed amendment:

(b) To qualify as an allowable opt-out charitable giving program under this section, the cooperative shall

(1) clearly identify on each monthly billing statement the amount added after rounding to the next whole dollar amount and provide instructions on each monthly billing statement explaining how to opt out of the program in person at the cooperative, in writing, by telephone, or by using the Internet;

(2) include a notation on each monthly billing statement informing the member that the amount rounded to the next whole dollar is a voluntary contribution by the member;

(3) use the program's proceeds only for [THE RELIEF OF POVERTY, DISTRESS, OR OTHER CONDITIONS OF GENERAL PUBLIC CONCERN BUT NOT FOR RELIGIOUS ORGANIZATIONS, POLITICAL ORGANIZATIONS, ORGANIZED LABOR UNIONS, OR OTHER LABOR ORGANIZATIONS, OR FOR ANY POLITICAL PURPOSE; AND] **the public welfare or charitable, scientific, or educational purposes. For the purposes of this section, a charitable purpose is the relief of poverty, distress, or other condition of public concern in the state. Notwithstanding the above, proceeds shall not be used for any political purpose or for the pecuniary profit of any individual or organization.**

(4) allow a member the opportunity to claim a full refund of all amounts paid by the member under the program for at least the three preceding years.

↓
one or 2 yrs.

Grier Hopkins

From: Jane Pierson
Sent: Wednesday, February 23, 2011 10:40 AM
To: Grier Hopkins
Subject: FW: HB 114 amendment
Attachments: Proposed amendment.doc

Grier,

FYI. Attached is an amendment that will be offered in HJUD for HB114.

Jane

From: Sniffen, Clyde E (LAW) [mailto:ed.sniffen@alaska.gov]
Sent: Tuesday, February 22, 2011 4:50 PM
To: Jane Pierson
Subject: HB 114 amendment

Hi Jane. I'm attaching a proposed amendment to HB 114 to address the concerns that were discussed in House L&C about the definition of "charitable purpose." I had a chance to dig into this a little, and also collaborated with our charities guru, and the attached is what we think will do the best job. Here's a little of our research and reasoning:

It seems clear that the intent is for cooperatives to be able to distribute funds for charitable purposes, but not necessarily strictly to charitable organizations or 501(c)(3)s. Round-up programs in other states have grant programs that don't require funds to go strictly to 501(c)(3) organizations. If you were to limit distributions to charities, you might cut out other community organizations like public schools. I think the definition is not as important as the purpose of the actual giving. If it benefits the public, it is probably charitable. What is not charitable is benefiting the private interests of the members, specific individuals or groups—generally organizations should have conflict of interest policies to prevent that.

AS 10.25.010(a)(13) gives telephone and electric cooperatives the power to distribute funds for the "public welfare or for charitable, scientific, or educational purposes." So, the proposed amendment fits with that, and is consistent with the definition used by Alaska's gaming and the charitable solicitations acts.

The definition of a charity—whether it is found in charitable trust law, the internal revenue code/IRS regulations, state charitable solicitations laws, or Alaska Supreme Court decisions, is very broad. The Alaska Supreme Court has defined "other conditions of general public concern" to encompass a "vast array of possible programs and allows proceeds to be used for a broad range of uses, including 'political, educational, civic, public, charitable, patriotic, or religious uses'" *Roberts v. State Department of Revenue*, 162 P.3d 1214, 1222. There are two other AK supreme court cases that also define "charity" broadly—*Matanuska-Susitna Borough v. King's Lake Camp* and *Fairbanks North Star Borough v. Dena Nena Henash* that apply the "common law" definition of charity which they define as a "gift to the general public use" or "what is done out of good will and a desire to add to the improvement of the moral, mental, and physical welfare of the public generally." The Third Restatement of Trusts (which the Alaska Supreme Court relies on in defining "general public concern") states that charitable trust purposes include the relief of poverty, advancement of

knowledge or education, advancement of religion, promotion of health, governmental or municipal purposes, and other purposes that are beneficial to the community.

It is really going to be up to the cooperatives to organize the programs and set parameters on how they want to distribute the funds. If a cooperative was collecting funds claiming they were for a charitable purpose, but not actually using the funds for a charitable purpose, that would fall within the Attorney General's authority to enforce a charitable trust in addition to violating the Charitable Solicitations Act and Consumer Protection Act.

There may also be a constitutional equal protection issue with excluding religious and labor organizations. If they are similarly situated to other charities, the only reason they are being excluded is because they have some religious or labor affiliation. For example, the Salvation Army is a religious organization and Catholic Social Services is the social service arm of the Archdiocese of Anchorage. Providence Hospital and the Brother Francis Shelter in Anchorage may also be religious organizations. Churches and religious organizations are usually 501(c)(3) organizations. And some smaller communities may rely on religious organizations to do charitable work like providing soup kitchens, taking care of disaster victims, etc. The committee may be inadvertently be cutting out a number of charities with religious affiliations. It sounds like the reason the committee wants to exclude them is because Tanana Valley said religious organizations are excluded under their bylaws. Other cooperatives may not have that type of exclusion. If the issue of who to exclude should be something for the cooperatives to decide for themselves, then include in their bylaws (or the bylaws of the related organization they form to handle the grants).

I don't think there is a problem with excluding political campaigns. 501(c)(3) organizations are prohibited from giving money to political campaigns.

I hope this helps! Let me know if you have any questions. Feel free to share with the Judiciary Committee.

Clyde "Ed" Sniffen, Jr.
Senior Assistant Attorney General
Commercial and Fair Business Section
Alaska Department of Law
1031 W. 4th Ave. # 200
Anchorage, AK 99501
(907) 269-5200
(907) 276-8554 (fax)