

**ALASKA LEGISLATURE**

**1660**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1997-1998**

**Sec. 11.56.850. Official misconduct.** (a) A public servant commits the crime of official misconduct if, with intent to obtain a benefit or to injure or deprive another person of a benefit, the public servant

(1) performs an act relating to the public servant's office but constituting an unauthorized exercise of the public servant's official functions, knowing that that act is unauthorized; or

(2) knowingly refrains from performing a duty which is imposed upon the public servant by law or is clearly inherent in the nature of the public servant's office.

(b) Official misconduct is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Cited in *Feichtinger v. State*, 779 P2d 344 (Alaska Ct. App. 1989).

**Sec. 11.56.860. Misuse of confidential information.** (a) A person who is or has been a public servant commits the crime of misuse of confidential information if the person

(1) learns confidential information through employment as a public servant; and

(2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of official duties other than by giving sworn testimony or evidence in a legal proceeding in conformity with a court order.

(b) As used in this section, "confidential information" means information which has been classified confidential by law.

(c) Misuse of confidential information is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Article 7. General Provisions.

Section  
900. Definitions

**Sec. 11.56.900. Definitions.** In this chapter, unless the context requires otherwise,

(1) "improperly influence a witness" means to cause or induce a witness to

(A) testify falsely, offer misleading testimony, or unlawfully withhold testimony in an official proceeding;

(B) avoid or attempt to avoid legal process summoning the witness to testify in an official proceeding, regardless of whether legal process has issued;

(C) be absent from an official proceeding to which the witness has been summoned; or

(D) engage in conduct described in AS 11.56.610;

(2) "judicial officer" means a supreme court justice, including the chief justice, a judge of the court of appeals, a judge of the superior court, a district court judge, or a magistrate;

(3) "juror" means a person who is a member of an impanelled jury or a person who has been drawn or summoned to attend as a prospective juror;

(4) "physical evidence" means an article, object, document, record, or other thing of physical substance;

(5) "testimony" means oral or written statements, documents, or other material that may be offered by a witness in an official proceeding;

(6) "witness" means

(A) a witness summoned or appearing in an official proceeding; or

(B) a person who the defendant believes may be called as a witness in an official proceeding, present or future. (§ 6 ch 166 SLA 1978; am § 20 ch 12 SLA 1980)

Cross referenc  
in this title, see A-  
of judicial officer.

Applied in Stat:  
Ct. App. 1982).  
Quoted in Stat:  
App. 1988).

Ch:

Secs. 11.60.0  
animals at lar  
gambling offen  
tobacco to min.

Sec. 11.60.2:

Secs. 11.60.2:  
[Repealed, § 8

Secs. 11.60.2:

Secs. 11.60.2:

Secs. 11.60.3:  
color of law. [Rej  
rights, see AS 11

Cha

Article  
1. Riot, Disorderly  
2. Weapons and Ex

Cross references.  
of misdemeanors co:  
criminal street gang.

Article 1.

Section  
100. Riot  
110. Disorderly condu  
120. Harassment  
123. Indecent viewin  
125. Distribution of c:  
127. Possession of chi

Sec. 11.61.100.  
with five or more  
public place and  
property or physio

# FISCAL NOTE

Revision Date: \_\_\_\_\_ Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to confidentiality of BRU: none  
certain municipal tax records Component: none  
 Sponsor: Rep. Green  
 Requestor: House CRA Committee COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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REVENUE FUND SOURCE:						
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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	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY97) impact \$ none

**ANALYSIS:** (Attach a separate page if necessary)  
 This legislation provides for confidentiality for certain municipal financial information. This legislation would have no fiscal impact on the department.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708  
 Division: Division of Administrative Services Date: 2/5/97  
 Approved by Commissioner: *Mark Dur* Date: 2/5/97  
 Agency: Community & Regional Affairs

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# Fairbanks North Star Borough

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## MEMORANDUM

TO: Jim Sampson, Mayor  
FROM: Ardith Lynch, Borough Attorney  
DATE: April 11, 1997  
SUBJECT: HB 94

A handwritten signature in cursive, appearing to read "Ardith Lynch".

This memo is in response to your request for a written position paper on HB 94, relating to confidentiality of certain municipal tax records. Under current law (AS 29.45.120), a municipality may require property owners to submit property tax returns and additional information. There are good policy reasons to provide a degree of confidentiality to some records provided by taxpayers at the assessor's request. However, the scope of HB 94 is overly broad and this bill will severely impact the proceedings of Board of Equalization. There are better examples of confidentiality provisions in existing law, including AS 09.25.100 and AS 43.05.230, which limit disclosure of the Department of Revenue tax records.

- HB 94 prohibits disclosure of a wide range of information acquired from any source. The bill would add a new subsection (c) to AS 29.45.103, which states in part: "All information related to earnings, income, profits, losses or expenditures of a person acquired by the assessor in the course of performing official duties is confidential." This means that even if the source of the information is public, and even if the taxpayer provided the information voluntarily, the information becomes confidential when the assessor has it. For example, a recorded deed of trust relates to a person's expenditures, but is clearly a public record. Income information, such as apartment rental rates, may also be common knowledge. There is no reason to require the assessor to keep this information confidential; the only records that need to be protected are those that are usually considered confidential (income tax and accounting records, for example) and that have been requested by the assessor.
- HB 94 would severely impact appeals to the Board of Equalization and the courts. Subsection (c) would also have the following new sentence: "The information shall be treated as confidential by the board of equalization and all other municipal officials and employees who have access to it." This would require the BOE to hold executive sessions to consider whatever "information related to earnings, income, profits, losses or expenditures" is relevant to the assessed value of the property. For example, the assessor may use, and the BOE and the court may uphold, an income method to value commercial property. Obviously, the assessor must disclose the basis of the assessment in order to effectively present his case. How can the BOE make findings and decisions, or the court determine whether there is substantial evidence to support them, without referring to income or expenditures? Would the findings and decisions of the superior or supreme court also be confidential?

There are legitimate public policy reasons to waive confidentiality provisions in appeals. Property tax assessment procedures are generally public because property valuation for assessment purposes requires a just valuation of all property and the assessment must have a fair relation to a uniform and equal rate of taxation. If the procedures and records involved in property tax assessment are not public, taxpayers will not be able to determine whether a particular property is fairly valued in comparison to other properties.

Similar income information is produced as a matter of course in other litigation (personal injury, divorce, and other claims). If a person or entity files a lawsuit, or a property assessment appeal, the relevant records must be subject to disclosure.

- AS 09.25.100 and 43.05.230 in current law provide a more balanced approach to confidentiality. AS 43.05.230 prohibits disclosure of "the amount of income, or the particulars set out or disclosed in a [tax] report or return," which is a more focused restriction than the language proposed in HB 94<sup>1</sup> ("all information . . . acquired by the assessor"). Also, both AS 09.25.100 and AS 43.05.230 permit disclosure in connection with administrative or judicial proceedings. These exemptions recognize the potential problems with maintaining confidentiality of information during appeals. Similar exemptions need to be clearly spelled out in HB 94.
- There are also problems with the disclosure provisions in HB 94. The new subsection (d) would allow the information to be disclosed to a court or another agency "upon written application by the governmental entity that sets out sufficient reason for obtaining the information." However, the bill does not say who makes the determination as to whether or not the reason is "sufficient."
- Finally, the change in the Committee Substitute for HB 94(CRA) in subsection (e) increases the penalty for disclosure from the original \$500, to \$1000 or actual damages, whichever is greater. There should be a penalty only for willful violations, and only if the property owner can show damages. This is an onerous penalty in light of the questions and problems with this bill.

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<sup>1</sup> Similar language would be easy to draft if the confidentiality provisions were enacted as amendments to AS 29.45.120 relating to property tax returns, rather than AS 29.45.103, which relates to inspection of tax records by the state assessor.

**HB**

**102**

**HFIN**

**FILE**

# Alaska State Legislature

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### SPONSOR STATEMENT

#### HB's: 102, 103, 104, 105, 106, 107, 108

The proposed package of seven bills enacts a major cleanup of nearly 30 inactive accounts from State Statutes. The legislation clearly reflects the mission of bringing about a "smaller, smarter" government through careful scrutiny of inefficient and unnecessary administrative functions.

During the past year, investigation by Representative Martin, the past Chairman of the Legislative Budget and Audit Committee, revealed that a large number of special accounts, established through the legislative process over the last thirty years, have been completely inactive since their creation.

Prior to introducing these bills, Co-Chair Therriault and Representative Martin contacted agencies responsible for the funds to insure their deletion would not be problematic. Without exception, the departments supported the elimination of the inactive accounts contained in these bills. In fact, it was discovered that in some cases, the departments were unaware of the accounts' existence.

A cooperative effort continued with the Administration, specifically the Office of Management and Budget, to develop a package of bills to repeal the non-operative statutes from the accounting process. In some cases, legislation does not actually repeal statutes, but rather changes the language to read "Program" rather than "Fund", in order to retain the integrity of a program without maintaining a separate account.

This package of bills does not impede the intent of or appropriation to any existing program, but rather is a series of housekeeping measures designed to save the State from unnecessary administrative expense.

# Alaska State Legislature

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### BILL SUMMARIES

#### HB's 102, 103, 104, 105, 106, 107, 108

#### HB 102

##### **"An Act abolishing the Alaska Medical Facility Authority . . ."**

This legislation follows up with last year's SB136, which transferred the balance remaining in the Alaska Medical Facilities Authority Fund to the State General fund, thus closing out all accounts pertaining to the Authority. Since that time, neither the Fund nor the Authority have been used. By repealing AS 18.26, the obsolete Alaska Medical Facility Authority would be cleared from the Statutes.

#### HB 103

##### **"An Act repealing certain state funds and accounts and boards and programs related to those funds and accounts. . ."**

Simple repeals of the following inactive accounts: Alaska Amateur Sports Fund; Cooperative arrangement grant fund; Bilingual-Bicultural Education Fund; Alaska Student Leadership Development Fund; Alaska School Counseling Program Grant Fund; University Risk Management Fund; Community College Fund; Community Health Aide Grant Account; Veterans Service Fund; Alaska Municipal Land Account; Federal Transitional Grants Accounts; Mineral Resource Revolving Fund; Outdoor Recreational, Open Space, and Historic Properties Development Fund; Neighborhood Revitalization and Development Fund; Legal Assistance and Juvenile Justice Grant Fund; Fisheries Product Revolving Loan Guarantee Fund; Forest Products Business Loan Guarantee Fund; Community Action Against Substance Abuse Grant Fund; Alaska Longevity Bonus Fund; Self-Sufficiency Trust Fund; Alaska Pioneers' Home Trust Fund; Older Alaskans Service Programs Account; Community Schools Grant Fund; and Handicap & Mental Illness Charitable Account.

#### HB 104

##### **"An Act repealing the search and rescue fund, relating to expenditures for search and rescue activities . . ."**

Search and rescue activities are appropriated directly from the General Fund and not through the search and rescue fund, which has remained empty and

inactive. This legislation removes the fund from statutes, as well as reference to the fund.

**HB 105**

**" An Act relating to the unorganized borough national forest receipts program . . . "**

There is no present or anticipated use for the unorganized borough national forest receipts fund. Federal appropriations for the program go directly into the General Fund, leaving this special account inactive and empty. The legislation would clear the unused account from Statutes, by changing the reference from "fund" to "program".

**HB 106**

**"An Act relating to the municipal assistance program and organization grant program..."**

Although these programs remain operative, the municipal assistance and organization grant funds are inactive and empty. Legislation would clear the "fund"(s) from statutes, and refer only to the "program"(s).

**HB 107**

**"An Act relating to water quality enhancement and water supply, waste water, and solid waste systems grants . . . "**

This legislation removes from Statutes the Water Quality Enhancement and Water Supply, Wastewater, and Solid Waste Systems Fund. The fund is empty and is not used in making appropriations to the program.

**HB 108**

**"An Act relating to the crime victim compensation program. . ."**

The crime victim compensation program does not receive allocations from the fund established by statute. The inactive account is cleared by changing reference from "fund" to "program".

**HB's 102 - 108**  
**Inactive Funds and Accounts**  
 (Listed by Department)

DIII #	Agency	Fund/Account	Cite	Balance	Notes
HB 103	DCED	Alaska Amateur Sports Fund	05.35.150	\$0	
HB 103	DCED	Neighborhood Revitalization and Development Fund	44.33.436	\$0	
HB 103	DCRA	Legal Assistance and Juvenile Justice Grant Fund	44.47.200	\$0	
HB 105	DCRA	Unorganized Borough National Forest Receipts Fund	41.15.180(b)	\$0	
HB 106	DCRA	Organization Grant Fund	29.05.200(a)	\$0	
HB 106	DCRA	Municipal Assistance Fund	29.60.350	\$0	
HB 107	DEC	Water Supply, Wastewater, and Solid Waste Systems Fund	46.03.030(c)	\$0	
HB 103	DHSS	Community Health Aide Grant Account	18.28.030	\$0	
HB 103	DHSS	Self-Sufficiency Trust Fund	47.80.200	\$0	
HB 103	DHSS	Handicap & Mental Illness Charitable Account	47.80.240(a)	\$0	
HB 103	DMVA	Veterans Service Fund	26.10.020	\$0	
HB 103	DNR	Alaska Municipal Land Account	29.65.080	\$0	
HB 103	DNR	Mineral Resource Revolving Fund	41.98.015	\$0	
HB 103	DNR	Outdoor Recreation, Open Space, and Historic Properties Dev. Fund	41.98.170	\$0	
HB 103	DOA	Federal Transitional Grants Account	37.20.020	\$0	
HB 103	DOA	Alaska Longevity Bonus Fund	47.45.090	\$0	
HB 103	DOA	Alaska Pioneers' Home Trust Fund	47.55.060	\$0	
HB 103	DOA	Older Alaskans Service Programs Account	47.65.010	\$0	
HB 103	DOE	Cooperative Arrangement Grant Fund	14.14.115(b)	\$0	
HB 103	DOE	Bilingual-Bicultural Education Fund	14.30.410(a)	\$0	
HB 103	DOE	Alaska Student Leadership Development Fund	14.30.510	\$0	
HB 103	DOE	Alaska School Counseling Program Grant Fund	14.30.750	\$0	
HB 103	DOE	Community Schools Grant Fund	14.36.020	\$0	
HB 102	DOR	Medical Facilities Special Bond Guarantee Account	18.26.260(a)	\$0	
HB 103	DOR	Fishery Product Revolving Loan Guarantee Fund	45.92.010	\$0	
HB 103	DOR	Forest Products Business Loan Guarantee Fund	45.94.010	\$0	
HB 104	DPS	Search and Rescue Fund	18.00.145	\$0	
HB 108	DPS	Crime Victims Compensation Fund	43.23.028(b)	\$0	
HB 103	HSS	Community Action Against Substance Abuse Grant Fund	47.37.045	\$0	
HB 103	UA	University Risk Management Fund	14.40.455	\$0	
HB 103	UA	Community College Fund	14.40.610(a)	\$0	

**HB's 102 - 108**  
**Inactive Funds and Accounts**  
 (Listed by Bill #)

Bill #	Agency	Fund/Account	Cite	Balance	Notes
HB 102	DOR	Medical Facilities Special Bond Guarantee Account	18.26.260(a)	\$0	
HB 103	DCED	Alaska Amateur Sports Fund	05.35.150	\$0	
HB 103	DOE	Cooperative Arrangement Grant Fund	14.14.115(b)	\$0	
HB 103	DOE	Bilingual-Bicultural Education Fund	14.30.410(a)	\$0	
HB 103	DOE	Alaska Student Leadership Development Fund	14.30.510	\$0	
HB 103	DOE	Alaska School Counseling Program Grant Fund	14.30.750	\$0	
HB 103	UA	University Risk Management Fund	14.40.455	\$0	
HB 103	UA	Community College Fund	14.40.610(a)	\$0	
HB 103	DHSS	Community Health Aide Grant Account	18.28.030	\$0	
HB 103	DMVA	Veterans Service Fund	26.10.520	\$0	
HB 103	DNR	Alaska Municipal Land Account	29.65.080	\$0	
HB 103	DOA	Federal Transitional Grants Account	37.20.020	\$0	
HB 103	DNR	Mineral Resource Revolving Fund	41.98.015	\$0	
HB 103	DNR	Outdoor Recreation, Open Space, and Historic Properties Dev. Fund	41.98.170	\$0	
HB 103	DCED	Neighborhood Revitalization and Development Fund	44.33.436	\$0	
HB 103	DCRA	Legal Assistance and Juvenile Justice Grant Fund	44.47.200	\$0	
HB 103	DOR	Fishery Product Revolving Loan Guarantee Fund	45.92.010	\$0	
HB 103	DOR	Forest Products Business Loan Guarantee Fund	45.94.010	\$0	
HB 103	HSS	Community Action Against Substance Abuse Grant Fund	47.37.045	\$0	
HB 103	DOA	Alaska Longevity Bonus Fund	47.45.090	\$0	
HB 103	DHSS	Self-Sufficiency Trust Fund	47.80.200	\$0	
HB 103	DOA	Alaska Pioneers' Home Trust Fund	47.55.060	\$0	
HB 103	DOA	Older Alaskans Service Programs Account	47.65.010	\$0	
HB 103	DOE	Community Schools Grant Fund	14.36.020	\$0	
HB 103	DHSS	Handicap & Mental Illness Charitable Account	47.80.240(a)	\$0	
HB 104	DPS	Search and Rescue Fund	18.60.145	\$0	
HB 105	DCRA	Unorganized Borough National Forest Receipts Fund	41.15.180(b)	\$0	
HB 106	DCRA	Organization Grant Fund	29.05.200(a)	\$0	
HB 106	DCRA	Municipal Assistance Fund	29.60.350	\$0	
HB 107	DEC	Water Supply, Wastewater, and Solid Waste Systems Fund	46.03.030(c)	\$0	
HB 108	DPS	Crime Victims Compensation Fund	43.23.028(b)	\$0	

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February 8, 1997

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VIA FACSIMILE--ORIGINAL TO FOLLOW

Mr. Garrey M. Peska  
Alaska State Hospital & Nursing Home Association  
P. O. Box 240185  
Douglas, Alaska 99824

Re: Proposed Legislation  
Repeal of Medical Facility Authority Statute  
Our File No. 4566-10

Dear Garrey:

You have asked me to review Representative Therriault's proposed legislation repealing AS 18.26, which establishes the Alaska Medical Facility Authority. I understand from the telephone message that I received from you late yesterday afternoon that such a bill now has been introduced and that a hearing is scheduled at 1:30 on Monday afternoon, February 10.

My understanding of the supposed purpose of this legislation is based on comments that were made in the meetings of ASHNSHA's Legislative Committee and the Executive Committee on Thursday, February 6. Specifically, it was explained that, originally, the Authority had been established to take advantage of a financing mechanism that had been authorized by federal law and that in 1986 federal law had been changed so that such financing was no longer possible. Before adopting a position on the proposed repeal, ASHNSHA wanted to determine definitely whether that background information was accurate. The specific concern was to

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Mr. Garrey Peska  
Alaska State Hospital & Nursing Home  
Association  
February 8, 1997  
Page 2

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confirm that the repeal would not eliminate a possible means of financing the construction of health care facilities that might not otherwise be available.

Reading between the lines, I believe the 1986 change in federal law that was mentioned must have been the adoption of the Tax Reform Act of 1986. That law placed certain limitations on the tax exemptions that are available for interest earned on state and local bonds. Among other things, the Alaska Medical Facility Authority is authorized to issue revenue bonds for the purpose of establishing and equipping health care facilities. Those bonds are exempt from state taxes. Clearly, however, if the bonds were exempt from state taxes but not exempt from federal taxes, they would not be as attractive. I have researched the current status of the availability of a federal tax exemption for state and local government bonds used to finance construction of health care facilities, and I have determined that, with some restrictions, the tax exemption is still available. Specifically, the federal tax exemption continues to be available without limitation for non-profit hospital bonds and is available for other non-profit purposes, with some limitations.

Under sections 145 and 501(c)(3) of the Internal Revenue Code, if 95 percent of a state or local bond issue is for the use of a "hospital" that is otherwise exempt from federal income tax under section 501(c)(3), then the interest on those bonds is exempt and there is no limit on the amount of such bonds that can be issued. Other so-called "501(c)(3) bonds" also are tax exempt, but, except for "hospital bonds," there is a \$150 million limit on the amount of bonds that may be outstanding at any one time.

As back-up documentation, enclosed I am sending you copies of the following:

1. Section 145 of the Internal Revenue Code, "Qualified 501(c)(3) Bond";
2. Internal Revenue Service Private Letter Ruling 9226062 (March 3, 1992) (discussing standards for identifying a "hospital" not subject to the \$150 million limit on tax exempt bonds); and

Mr. Garrey Peska  
Alaska State Hospital & Nursing Home  
Association  
February 8, 1997  
Page 3

Re: Proposed Legislation  
Repeal of Medical Facility Authority Statute  
Our File No. 4566-10

3. F. Ballard, "Tax Exempt Financing and Charities,"  
ALI-ABA Course of Study (Dec. 2, 1993) (in outline format,  
summarizes mechanism and standards for tax-exempt bonds).

Given the continuing availability of a federal tax exemption for "hospital bonds," it may well be advisable to attempt to retain the Alaska Medical Facility Authority as a vehicle for issuing such bonds. There appears to be no requirement that such bonds be issued by an Authority, and presumably they also could be issued directly by the state or local government. That might require a public vote, however. (The outline listed as Item 3 above states, in paragraph 1(a), "City or state, or authority formed by city or state . . . issues bonds that are exempt from Federal income tax . . . .")

As you know, bond financing and the related tax exemptions are a very complex area, and I certainly am not a bond specialist. It is clear, however, that the federal tax exemption is still available for non-profit "hospital bonds." With this additional background information, it may be possible to determine if the proposed repeal in fact is based on a mistaken understanding that the federal tax exemption for such bonds was repealed in 1986. At the very least, demonstrating the invalidity of that reason may help bring to light some other reason the repeal is being proposed.

I hope this information is helpful to you in formulating ASHNHA's position on this legislation. I will be glad to discuss this with you at your convenience.

Sincerely,

KEESAL, YOUNG & LOGAN

  
Susan Wright Mason

SWM:klc  
Enclosures  
cc: Ms. Laraine Derr

(SWM\LTR\1939)

Citation  
26 USCA s 145  
26 U.S.C.A. s 145

FOUND DOCUMENT

Database  
USCA

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Page

UNITED STATES CODE ANNOTATED  
TITLE 26. INTERNAL REVENUE CODE  
SUBTITLE A--INCOME TAXES  
CHAPTER 1--NORMAL TAXES AND SURTAXES  
SUBCHAPTER B--COMPUTATION OF TAXABLE INCOME  
PART IV--TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS  
SUBPART A--PRIVATE ACTIVITY BONDS  
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Current through P.L. 104-333, approved 11-12-96

s 145. Qualified 501(c)(3) bond

(a) In general.--For purposes of this part, except as otherwise provided in this section, the term "qualified 501(c)(3) bond" means any private activity bond issued as part of an issue if--

(1) all property which is to be provided by the net proceeds of the issue is to be owned by a 501(c)(3) organization or a governmental unit, and

(2) such bond would not be a private activity bond if--

(A) 501(c)(3) organizations were treated as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a), and

(B) paragraphs (1) and (2) of section 141(b) were applied by substituting "5 percent" for "10 percent" each place it appears and by substituting "net proceeds" for "proceeds" each place it appears.

(b) \$150,000,000 limitation on bonds other than hospital bonds.--

(1) In general.--A bond (other than a qualified hospital bond) shall not be treated as a qualified 501(c)(3) bond if the aggregate authorized face amount of the issue (of which such bond is a part) allocated to any 501(c)(3) organization which is a test-period beneficiary (when increased by the outstanding tax-exempt nonhospital bonds of such organization) exceeds \$150,000,000.

(2) Outstanding tax-exempt nonhospital bonds.--

(A) In general.--For purposes of applying paragraph (1) with respect to any issue, the outstanding tax-exempt nonhospital bonds of any organization which is a test-period beneficiary with respect to such issue is the aggregate amount of tax-exempt bonds referred to in subparagraph (B)--

(1) which are allocated to such organization, and

(ii) which are outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

(B) Bonds taken into account.--For purposes of subparagraph (A), the bonds referred to in this subparagraph are--

(i) any qualified 501(c)(3) bond other than a qualified hospital bond, and

(ii) any bond to which section 141(a) does not apply if--

(I) such bond would have been an industrial development bond (as defined in section 103(b)(2), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) if 501(c)(3) organizations were not exempt persons, and

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26 USCA s 145

PAGE 2

TEXT (b) (2) (B) (ii) (II)

(II) such bond was not described in paragraph (4), (5), or (6) of such section 103(b) (as in effect on the date such bond was issued).

(C) Only nonhospital portion of bonds taken into account.--

(i) In general.--A bond shall be taken into account under subparagraph (B) only to the extent that the proceeds of the issue of which such bond is a part are not used with respect to a hospital.

(ii) Special rule.--If 90 percent or more of the net proceeds of an issue are used with respect to a hospital, no bond which is part of such issue shall be taken into account under subparagraph (B)(ii).

(3) Aggregation rule.--For purposes of this subsection, 2 or more organizations under common management or control shall be treated as 1 organization.

(4) Allocation of face amount of issue; test-period beneficiary.--Rules similar to the rules of subparagraphs (C), (D) and (E) of section 144(a)(10) shall apply for purposes of this subsection.

(c) Qualified hospital bond.--For purposes of this section, the term "qualified hospital bond" means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used with respect to a hospital.

(d) Restrictions on bonds used to provide residential rental housing for family units.--

(1) In general.--Except as otherwise provided in this subsection, a bond which is part of an issue shall not be a qualified 501(c)(3) bond if any portion of the net proceeds of the issue are to be used directly or indirectly to provide residential rental property for family units.

(2) Exception for bonds used to provide qualified residential rental projects.--Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide--

(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

(B) qualified residential rental projects (as defined in section 142(d)), or

(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

(3) Certain property treated as new property.--Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing--

(A) In general.--If--

(i) the 1st use of property is pursuant to taxable financing,

(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

(B) Special rule where no operating state or local program for tax-exempt financing.--If, at the time of the 1st use of property, there was no

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26 USCA s 145  
TEXT (d) (3) (B)

PAGE 3

operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

(C) Definitions.--For purposes of this paragraph--

(i) Tax-exempt financing.--The term "tax-exempt financing" means financing provided by tax-exempt bonds.

(ii) Taxable financing.--The term "taxable financing" means financing which is not tax-exempt financing.

(4) Substantial rehabilitation.--

(A) In general.--Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

(B) Exception.--For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C)(i) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

(e) Election out.--This section shall not apply to an issue if--

(1) the issuer elects not to have this section apply to such issue, and

(2) such issue is an issue of exempt facility bonds, or qualified redevelopment bonds, to which section 146 applies.

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CREDIT(S)

1997 Electronic Pocket Part Update

(Added Pub.L. 99-514, Title XIII, s 1301(b), Oct. 22, 1986, 100 Stat. 2629, and amended Pub.L. 100-647, Title I, s 1013(a)(6)-(8), Title V, s 5053(a), Nov. 10, 1988, 102 Stat. 3538, 3677; Pub.L. 101-239, Title VII, s 7815(f), Dec. 19, 1989, 103 Stat. 2419; Pub.L. 101-508, Title XI, s 11813(b)(7), Nov. 5, 1990, 104 Stat. 1388-551.)

< General Materials (GM) - References, Annotations, or Tables >

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1986 Act. House Conference Report No. 99-841, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 4075.

1988 Act. Senate Report No. 100-445 and House Conference Report No. 100-1104, see 1988 U.S.Code Cong. and Adm.News, p. 4515.

1989 Act. House Report No. 101-247 and House Conference Report No. 101-386, see 1989 U.S.Code Cong. and Adm.News, p. 1906.

1990 Act. House Report No. 101-881 and House Conference Report No. 101-964, see 1990 U.S.Code Cong. and Adm.News, p. 2017.

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(Publication page references are not available for this document.)

Section 145 -- Qualified Sec. 501(c)(3) Bonds

Publication Date: June 26, 1992

0103.00-00  
 Interest on Certain Governmental Obligations (Excluded V.  
 Notexcluded)  
 0145.02-01  
 0145.03-00  
 CC:FI&P:Br.5/TR-31-2207-90

March 31, 1992

LEGEND:

X = \* \* \*  
 Complex Y = \* \* \*  
 Z = \* \* \*  
 Project = \* \* \*  
 Issuer = \* \* \*  
 Old Bonds = \* \* \*  
 a = \* \* \*  
 b = \* \* \*  
 c = \* \* \*  
 Dear \* \* \*

This letter is our reply to a request for rulings on the application of section 145 of the Internal Revenue Code to a proposed issue of bonds (New Bonds). The request was submitted by the authorized representatives of X.

FACTS

X represents that it is an organization described in section 501(c)(3) of the Code. Z is licensed by a state agency as a hospital and is accredited as a hospital by the Joint Commission on Accreditation of Health Care Organizations. Z has been continuously certified as a hospital provider for purposes of receiving Medicare reimbursement by the United States Department of Health and Human Services.

Z requires every patient to be under the care and supervision of a physician. It provides 24-hour nursing services, rendered or supervised by registered professional nurses, and has licensed practical nurses or registered nurses on duty at all times. Z is licensed for and operates c beds.

Z is part of Complex Y, which consists of other hospitals accredited by the state agency, a teaching facility, an ambulatory care facility, and non-health care facilities. Approximately 80 percent of Z's gross patient revenues are currently from inpatients. However, X expects that changes in Medicare reimbursement, other economic pressures, and advances in technology will force Z to increase its relative amount of outpatient services, making it likely that a majority of services will eventually be rendered to outpatients.

In 1990, Issuer issued a dollars of Old Bonds and loaned the proceeds to X.

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9226062

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(Publication page references are not available for this document.)

Of the proceeds of the Old Bonds, b dollars are being used for the construction of Project, which is an addition to Z. The remainder of the proceeds were or are being used for other purposes. When the Old Bonds were issued, X already exceeded the \$150 million limitation set forth in section 145(b)(1) of the Code. Therefore, the interest on the Old Bonds was not excludable from gross income under section 103(a).

Project is currently under construction. When completed, it will be part of Z. X expects Project to be licensed by the state agency as part of Z. Because Project will expand outpatient services, X expects that a majority of Z's revenues will be from outpatient services and that a majority of Z's space will be used for outpatient services.

X now proposes to direct Issuer, in accordance with provisions of the Old Bonds indenture, to issue New Bonds in an amount equal to the b dollars of proceeds from the Old Bonds used for Project. The proceeds of the New Bonds will be used to redeem part of the outstanding Old Bonds.

#### LAW AND ANALYSIS

Under section 103(b)(1) of the Code, the exclusion from gross income granted to interest on a state or local bond does not apply to private activity bonds. However, the exclusion does apply to private activity bonds that are qualified bonds. Among the qualified bonds listed in section 141(e)(1) is a qualified 501(c)(3) bond. A qualified 501(c)(3) bond is defined in section 145.

To be a qualified 501(c)(3) bond, a bond must satisfy a number of conditions, including \$150 million volume limitation set forth in section 145(b)(1) of the Code. Under this limitation, a bond is not treated as a qualified 501(c)(3) bond if it is part of an issue of bonds whose aggregate authorized face amount allocated to any 501(c)(3) organization, plus the amount of that organization's outstanding tax-exempt nonhospital bonds, exceeds \$150 million. A 501(c)(3) organization must be a test-period beneficiary under section 145(b)(4).

Under section 145(b)(1) of the Code, the \$150 million limitation does not apply to qualified hospital bonds. Section 145(c) defines a qualified hospital bond as any bond that is part of an issue if 95 percent or more of the issue's net proceeds are to be used for a hospital. Thus, unless Project is a hospital, the New Bonds must be tested under the \$150 million limitation.

The term "hospital" is not defined in Part IV, Subchapter B of the Code. However, the Conference Report for the Tax Reform Act of 1986, 2 H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II-725-727 (1986), 1986-3 C.B. (Vol. 4) 725-727, indicates that a hospital is a facility that (1) is accredited by the Joint Commission on Accreditation of Hospitals (which has been succeeded by the Joint Commission on Accreditation of Health Care Organizations); (2) is primarily used to provide diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled or sick persons as hospital inpatients under the supervision of physicians; (3) has a requirement that every patient be under the care and supervision of a physician; and (4) provides 24-hour nursing services rendered or supervised by a registered professional nurse and has a licensed practical nurse or registered nurse on duty at all times. The Report makes clear that the term "hospital" does not include rest or nursing homes, day care centers, medical school facilities, research laboratories or ambulatory surgicenters.

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(Publication page references are not available for this document.)

Based on the information submitted, Z satisfies the tests of accreditation, physician supervision, and nursing services. The remaining question is whether it provides services primarily to inpatients.

The legislative history provides no test for determining whether a facility is primarily used to provide services to inpatients. However, we believe Z is primarily used to provide services to persons as hospital inpatients because (1) it has a principal, rather than an incidental, purpose to serve inpatients; (2) it has a substantial portion of its revenues derived from and a substantial portion of its area devoted to inpatients; (3) it has well-established facilities to accommodate on-site scheduled inpatients; and (4) it has well-established facilities to accommodate on-site a recipient of outpatient services who is immediately converted to an inpatient either when complications result from any outpatient services rendered or when a qualified health-care professional considers it medically prudent. Thus, at the present time, Z is primarily used to provide services to inpatients.

#### CONCLUSION

We conclude that Z is presently a hospital within the meaning of sections 145(b) and (c) of the Code. However, we express no opinion on the following questions: (1) whether Z and Project will continue to meet the definition of a hospital if there are changes in any of the four specified characteristics; (2) whether the proposed allocation of New Bonds' proceeds for purposes of section 145 is reasonable; and (3) whether the New Bonds would cause the \$150 million limitation of section 145(b)(1) to be exceeded. In addition, we express no opinion on the proposed transaction under any other provisions of the Code.

This ruling letter is directed only to the person that requested it. Section 6110(j)(3) of the Code states that the letter may not be used or cited as precedent. No temporary or final regulations pertaining to the ruling addressed in this letter have been adopted. Therefore, as stated in section 11.04 of Rev. Proc. 92-1, 1992-1 I.R.B. 7, 30, this letter will be modified or revoked when temporary or final regulations are adopted, to the extent the regulations are inconsistent with any of this letter's ruling. However, if the criteria set forth in section 11.05 of Rev. Proc. 92-1 are satisfied, the ruling in this letter will not be modified retroactively, except in rare or unusual circumstances.

In accordance with the power of attorney filed with this office, a copy of this letter has been mailed to your authorized representative.  
Sincerely yours,

Assistant Chief Counsel  
(Financial Institutions &  
Products)

By: Lon B. Smith  
Chief, Branch 5

Enclosure:

Copy for section 6110 purposes

Internal Revenue Service

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Citation	Rank(R)	Database	Mode
C875 ALI-ABA 179	R 14 OF 48	TP-ALL	Page
(Cite as: C875 ALI-ABA 179)			

ALI-ABA Course of Study  
Tax Exempt Charitable Organizations  
Cosponsored by the ABA Section of Taxation

\*179 TAX EXEMPT FINANCING AND CHARITIES

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December 2, 1993

Frederic L. Ballard, Jr.  
Ballard, Spahr, Andrews & Ingersoll  
Washington, D.C.

\*181 1. Basic transaction uses proceeds of municipal bonds to finance facilities for 501(c)(3) organization.

(a) City or state, or authority formed by city or state (collectively, the "issuer"), issues bonds that are exempt from Federal income tax and alternative minimum tax.

(b) Issuer lends proceeds to hospital or other 501(c)(3) organization ("borrower") for application to costs of facility.

(1) In some states, transaction may in form other than loan, such as lease, sublease, or installment sale.

(2) Non-loan formats originated historically out of concern over legality of government making loan to private parties.

(c) Payments by borrower to issuer provide issuer with funds to pay debt service on bonds plus expenses; reflect interest rate savings due to tax exemption of bond interest.

(d) Tax-exempt bonds for 501(c)(3) organizations ("qualified 501(c)(3) bonds") are subject to various limits under Internal Revenue Code -

(1) The 501(c)(3) organization must in fact be exempt under section 501(c)(3) and must not use the financed project in an unrelated trade or business.

(A) Substantive questions in some areas, such as low-income housing (75% of tenants below 60% of area median income, under Rev. Proc. 93-1).

(B) Management contracts must meet 5-year overall limit, pricing requirements, and other conditions of Rev. Proc. 93-19.

(C) Allocations sometimes permitted between cost of qualifying uses and nonqualifying uses -

\*182 - Allocation permitted on basis of space. LTR 8827065 (parking facility physically segregated between exempt and non-exempt use of parking spaces).

- Allocation permitted on basis of revenues. LTR 9125050 (research foundation may finance portion of cost of facility determined by prorating qualified revenues against private sponsored revenues).

(2) The 501(c)(3) organization cannot have more than \$150,000,000 of tax-exempt financing for "nonhospital" facilities; no limit on qualified 501(c)(3) bonds for hospital facilities (IRC s 145).

(A) Bonds issued before 1986 legislation count as well as bonds issued Copr. (C) West 1997 No claim to orig. U.S. govt. works

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afterwards.

(B) "Hospital" is defined as facility that --

- is accredited,
- is "primarily" used to provide inpatient diagnostic or therapeutic services under supervision of a physician,
- requires that every patient be under supervision of a physician, and

- provides 24-hour nursing services. General Explanation of Tax Reform Act of 1986, Joint Committee on Taxation (1987) ["Joint Committee Explanation"] at 1188.

(C) Questionable whether rehabilitation hospitals are considered hospitals for purposes of this definition. Compare Joint Committee Explanation language with 42 U.S.C. s 1395x(e).

(D) If 95% of net proceeds (90% for pre-8/16/86 bonds) are used to provide a hospital, entire issue is treated as hospital bonds. Joint Committee Explanation at 1188.

(E) Non-hospital financings of 501(c)(3) organizations under common management or \*183 control ("related organizations") are aggregated.

(F) Mixed use as between hospital and nonhospital facilities.

- Treat issue as exempt from \$150,000,000 limit to extent of proportional hospital services.
- Treasury may prescribe other allocation methods. Joint Committee Explanation at 1188.

- See also LTR 9822100 (facilities located in hospital but used both by inpatients and by outpatients are hospital facilities).

(3) Elected official must approve bond issuance after public hearing (IRC s 147(f)).

(4) Average maturity of bonds cannot exceed 120% of average economic life of financed facilities (IRC s 147(b)).

(5) Proceeds cannot be used for internal reimbursement of pre-bond expenditures unless -

(A) Issuer or borrower adopted a qualifying "declaration of official intent" not later than 60 days after the expenditure (exception for "preliminary expenditures" such as architects fees), and

(B) Bond issuance and reimbursement transfer occur within 18 months after expenditure or completion of project, but not later than 3 years after expenditure.

(6) Issuer and borrower must comply with arbitrage bond requirements -

(A) Must make "rebate" payments to Federal government equal to arbitrage (investment income at yield above bond yield) from -

(i) Reserve fund,

\*184 (ii) Project fund, unless 6-month, 18-month, or 3-year "spending exception" applies.

(B) If bonds are "advance refunding bonds" (issued to pay off a prior issue at redemption date more than 90 days in future), cannot invest proceeds at yield more than .001% over the bond yield; project bonds issued after 1985 may be advance refunded once.

(7) Change in use of facility, such as sale to business, may be possible under Rev. Proc. 93-17 if -

(A) Not expected when bonds were issued,

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C875 ALI-ABA 179

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- (B) 5 years have passed.
- (C) Price is fair,
- (D) Bonds are redeemed.

## 2. Potentially abusive transactions under IR-90-60.

(a) 501(c)(3) organization acquires nursing home or hospital with proceeds of tax-exempt bonds, for example with "manage-back" agreement to developer.

(b) Facilities financed with tax-exempt bonds are sold or leased by a 501(c)(3) organization to partnership or other entities of medical staff.

(c) Private health care facility sells an unprofitable facility to a 501(c)(3) organization, for example newly formed by the private corporation and using bond financing.

(d) See also: Announcement 93-2, Proposed Examination Guidelines Regarding Colleges and Universities, s 342.7 (e.g. "determine whether the board of directors of the university have met a prudent man fiduciary standard in incurring the debt").

## 3. Particular problems in financing "working capital."

(a) "Working capital" expenditures are defined as expenditures not properly chargeable to capital account under general tax principles - that is, operating expenses. Reg. s 1.150-1(b).

\*185 (b) Arbitrage bond regulations prevent an issuer from "allocating" proceeds to expenditures for working capital unless there are no other funds available.

(1) Exceptions for "de minimis" allocations (e.g., 5% of issue may be allocated to working capital expenditures, such as initial operating expenses, that are directly related to capital costs financed by the issue).

(2) Funds held in a "reasonable working capital reserve" (equal to 5% of prior year's expenses) can be treated as unavailable, unless the reserve represents an accumulation of funds replaced by the bond proceeds.

## 4. Emerging techniques with "derivative" securities.

(a) Fixed-rate bonds can be "fractionated" by parties into derivative products to meet particular markets.

(b) Example: first half of issue bears interest at conventional floating rate, second half jets difference between first half's rate and a fixed rate ("inverse floaters" or "residual interest bonds").

(c) Another example: bondholders receive floating rate; issuer enters an interest rate exchange contract ("swap contract") with a financial institution to hedge its rate risk.

(d) Desired result in both cases is tax treatment: as a fixed-rate issue of debt.

## 5. Emerging problems under Health Security Plan.

(a) How to finance working capital requirements of a health alliance.

(b) How to finance a state guarantee fund for failing hospitals.

C875 ALI-ABA 179

END OF DOCUMENT

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ALASKA STATE

# HOSPITAL & NURSING HOME

ASSOCIATION

Testimony on House Bill 102

February 10, 1997

Mr. Chairman & Members of the House Finance Committee:

For the record, my name is Garrey Peska and I'm here representing the Alaska State Hospital and Nursing Home Association.

The Association members respectfully request that House Bill 102 not be passed from this committee and that the Alaska Medical Facilities Authority not be abolished.

This Authority was set up in 1978 for the purpose of selling tax exempt revenue bonds with the proceeds being used for medical facility construction and improvements.

In the past the Authority provided financing for two projects through bond sales. One was for the purchase of Careage North and the other was for remodeling Fairbanks Memorial Hospital. The Careage North bonds were retired on June 16, 1989 and the Fairbanks Memorial bonds were retired in March of 1990.

Since then there has been no activity in the Authority. That 's at least in part due to the fact that Alaska had enough money for a while to provide direct funding for hospital projects through the Capital Budget. That hasn't been happening lately and we don't expect to see it happen again in the near future.

Leaving the Authority on the books will provide a mechanism for selling tax exempt revenue bonds to finance medical facility construction and improvements in the future. Some facilities are municipally owned and they can sell revenue bonds through the municipalities and the State Municipal Bond Bank. Other non profit facilities that are not municipally owned could use this Authority for that purpose. We know of no other mechanism that would allow medical facilities to sell tax exempt revenue bonds for construction and improvement financing.

The Hospital & Nursing Home Association's lawyer has reviewed the State and Federal laws related to the Authority. In her report she verifies that the Authority may still sell these bonds under current Federal law. There is no compelling reason to abolish the Authority and I think the subject came up mostly because of the lack of activity in the Authority since 1990.

The Department of Revenue says that if bonds are sold by the Authority they are not general or moral obligations of the State. They are secured by lease payments on medical facilities mortgaged to the Authority and there would be no impact on the State's bond rating.

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FAX Transmission Sheet

Date: February 8, 1997  
To: Garrey Peska  
1-907-364-2950  
From: Susan Wright Mason  
Our File: ASHNSA/Proposed Legislation Care  
Our File No. 4566-10  
Message: Please see the attached.

You should receive 13 page(s) including this cover sheet. If there is a problem receiving this transmission, please call (907) 279-9696. Our fax number is (907) 279-4239.

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Mr. Garrey Peska  
Alaska State Hospital & Nursing Home  
Association  
February 8, 1997  
Page 2

Re: Proposed Legislation  
Repeal of Medical Facility Authority Statute  
Our File No. 4566-10

confirm that the repeal would not eliminate a possible means of financing the construction of health care facilities that might not otherwise be available.

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Under sections 145 and 501(c)(3) of the Internal Revenue Code, if 95 percent of a state or local bond issue is for the use of a "hospital" that is otherwise exempt from federal income tax under section 501(c)(3), then the interest on those bonds is exempt and there is no limit on the amount of such bonds that can be issued. Other so-called "501(c)(3) bonds" also are tax exempt, but, except for "hospital bonds," there is a \$150 million limit on the amount of bonds that may be outstanding at any one time.

As back-up documentation, enclosed I am sending you copies of the following:

1. Section 145 of the Internal Revenue Code, "Qualified 501(c)(3) Bond";
2. Internal Revenue Service Private Letter Ruling 9226062 (March 3, 1992) (discussing standards for identifying a "hospital" not subject to the \$150 million limit on tax exempt bonds); and

# CORRECTION

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Date: February 8, 1997  
To: Garrey Peska  
1-907-364-2950  
From: Susan Wright Mason  
Our File: ASHNHA/Proposed Legislation Care  
Our File No. 4566-10  
Message: Please see the attached.

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February 8, 1997

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VIA FACSIMILE--ORIGINAL TO FOLLOW

Mr. Garrey M. Peska  
Alaska State Hospital & Nursing Home Association  
P. O. Box 240185  
Douglas, Alaska 99824

Re: Proposed Legislation  
Repeal of Medical Facility Authority Statute  
Our File No. 4566-10

Dear Garrey:

You have asked me to review Representative Therriault's proposed legislation repealing AS 18.26, which establishes the Alaska Medical Facility Authority. I understand from the telephone message that I received from you late yesterday afternoon that such a bill now has been introduced and that a hearing is scheduled at 1:30 on Monday afternoon, February 10.

My understanding of the supposed purpose of this legislation is based on comments that were made in the meetings of ASHNHA's Legislative Committee and the Executive Committee on Thursday, February 6. Specifically, it was explained that, originally, the Authority had been established to take advantage of a financing mechanism that had been authorized by federal law and that in 1986 federal law had been changed so that such financing was no longer possible. Before adopting a position on the proposed repeal, ASHNHA wanted to determine definitely whether that background information was accurate. The specific concern was to

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Mr. Garrey Peska  
Alaska State Hospital & Nursing Home  
Association  
February 8, 1997  
Page 2

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confirm that the repeal would not eliminate a possible means of financing the construction of health care facilities that might not otherwise be available.

Reading between the lines, I believe the 1986 change in federal law that was mentioned must have been the adoption of the Tax Reform Act of 1986. That law placed certain limitations on the tax exemptions that are available for interest earned on state and local bonds. Among other things, the Alaska Medical Facility Authority is authorized to issue revenue bonds for the purpose of establishing and equipping health care facilities. Those bonds are exempt from state taxes. Clearly, however, if the bonds were exempt from state taxes but not exempt from federal taxes, they would not be as attractive. I have researched the current status of the availability of a federal tax exemption for state and local government bonds used to finance construction of health care facilities, and I have determined that, with some restrictions, the tax exemption is still available. Specifically, the federal tax exemption continues to be available without limitation for non-profit hospital bonds and is available for other non-profit purposes, with some limitations.

Under sections 145 and 501(c)(3) of the Internal Revenue Code, if 95 percent of a state or local bond issue is for the use of a "hospital" that is otherwise exempt from federal income tax under section 501(c)(3), then the interest on those bonds is exempt and there is no limit on the amount of such bonds that can be issued. Other so-called "501(c)(3) bonds" also are tax exempt, but, except for "hospital bonds," there is a \$150 million limit on the amount of bonds that may be outstanding at any one time.

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2. Internal Revenue Service Private Letter Ruling 9226062 (March 3, 1992) (discussing standards for identifying a "hospital" not subject to the \$150 million limit on tax exempt bonds); and

Mr. Garrey Peska  
Alaska State Hospital & Nursing Home  
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February 8, 1997  
Page 3

Re: Proposed Legislation  
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3. F. Ballard, "Tax Exempt Financing and Charities,"  
ALI-ABA Course of Study (Dec. 2, 1993) (in outline format,  
summarizes mechanism and standards for tax-exempt bonds).

Given the continuing availability of a federal tax exemption for "hospital bonds," it may well be advisable to attempt to retain the Alaska Medical Facility Authority as a vehicle for issuing such bonds. There appears to be no requirement that such bonds be issued by an Authority, and presumably they also could be issued directly by the state or local government. That might require a public vote, however. (The outline listed as Item 3 above states, in paragraph 1(a), "City or state, or authority formed by city or state . . . issues bonds that are exempt from Federal income tax . . . .")

As you know, bond financing and the related tax exemptions are a very complex area, and I certainly am not a bond specialist. It is clear, however, that the federal tax exemption is still available for non-profit "hospital bonds." With this additional background information, it may be possible to determine if the proposed repeal in fact is based on a mistaken understanding that the federal tax exemption for such bonds was repealed in 1986. At the very least, demonstrating the invalidity of that reason may help bring to light some other reason the repeal is being proposed.

I hope this information is helpful to you in formulating ASHNHA's position on this legislation. I will be glad to discuss this with you at your convenience.

Sincerely,

KEESAL, YOUNG & LOGAN

  
Susan Wright Mason

SWM:klo  
Enclosures  
cc: Ms. Laraine Derr

(SAM\LTR\1939)

Citation  
26 USCA s 145  
26 U.S.C.A. s 145

FOUND DOCUMENT

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UNITED STATES CODE ANNOTATED  
TITLE 26. INTERNAL REVENUE CODE  
SUBTITLE A--INCOME TAXES  
CHAPTER 1--NORMAL TAXES AND SURTAXES  
SUBCHAPTER B--COMPUTATION OF TAXABLE INCOME  
PART IV--TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS  
SUBPART A--PRIVATE ACTIVITY BONDS  
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Current through P.L. 104-333, approved 11-12-96

s 145. Qualified 501(c)(3) bond

(a) In general.--For purposes of this part, except as otherwise provided in this section, the term "qualified 501(c)(3) bond" means any private activity bond issued as part of an issue if--

(1) all property which is to be provided by the net proceeds of the issue is to be owned by a 501(c)(3) organization or a governmental unit, and  
(2) such bond would not be a private activity bond if--

(A) 501(c)(3) organizations were treated as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a), and

(B) paragraphs (1) and (2) of section 141(b) were applied by substituting "5 percent" for "10 percent" each place it appears and by substituting "net proceeds" for "proceeds" each place it appears.

(b) \$150,000,000 limitation on bonds other than hospital bonds.--

(1) In general.--A bond (other than a qualified hospital bond) shall not be treated as a qualified 501(c)(3) bond if the aggregate authorized face amount of the issue (of which such bond is a part) allocated to any 501(c)(3) organization which is a test-period beneficiary (when increased by the outstanding tax-exempt nonhospital bonds of such organization) exceeds \$150,000,000.

(2) Outstanding tax-exempt nonhospital bonds.--

(A) In general.--For purposes of applying paragraph (1) with respect to any issue, the outstanding tax-exempt nonhospital bonds of any organization which is a test-period beneficiary with respect to such issue is the aggregate amount of tax-exempt bonds referred to in subparagraph (B)--

(i) which are allocated to such organization, and

(ii) which are outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

(B) Bonds taken into account.--For purposes of subparagraph (A), the bonds referred to in this subparagraph are--

(i) any qualified 501(c)(3) bond other than a qualified hospital bond, and  
(ii) any bond to which section 141(a) does not apply if--

(I) such bond would have been an industrial development bond (as defined in section 103(b)(2), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) if 501(c)(3) organizations were not exempt persons, and

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26 USCA § 145

PAGE 2

TEXT (b) (2) (B) (ii) (II)

(II) such bond was not described in paragraph (4), (5), or (6) of such section 103(b) (as in effect on the date such bond was issued).

(C) Only nonhospital portion of bonds taken into account.--

(i) In general.--A bond shall be taken into account under subparagraph (B) only to the extent that the proceeds of the issue of which such bond is a part are not used with respect to a hospital.

(ii) Special rule.--If 90 percent or more of the net proceeds of an issue are used with respect to a hospital, no bond which is part of such issue shall be taken into account under subparagraph (B)(ii).

(3) Aggregation rule.--For purposes of this subsection, 2 or more organizations under common management or control shall be treated as 1 organization.

(4) Allocation of face amount of issue; test-period beneficiary.--Rules similar to the rules of subparagraphs (C), (D) and (E) of section 144(a)(10) shall apply for purposes of this subsection.

(c) Qualified hospital bond.--For purposes of this section, the term "qualified hospital bond" means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used with respect to a hospital.

(d) Restrictions on bonds used to provide residential rental housing for family units.--

(1) In general.--Except as otherwise provided in this subsection, a bond which is part of an issue shall not be a qualified 501(c)(3) bond if any portion of the net proceeds of the issue are to be used directly or indirectly to provide residential rental property for family units.

(2) Exception for bonds used to provide qualified residential rental projects.--Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide--

(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

(B) qualified residential rental projects (as defined in section 142(d)), or

(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

(3) Certain property treated as new property.--Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing--

(A) In general.--If--

(i) the 1st use of property is pursuant to taxable financing,

(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

(B) Special rule where no operating state or local program for tax-exempt financing.--If, at the time of the 1st use of property, there was no

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26 USCA s 145  
TEXT (d) (3) (B)

PAGE 3

operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

(C) Definitions.--For purposes of this paragraph--

(i) Tax-exempt financing.--The term "tax-exempt financing" means financing provided by tax-exempt bonds.

(ii) Taxable financing.--The term "taxable financing" means financing which is not tax-exempt financing.

(4) Substantial rehabilitation.--

(A) In general.--Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

(B) Exception.--For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C)(i) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

(e) Election out.--This section shall not apply to an issue if--

(1) the issuer elects not to have this section apply to such issue, and

(2) such issue is an issue of exempt facility bonds, or qualified redevelopment bonds, to which section 146 applies.

~~CREDIT(S)~~

#### 1997 Electronic Pocket Part Update

(Added Pub.L. 99-514, Title XIII, s 1301(b), Oct. 22, 1986, 100 Stat. 2629, and amended Pub.L. 100-647, Title I, s 1013(a)(6)-(8), Title V, s 5053(a), Nov. 10, 1988, 102 Stat. 3538, 3677; Pub.L. 101-239, Title VII, s 7815(f), Dec. 19, 1989, 103 Stat. 2419; Pub.L. 101-508, Title XI, s 11813(b)(7), Nov. 5, 1990, 104 Stat. 1388-551.)

< General Materials (GM) - References, Annotations, or Tables >

#### HISTORICAL AND STATUTORY NOTES

##### Revision Notes and Legislative Reports

1986 Act. House Conference Report No. 99-641, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 4075.

1988 Act. Senate Report No. 100-445 and House Conference Report No. 100-1104, see 1988 U.S.Code Cong. and Adm.News, p. 4515.

1989 Act. House Report No. 101-247 and House Conference Report No. 101-386, see 1989 U.S.Code Cong. and Adm.News, p. 1906.

1990 Act. House Report No. 101-881 and House Conference Report No. 101-964, see 1990 U.S.Code Cong. and Adm.News, p. 2017.

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PAGE 1

Citation	Rank(R)	Database	Mode
9226062	R 8 OF 25	FTX-ALL	Page

(Publication page references are not available for this document.)

Section 145 -- Qualified Sec. 501(c)(3) Bonds

Publication Date: June 26, 1992

0103.00-00

Interest on Certain Governmental Obligations (Excluded V. Notexcluded)

0145.02-01

0145.03-00

CC:FI&P:Br.5/TR-31-2207-90

March 31, 1992

LEGEND:

X = \* \* \*

Complex Y = \* \* \*

Z = \* \* \*

Project = \* \* \*

Issuer = \* \* \*

Old Bonds = \* \* \*

a = \* \* \*

b = \* \* \*

c = \* \* \*

Dear \* \* \*

This letter is our reply to a request for rulings on the application of section 145 of the Internal Revenue Code to a proposed issue of bonds (New Bonds). The request was submitted by the authorized representatives of X.

FACTS

X represents that it is an organization described in section 501(c)(3) of the Code. Z is licensed by a state agency as a hospital and is accredited as a hospital by the Joint Commission on Accreditation of Health Care Organizations. Z has been continuously certified as a hospital provider for purposes of receiving Medicare reimbursement by the United States Department of Health and Human Services.

Z requires every patient to be under the care and supervision of a physician. It provides 24-hour nursing services, rendered or supervised by registered professional nurses, and has licensed practical nurses or registered nurses on duty at all times. Z is licensed for and operates c beds.

Z is part of Complex Y, which consists of other hospitals accredited by the state agency, a teaching facility, an ambulatory care facility, and non-health care facilities. Approximately 80 percent of Z's gross patient revenues are currently from inpatients. However, X expects that changes in Medicare reimbursement, other economic pressures, and advances in technology will force Z to increase its relative amount of outpatient services, making it likely that a majority of services will eventually be rendered to outpatients.

In 1990, Issuer issued a dollars of Old Bonds and loaned the proceeds to X.

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9226062

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(Publication page references are not available for this document.)

Of the proceeds of the Old Bonds, b dollars are being used for the construction of Project, which is an addition to Z. The remainder of the proceeds were or are being used for other purposes. When the Old Bonds were issued, X already exceeded the \$150 million limitation set forth in section 145(b)(1) of the Code. Therefore, the interest on the Old Bonds was not excludable from gross income under section 103(a).

Project is currently under construction. When completed, it will be part of Z. X expects Project to be licensed by the state agency as part of Z. Because Project will expand outpatient services, X expects that a majority of Z's revenues will be from outpatient services and that a majority of Z's space will be used for outpatient services.

X now proposes to direct Issuer, in accordance with provisions of the Old Bonds indenture, to issue New Bonds in an amount equal to the b dollars of proceeds from the Old Bonds used for Project. The proceeds of the New Bonds will be used to redeem part of the outstanding Old Bonds.

#### LAW AND ANALYSIS

Under section 103(b)(1) of the Code, the exclusion from gross income granted to interest on a state or local bond does not apply to private activity bonds. However, the exclusion does apply to private activity bonds that are qualified bonds. Among the qualified bonds listed in section 141(e)(1) is a qualified 501(c)(3) bond. A qualified 501(c)(3) bond is defined in section 145.

To be a qualified 501(c)(3) bond, a bond must satisfy a number of conditions, including \$150 million volume limitation set forth in section 145(b)(1) of the Code. Under this limitation, a bond is not treated as a qualified 501(c)(3) bond if it is part of an issue of bonds whose aggregate authorized face amount allocated to any 501(c)(3) organization, plus the amount of that organization's outstanding tax-exempt nonhospital bonds, exceeds \$150 million. A 501(c)(3) organization must be a test-period beneficiary under section 145(b)(4).

Under section 145(b)(1) of the Code, the \$150 million limitation does not apply to qualified hospital bonds. Section 145(c) defines a qualified hospital bond as any bond that is part of an issue if 95 percent or more of the issue's net proceeds are to be used for a hospital. Thus, unless Project is a hospital, the New Bonds must be tested under the \$150 million limitation.

The term "hospital" is not defined in Part IV, Subchapter B of the Code. However, the Conference Report for the Tax Reform Act of 1986, 2 H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II-725-727 (1986), 1986-3 C.B. (Vol. 4) 725-727, indicates that a hospital is a facility that (1) is accredited by the Joint Commission on Accreditation of Hospitals (which has been succeeded by the Joint Commission on Accreditation of Health Care Organizations); (2) is primarily used to provide diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled or sick persons as hospital inpatients under the supervision of physicians; (3) has a requirement that every patient be under the care and supervision of a physician; and (4) provides 24-hour nursing services rendered or supervised by a registered professional nurse and has a licensed practical nurse or registered nurse on duty at all times. The Report makes clear that the term "hospital" does not include rest or nursing homes, day care centers, medical school facilities, research laboratories or ambulatory surgicenters.

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9226062

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(Publication page references are not available for this document.)

Based on the information submitted, Z satisfies the tests of accreditation, physician supervision, and nursing services. The remaining question is whether it provides services primarily to inpatients.

The legislative history provides no test for determining whether a facility is primarily used to provide services to inpatients. However, we believe Z is primarily used to provide services to persons as hospital inpatients because (1) it has a principal, rather than an incidental, purpose to serve inpatients, (2) it has a substantial portion of its revenues derived from and a substantial portion of its area devoted to inpatients; (3) it has well-established facilities to accommodate on-site scheduled inpatients; and (4) it has well-established facilities to accommodate on-site a recipient of outpatient services who is immediately converted to an inpatient either when complications result from any outpatient services rendered or when a qualified health-care professional considers it medically prudent. Thus, at the present time, Z is primarily used to provide services to inpatients.

#### CONCLUSION

We conclude that Z is presently a hospital within the meaning of sections 145(b) and (c) of the Code. However, we express no opinion on the following questions: (1) whether Z and Project will continue to meet the definition of a hospital if there are changes in any of the four specified characteristics; (2) whether the proposed allocation of New Bonds' proceeds for purposes of section 145 is reasonable; and (3) whether the New Bonds would cause the \$150 million limitation of section 145(b)(1) to be exceeded. In addition, we express no opinion on the proposed transaction under any other provisions of the Code.

This ruling letter is directed only to the person that requested it. Section 6110(j)(3) of the Code states that the letter may not be used or cited as precedent. No temporary or final regulations pertaining to the ruling addressed in this letter have been adopted. Therefore, as stated in section 11.04 of Rev. Proc. 92-1, 1992-1 I.R.B. 7, 30, this letter will be modified or revoked when temporary or final regulations are adopted, to the extent the regulations are inconsistent with any of this letter's ruling. However, if the criteria set forth in section 11.05 of Rev. Proc. 92-1 are satisfied, the ruling in this letter will not be modified retroactively, except in rare or unusual circumstances.

In accordance with the power of attorney filed with this office, a copy of this letter has been mailed to your authorized representative.  
Sincerely yours,

Assistant Chief Counsel  
(Financial Institutions &  
Products)  
By: Lon B. Smith  
Chief, Branch 5  
Enclosure:  
Copy for section 6110 purposes

Internal Revenue Service

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Citation	Rank(R)	Database	Mode
C875 ALI-ABA 179	R 14 OF 48	TP-ALL	Page
(Cite as: C875 ALI-ABA 179)			

ALI-ABA Course of Study  
Tax Exempt Charitable Organizations  
Sponsored by the ABA Section of Taxation

\*179 TAX EXEMPT FINANCING AND CHARITIES

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December 2, 1993

Frederic L. Ballard, Jr.  
Ballard, Spahr, Andrews & Ingersoll  
Washington, D.C.

\*181 1. Basic transaction uses proceeds of municipal bonds to finance facilities for 501(c)(3) organization.

(a) City or state, or authority formed by city or state (collectively, the "issuer"), issues bonds that are exempt from Federal income tax and alternative minimum tax.

(b) Issuer lends proceeds to hospital or other 501(c)(3) organization ("borrower") for application to costs of facility.

(1) In some states, transaction may in form other than loan, such as lease, sublease, or installment sale.

(2) Non-loan formats originated historically out of concern over legality of government making loan to private parties.

(c) Payments by borrower to issuer provide issuer with funds to pay debt service on bonds plus expenses; reflect interest rate savings due to tax exemption of bond interest.

(d) Tax-exempt bonds for 501(c)(3) organizations ("qualified 501(c)(3) bonds") are subject to various limits under Internal Revenue Code -

(1) The 501(c)(3) organization must in fact be exempt under section 501(c)(3) and must not use the financed project in an unrelated trade or business.

(A) Substantive questions in some areas, such as low-income housing (75% of tenants below 60% of area median income, under Rev. Proc. 93-1).

(B) Management contracts must meet 5-year overall limit, pricing requirements, and other conditions of Rev. Proc. 93-19.

(C) Allocations sometimes permitted between cost of qualifying uses and nonqualifying uses -

\*182 - Allocation permitted on basis of space. LTR 8827065 (parking facility physically segregated between exempt and non-exempt use of parking spaces).

- Allocation permitted on basis of revenues. LTR 9125050 (research foundation may finance portion of cost of facility determined by prorating qualified revenues against private sponsored revenues).

(2) The 501(c)(3) organization cannot have more than \$150,000,000 of tax-exempt financing for "nonhospital" facilities; no limit on qualified 501(c)(3) bonds for hospital facilities (IRC s 145).

(A) Bonds issued before 1986 legislation count as well as bonds issued  
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# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

Citation	Rank(R)	Database	Mode
C875 ALI-ABA 179	R 14 OF 48	TP-ALL	Page
(Cite as: C875 ALI-ABA 179)			

ALI-ABA Course of Study  
Tax Exempt Charitable Organizations  
Cosponsored by the ABA Section of Taxation

**\*179 TAX EXEMPT FINANCING AND CHARITIES**

Copyright (c) 1993 The American Law Institute; Frederic L. Ballard, Jr.

December 2, 1993

Frederic L. Ballard, Jr.  
Ballard, Spahr, Andrews & Ingersoll  
Washington, D.C.

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C875 ALI-ABA 179

PAGE 2

(Cite as: C875 ALI-ABA 179, +182)

afterwards.

(B) "Hospital" is defined as facility that --

- is accredited,
- is "primarily" used to provide inpatient diagnostic or therapeutic services under supervision of a physician,
- requires that every patient be under supervision of a physician,

and

- provides 24-hour nursing services. General Explanation of Tax Reform Act of 1986, Joint Committee on Taxation (1987) ["Joint Committee Explanation"] at 1188.

(C) Questionable whether rehabilitation hospitals are considered hospitals for purposes of this definition. Compare Joint Committee Explanation language with 42 U.S.C. s 1395x(e).

(D) If 95% of net proceeds (90% for pre-8/16/86 bonds) are used to provide a hospital, entire issue is treated as hospital bonds. Joint Committee Explanation at 1188.

(E) Non-hospital financings of 501(c)(3) organizations under common management or \*183 control ("related organizations") are aggregated.

(F) Mixed use as between hospital and nonhospital facilities.

- Treat issue as exempt from \$150,000,000 limit to extent of proportional hospital services.

- Treasury may prescribe other allocation methods. Joint Committee Explanation at 1188.

- See also LTR 8822100 (facilities located in hospital but used both by inpatients and by outpatients are hospital facilities).

(3) Elected official must approve bond issuance after public hearing (IRC s 147(f)).

(4) Average maturity of bonds cannot exceed 120% of average economic life of financed facilities (IRC s 147(b)).

(5) Proceeds cannot be used for internal reimbursement of pre-bond expenditures unless -

(A) Issuer or borrower adopted a qualifying "declaration of official intent" not later than 60 days after the expenditure (exception for "preliminary expenditures" such as architects fees), and

(B) Bond issuance and reimbursement transfer occur within 18 months after expenditure or completion of project, but not later than 3 years after expenditure.

(6) Issuer and borrower must comply with arbitrage bond requirements -

(A) Must make "rebate" payments to Federal government equal to arbitrage (investment income at yield above bond yield) from -

(i) Reserve fund,

\*184 (ii) Project fund, unless 6-month, 18-month, or 2-year "spending exception" applies.

(B) If bonds are "advance refunding bonds" (issued to pay off a prior issue at redemption date more than 90 days in future), cannot invest proceeds at yield more than .001% over the bond yield; project bonds issued after 1985 may be advance refunded once.

(7) Change in use of facility, such as sale to business, may be possible under Rev. Proc. 93-17 if -

(A) Not expected when bonds were issued,

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C875 ALI-ABA 179

PAGE 3

(Cite as: C875 ALI-ABA 179, \*184)

- (B) 5 years have passed,
- (C) Price is fair,
- (D) Bonds are redeemed.

## 2. Potentially abusive transactions under IR-90-60.

(a) 501(c)(3) organization acquires nursing home or hospital with proceeds of tax-exempt bonds, for example with "manage-back" agreement to developer.

(b) Facilities financed with tax-exempt bonds are sold or leased by a 501(c)(3) organization to partnership or other entities of medical staff.

(c) Private health care facility sells an unprofitable facility to a 501(c)(3) organization, for example newly formed by the private corporation and using bond financing.

(d) See also: Announcement 93-2, Proposed Examination Guidelines Regarding Colleges and Universities, s 342.7 (e.g "determine whether the board of directors of the university have met a prudent man fiduciary standard in incurring the debt").

## 3. Particular problems in financing "working capital."

(a) "Working capital" expenditures are defined as expenditures not properly chargeable to capital account under general tax principles - that is, operating expenses. Reg. s 1.150-1(b).

\*185 (b) Arbitrage bond regulations prevent an issuer from "allocating" proceeds to expenditures for working capital unless there are no other funds available.

(1) Exceptions for "de minimis" allocations (e.g., 5% of issue may be allocated to working capital expenditures, such as initial operating expenses, that are directly related to capital costs financed by the issue).

(2) Funds held in a "reasonable working capital reserve" (equal to 5% of prior year's expenses) can be treated as unavailable, unless the reserve represents an accumulation of funds replaced by the bond proceeds.

## 4. Emerging techniques with "derivative" securities.

(a) Fixed-rate bonds can be "fractionated" by parties into derivative products to meet particular markets.

(b) Example: first half of issue bears interest at conventional floating rate, second half gets difference between first half's rate and a fixed rate ("inverse floaters" or "residual interest bonds").

(c) Another example: bondholders receive floating rate; issuer enters an interest rate exchange contract ("swap contract") with a financial institution to hedge its rate risk.

(d) Desired result in both cases is tax treatment as a fixed-rate issue of debt.

## 5. Emerging problems under Health Security Plan.

(a) How to finance working capital requirements of a health alliance.

(b) How to finance a state guarantee fund for failing hospitals.

C875 ALI-ABA 179

END OF DOCUMENT

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Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Abolish Alaska Medical Facility Authority BRU: Revenue Operations  
 Component: Treasury Division  
 Sponsor: (H) FIN  
 Requestor: (H) FIN COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
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>

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Department of Revenue supports the abolishment of the Authority. There is no fiscal impact.

Prepared by: Laurie Perkins, Director Phone: 465-2312  
 Division: Administrative Services Division Date: January 7, 1997  
 Approved by Commissioner: Deborah Vogt Date: January 7, 1997  
 Agency: Revenue

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**HB**

**103**

**HFIN**

**FILE**

# ALASKA STATE HOSPITAL & NURSING HOME ASSOCIATION

## Facsimile Transmission

February 11, 1997—9:50 am

**To:** Mike Tibbles

**Office:** Representative Gene Therriault

**Fax #:** (907) 465-3884

**Subject:** HB 102 Repealing Ak. Medical Facility Authority

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**Sender:** Garrey Peska

**Sender Telephone #:** (907) 364-2244

**Sender Fax #:** (907) 364-2950

**Sender E-Mail#:** gpeska@ptialaska.net

You should receive 2 pages. *including this cover sheet.* If you do not receive all the pages, please call the number above.

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**COMMENTS:** Hi Mike: I have a meeting at 10:00 AM today. Will come to your office afterward to talk about the following.

Follow up comments on House Bill 102 - Abolishing the Alaska Medical Facility Authority:

We have researched the Alaska Statutes further to answer a question asked during the House Finance Committee meeting yesterday. The question was whether a municipality in Alaska can issue tax exempt revenue bonds on behalf of a private non profit medical facility.

The short answer is yes but the process is not as uncomplicated as with the Alaska Medical Facility Authority.

The municipality must pass an ordinance to allow the financing project which could be complicated by local politics. Also, if a municipality sells a bond issue in excess of \$10,000,000, some of the tax exempt benefit is lost on the excess.

Home rule cities and second class boroughs with health powers are allowed to sell such bonds. A city within a borough may not sell such bonds unless the borough has delegated health powers to the city.

In a letter dated January 16, 1992, State Comptroller, Brian Andrews wrote:

"The underlying philosophy of AMFA is sound. As such, the AMFA authority should not be removed from statute. With general revenues for political entities decreasing over the next decade, AMFA may provide an acceptable financing opportunity. In its present status, AMFA isn't creating any undue hardships on Treasury's operation."

While we understand there are other alternative tax exempt financing sources available for medical facility projects, ASHNHA members still request that the Authority not be abolished. It is a viable vehicle that could be used in the future. Why preclude that possibility?

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 3, 1997

FURTHER REFERRALS:

Date of Committee Action: 2/11/97

The FINANCE Committee considered:

HB 103

HOUSE BILL NO. 103

REPEALING FUNDS AND ACCOUNTS

"An Act repealing certain state funds and accounts and boards, limitations, and programs related to those funds and accounts; and providing for an effective date."

recommends it be replaced  
with the following committee substitute CSHB103 (F.O.)

the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) Gov

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Therriault</i> Therriault	X			
<i>Mark Hanley</i> Hanley	X			
<i>Tom Mulder</i> Mulder	X			
<i>Larry Martin</i> Martin	X			
<i>Keith Kohring</i> Kohring	X			
<i>Al W. Davis</i> DAVIES	X			
<i>Alan Grossendorf</i> Grossendorf			X	
<i>Fred Davis</i> Davis	X			
<i>Richard Foster</i> Foster	X			

CHAIR'S SIGNATURE *Gene Therriault* *Mark Hanley*

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 103

Revision Date \_\_\_\_\_ Dept. Affected Various Departments  
 Title Repealing Funds and Accounts BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor House Finance Committee  
 Requester House Finance Committee Component Serial No. \_\_\_\_\_

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES [ ]</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
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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>

Estimate of any current year (FY97) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill eliminates several inactive accounts and funds, which are no longer needed. There is no fiscal impact on the departments.

Prepared by Joan Brown Phone 465-4690  
 Division OMB Date 2/7/97  
 Approved by Annalee McConnell Date 2/7/97  
 Agency OMB

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*Adopted  
2/11/97*

0-LS0095F-  
Utermohle  
2/11/97

**CS FOR HOUSE BILL NO. 103(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act repealing certain state funds and accounts and boards, limitations, and  
2 programs related to those funds and accounts; and providing for an effective  
3 date."

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

5 \* Section 1. AS 14.36.020 is amended to read:

6           **Sec. 14.36.020. Community school grants [SCHOOLS GRANT FUND**  
7           **CREATED; LIMITATIONS ON USE]. [THERE IS CREATED A COMMUNITY**  
8           **SCHOOLS GRANT FUND AS AN ACCOUNT IN THE GENERAL FUND. THE**  
9           **FUND SHALL BE USED TO MAKE COMMUNITY SCHOOL GRANTS TO**  
10           **LOCAL ATTENDANCE AREAS OR SCHOOL DISTRICTS UNDER THIS**  
11           **CHAPTER. LEGISLATIVE APPROPRIATIONS FOR COMMUNITY SCHOOL**  
12           **GRANTS SHALL BE DEPOSITED IN THIS FUND.] Community school grants may**  
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7           (f) In addition to the fees imposed under (b) and (d) of this section, the  
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11 IN THE ACCOUNT MAINTAINED BY THE COMMISSIONER OF  
12 ADMINISTRATION UNDER AS 37.05.142 MAY BE APPROPRIATED BY THE  
13 LEGISLATURE TO THE ALASKA AMATEUR SPORTS FUND ESTABLISHED  
14 . UNDER AS 05.35.150].

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18 provided in AS 29.65.050 [OR 29.65.080]. After January 1, 1988, general grant land  
19 entitlements provided in AS 29.65.010 are vested property rights that must be fulfilled  
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24                   (1) the portion of an entitlement that cannot be satisfied by that date  
25 because of a shortage of land suitable for residential, commercial, and industrial  
26 purposes that is vacant, unappropriated, unreserved land;

27                   (2) [PAYMENTS FOR LAND DEFICIENCY UNDER AS 29.65.080;

28                   (3)] the portion of an entitlement that cannot be satisfied because the  
29 land selected by a municipality has been selected by a party entitled to select land  
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8 is subject to the jurisdiction of the Department of Natural Resources.

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11 Public Facilities.

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21 Sec. 47.55.060. **Trust fund.** Unless otherwise provided by the donor, money  
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23 SHALL BE DEPOSITED IN A SPECIAL FUND DESIGNATED THE "ALASKA  
24 PIONEERS' HOME TRUST FUND."] Unless otherwise provided by the donor,  
25 interest from the special trust [THIS] fund is under the control and at the disposal of  
26 the Department of Administration, and expenditure from it is limited to the benefit and  
27 comfort of the residents of the home.

28 \* Sec. 9. AS 47.65.010 is amended to read:

29 Sec. 47.65.010. **Older Alaskans service programs [ACCOUNT].** [THE  
30 OLDER ALASKANS SERVICE PROGRAMS ACCOUNT IS ESTABLISHED IN  
31 THE DEPARTMENT OF ADMINISTRATION.] An amount to carry out the

1 provisions of AS 47.65.010 - 47.65.050 may be appropriated annually by the  
2 legislature [TO THE ACCOUNT]. The amount appropriated [TO THE ACCOUNT]  
3 shall be fully distributed by the Alaska Commission on Aging to sponsors of older  
4 Alaskans service programs in accordance with the provisions of AS 47.65.010 -  
5 47.65.050.

6 \* **Sec. 10.** AS 47.65.020 is amended to read:

7 **Sec. 47.65.020. Grants for community service programs.** Not less than 60  
8 percent of the amount appropriated by the legislature for older Alaskans service  
9 programs under AS 47.65.010 - 47.65.050 [TO THE ACCOUNT ESTABLISHED  
10 IN AS 47.65.010] shall be allocated annually by the commission as community  
11 program grants to sponsors of older Alaskans service programs. Payments shall be  
12 made on the basis of applications submitted to the commission by sponsors of  
13 community programs.

14 \* **Sec. 11.** AS 47.65.030(a) is amended to read:

15 (a) The balance of the amount appropriated for older Alaskans service  
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17 IN AS 47.65.010] not allocated under AS 47.65.020 shall be allocated annually by the  
18 commission as grants to support pilot projects for the benefit of older Alaskans under  
19 this section.

20 \* **Sec. 12.** (a) AS 05.35.150 is repealed.

21 (b) AS 14.07.020(a)(15); AS 14.14.115(b); AS 14.30.410(a), 14.30.510, 14.30.750;  
22 AS 14.40.455, and 14.40.610(a) are repealed.

23 (c) AS 18.28.030 is repealed.

24 (d) AS 18.60.140 and 18.60.145 are repealed.

25 (e) AS 26.10.020 is repealed.

26 (f) AS 29.65.080 is repealed.

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29 and 41.98.100 are repealed.

30 (i) AS 41.98.170, 41.98.175, and 41.98.180 are repealed.

31 (j) AS 44.33.020(32), 44.33.436, 44.33.437, and 44.33.438 are repealed.

1 (k) AS 44.47.200, 44.47.210, 44.47.220, and 44.47.230 are repealed.

2 (l) AS 45.92.010, 45.92.020, 45.92.030, 45.92.040, 45.92.050, 45.92.055, and  
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4 (m) AS 45.94.010, 45.94.020, 45.94.030, 45.94.040, 45.94.050, and 45.94.060 are  
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7 (o) AS 47.45.090, 47.45.100(2), and 47.45.100(3) are repealed.

8 (p) AS 47.80.200, 47.80.210, 47.80.220, 47.80.230, 47.80.240, and 47.80.290 are  
9 repealed.

10 \* Sec. 13. DISTRIBUTION OF UNANICIPATED RECEIPTS. (a) Except as provided  
11 under (b) of this section, if money accruing to a fund or account repealed by this Act is  
12 received by the State of Alaska on or after the effective date of this Act, the money shall be  
13 deposited into the general fund.

14 (b) If money accruing to a dedicated fund, trust fund, or account of a dedicated fund  
15 or trust fund that is repealed by this Act is received by the State of Alaska on or after the  
16 effective date of this Act, the money shall be subject to disposition in accordance with the  
17 dedication of the money or the terms of the trust.

18 \* Sec. 14. This Act takes effect July 1, 1997.

adopted N/O.

**CS FOR HOUSE BILL NO. 103(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

Offered:  
Referred:

Sponsor(s): **HOUSE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act repealing certain state funds and accounts and boards, limitations, and  
2 programs related to those funds and accounts; and providing for an effective  
3 date."

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

5 \* Section 1. AS 14.36.020 is amended to read:

6           **Sec. 14 36.020. Community school grants [SCHOOLS GRANT FUND**  
7           **CREATED; LIMITATIONS ON USE]. [THERE IS CREATED A COMMUNITY**  
8           **SCHOOLS GRANT FUND AS AN ACCOUNT IN THE GENERAL FUND. THE**  
9           **FUND SHALL BE USED TO MAKE COMMUNITY SCHOOL GRANTS TO**  
10           **LOCAL ATTENDANCE AREAS OR SCHOOL DISTRICTS UNDER THIS**  
11           **CHAPTER. LEGISLATIVE APPROPRIATIONS FOR COMMUNITY SCHOOL**  
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17 \* **Sec. 14.** This Act takes effect July 1, 1997.

# Alaska State Legislature

## House Finance Committee

REPRESENTATIVE  
**MARK HANLEY**

Co-Chair

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### HB 103

### Repealing Funds and Accounts

#### Bill Summary

#### Section 1

Section 1 amends AS 14.36.020, which establishes a separate **Community Schools Grant Fund** within the General Fund. The fund is currently empty and inactive. The Department of Education concurred that the account is unnecessary. As provided under Section 13 of the proposed legislation, any moneys received by the State intended for Community School Grants would be deposited into the General Fund.

#### Section 2

Eliminates from Statutes reference to the **Veterans Service Fund**, created as a separate account in the Treasury by AS 26.10.020. The Statute creating the account is repealed in Section 12 of the proposed legislation. As provided in Section 13, on or after the enactment of this legislation, any moneys received by the State for the dedicated purposes of Department of Military and Veterans Affairs will be deposited into the General Fund and "used in accordance with the donor's instructions" (AS 26.10.030). According to the Department, the account is inactive and can be deleted.

#### Section 3

Amends AS 28.10.421(f) to eliminate reference to the **Alaska Amateur Sports Fund**, as created by AS 05.35.150. The Statute which establishes the separate account within the Department of Commerce and Economic Development is repealed in Section 12. The account is inactive and empty and the Department recommends deletion.

#### Sections 4 & 5

Eliminates language which refers to the **Alaska Municipal Land Account**, established as a separate account in the General Fund under AS 29.65.080. The statute creating the account is repealed in Section 12 of the legislation. Again, the account not only is inactive and empty, but has never been activated since its creation (17 ch. 74 SLA 1985).

#### Section 6

Eliminates reference to the **Federal Transitional Grants Account**, established under AS 37.20.020. This special account in the General Fund is empty and inactive and according to the Department of Administration, can be eliminated. The Statute establishing the account is repealed in Section 12 of the proposed legislation.

#### Section 7

The amendments to AS 47.45.110 eliminate reference to the **Alaska Longevity Bonus Fund**, created under AS 47.45.090. The statute is repealed in Section 12, as well as other references to the Fund. The account is currently inactive and empty and can be deleted without any effect to the Program.

#### Section 8

Amends AS 47.55.060, which designates a special fund called **The Alaska Pioneers' Home Trust Fund**. It was established to be used by the Department of Administration as a repository for funds bequeathed to the Pioneers' Home. The Fund is empty and inactive and the Department suggests we clear the account from Statutes. Section 13 provides that any subsequent donations be deposited into the General Fund and then appropriated to the Department for the Pioneers' Home in accordance with the donors' instructions.

#### Section 9

Amends AS 47.65.010 to remove reference to the "account" reserved for the **Older Alaskans Program Service Programs**. Appropriations for the Program are currently made directly from the General Fund by the Legislature and distributed by the Alaska Commission on Aging.

#### Sections 10 & 11

Amends AS 47.65.020, and 47.65.030(a) to remove reference to the account established in 47.65.010 (Section 9).

## Section 12

Contains straight Repeals of Statutes which establish, or make reference to, the following inactive, empty accounts: Cooperative Arrangement Grant Fund (DOE); Bilingual-Bicultural Education Fund (DOE); Alaska Student Leadership Development Fund (DOE); Alaska School Counseling Program Grant Fund (DOE); Community College Fund of University of Alaska (UA); University of Alaska Risk Management Fund (UA); Community Health Aide Grant Account (DHSS); Mineral Resource Revolving Fund (DNR); Outdoor Recreation, Open Space and Historical Property Development Fund (DNR); Neighborhood Revitalization and Development Fund (DCED); Community Legal Assistance Grant Fund (DCRA); Fishery Production Revolving Loan Guarantee Fund (DOR); Forest Product Business Loan Guarantee Fund (DOR); Community Action Against Substance Abuse Grant Fund (DHSS); Self Sufficiency Trust Fund (DHSS); and Handicap & Mental Illness Charitable Account (DHSS).

## Section 13

The final section in the Bill pertains to **all of the accounts** eliminated through the proposed repeal of statutes. Section 13 directs any moneys accruing to a fund or account repealed by this act to be deposited into the General Fund.

If moneys accrue to a dedicated fund, trust fund, or account of a dedicated fund or trust fund that is repealed by this Act, they shall be subject to disposition in accordance with the dedication or the terms of the trust.

# Alaska State Legislature

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### BILL SUMMARIES

#### HB's 102, 103, 104, 105, 106, 107, 108

#### HB 102

##### **"An Act abolishing the Alaska Medical Facility Authority . . ."**

This legislation follows up with last year's SB136, which transferred the balance remaining in the Alaska Medical Facilities Authority Fund to the State General fund, thus closing out all accounts pertaining to the Authority. Since that time, neither the Fund nor the Authority have been used. By repealing AS 18.26, the obsolete Alaska Medical Facility Authority would be cleared from the Statutes.

#### HB 103

##### **"An Act repealing certain state funds and accounts and boards and programs related to those funds and accounts. . ."**

Simple repeals of the following inactive accounts: Alaska Amateur Sports Fund; Cooperative arrangement grant fund; Bilingual-Bicultural Education Fund; Alaska Student Leadership Development Fund; Alaska School Counseling Program Grant Fund; University Risk Management Fund; Community College Fund; Community Health Aide Grant Account; Veterans Service Fund; Alaska Municipal Land Account; Federal Transitional Grants Accounts; Mineral Resource Revolving Fund; Outdoor Recreational, Open Space, and Historic Properties Development Fund; Neighborhood Revitalization and Development Fund; Legal Assistance and Juvenile Justice Grant Fund; Fisheries Product Revolving Loan Guarantee Fund; Forest Products Business Loan Guarantee Fund; Community Action Against Substance Abuse Grant Fund; Alaska Longevity Bonus Fund; Self-Sufficiency Trust Fund; Alaska Pioneers' Home Trust Fund; Older Alaskans Service Programs Account; Community Schools Grant Fund; and Handicap & Mental Illness Charitable Account.

#### HB 104

##### **"An Act repealing the search and rescue fund, relating to expenditures for search and rescue activities . . ."**

Search and rescue activities are appropriated directly from the General Fund and not through the search and rescue fund, which has remained empty and



inactive. This legislation removes the fund from statutes, as well as reference to the fund.

**HB 105**

**"An Act relating to the unorganized borough national forest receipts program . . ."**

There is no present or anticipated use for the unorganized borough national forest receipts fund. Federal appropriations for the program go directly into the General Fund, leaving this special account inactive and empty. The legislation would clear the unused account from Statutes, by changing the reference from "fund" to "program".

**HB 106**

**"An Act relating to the municipal assistance program and organization grant program..."**

Although these programs remain operative, the municipal assistance and organization grant funds are inactive and empty. Legislation would clear the "fund"(s) from statutes, and refer only to the "program"(s).

**HB 107**

**"An Act relating to water quality enhancement and water supply, waste water, and solid waste systems grants . . ."**

This legislation removes from Statutes the Water Quality Enhancement and Water Supply, Wastewater, and Solid Waste Systems Fund. The fund is empty and is not used in making appropriations to the program.

**HB 108**

**"An Act relating to the crime victim compensation program. . ."**

The crime victim compensation program does not receive allocations from the fund established by statute. The inactive account is cleared by changing reference from "fund" to "program".

**HB**

**103**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/20/97

FURTHER: \_\_\_\_\_

4/25/97

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

4/25/97

Finance Committee considered

HOUSE BILL NO. 107

"An Act relating to water quality enhancement and water supply, wastewater, and solid waste systems grants; and providing for an effective date."

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title
- House Bill:**
- same title
- technical change
- new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Reed (JEM)</i>	✓	<i>Sean Farrell</i>	✓		
		<i>Dee Coker</i>	✓		
		<i>Wanda Dorely</i>	✓		
Co-Chair:		Co-Chair: <i>Pearce</i>	✓		
Co-Chair: <i>Ben Almy</i>		Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

DEC	2/7/97	0	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

No. 1

Bill Version: HB 103

REPORT (H) Publish Date: 2/12/97

SFC 4/25/97

**STATE OF ALASKA  
1997 LEGISLATIVE SESSION**

Revision Date _____	Dept. Affected <u>Various Departments</u>
Title <u>Repealing Funds and Accounts</u>	BRU _____
Sponsor <u>House Finance Committee</u>	Component _____
Requester <u>House Finance Committee</u>	Component Serial No. _____

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES [ ]</b>						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
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>

Estimate of any current year (FY97) cost: 0.0

**POSITIONS**

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Full-time						
Part-time						
Temporary						

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

This bill eliminates several inactive accounts and funds, which are no longer needed. There is no fiscal impact on the departments.

Prepared by <u>Joan Brown</u>	Phone <u>465-4690</u>
Division <u>OMB</u>	Date <u>2/7/97</u>
Approved by <u>Annalee McConnell</u>	Date <u>2/7/97</u>
Agency <u>OMB</u>	

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**HB**

**104**

**HFIN**

**FILE**

# FISCAL NOTE

**STATE OF ALASKA**

**BILL NO: HB 104**

**1997 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act repealing the search and rescue fund; relating to expenditures for search and ...." BRU: Statewide Support  
 Sponsor: House Finance Component: Administrative Services  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0525

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0	0	0	0	0	0

Estimate of current year (FY 97) impact: \$ 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: Kenneth E. Bischoff Phone: 465-4336  
 Division: Administrative Services Date: 2/6/97  
 Approved by Commissioner: Ronald L. Otte Date: 2/7/97  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO: HB104**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An act repealing the SAR fund: relating to BRU: Fish and Wildlife Protection  
expenditures for SAR activities... Component: Detachments  
 Sponsor: House Finance  
 Requestor: House Finance COMPONENT SERIAL NO. 0490

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ -0-

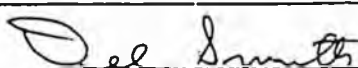
**POSITIONS:**

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.)**

If enacted, this Bill will eliminate the search and rescue fund identified in Title 18. It will also limit the monetary amount an authorized person can obligate during a search and rescue operation to a maximum of \$2500 unless the commissioner approves a higher amount.

It will not significantly impact our program objectives or budget provided the eliminated fund is not confused with the search and rescue budget component within the Division of Alaska State Troopers.

Prepared By: Lt. Joel L. Hard Phone: 269-5409  
 Division: Fish and Wildlife Protection Date: February 7, 1997  
 Approved by Commissioner:  Date: 2/7/97  
 Agency: Ronald L. Otte, Department of Public Safety

# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO: HB104**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An act repealing the SAR fund; relating to BRU: Alaska State Troopers  
expenditures for SAR activities... Component: Detachments  
 Sponsor: House Finance  
 Requestor: House Finance COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ -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.)**

If enacted, this Bill will eliminate the search and rescue fund identified in Title 18. It will also limit the monetary amount an authorized person can obligate during a search and rescue operation to a maximum of \$2500 unless the commissioner approves a higher amount.

It will not significantly impact our program objectives or budget provided the eliminated fund is not confused with the search and rescue budget component within the Division of Alaska State Troopers.

Prepared By: Capt. Ted Bachman Phone: 269-5409  
 Division: Alaska State Troopers Date: February 7, 1997  
 Approved by Commissioner: *Ronald L. Otte* Date: 2/7/97  
 Agency: Ronald L. Otte, Department of Public Safety

*\* amended*

**HOUSE BILL NO. 104**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

Introduced: 2/3/97  
Referred: Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act repealing the search and rescue fund; relating to expenditures for search  
2 and rescue activities; and providing for an effective date."

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

4 \* Section 1. AS 18.60.140 is amended to read:

5 **Sec. 18.60.140. Limitation of amount of expenditure for search and rescue.**

6 A designee of the commissioner of public safety may obligate the state in an amount  
7 up to \$2.500 [ONE PERCENT OF THE MAXIMUM AMOUNT OF THE SEARCH  
8 AND RESCUE FUND] in any one case of search and rescue. If the commissioner of  
9 public safety approves, the commissioner shall state the additional amount that may  
10 be expended in each case, and the approval shall be attached to the voucher.

11 *amended* \* Sec. ~~2.1~~ AS 18.60.145 is repealed. ; ~~61.40~~ 60.140

12 \* Sec. ~~2~~ DISTRIBUTION OF UNANTICIPATED RECEIPTS. If money accruing to the  
13 search and rescue fund is received by the State of Alaska after the effective date of this Act,  
14 the money shall be deposited into the general fund.

1 \* Sec. 4. This Act takes effect July 1, 1997.

# Alaska State Legislature

## House Finance Committee

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### BILL SUMMARIES

**HB's 102, 103, 104, 105, 106, 107, 108**

#### HB 102

**"An Act abolishing the Alaska Medical Facility Authority . . ."**

This legislation follows up with last year's SB136, which transferred the balance remaining in the Alaska Medical Facilities Authority Fund to the State General fund, thus closing out all accounts pertaining to the Authority. Since that time, neither the Fund nor the Authority have been used. By repealing AS 18.26, the obsolete Alaska Medical Facility Authority would be cleared from the Statutes.

#### HB 103

**"An Act repealing certain state funds and accounts and boards and programs related to those funds and accounts. . ."**

Simple repeals of the following inactive accounts: Alaska Amateur Sports Fund; Cooperative arrangement grant fund; Bilingual-Bicultural Education Fund; Alaska Student Leadership Development Fund; Alaska School Counseling Program Grant Fund; University Risk Management Fund; Community College Fund; Community Health Aide Grant Account; Veterans Service Fund; Alaska Municipal Land Account; Federal Transitional Grants Accounts; Mineral Resource Revolving Fund; Outdoor Recreational, Open Space, and Historic Properties Development Fund; Neighborhood Revitalization and Development Fund; Legal Assistance and Juvenile Justice Grant Fund; Fisheries Product Revolving Loan Guarantee Fund; Forest Products Business Loan Guarantee Fund; Community Action Against Substance Abuse Grant Fund; Alaska Longevity Bonus Fund; Self-Sufficiency Trust Fund; Alaska Pioneers' Home Trust Fund; Older Alaskans Service Programs Account; Community Schools Grant Fund; and Handicap & Mental Illness Charitable Account.

#### HB 104

**"An Act repealing the search and rescue fund, relating to expenditures for search and rescue activities . . ."**

Search and rescue activities are appropriated directly from the General Fund and not through the search and rescue fund, which has remained empty and

inactive. This legislation removes the fund from statutes, as well as reference to the fund.

**HB 105**

**"An Act relating to the unorganized borough national forest receipts program . . ."**

There is no present or anticipated use for the unorganized borough national forest receipts fund. Federal appropriations for the program go directly into the General Fund, leaving this special account inactive and empty. The legislation would clear the unused account from Statutes, by changing the reference from "fund" to "program".

**HB 106**

**"An Act relating to the municipal assistance program and organization grant program..."**

Although these programs remain operative, the municipal assistance and organization grant funds are inactive and empty. Legislation would clear the "fund"(s) from statutes, and refer only to the "program"(s).

**HB 107**

**"An Act relating to water quality enhancement and water supply, waste water, and solid waste systems grants . . ."**

This legislation removes from Statutes the Water Quality Enhancement and Water Supply, Wastewater, and Solid Waste Systems Fund. The fund is empty and is not used in making appropriations to the program.

**HB 108**

**"An Act relating to the crime victim compensation program. . ."**

The crime victim compensation program does not receive allocations from the fund established by statute. The inactive account is cleared by changing reference from "fund" to "program".