

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

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(4) the term "State" means a State of the United States and the District of Columbia; and

(5) the term "voter registration agency" means an office designated under section 7(a)(1) to perform voter registration activities.

42 USC 1973gg-2. **SEC. 4. NATIONAL PROCEDURES FOR VOTER REGISTRATION FOR ELECTIONS FOR FEDERAL OFFICE.**

(a) **IN GENERAL.**—Except as provided in subsection (b), notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office—

(1) by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 5;

(2) by mail application pursuant to section 6; and

(3) by application in person—

(A) at the appropriate registration site designated with respect to the residence of the applicant in accordance with State law; and

(B) at a Federal, State, or nongovernmental office designated under section 7.

(b) **NONAPPLICABILITY TO CERTAIN STATES.**—This Act does not apply to a State described in either or both of the following paragraphs:

(1) A State in which, under law that is in effect continuously on and after March 11, 1993, there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) A State in which, under law that is in effect continuously on and after March 11, 1993, or that was enacted on or prior to March 11, 1993, and by its terms is to come into effect upon the enactment of this Act, so long as that law remains in effect, all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office.

42 USC 1973gg-3. **SEC. 5. SIMULTANEOUS APPLICATION FOR VOTER REGISTRATION AND APPLICATION FOR MOTOR VEHICLE DRIVER'S LICENSE.**

(a) **IN GENERAL.**—(1) Each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application.

(2) An application for voter registration submitted under paragraph (1) shall be considered as updating any previous voter registration by the applicant.

(b) **LIMITATION ON USE OF INFORMATION.**—No information relating to the failure of an applicant for a State motor vehicle driver's license to sign a voter registration application may be used for any purpose other than voter registration.

(c) **FORMS AND PROCEDURES.**—(1) Each State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license.

(2) The voter registration application portion of an application for a State motor vehicle driver's license—

(A) may not require any information that duplicates information required in the driver's license portion of the form (other than a second signature or other information necessary under subparagraph (C));

(B) may require only the minimum amount of information necessary to—

(i) prevent duplicate voter registrations; and

(ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(C) shall include a statement that—

(i) states each eligibility requirement (including citizenship);

(ii) contains an attestation that the applicant meets each such requirement; and

(iii) requires the signature of the applicant, under penalty of perjury;

(D) shall include, in print that is identical to that used in the attestation portion of the application—

(i) the information required in section 8(a)(5) (A) and (B);

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(E) shall be made available (as submitted by the applicant, or in machine readable or other format) to the appropriate State election official as provided by State law.

(d) CHANGE OF ADDRESS.—Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

(e) TRANSMITTAL DEADLINE.—(1) Subject to paragraph (2), a completed voter registration portion of an application for a State motor vehicle driver's license accepted at a State motor vehicle authority shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

SEC. 6. MAIL REGISTRATION.

42 USC 1973gg-4.

(a) FORM.—(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 9(a)(2) for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration

form that meets all of the criteria stated in section 9(b) for the registration of voters in elections for Federal office.

(3) A form described in paragraph (1) or (2) shall be accepted and used for notification of a registrant's change of address.

(b) AVAILABILITY OF FORMS.—The chief State election official of a State shall make the forms described in subsection (a) available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

(c) FIRST-TIME VOTERS.—(1) Subject to paragraph (2), a State may by law require a person to vote in person if—

(A) the person was registered to vote in a jurisdiction by mail; and

(B) the person has not previously voted in that jurisdiction.

(2) Paragraph (1) does not apply in the case of a person—

(A) who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);

(B) who is provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or

(C) who is entitled to vote otherwise than in person under any other Federal law.

(d) UNDELIVERED NOTICES.—If a notice of the disposition of a mail voter registration application under section 8(a)(2) is sent by nonforwardable mail and is returned undelivered, the registrar may proceed in accordance with section 8(d).

42 USC 1973gg-5. **SEC. 7. VOTER REGISTRATION AGENCIES.**

(a) DESIGNATION.—(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Each State shall designate as voter registration agencies—

(A) all offices in the State that provide public assistance; and

(B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

(3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies.

(B) Voter registration agencies designated under subparagraph

(A) may include—

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, unemployment compensation offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designated under paragraph (2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

(5) A person who provides service described in paragraph (4) shall not—

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance;

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(D) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall—

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance—

(i) the mail voter registration application form described in section 9(a)(2), including a statement that—

(I) specifies each eligibility requirement (including citizenship);

(II) contains an attestation that the applicant meets each such requirement; and

(III) requires the signature of the applicant, under penalty of perjury; or

(ii) the office's own form if it is equivalent to the form described in section 9(a)(2), unless the applicant, in writing, declines to register to vote;

(B) provide a form that includes—

(i) the question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(ii) if the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(iii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote (failure to check either box being deemed to constitute a declination to register for purposes of subparagraph (C)), together with the statement (in close proximity to the boxes and in prominent type), "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(iv) the statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

(v) the statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with _____", the blank being filled by the name, address, and telephone number of the appropriate official to whom such a complaint should be addressed; and

(C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance.

(7) No information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) **FEDERAL GOVERNMENT AND PRIVATE SECTOR COOPERATION.**—All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a), and all nongovernmental entities are encouraged to do so.

(c) **ARMED FORCES RECRUITMENT OFFICES.**—(1) Each State and the Secretary of Defense shall jointly develop and implement procedures for persons to apply to register to vote at recruitment offices of the Armed Forces of the United States.

(2) A recruitment office of the Armed Forces of the United States shall be considered to be a voter registration agency designated under subsection (a)(2) for all purposes of this Act.

(d) **TRANSMITTAL DEADLINE.**—(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

42 USC 1973gg-6. **SEC. 8. REQUIREMENTS WITH RESPECT TO ADMINISTRATION OF VOTER REGISTRATION.**

(a) **IN GENERAL.**—In the administration of voter registration for elections for Federal office, each State shall—

(1) ensure that any eligible applicant is registered to vote in an election—

(A) in the case of registration with a motor vehicle application under section 5, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(B) in the case of registration by mail under section 6, if the valid voter registration form of the applicant is postmarked not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election; and

(D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(2) require the appropriate State election official to send notice to each applicant of the disposition of the application;

(3) provide that the name of a registrant may not be removed from the official list of eligible voters except—

(A) at the request of the registrant;

(B) as provided by State law, by reason of criminal conviction or mental incapacity; or

(C) as provided under paragraph (4);

(4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—

(A) the death of the registrant; or

(B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d);

(5) inform applicants under sections 5, 6, and 7 of—

(A) voter eligibility requirements; and

(B) penalties provided by law for submission of a false voter registration application; and

(6) ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(b) **CONFIRMATION OF VOTER REGISTRATION.**—Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office—

(1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.); and

(2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote.

(c) **VOTER REMOVAL PROGRAMS.**—(1) A State may meet the requirement of subsection (a)(4) by establishing a program under which—

(A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and

(B) if it appears from information provided by the Postal Service that—

(i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which

the registrant may verify or correct the address information; or

(ii) the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) to confirm the change of address.

(2)(A) A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.

(B) Subparagraph (A) shall not be construed to preclude—

(i) the removal of names from official lists of voters on a basis described in paragraph (3) (A) or (B) or (4)(A) of subsection (a); or

(ii) correction of registration records pursuant to this Act.

(d) REMOVAL OF NAMES FROM VOTING ROLLS.—(1) A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant—

(A) confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or

(B)(i) has failed to respond to a notice described in paragraph (2); and

(ii) has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(2) A notice is described in this paragraph if it is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect:

(A) If the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B). If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

(B) If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

(3) A voting registrar shall correct an official list of eligible voters in elections for Federal office in accordance with change of residence information obtained in conformance with this subsection.

(e) PROCEDURE FOR VOTING FOLLOWING FAILURE TO RETURN CARD.—(1) A registrant who has moved from an address in the

area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

(2)(A) A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of the registrant—

(i) shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

(ii)(I) shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central location; or

(II) shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

(B) If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (A)(i) or (A)(ii)(II), voting at the other locations described in subparagraph (A) need not be provided as options.

(3) If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

(f) CHANGE OF VOTING ADDRESS WITHIN A JURISDICTION.—In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d).

(g) CONVICTION IN FEDERAL COURT.—(1) On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 10 of the State of the person's residence.

(2) A notice given pursuant to paragraph (1) shall include—

(A) the name of the offender;

(B) the offender's age and residence address;

(C) the date of entry of the judgment;

(D) a description of the offenses of which the offender was convicted; and

(E) the sentence imposed by the court.

(3) On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender's qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted.

(4) If a conviction of which notice was given pursuant to paragraph (1) is overturned, the United States attorney shall give the official to whom the notice was given written notice of the vacation of the judgment.

(5) The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received under this subsection.

(h) **REDUCED POSTAL RATES.**—(1) Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

“§ 3629. Reduced rates for voter registration purposes

“The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1993.”

(2) The first sentence of section 2401(c) of title 39, United States Code, is amended by striking out “and 3626(a)–(h) and (j)–(k) of this title,” and inserting in lieu thereof “3626(a)–(h), 3626(j)–(k), and 3629 of this title”.

(3) Section 3627 of title 39, United States Code, is amended by striking out “or 3626 of this title,” and inserting in lieu thereof “3626, or 3629 of this title”.

(4) The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

“3629. Reduced rates for voter registration purposes.”.

Records.

(i) **PUBLIC DISCLOSURE OF VOTER REGISTRATION ACTIVITIES.**—

(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

(j) **DEFINITION.**—For the purposes of this section, the term “registrar’s jurisdiction” means—

(1) an incorporated city, town, borough, or other form of municipality;

(2) if voter registration is maintained by a county, parish, or other unit of government that governs a larger geographic

area than a municipality, the geographic area governed by that unit of government; or

(3) if voter registration is maintained on a consolidated basis for more than one municipality or other unit of government by an office that performs all of the functions of a voting registrar, the geographic area of the consolidated municipalities or other geographic units.

SEC. 8. FEDERAL COORDINATION AND REGULATIONS.

42 USC 1973gg-7.

(a) **IN GENERAL.**—The Federal Election Commission—

(1) in consultation with the chief election officers of the States, shall prescribe such regulations as are necessary to carry out paragraphs (2) and (3);

(2) in consultation with the chief election officers of the States, shall develop a mail voter registration application form for elections for Federal office;

(3) not later than June 30 of each odd-numbered year, shall submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2-year period and including recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act; and

Reports.

(4) shall provide information to the States with respect to the responsibilities of the States under this Act.

(b) **CONTENTS OF MAIL VOTER REGISTRATION FORM.**—The mail voter registration form developed under subsection (a)(2)—

(1) may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(2) shall include a statement that—

(A) specifies each eligibility requirement (including citizenship);

(B) contains an attestation that the applicant meets each such requirement; and

(C) requires the signature of the applicant, under penalty of perjury;

(3) may not include any requirement for notarization or other formal authentication; and

(4) shall include, in print that is identical to that used in the attestation portion of the application—

(i) the information required in section 8(a)(5) (A) and (B);

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

SEC. 10. DESIGNATION OF CHIEF STATE ELECTION OFFICIAL.

42 USC 1973gg-8.

Each State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under this Act.

42 USC 1973gg-9. SEC. 11. CIVIL ENFORCEMENT AND PRIVATE RIGHT OF ACTION.

(a) ATTORNEY GENERAL.—The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out this Act.

(b) PRIVATE RIGHT OF ACTION.—(1) A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official of the State involved.

(2) If the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action under paragraph (2).

(c) ATTORNEY'S FEES.—In a civil action under this section, the court may allow the prevailing party (other than the United States) reasonable attorney fees, including litigation expenses, and costs.

(d) RELATION TO OTHER LAWS.—(1) The rights and remedies established by this section are in addition to all other rights and remedies provided by law, and neither the rights and remedies established by this section nor any other provision of this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) Nothing in this Act authorizes or requires conduct that is prohibited by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

42 USC
1973gg-10.

SEC. 12. CRIMINAL PENALTIES.

A person, including an election official, who in any election for Federal office—

(1) knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person for—

(A) registering to vote, or voting, or attempting to register or vote;

(B) urging or aiding any person to register to vote, to vote, or to attempt to register or vote; or

(C) exercising any right under this Act; or

(2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process, by—

(A) the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held; or

(B) the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held,

shall be fined in accordance with title 18, United States Code (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to section 3302 of title 31, United

States Code), notwithstanding any other law), or imprisoned not more than 5 years, or both.

SEC. 13. EFFECTIVE DATE.

42 USC 1973gg
note.

This Act shall take effect—

(1) with respect to a State that on the date of enactment of this Act has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on the later of—

(A) January 1, 1996; or

(B) the date that is 120 days after the date by which, under the constitution of the State as in effect on the date of enactment of this Act, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit such compliance with this Act without requiring a special election; and

(2) with respect to any State not described in paragraph (1), on January 1, 1995.

Approved May 20, 1993.

LEGISLATIVE HISTORY—H.R. 2 (S. 460):

HOUSE REPORTS: Nos. 103-9 (Comm. on House Administration) and 103-66 (Comm. of Conference).

SENATE REPORTS: No. 103-6 accompanying S. 460 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 139 (1993):

Feb. 4, considered and passed House.

Mar. 10, 11, 15-17, S. 460 considered in Senate; H.R. 2, amended, passed in lieu.

May 5, House agreed to conference report.

May 6-8, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 29 (1993):

May 20, Presidential remarks.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

Revision Date: _____ Dept. Affected: Division of Elections
 Title: Implementation of the National BRU: Elections Operations
Voter Registration Act of 1993 (Motor Voter) Component: Elections
 Sponsor: Office of the Governor
 Requestor: Division of Elections COMPONENT SERIAL NO. _____

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	17.8	2.9	2.9	2.9	2.9	2.9
CONTRACTUAL	4.0	4.2	4.4	4.6	4.9	5.1
SUPPLIES	1.2	1.2	1.2	1.2	1.2	1.2
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	23.0	8.3	8.5	8.7	9.0	9.2

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	23.0	8.3	8.5	8.7	9.0	9.2
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	23.0	8.3	8.5	8.7	9.0	9.2

Estimate of any current year (FY94) cost: \$ 0

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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)

Please see attached page.

Prepared by: Joseph L. Swanson, Director Phone: 465-4611
 Division: Division of Elections Date: 12/21/93
 Approved by Commissioner: John B. Coghill, Lieutenant Governor Date: 1/3/94
 Agency: Office of the Lt. Governor

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ELECTIONS F.N.

IMPLEMENTATION OF THE NATIONAL VOTER REGISTRATION ACT OF
1993 (Motor Voter)

Complying with the federal voter registration mandate will require states to change existing election laws and increase spending. While the Act applies only to federal elections, Alaska would have to maintain a much more costly dual system if we chose not to implement the requirements for state as well as federal elections.

Major provisions of the law require states to establish procedures to permit voter registration simultaneously with an application for a drivers license, by mail, at public assistance offices, at state funded offices that serve people with disabilities, and at recruitment offices of the armed services.

The Federal Election Commission (FEC) is required to prescribe a uniform mail registration form. Alaska must accept the FEC form, but may develop and use our own form if it is in compliance with the Act. The Division plans on developing an acceptable form which meets federal requirements, while being generic enough to be used by other state agencies.

MOTER-VOTER INCREMENT FY 1995

TRAVEL (17.8)

Field Travel (11.2)

Registrar training for the Department of Motor Vehicle offices and public health services personnel.

Conventions and Meetings (2.2)

Yearly National Voter Registration Act educational, training and implementation meetings or seminars.

Per Diem (4.4)

Per diem for trips listed above.

CONTRACTUAL SERVICES (4.0)

73500 Printing of universal voter registration form to be used by agencies mandated to implement the Act. (1.2)
Printing of E-12 envelopes for sendbacks. (.9)

73380 Postage for sendbacks (1.7). Annual Postage fee and bulk mail permit (.2).

OFFICE SUPPLIES (1.2)

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: _____

Revision Date: _____ Dept. Affected: Public Safety
 Title: An Act relating to voter registration BRU: Motor Vehicles
 Component: Field Services
 Sponsor: Rules by Request
 Requestor: Governor Hickel COMPONENT SERIAL NO. 502

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	73.4	73.4	73.4	73.4	73.4	73.4
TRAVEL						
CONTRACTUAL	7.5					
SUPPLIES						
EQUIPMENT	10.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	90.9	73.4	73.4	73.4	73.4	73.4

CAPITAL						
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REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

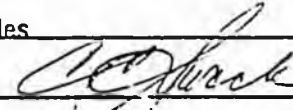
1002 Federal Receipts						
1003 GF Match						
1004 GF	90.9	73.4	73.4	73.4	73.4	73.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.) See page 2 of 3.

Prepared By: Charles R. Hosack Phone: 269-5559
 Division: Motor Vehicles Date: 1/12/94
 Approved by Commissioner:  Date: 2/2/94
 Agency: Richard J. Burton, Dept. of Public Safety

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The Division of Motor Vehicles currently offers voter registration at all field offices as required by AS 28.05.045. This bill expands on this to include the requirements of the federal National Voter Registration Act of 1993 (Motor-Voter Law). The Motor-Voter Law requires states to make a driver's license application include a voter registration application. The state may not require the applicant to fill out extra forms or provide information twice. The Division of Motor Vehicles will receive no federal funding for this Act.

The driver's license application will be revised to include the additional information needed for voter registration. The applicant must also have the opportunity to decline registration. The division must also forward all change of addresses to the Division of Elections unless the person specifies that the change is not for voter registration purposes.

The driver license computer programs will be changed to collect and print the information required for voter registration. The driver license database will be modified to collect and retain information if the driver declines to register. This programming effort will require 100 hours of programmer-analyst time at \$75.00/hour. Contract programmers will be used because the available staff is fully committed with other mandatory federal programs.

The Division currently registers voters but it is not currently mandatory to either register or decline to register. There will be additional work in registering additional voters and there will be additional time needed with each driver license transaction to explain the options to the individual. This work will be spread over the offices throughout the state and the total impact is estimated to be an increase of 2% over the current workload. To fund this the Division field office staff will be increased by 2% or 2 full-time positions and related equipment. Another method of illustrating this need is that an additional 1.5 minutes will be needed for each of the 165,000 driver license transactions completed each year. This time will be needed to complete the forms and to explain the law. The additional 1.5 minutes equates to 2 employee-years of work when applied to the annual volume of 165,000 transactions.

COST SUMMARY

Personal services - 2 PFT MVR I/II (Range 9B)	\$73.4
Contractual - 100 hours programmer time @ \$75/hr	\$ 7.5
Equipment - 2 terminal work stations @ \$5,000 ea	\$10.0

Note: The contractual and equipment costs are one-time costs only for the first year of the program.

02/03/1994 08:15:13 =====

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.

02/03/94

Position Information Inquiry/Update

08:16:11

Position: 12-12#129 Project: 0 _____ Salary Costs: 24,288.00
Component: 12-55-07-07-01-03 Benefits Costs: 12,365.66
Scenario: 7 FY: 95 COLA %= 0.00 Total Costs: 36,653.66

Actuals not available (Status: UNKNOWN) ° Retirement Code: A

00/00/00 ° Step: B for 12.0 months & Step: C for 0.0 months (total: 12.00)
 ° Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
0 ° Class/Sched Prefix: 1 Schedule: 1A (actual:)
 ° Bargaining Unit: GG Range: 09 (actual:)
 ° Location Code: EBA Place: ANCHORAGE
 ° Job Class Code: P7550 Title: MOTOR VEHICLE REP II _____
 ° Seasonal Indic.: F Type: -

Optional Override Salary Rate :

Monthly Rate: 0.00 _____ for 0.0 months & rate of 0.00 _____ for 0.0 months
Hourly Rate: 0.00 _____ for 0.0 months Frozen at this rate? (Y/N): N

Premium Pay Items/Amounts Budgeted		----- Actual Costs -----		
	Item Cost	Y.T.D.	Prior Year	
Overtime Hours: _____	0.0	0.00	0	0
Graveyard Shift Diff. (months): _____	0.00	0.00	0	0
Swing Shift Diff. (months): _____	0.00	0.00	0	0
Hazard Pay (\$): _____	0.00	0.00	0	0
Sea Duty Pay (\$): _____	0.00	0.00	0	0
Standby Pay (\$): _____	0.00	0.00	0	0
Higher Class Work Pay (\$): _____	0.00	0.00		
Area Subsistence Pay (\$): _____	0.00	0.00	0	0
Additional Salary (\$): _____	0.00	0.00		
PLUS 0.00000 PERCENT C.O.L.A.		0.00		
Total Premium Pay Costs:		0.00	0	0

Press ENTER to update record; enter # or use PF key to go another screen:
1=Position Inquiry/Update 2=Funding info 12=Exit w/o update Selection: 0_

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. Draft 8-GO 1/31/94

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to voter eligibility, voter registration, and voter registration agencies BRU: Public Assistance Administration
 Component: Eligibility Determination
 Sponsor: Governor
 Requestor: _____ COMPONENT SERIAL NO. 0236

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	10.2	21.0	21.6	22.2	22.9	23.6
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.2	0.4	0.4	0.4	0.4	0.4
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	10.4	21.4	22.0	22.6	23.3	24.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	5.2	10.7	11.0	11.3	11.6	12.0
1003 GF Match	5.2	10.7	11.0	11.3	11.7	12.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	10.4	21.4	22.0	22.6	23.3	24.0

POSITIONS:

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

Estimate of current year (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

The federal National Voter Registration Act of 1993 requires state agencies administering certain public assistance programs, including Aid to Families with Dependent Children (AFDC), Food Stamps, and Medicaid, to be voter registration agencies.

(continued on page 2)

Prepared by: Jan L. Hansen, Director
 Division: Division of Public Assistance
 Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S
 Agency: Department of Health & Social Services

Phone: 465-2680
 Date: 2/1/94
 Date: 2-2-94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. 94-0022

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Act relating to voter elig., voter registration BRU: State Health Services
& voter reg. agencies; & providing for effective date. Component: Women Infants & Children
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. #1013

Expenditures/Revenues:

(Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY00
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	4.4	8.9	9.2	9.5	9.7	10.0
MISCELLANEOUS						
TOTAL OPERATING	4.4	8.9	9.2	9.5	9.7	10.0

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

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY00
1002 Federal Receipts						
1003 GF Match						
1004 GF	4.4	8.9	9.2	9.5	9.7	10.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	4.4	8.9	9.2	9.5	9.7	10.0

POSITIONS:

	FY95	FY96	FY97	FY98	FY99	FY00
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY94) cost \$ NONE

ANALYSIS: (Attach a separate page if necessary)

This bill 1993 requires state agencies administering certain public programs, including WIC, to be voter registration agencies.

As the agency administering WIC, Division of Public Health, WIC grantees must, under the and this legislation, provide voter registration materials to all applicants for these programs and to clients who wish to report address changes to the Division of Elections. DPH staff and grantee staff must also assist applicants who request help in completing the voter registration forms and mail in the completed forms for individuals who do not wish to mail them themselves. Public health applicants must be requested to agree to decline in writing to register to vote, and written declinations must be retained in state records.

SEE ATTACHED

Prepared by: Peter M. Nakamura, MD, MPH
 Division: Public Health

Phone: (907) 465-3090
 Date: 02/01/94

Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S.
 Agency: Department of Health & Social Services

Date: 2-2-94

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ANALYSIS (cont.):

These activities will increase the workload of already-overburdened staff in DPH and grantee offices throughout the state. We estimate that 10 percent of the approximately 14,578 applicants interviewed each year in our grantees offices will wish to register to vote when they apply for services, and that an equal number will request an explanation of the form or help with the form. We assume that each such interaction will require 10 minutes of staff time, including time to assemble materials, process mailings, and assist clients.

2,916 clients assisted x 10 minutes processing/client = 486 hours
486 = 0.25 FTE 0.25 x \$33,900/year/FTE Clerk III = \$8,475/year
1950

Personnel costs for years after FY95 are increased by 3.0 percent to account for inflation.

Additional PCN not requested: Grantees may require additional staff.

Estimated mailing costs: \$204/year

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Motor Voter BRU: Mental Health/DD Admin
 Component: Institutions and Administration
 Sponsor: n/a
 Requestor: Governor's Office COMPONENT SERIAL NO. 310

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	8.2	17.0	17.6	18.2	18.8	19.5
TRAVEL						
CONTRACTUAL	0.4	0.8	0.9	0.9	0.9	1.0
SUPPLIES						
EQUIPMENT	2.1	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.7	17.8	18.5	19.1	19.7	20.5
CAPITAL EXPENDITURES	0.0					
CHANGES IN REVENUES	0					

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.7	17.8	18.5	19.1	19.7	20.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	10.7	17.8	18.5	19.1	19.7	20.5

POSITIONS:

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

Estimate of current year (FY94) cost \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

This bill would require the four office locations of the Division of Mental Health and Developmental Disabilities and the division's two institutions, Alaska Psychiatric Institute and Harborview Developmental Center, to conform to the "National Voter Registration Act of 1993". This means that each location will inform the public served and provide them with the opportunity for voter registration. Furthermore, each location will offer voter registration services to their staff and the general public upon request. All above locations will be trained by the Division of Elections in voter registration services and will be provided the necessary forms for registration. Each location will be responsible for assisting each individual wishing to register, re-register or change address. Additionally, each location will be responsible for mailing all completed registration forms, and for notifying, in writing, the election supervisor/director of all denials as specified by the bill.

Prepared by: *David R. Joe* Phone: 465-3370
 Division: Mental Health and Developmental Disabilities Date: 02/01/94
 Approved by Commissioner: *Margaret R. Lowe*
 Margaret R. Lowe, M.Ed., Ed.S. Date: 2/2/94
 Agency: Department of Health & Social Services

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ANALYSIS (cont.):**Assumptions:**

The cost projections are based upon the following rationale: The projected average number of monthly consumer contacts by each office location multiplied by the average time projected to explain the information and to assist the public or consumer of services with the registration process. It is to be remembered that the population being served by the Division of Mental Health and Developmental Disabilities is more difficult to work with and habitually has a much more difficult time understanding the rationale behind any requirement or service. The needed staff time is based upon the FTE (1950 hours/year) at the range of a Clerk Typist III.

Other Expenditures:

- Personal Services is based upon 0.50 of an FTE at the Clerk Typist III, Range 8, Step A, Anchorage pay scale, to be used to offset personnel costs.
- Contractual Services covering estimated costs associated with mailing completed registration forms to the Division of Elections.
- Equipment for storage of the forms, based upon 1 (2) drawer file cabinet for each location.

Computations:

All expenditures have been adjusted with an inflation factor of 3.5% for each year and carried out to FY2000. Also, only six months of FY95 have been figured in due to the date of expected implementation.

Economic Impact:

More individuals will be registered to vote and the State of Alaska will be in compliance with the National Voter Registration Act of 1993 and not be in jeopardy of any penalties for non-compliance.

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date: February, 1994 Dept. Affected: Community & Regional Affairs
 Title: Governor's Motor Voter Bill BRU: Local Government Assistance
 Sponsor: Governor Component: Training and Development
 Requestor: _____ COMPONENT SERIAL NO. 672

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL	5.0	5.0	0.0	0.0	0.0	0.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	5.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	10.0	5.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
-----------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0	5.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	10.0	5.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

This legislation amends state law to bring the Alaska statutes into line with recently passed federal law, the National Voter Registration Act of 1993 (NVRA). Under this legislation, the Department of Community and Regional Affairs is designated as a voter registration agency. In general, the Department can absorb the additional duties required of this responsibility without fiscal impact. That is, existing staff can incorporate the new duties (help clients complete voter registration forms, distribute voter materials, etc.) within the course of their ongoing programmatic functions.

(continued on attached page)

Prepared by: Michael Cushing, Research Analyst Phone: 465-4708
 Division: Municipal and Regional Assistance Division Date: 1/31/94
 Approved by Commissioner: _____ Date: 1/31/94
 Agency: Community & Regional Affairs

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STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

Fiscal Note Analysis Continued

Governor's Motor Voter Bill

The Department, however, does anticipate some minor additional "start-up" training costs associated with helping municipal officials in Alaska's smaller rural communities understand the new federal and state laws; and what they, as municipal officials, need to do to implement these laws correctly. We estimate the additional training costs in the first year will be about \$10,000 which includes \$5,000 for travel expenses and \$ 5,000 for materials and contractual services associated with putting training sessions together. The training will be performed by DCRA's regional office staff. We envision the additional costs to drop off in the second year and to consist of about \$5,000 — all in travel expenses. Beginning in the third year, we would expect this training to be fully integrated into our municipal officials training effort and, therefore, should not represent an additional fiscal impact from that point forward.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

Revision Date: _____
 Title: An Act relating to voter eligibility, voter registration
and voter registration agencies
 Sponsor: Governor Hickel
 Requestor: _____

Department Affected: Department of Education
 BRU: Alaska State Library / Vocational Rehabilitation
 Component: Library Operations / Client Services

COMPONENT SERIAL NO. 208 / 1828

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 95	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

The zero fiscal note is based on the assumption that the Department of Education will retain the current level of existing staff.

Prepared by: Sheila Peterson
 Division: Commissioner's Office

Phone: 465-2803
 Date: February 9, 1994

Approved by Commissioner: *Neil McKee*
 Agency: Education

Jerry Covey
 Date: February 9, 1994

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FISCAL NOTE

BILL NO. SB 303

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date:		Dept. Affected:	Revenue
Title:	Uniform Voter Registration System	BRU:	Permanent Fund Dividend
Sponsor:	SENATE RULES COMMITTEE, by Request of the Governor	Component:	Permanent Fund Dividend
Requestor:	Senate State Affairs	COMPONENT SERIAL NO.	9 8 1

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS:

This fiscal note assumes that the Director of Elections does not designate the Permanent Fund Dividend (PFD) Division as a voter registration agency since the PFD Division already includes voter registration forms in the application booklet as required by AS 43.23.016. If the Director of Elections were to designate the PFD Division as a registration agency under proposed AS 15.07.055(c), [See page 2, section 5, lines 24 and 25] the increased cost would require a general fund appropriation or a reimbursable services agreement from the Division of Elections to the PFD Division.

Prepared by:	Thomas C. Williams <i>Thomas C. Williams</i>	Phone: 465-2323
Division:	Permanent Fund Dividend	Date: 02-14-94
Approved by Commissioner:	<i>[Signature]</i>	Date: <u>2/15/94</u>
Agency:	Department of Revenue	

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DOR F.N.

APR 18 1994

Law Office of Jeff Bush
Senate Building
175 S. Franklin St., Ste. 318
Juneau, AK 99801
(907)463-4150
Fax: 463-4119 or 4122

April 19, 1994

The Honorable Al Vezey
Chair, House State Affairs Committee
State Capitol
Juneau, AK 99801-1182

Re: SB 303 (Motor Voter)

Dear Representative Vezey:

I am writing this letter on behalf of the Alaska Civil Liberties Union ("AkCLU") in support of Senate Bill 303, the so-called "Motor Voter" bill. SB 303 is currently pending in your committee, House State Affairs, and I am writing to urge you to schedule the bill for hearing and move it on to the next committee of referral, in order to ensure that the bill passes this session.

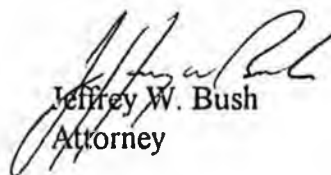
As you know, this bill was introduced by Governor Hickel to bring Alaska into compliance with the requirements of the National Voting Rights Act ("NVRA"), which requires most states, including Alaska, to amend their voter registration laws by January 1, 1995, to implement the NVRA. The Lieutenant Governor's Office has worked closely with the federal Department of Justice to craft legislation that is consistent with federal requirements yet minimizes the impact on Alaska's registration process.

The national ACLU strongly supported enactment of the NVRA, which could add as many as 50 million new voters to the national rolls. However, testimony in State Affairs and other committees has been that this legislation may not be necessary in Alaska, since we have liberal registration laws and procedures in place already. The AkCLU believes that any bill which potentially makes it easier for Alaskans to register and thereby exercise their right to vote is good. But more importantly, without getting into a philosophical debate over the merits of the NVRA and SB 303, the Department of Justice has made it clear that the failure to enact this legislation will result in time-consuming and costly litigation, with the foregone conclusion that Justice will eventually prevail. If that were to occur, the NVRA would be instituted by the federal courts, rather than the Alaska Legislature, with no guarantee that the end result would be rational or cost effective. Such a course of action is not only futile but irresponsible.

We assume you are as interested as the AkCLU in giving Alaskans a say in this process, rather than having this important right dictated from afar by federal bureaucrats. The AkCLU therefore encourages you to move this bill on to the next committee of referral and work toward getting it enacted this session.

Thank you for your consideration of this letter.

Sincerely,



Jeffrey W. Bush
Attorney

cc: House State Affairs Committee Members
Randall Burns, AkCLU Executive Director

APR 11 1994

JOHN B. COGHILL
LIEUTENANT GOVERNOR

STATE OF ALASKA
P. O. Box 110015
JUNEAU, ALASKA 99811-0015
(907) 465-3520

April 11, 1994

The Honorable Al Vezey, Chairman
State Affairs Committee
House of Representatives
Capitol Building Room 102
Juneau, Alaska 99811

Dear Representative Vezey: AL

As you know, you are currently holding Senate Bill 303 "An Act relating to voter eligibility, voter registration, and voter registration agencies; and providing for an effective date" in your committee. I would like to request an expeditious second hearing and passage of this bill from your committee on April 14, 1994.

We have discussed the importance of this legislation to bring State election laws into compliance with the National Voter Registration Act of 1993, and I had hoped the legislation would be in House Finance by now. While there have been few legislators who have wholeheartedly endorsed this legislation, all reasonable administration would not be pursuing this course if we did not feel it was in the best interest of the State to comply with the federal mandate. Surely you understand I would not blindly support compliance with a federal mandate unless I had explored alternative avenues first. As you can see by the Attorney General's opinion, we were urged to draft legislation, and I believe the Division of Elections did an exceptional job of researching their statutes and making the necessary amendments.

I am concerned that the legislation will not meet the Speaker's deadline for Senate bills to be in the House Rules Committee, as SB 303 is not scheduled for a hearing in State Affairs until April 14, 1994. Any help you can be in expediting the bill will be appreciated; to lose it at this time would be very disappointing. If in fact it is your intention to let this legislation "die" in your committee, I hope you extend the courtesy of meeting with me as soon as possible.

Thank you for your consideration of this matter.

Sincerely,


John B. Coghill
Lieutenant Governor

Attachment

MEMORANDUM

State of Alaska

Department of Law

TO: Kris W. Lethin
Legislative Liaison
Office of the Governor

DATE: October 28, 1993

FILE NO:

TEL. NO: 465-3600

SUBJECT: National Voter
Registration Act
of 1993

FROM:

Virginia B. Ragle
Virginia B. Ragle
Assistant Attorney General

You have asked whether Alaska is subject to the provisions of the National Voter Registration Act of 1993 (Public Law 103-31, 107 Stat. 84, 42 U.S.C. 1973gg) and, if so, whether legislation is needed for Alaska to comply with the Act. The answer to both questions is yes.

The National Voter Registration Act of 1993 (NVRA) imposes certain requirements on states regarding procedures to register to vote in elections for federal office. The Act does not apply to states that, as of March 11, 1993, and continuously thereafter, either had no registration requirement for voting for federal office or permitted voters to register at the polling place at the time of voting in a general election for federal office. Because Alaska requires registration for voting for federal office and permits registration at the polling place only for voting in the general election for the office of president (not for Alaska's members of the United States House of Representatives or Senate), Alaska does not meet the requirements of the nonapplicability clause.

The NVRA requires the state to provide assistance for voter registration for federal elections through state agencies that provide public assistance, the Division of Motor Vehicles, and other agencies. The legislative history indicates that Congress intended "public assistance agencies" to include "agencies that administer or provide services under the food stamp, medicaid, the Women, Infants, and Children (WIC), and the Aid to Families With Dependent Children (AFDC) programs."¹ In addition, the state must designate other state, local, federal, or private sector agencies, including agencies that primarily provide assistance to persons with disabilities, and must cooperate with the Secretary of Defense to provide voter registration at Armed Forces recruitment offices.

Legislation is needed to designate an election official responsible for coordination of the state's responsibilities under

¹ Conference Report No. 103-66, National Voter Registration Act of 1993 (April 28, 1993), p. 19.

Kris W. Lethin, Legislative Liaison
Re: National Voter Registration Act

October 28, 1993
Page 2

the NVRA. Legislation is also needed because of requirements imposed on states by the NVRA regarding maintenance of voter registration lists for federal elections. Although Alaska's "purge" statute closely tracks the NVRA's requirements regarding removal of the names of ineligible voters from the official registration list, language must be changed to clarify the effect of a voter's failure to respond to a notice to confirm the voter's desire to remain registered. Current statutory language indicates that the registration is "cancelled" if the voter does not respond to the notice. AS 15.07.130. In effect, as required by the NVRA, the registration is only inactivated, since a voter's vote will be counted if the voter was registered for either of the two most recent general elections. AS 15.15.198. Amendments must be made to Alaska statutes to comply with time requirements for registration by mail and several other technical requirements of the NVRA.

The NVRA imposes requirements on states regarding the form of notices and manner in which notices are mailed, and regarding the privacy rights of voters who are registered, or decline registration, by voter registration agencies, such as public assistance agencies. The Act also requires the state to maintain certain records. The United States Department of Justice, which is the primary federal enforcement agency for the NVRA, also will review the state's implementing legislation and regulations under the preclearance provisions of Section 5 of the Voting Rights Act. To assure expeditious preclearance, these requirements of the NVRA should be addressed in statute or implementing regulations.

Alaska must implement the NVRA by January 1, 1995; therefore, the state has only one legislative session to enact legislation necessary to comply with the Act, and now has less than 15 months to establish inter-agency programs and training needed to provide voter registration services in compliance with the Act. The Division of Elections has begun to identify and confer with voter registration agencies, including divisions of the Department of Health and Social Services, Department of Community and Regional Affairs, and the Division of Motor Vehicles. The United States Department of Justice and various interest groups have indicated an intent to vigorously pursue all available legal remedies if the state fails to implement the Act to their satisfaction. We recommend that legislation to implement the NVRA be one of the Governor's priority bills.

cc: Joseph L. Swanson, Director
Division of Elections

SB

310

BILL ALLEN REALTY

COMMERCIAL PROJECT DEVELOPMENT AND MANAGEMENT

3540 INTERNATIONAL WAY
P.O. BOX 73765
FAIRBANKS, ALASKA 99707

Bill Allen, Broker
(907) 451-7244
FAX (907) 451-7274

May 5, 1994

Rep. Al Vezey
Interior Delegation
Fax# 465-3258

Al,

Two issues of paramount importance to your community involves SB310 and HB466 the \$75 million bond for the University of Alaska for deferred maintenance, and I whole heartily urge you to support both bills.

SB310 is no longer a forestry management issue, but has turned into an economic development or no development issue.

Al, I don't like what I see in the economic future for Fairbanks regarding the current economic influences and I believe we need to use vision to provide alternatives for replacement of those industries we currently count on to fuel our economy.

The \$75 million University of Alaska deferred maintenance bond is being subjected to deducts for student housing in Anchorage and Juneau. Wendy Redman will tell you the University has discovered an option to building student housing without issuing debt or issuing state general fund.

Bill

SB

311

**FIRST READING AND REFERENCE
OF SENATE BILLS**

SB 292

SENATE BILL NO. 292 by Senators Frank and Pearce, entitled:

"An Act relating to transfers of prisoners under the Interstate Corrections Compact."

was read the first time and referred to the Judiciary and Finance Committees.

SB 311

CS FOR SENATE BILL NO. 311(FIN) by the Senate Finance Committee, entitled:

"An Act authorizing a credit against the fishery resource landing tax for certain contributions made by taxpayers not harvesting fisheries resources under a community development quota and for contributions based on fishery resources not harvested under a quota made by taxpayers harvesting fisheries resources under a community development quota, amending the manner of calculating the amount available for revenue sharing by operation of this credit, providing for predetermination of credit applications under that tax, and amending the fishery resource landing tax to eliminate claim of the credit for contributions of capital; and providing for an effective date."

was read the first time and referred to the State Affairs, Resources and Finance Committees.

*Joe, have Whitney set up the file for this
one as we will get correspondence. It
is D.O.A.*

AI

S B

3 3 3

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Administration

Title: An Act relating to disclosure of close economic

BRU: Personnel/OEEO

associations...and to the prohibition against nepotism....

Component: Personnel/OEEO

Sponsor: Senate Rules by request of Leg. Budget & Audit Committee

Requestor: Senate Finance

COMPONENT SERIAL NO. 56

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	5.6	0	0	0	0	0
TRAVEL	3.1					
CONTRACTUAL	15.6					
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	24.3	0	0	0	0	0

CAPITAL EXPENDITURES

CHANGE IN REVENUES

FUNDING SOURCE:

(Thousands of Dollars)

1002 Federal						
1003 GF Match						
1004 GF	24.3					
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	24.3	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS:

History tells us we can expect to receive a class action suit regarding the changes in the nepotism law from each of 11 bargaining units. The costs above are based on the assumption that 5 will go to hearing. Estimated total cost is \$24,300. See attached breakdown for detail.

Prepared by: Kevin C. Ritchie, Director
Division: Personnel/OEEO

Phone: 465-4429
Date: _____

Approved by Commissioner: Nancy Bear User
Agency: Administration

Date: 4/19/94

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Fiscal Note
Calculation Sheet

CS SB 333 (FIN)

Personal Services

5 class action hearings @ rg 21C
3 days preparation
2 days hearing 5,544.00

5,544.00

Travel

Airfare Juneau-Anchorage-Juneau
444.00 x 5 trips 2,220.00

9 days per diem @ \$100 900.00

3,120.00

Contractual

5 days arbitrator @ \$3120 15,600.00

TOTAL \$ 24,264.00

FISCAL NOTE

2. 3

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 333

(S) Publish Date: 3-18-94

Revision Date: _____

Department Affected: Office of the Governor

Title: "An Act relating to disclosure..."

BRU: All BRUs

Sponsor: Senate Rules Committee

Component: All Components

Requestor: LB&A Committee

COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Changes in CS5B333 (FIN) have no fiscal impact. This fiscal note is appropriate.

Estimate of any current year (FY94) cost: n/a

ANALYSIS: (Attach a separate page if necessary.)
No fiscal impact

4-19-94 date Om Comte Aide (initial)

Prepared by: Michael A. Nizich, Director
Division: Division of Administrative Services

Phone: 465-3976
Date: 3/8/94

Approved by Commissioner: Patrick P. Ryan, Chief of Staff
Agency: Office of the Governor

Date: 3/8/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. S 333

ANALYSIS CONTINUATION:

This bill amends the Alaska Executive Branch Ethics Act, under AS 39.52, to add a new section that provides that a public officer in the executive branch must disclose a close economic association involving a substantial financial matter with a person who is likely to be affected by an official action taken or withheld by the public officer. Current law, under AS 34.52.120(b)(4) prohibits a public officer from taking or withholding official action in order to affect a matter in which the public officer has a personal or financial interest. However, the existing law does not include the requirements for prior disclosure of close financial associations that are contained in the bill.

The bill also amends the state's statute prohibiting nepotism, AS 39.90.020, to clearly define the supervisory position of a public officer in relationship to family members and those living regularly in a person's household to whom the prohibition applies.

It is not anticipated that either of these provisions would result in a level of violations that would cause a fiscal impact for the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

o. 2
bill Version: SB 333
(S) Publish Date: 3-18-94

Revision Date: March 10, 1994
Title: "...disclosure of close economic associations by certain state employees...prohibition against nepotism..."
Sponsor: Senate Rules Committee By Request
Requestor: Senate State Affairs Committee

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Changes in CS SB 333 (FIN)
have no fiscal impact. This
fiscal note is appropriate.

4-19-93 date Tom G. [Signature] Comptroller (initial)

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: March 10, 1994
Date: March 10, 1994

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

MEMORANDUM

TO: The Honorable Al Vezey, Chairman
House State Affairs Committee

FROM: Randy S. Welker *Randy*
Legislative Auditor

DATE: May 2, 1994

RE: Senate Bill 333

This memo is provided to briefly summarize the contents of Senate Bill 333. The bill was introduced by the Legislative Budget and Audit Committee in response to an audit released last year.

The impetus for the suggested changes comes primarily from our audit of the Department of Public Safety's Division of Fish and Wildlife Protection (FWP). However, the problem identified is not limited to only FWP. Other public officials with discretionary authority could also be placed in a conflict of interest position.

Section 1 of the bill establishes a requirement for disclosure of the formation or maintenance of a close economic association similar to that contained in the Legislative Ethics Act.

The bill also requires a public officer, if it appears feasible and in the best interests of the State, to refrain from taking or withholding official action in a matter that directly involves a person with whom the public officer has a close economic association. However, if taking or withholding official action is not avoidable, the public officer shall immediately disclose the action to the public officer's designated supervisor.

The bill requires a supervisor, to whom a public officer has made a disclosure, to make a written determination of whether the officer's involvement could constitute a conflict of interest. The supervisor could reassign duties to avoid the conflict or the supervisor may direct the divestiture or removal by the officer of the financial interest giving rise to the conflict.

Section 2 of the bill is a change to the nepotism prohibition in statute. As the result of an isolated circumstance we found at the Alaska Psychiatric Institute, we are recommending that the statute be expanded. Currently the only relationship that is prohibited is that a person may not be employed in the same department or agency if they are the spouse of, or related by blood to, the executive head of a principal state department or agency.

We are recommending that the statute be expanded to include all supervisory/subordinate relationships (not just a relationship to the commissioner) and that the definition of relationship be expanded to include a regular member of the officer's household.

I have attached a copy of the nepotism recommendation excerpted from our audit of the Alaska Psychiatric Institute. I have also provided a copy of the entire audit report on the Division of Fish and Wildlife Protection.

I appreciate the Committee's consideration of this legislation. If enacted, this legislation will help improve public perception and clarify the legislature's disapproval of close economic associations by public officials who have discretion in taking or withholding official action that may affect the public officer or a person with whom the public officer has an economic association.

Attachment

appropriate managerial response to committee recommendations, the long-term effectiveness of the committee process as well as overall hospital operations, will suffer.

Recommendation No. 2

The legislature should consider expanding the nepotism statute to prohibit supervisory/subordinate relationships of immediate family members.

Alaska Statute (AS) 39.90.020 prohibits nepotism and reads as follows:

It is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a principal state department or agency to be employed in that department or agency.

First, we believe this statute should be expanded beyond just the executive head of principal state agencies to include all supervisory/subordinate relationships. Nepotism at any level can adversely impact the work environment.

Second, we believe this statute should address relationships beyond spousal and blood kindred to include immediate family members. In today's society, close relationships are more common in which an immediate family member is neither a spouse nor a blood relative. Nevertheless, any perceived favoritism shown this family member will likely affect employee morale.

This proposed expansion is not without statutory precedent. The legislature's Standards of Conduct, AS 24.60.090, state:

An individual who is related to a legislative employee may not be employed in a position over which the employee has supervisory authority. In this subsection, 'an individual who is related to' means a member of the legislator's or legislative employee's immediate family or a person who is a legislator's or legislative employee's spousal equivalent [emphasis added]

Further, the Executive Branch Ethics Act, AS 39.52.960, defines an immediate family member as:

. . . a public officer's spouse, a relation by blood within and including the second degree of kindred, and a regular member of the officer's household. [emphasis added]

In defining what constitutes improper influence over state grants and contracts, the Ethics Act states that an "immediate family member:"

... may not attempt to acquire, receive, apply for, be a party to, or have a personal or financial interest in a state grant, contract, lease, or loan if the public officer may take or withhold official action that affects the award, execution, or administration of the state grant contract, lease, or loan.

We see no reason for the State to apply a different standard for improper influence over grants and contracts than for nepotism. "A regular member of the officer's household" should be a standard for both.

During our review of personnel actions, we identified a situation where a public officer approved the appointment and promotion of an employee, when the public officer and employee were cohabitants. There was evidence in the personnel file that the relationship met the definition of an immediate family member as defined above under AS 39.52.960. A perceived act of relational favoritism within an agency, whether factual or not, can adversely affect an agency's efficiency and effectiveness. As this incident was brought to our attention by a number of API employees during audit interviews, we believe that it created significant morale problems at the hospital.

We recommend the legislature expand the current language of AS 39.90.020 to include regular members of an officer's household as part of the nepotism prohibition. Further, we recommend that all supervisory/subordinate relationships be addressed.

Recommendation No. 3

The Department of Health and Social Services (DHSS) should restructure the membership of the API governing body and consider establishing a board of governance.

API is required by JCAHO accreditation standards and state regulations to have a governing body with overall responsibility for the operations of the hospital. The governing body of API consists of the commissioner of DHSS, the director of the Division of Mental Health and Developmental Disabilities (DMHDD), and management of API; namely, the chief executive officer (CEO), the medical director, the hospital administrator, and the president of the medical staff.

The continuity within the governing body has been disrupted over the years because four of the six positions (DHSS commissioner, DMHDD director, API chief executive officer, and medical director) are political appointees and there has been a high turnover of management at API. In addition, the commissioner, division director, and medical director (prior to 1992 the medical director performed the CEO function) did not necessarily have experience in the management of a psychiatric hospital. Consequently, decisions may be deferred to a committee, delayed, or may not be the most efficient/effective option. Since 1988, there have been two commissioners, three division directors, two chief executive officers, five medical directors, five presidents of the medical staff, and three hospital administrators.

SB

342

8-LS1756J✓
Ford
4/14/94

HOUSE CS FOR CS FOR SENATE BILL NO. 342(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to risk based capital for insurers; and providing for an effective
2 date."

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

4 * Section 1. AS 21 is amended by adding a new chapter to read:

5 CHAPTER 14. RISK BASED CAPITAL FOR INSURERS.

6 Sec. 21.14.010. RISK BASED CAPITAL REPORTS. (a) A life and health
7 domestic insurer, property and casualty domestic insurer, or other insurer required by
8 the director shall, on or before March 1, submit to the director a report of its risk
9 based capital covering the previous calendar year, if required by the director. The
10 report must be in a form and contain the information required by risk based capital
11 instructions. A domestic insurer required to submit a report under this subsection shall
12 file the report with

- 13 (1) the National Association of Insurance Commissioners; and
- 14 (2) the insurance regulatory agency in each state in which the insurer

1 is authorized to transact business, if the insurance regulatory agency has requested the
2 report in writing from the insurer; a report requested under this paragraph shall be
3 delivered

4 (A) not later than 15 days from the receipt of a request if the
5 report has already been filed with the director; or

6 (B) at the time the report is filed with the director, if the report
7 has not been filed with the director.

8 (b) An insurer's risk based capital shall be determined under the formula
9 contained in the risk based capital instructions.

10 (c) If a domestic insurer files a report that the director determines to be
11 inaccurate, the director may adjust the report to correct the inaccuracy. The director
12 shall notify the insurer of an adjustment and the reason for it.

13 (d) If a domestic insurer transacts business only in this state and the insurer's
14 total annual written premium plus monetary consideration received on an annuity is
15 less than \$2,000,000, the insurer may apply annually to the director for an exemption
16 from submitting the report required under this section.

17 (e) The director shall establish risk based capital instructions by regulation.

18 Sec. 21.14.020. COMPANY ACTION LEVEL EVENT. If a company action
19 level event occurs, the affected insurer shall submit to the director a plan under
20 AS 21.14.060.

21 Sec. 21.14.030. REGULATORY ACTION LEVEL EVENT. (a) If a
22 regulatory action level event occurs, the director shall

23 (1) require the affected insurer to submit a plan or a revised plan under
24 AS 21.14.060; if the level event is caused by the insurer's failure to adhere to a
25 previously filed plan or revised plan that has been accepted by the director, the director
26 may exempt the insurer from this requirement;

27 (2) perform whatever examination, analysis, or review of the assets,
28 liabilities, and operations of the insurer that the director determines necessary; and

29 (3) issue a corrective order specifying the action that the insurer is
30 required to take to eliminate the level event.

31 (b) When conducting a review of the insurer's plan or revised plan examining

1 or analyzing the assets, liabilities, and operations of the insurer or formulating a
2 corrective order with respect to the insurer, the director may retain an actuary,
3 investment expert, or other consultant. The affected insurer or affiliated person shall
4 pay the reasonable costs of a person retained by the director under this subsection as
5 ordered by the director.

6 Sec. 21.14.040. AUTHORIZED CONTROL LEVEL EVENT. If an authorized
7 control level event occurs, the director shall take the action necessary

8 (1) under AS 21.14.030(b) against the insurer; or

9 (2) to place the insurer under regulatory control under AS 21.78 if,
10 after a hearing under AS 21.06.180 - 21.06.240, the director determines it to be in the
11 best interest of the policyholders and creditors of the insurer, and of the public.

12 Sec. 21.14.050. MANDATORY CONTROL LEVEL EVENT. (a) If a
13 mandatory control level event occurs, the director shall take the action necessary to
14 place the insurer under regulatory control under AS 21.78.

15 (b) Notwithstanding (a) of this section, the director may delay taking action
16 under AS 21.78 for up to 90 days after the mandatory control level event occurs, if the
17 director finds there is a reasonable expectation that the mandatory control level event
18 may be eliminated within the 90-day period.

19 Sec. 21.14.060. RISK BASED CAPITAL PLAN. (a) If a plan is required
20 under this chapter or by order of the director in response to an event described under
21 AS 21.14.020 - 21.14.050, the plan shall be a financial plan that must include

22 (1) identification of the conditions that contribute to the level event;

23 (2) a proposal for corrective action that the insurer intends to take that
24 would be expected to eliminate the level event;

25 (3) projections for the insurer's financial results in the current year and
26 in the four subsequent years after the current year, with and without the proposed
27 corrective action, including projections of statutory operating income, net income, and
28 capital and surplus; the projections for new and renewal business must include separate
29 projections for each major line of business and separately identify each significant
30 income, expense, and benefit component;

31 (4) identification of the key assumptions affecting the insurer's

1 projections and the sensitivity of the projections to the assumptions;

2 (5) identification of the quality of, and problems associated with, the
3 insurer's business, including the insurer's assets, anticipated business growth,
4 associated surplus strain, extraordinary exposure to risk, mix of business, and use of
5 reinsurance in each case; and

6 (6) other information required by the director.

7 (b) An insurer shall submit a plan within 45 days

8 (1) of an event described in AS 21.14.020 - 21.14.050; or

9 (2) after the insurer receives notification from the director that the
10 director has rejected the insurer's challenge, if the insurer has challenged an adjusted
11 report under AS 21.14.080.

12 (c) Not later than 50 days after an insurer has submitted a plan to the director,
13 the director shall notify the insurer if the plan is satisfactory or unsatisfactory. If the
14 director determines the plan to be satisfactory, the insurer shall implement the plan
15 upon receiving notice from the director. If the director determines the plan is
16 unsatisfactory, notification to the insurer must state the reasons for the determination
17 and may propose revisions that, in the judgment of the director, will render the plan
18 satisfactory. Upon receiving notice from the director that a plan is unsatisfactory, the
19 insurer shall prepare a revised plan that may incorporate revisions proposed by the
20 director and submit the revised plan to the director. A revised plan shall be submitted
21 to the director within 45 days after the insurer receives notice that

22 (1) the original plan is unsatisfactory; or

23 (2) the director has rejected the insurer's challenge, if the insurer
24 challenges an unsatisfactory determination of the director under AS 21.14.080.

25 (d) A domestic insurer that files a plan or revised plan with the director shall
26 file a copy of the plan or revised plan with the insurance regulatory agency in each
27 state in which the insurer transacts business, if

28 (1) the state has a risk based capital provision substantially similar to
29 AS 21.14.090, as determined by the director; and

30 (2) the insurance regulatory agency of that state has made a request in
31 writing to the insurer.

1 (e) An insurer shall file the copy of the plan or revised plan required under (d)
2 of this section (1) within 15 days of the insurer's receipt of a request for the filing
3 from a state; or (2) by the date on which the plan or revised plan is filed in this state
4 under this section, whichever is later.

5 Sec. 21.14.070. FOREIGN INSURERS. (a) A foreign insurer shall, upon the
6 written request of the director, submit to the director a report described under
7 AS 21.14.010 not later than

8 (1) 15 days from the receipt by the foreign insurer of a request, if the
9 report has already been filed with the domiciliary state;

10 (2) 60 days from the receipt by the foreign insurer of a request, if the
11 report is not required to be filed with the domiciliary state; or

12 (3) the date on which the report is filed with the domiciliary state or
13 60 days from receipt by the foreign insurer of the request, whichever is earlier, if the
14 report is required to be filed but has not already been filed with the domiciliary state.

15 (b) Within 15 days after receiving a written request from the director, a foreign
16 insurer shall submit to the director a copy of a plan that is filed with an insurance
17 regulatory agency of another state.

18 (c) The director may require a foreign insurer to file a plan under
19 AS 21.14.060, if

20 (1) a company action level event, regulatory action level event, or
21 authorized control level event occurs with respect to a foreign insurer as determined
22 under

23 (A) the risk based capital statute applicable in the domiciliary
24 state of the insurer; or

25 (B) this chapter, if a risk based capital statute is not in force in
26 the domiciliary state that is substantially similar to this chapter; or

27 (2) the insurance regulatory agency of the domiciliary state of the
28 foreign insurer fails to require the foreign insurer to file a plan in the manner specified
29 under that state's risk based capital statute.

30 (d) If a foreign insurer fails to file a plan with the director as required under
31 this section, the director may order the insurer to stop writing new insurance business

1 in this state.

2 (e) If a mandatory control level event occurs that involves a foreign insurer,
3 the director may apply to a court under AS 21.78 for the liquidation of property of the
4 foreign insurer that is located in this state, unless a domiciliary receiver has been
5 appointed for the foreign insurer under the rehabilitation and liquidation statute
6 applicable in the foreign insurer's domiciliary state.

7 Sec. 21.14.080. HEARINGS. An insurer may request a hearing to challenge
8 an action of the director or request a stay of the director's action as provided under
9 AS 21.06.180 - 21.06.240.

10 Sec. 21.14.090. CONFIDENTIALITY; RESTRICTIONS ON USE. (a) Except
11 as provided in this subsection, a report required under AS 21.14.010, a plan required
12 under AS 21.14.060, the results or report of an examination or analysis of an insurer
13 performed under this chapter, and a corrective order issued by the director are
14 confidential and may not be made public by the director or another person without the
15 prior written consent of the insurer who is the subject of the report, plan, analysis, or
16 order. If the director, after giving the insurer and its affiliates who would be affected
17 by publication of the information notice and opportunity to be heard, determines that
18 the interests of policyholders, shareholders, or the public will be served by the
19 publication of the information, the director may publish all or part of the information
20 in the manner the director considers appropriate. This subsection does not prohibit the
21 director from releasing a report, plan, analysis, or order to an insurance regulatory
22 agency of another state.

23 (b) The calculation of risk based capital for an insurer constitutes a regulatory
24 tool that may indicate a need for corrective action, and the calculation may not be used
25 as a means to rank insurers. Except as otherwise required in this chapter, a person
26 may not directly or indirectly use information regarding the risk based capital of an
27 insurer. If a materially false statement regarding an insurer's risk based capital or an
28 inappropriate comparison of any other amount to the insurer's risk based capital is
29 published and the insurer is able to demonstrate with substantial proof, as determined
30 by the director, the falsity or inappropriateness of the statement, the insurer may
31 publish an announcement exclusively to rebut the materially false statement or

1 inappropriate comparison.

2 (c) The director may use the risk based capital instructions, report, adjusted
3 report, plan, and revised plan only for monitoring the solvency of an insurer or for
4 determining the need for corrective action by an insurer. Notwithstanding AS 21.39,
5 documents described in this subsection may not be considered or introduced as
6 evidence in a rate proceeding or used by the director to calculate or derive any
7 elements of an appropriate premium level or rate of return for a line of insurance that
8 an insurer or an affiliate is authorized to write.

9 Sec. 21.14.100. PENALTY FOR VIOLATION. (a) An insurer shall pay to
10 the division \$100 for each day the insurer fails to file a report, and \$1,000 for each
11 day the insurer fails to file a plan or revised plan in conformance with the
12 requirements of this chapter.

13 (b) If a report, plan, or revised plan has not been filed in conformance with
14 the requirements of this chapter, the director may, as provided

15 (1) under AS 21.09.150, suspend the authority of an insurer to enter
16 into new obligations or issue a new or renewal policy of insurance in this state; or

17 (2) under AS 21.34.070, declare a surplus lines insurer ineligible to
18 transact business in this state.

19 Sec. 21.14.200. DEFINITIONS. In this chapter,

20 (1) "adjusted report" means a risk based capital report that has been
21 adjusted by the director under AS 21.14.010;

22 (2) "authorized control level event" means

23 (A) a report, an adjusted report that has not been challenged, or
24 an adjusted report for which a challenge has been rejected, that is filed under
25 AS 21.14.010 and that indicates that an insurer's total adjusted capital is greater
26 than or equal to its mandatory control level risk based capital but is less than
27 its authorized control level risk based capital; or

28 (B) an insurer fails to respond to a corrective order issued under
29 AS 21.14.030 in a manner satisfactory to the director, if

30 (i) the insurer does not challenge the corrective order as
31 permitted under AS 21.14.080; or

1 (ii) after a hearing under AS 21.06.180 - 21.06.240, a
2 challenge to the corrective order by the insurer under AS 21.14.080 is
3 rejected by the director;

4 (3) "authorized control level risk based capital" means the number
5 determined under the risk based capital formula in the risk based capital instructions;

6 (4) "company action level event" means a report, an adjusted report that
7 has not been challenged, or an adjusted report for which a challenge has been rejected,
8 that is filed under AS 21.14.010 and that indicates that

9 (A) an insurer's total adjusted capital is greater than or equal
10 to its regulatory action level risk based capital but is less than its company
11 action level risk based capital; or

12 (B) if a life and health insurer, the insurer has total adjusted
13 capital that is greater than or equal to the insurer's company action level risk
14 based capital but is less than 250 percent of the insurer's authorized control
15 level risk based capital and that has a negative trend;

16 (5) "company action level risk based capital" means 200 percent of an
17 insurer's authorized control level risk based capital;

18 (6) "corrective order" means an order issued by the director specifying
19 action that the director has determined is required by the insurer under this chapter;

20 (7) "foreign insurer" means a foreign insurer as defined in
21 AS 21.90.900 but excludes an alien insurer;

22 (8) "level event" means a company action level event, regulatory action
23 level event, authorized control level action event, or mandatory control level event;

24 (9) "life and health insurer"

25 (A) means an insurer who transacts life insurance as defined in
26 AS 21.12.040 or disability insurance as defined in AS 21.12.050;

27 (B) does not include a benevolent association under AS 21.72,
28 a fraternal benefit society under AS 21.84, a health maintenance organization
29 under AS 21.86, or a hospital or medical service corporation under AS 21.87;

30 (10) "mandatory control level event" means a report, an adjusted report
31 that has not been challenged, or an adjusted report for which a challenge has been

1 rejected, that is filed under AS 21.14.010, and that indicates that an insurer's total
2 adjusted capital is less than the insurer's mandatory control level risk based capital;

3 (11) "mandatory control level risk based capital" means 70 percent of
4 an insurer's authorized control level risk based capital;

5 (12) "negative trend" for a life and health insurer means a negative
6 trend over a period of time, as determined by the "trend test calculation" in the risk
7 based capital instructions;

8 (13) "property and casualty insurer" means an insurer who transacts
9 disability insurance as defined in AS 21.12.050, property insurance as defined in
10 AS 21.12.060, casualty insurance as defined in AS 21.12.070, surety insurance as
11 defined in AS 21.12.080, marine or wet marine and transportation insurance as defined
12 in AS 21.12.090, or mortgage guaranty insurance as defined in AS 21.12.110;

13 (14) "regulatory action level event" means

14 (A) a report, an adjusted report that has not been challenged, or
15 an adjusted report for which a challenge has been rejected, that is filed under
16 AS 21.14.010, and that indicates that an insurer's total adjusted capital is
17 greater than or equal to its authorized control level risk based capital but is less
18 than the insurer's regulatory action level risk based capital;

19 (B) an insurer fails to file a report required under AS 21.14.010
20 by its due date, unless the insurer has provided a written explanation for the
21 failure by the due date that is satisfactory to the director and the insurer has
22 cured the failure not later than 10 days after the report is due;

23 (C) an insurer fails to submit a plan to the director within the
24 time period described in AS 21.14.060;

25 (D) a notification by the director to an insurer that a plan or
26 revised plan submitted by the insurer is determined by the director to be
27 unsatisfactory, if

28 (i) the insurer does not challenge the determination of
29 the director; or

30 (ii) after a hearing under AS 21.06.180 - 21.06.240, a
31 challenge of the director's determination by the insurer under

1 AS 21.14.080 is rejected by the director; or

2 (E) a notification by the director to an insurer that the insurer
3 has failed to adhere to the insurer's plan or revised plan, if the director
4 determines that the failure has a substantially adverse effect on the ability of
5 the insurer to accomplish the objectives of the plan or revised plan, if

6 (i) the insurer does not challenge the determination of
7 the director; or

8 (ii) after a hearing under AS 21.06.180 - 21.06.240, a
9 challenge of the director's determination by the insurer under
10 AS 21.14.080 is rejected by the director;

11 (15) "regulatory action level risk based capital" means 150 percent of
12 an insurer's authorized control level risk based capital;

13 (16) "revised plan" means a risk based capital plan revised by an
14 insurer, after the director has found the original risk based capital plan unsatisfactory
15 under AS 21.14.060;

16 (17) "risk based capital" means the amount of risk based capital and
17 surplus produced by the application of the risk based capital instructions, or other
18 amount the director determines after examination to be sufficient to support the
19 insurer's asset risk, underwriting risk, and credit risk, including the minimum capital
20 and surplus required under AS 21.09;

21 (18) "risk based capital instructions" means risk based capital
22 instructions for a life and health insurer or for a property and casualty insurer adopted
23 by regulation by the director under AS 21.14.010;

24 (19) "report" means the report of an insurer's risk based capital for a
25 calendar year as required under AS 21.14.010;

26 (20) "total adjusted capital" means the total of

27 (A) an insurer's statutory capital and surplus as reported under
28 AS 21.09.200 or 21.09.205; and

29 (B) any other item required under the risk based capital
30 instructions.

31 * Sec. 2. AS 21.78.040(a) is amended by adding a new paragraph to read:

- 1 (15) has reached an authorized control level event under AS 21.14.040
- 2 or a mandatory control level event under AS 21.14.050.
- 3 * Sec. 3. This Act takes effect January 1, 1995.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 342

(S) Publish Date: 3-18-94

Revision Date: _____
Title: Risk Based Capital For Insurers
Sponsor: Labor & Commerce Committee
Requestor: _____

Department Affected: Commerce and Economic Development
BRU: Insurance
Component: Operations
COMPONENT SERIAL NO. 354

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUND SOURCE

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

Estimate of current year (FY 94) cost: \$ 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.)

No fiscal impact.

Changes in CS SB 342 (LTC)
have no fiscal impact. This
fiscal note is appropriate.

3/10/94 APJ
Date Comptroller Aide (initial)

Prepared by: Joan Brown, Administrative Officer
Division: Insurance

Phone: 465-2597
Date: 3/10/94

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

PREPARER TO PROVIDE ALL
For further distrib

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SENATE LABOR AND COMMERCE COMMITTEE

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MEMORANDUM

TO: All Senators

FROM: Senator Tim Kelly, Chair
Senate Labor & Commerce Committee

DATE: April 11, 1994

RE: SB 342 - Risk Based Capital for Insurers

The Senate Labor & Commerce Committee introduced SB 342, an "Act relating to risk based capital for insurers, and p.f.e.d." at the request of the Division of Insurance.

This legislation is based upon the National Association of Insurance Commissioners (NAIC) risk based capital model law and is required by the NAIC to be enacted in order for Alaska to maintain its accreditation with the NAIC. I've attached information provided by the department which provides an overview and analysis of this legislation, as well as an explanation of the changes made in the Senate Labor & Commerce Committee.

Thank you for your consideration.

SB 342 RISK BASED CAPITAL

- Current capital requirements are basically "one size fits all". All insurers regardless of their size or riskiness of their business are required to maintain the same minimum level of capital and surplus.
- Risk based capital is a new and improved method of determining the minimum level of capital and surplus an insurer is required to maintain and represents the culmination of over 3 years of work by the National Association of Insurance Commissioners, industry and consumer groups.
- Risk based capital incorporates the specific risks faced by an insurer. Examples include the risk that losses will be higher than expected and the risk that an insurer's assets will decline in value.
- Under a risk based capital standard, insurers that sell riskier products, have riskier investment policies, or generally engage in riskier business practices will have a higher required capital amount than an insurer with more conservative products, investments and business practices.
- Since risk based capital better reflects an insurer's solvency, the director will be able to more readily identify insurers requiring regulatory action. Thereby providing better protection from insolvency to consumers and the industry.
- Risk based capital better reflects the strength of the Alaskan insurers with risk based capital amounts above the national average.
- The use of risk based capital for regulating solvency is supported by consumers, industry, and regulators.

SB 342 RISK BASED CAPITAL
LABOR & COMMERCE COMMITTEE AMENDMENTS

- The following changes were made to correct legislative drafting errors:

Section 21.14.060 (3) page 4, line 1: "projections" was mistakenly typed as "projects"

Section 21.14.090 (b) Page 6, line 28: "by the director" was added after "as a means to rank insurers" by legislative drafting. "by the director" was deleted, since the intention is that risk based capital not be used as a means to rank insurers by anyone, not just the director.

Section 21.14.200 (8) Page 8, line 25: the "level event" definition was deleted by legislative drafting by mistake.

- The following changes were made to include a requirement that changes to the risk based capital formula be made by regulation. Risk based capital is calculated based on a national formula that will be subject to many changes in the future. Adding this amendment will give the assurance that, with public involvement, changes made to the formula will be appropriate for Alaskan insurers.

Section 21.14.010 (e), page 2, line 17: this is a new subsection that was added to require that changes to the risk based capital instructions (i.e. formula) be made by regulation.


Section 21.14.200 (18), page 10, line 24: amends the definition of "risk based capital instructions" to specify that risk based capital instructions are to be adopted by regulation.

SB 342: "Act relating to risk based capital for insurers; and providing for an effective date."

The department supports this legislation.

Risk based capital represents a greatly improved capital standard over the current Alaska fixed capital standards. Unlike the current capital and surplus standard that requires the same amount of capital and surplus for all insurers in a particular class, regardless of their risk, a risk based capital standard develops a level of capital and surplus needed for a particular insurer based upon the risks inherent in that insurer's operations. Since a risk based capital standard allows the division to more accurately determine an insurer's financial position, this legislation will enable the director to more readily identify companies requiring regulatory action before insolvencies occur, and thereby provide greater protection from insolvency to policyholders.

This legislation is based upon the National Association of Insurance Commissioners (NAIC) risk based capital model law and is required by the NAIC to be enacted in order for Alaska to maintain its accreditation with the NAIC.



Paul Fuhs, Commissioner
3-15-94

Date

BILL ANALYSIS - SB 342

"An Act relating to risk based capital for insurers and providing for an effective date."

RISK BASED CAPITAL

Risk based capital is an amount of capital and surplus calculated by an insurer using a formula derived by the National Association of Insurance Commissioners (NAIC), that will be used for determining whether regulatory action is needed and if regulatory action is needed, of what type. All insurers will use the same formula to calculate their risk based capital levels but the actual levels resulting from the formula will vary by insurer based upon the risks associated with that insurer's operations. For life and health insurers, the formula for risk based capital incorporates risks associated with the insurer's assets, adverse mortality and morbidity, changes in interest rates, and other business risks. For property and casualty insurers, the formula incorporates asset or default risk, credit risk, underwriting risk, and other business risks. The formula uses asset, reserve, reinsurance, and premium amounts in the insurer's annual financial statement to calculate a level of risk based capital called the "authorized control level risk based capital." Three other risk based capital levels are determined by applying percentages to the "authorized control level risk based capital": 200% for a "company action level risk based capital", 150% for a "regulatory action level risk based capital" and a factor of 70% for a "mandatory control level risk based capital." Depending on where an insurer's actual capital and surplus falls within these different risk based capital levels, the director will take the actions outlined in the proposed legislation.

Unlike current Alaska law that requires insurers to maintain a single minimum amount of capital and surplus that is identical for each class of insurer, requiring each insurer to calculate and report its risk based capital to the director will:

1. Require insurers to take actions that would provide greater safety from insolvency, thereby providing greater protection to consumers.
2. Provide guidance and assistance to regulators in identifying weak insurers.
3. Provide the legal authority for the director to intervene before insolvency occurs or before an insurer's capital and surplus falls below a level appropriate for that insurer.

Risk based capital will more accurately reflect an insurer's solvency. Alaskan insurers fair well under this proposed risk based capital legislation and currently have capital and surplus levels higher than the amount indicated in the risk based capital formula.

This proposed risk based capital legislation is based on the NAIC risk based capital model law that has been adopted as a minimum standard for state accreditation under the NAIC Accreditation Program. The NAIC Accreditation Program establishes minimum standards of

regulation through adoption of statutes and procedures. State accreditation is granted by the NAIC after on-site review verifying that these minimum standards are met. The Alaska Division of Insurance received its accreditation in December 1992 and is committed to maintaining the standards of the NAIC Accreditation Program.

SECTION 1. AS 21.14.010. Risk Based Capital Reports. This section requires most domestic insurers to file a risk based capital report with the director and establishes the time frame for submitting the report and the required form. This section provides for a possible exemption from filing a risk based capital report if the insurer meets certain conditions.

SECTION 1. AS 21.14.020. Company Action Level Event. This section describes the conditions under which an insurer reaches a company action level event and requires the insurer to submit to the director a comprehensive financial plan for corrective action.

SECTION 1. AS 21.14.030. Regulatory Action Level Event. This section describes the conditions under which an insurer reaches a regulatory action level event and requires the director to:

- 1) require the insurer to submit a comprehensive financial plan for corrective action;
- 2) perform whatever review of the insurer's assets, liabilities, and operations the director considers necessary; and
- 3) issue a corrective order specifying the action the insurer is required to take to that will increase their capital and surplus to an acceptable level.

SECTION 1. AS 21.14.040. Authorized Control Level Event. This section describes the conditions under which an insurer reaches an authorized control level event and requires the director to take the actions described under AS 21.14.030 or to take action to place the insurer under regulatory control if the director considers it to be in the best interests of the policyholders, creditors, and public.

SECTION 1. AS 21.14.050. Mandatory Control Level Event. This section describes the condition under which an insurer reaches a mandatory control level event and requires the director to take action to place the insurer under regulatory control.

SECTION 1. AS 21.14.060. Risk Based Capital Plan. This section describes the required content of, and states the time frame for submitting, the comprehensive financial plan required to be filed with the director when an insurer reaches a company action level event as described in AS 21.14.020, a regulatory action level event as described in AS 21.14.030, or an authorized control level event as described in AS 21.14.040.

SECTION 1. AS 21.14.070. Foreign Insurers. This section describes the risk based capital requirements for insurers not domiciled in Alaska (foreign insurers). Foreign insurers are required to file a risk based capital report or plan only upon written request from the director. The director may require foreign insurers to stop writing new insurance business in

Alaska if they do not file a risk based capital plan as requested by the director or if they reach a mandatory control level event.

SECTION 1. AS 21.14.080. Hearings. This section gives an insurer the right to challenge an action of the director under this chapter by requesting a hearing.

SECTION 1. AS 21.14.090. Confidentiality and Prohibition on Announcements; Prohibition on Use in Rate-making. This section restricts the use of risk based capital to solvency regulation only and explicitly prohibits the director from using it in determining premium rates or rate of return levels. This section also prohibits the director from making an insurer's risk based capital public without prior written consent of the insurer.

SECTION 1. AS 21.14.100. Penalty for Violation. This section states the penalty an insurer must pay to the division of insurance if the insurer fails to file a risk based capital report and/or plan with the director as required.

SECTION 1. AS 21.14.110. Definitions. This section defines the risk based capital terms used in this chapter.

SECTION 2. AS 21.90.900. Definitions. Amendment adds new definitions for "life and health insurer" and "property and casualty insurer".

SECTION 2. AS 21.78.040 (a). Grounds for Rehabilitation. Amendment to add authorized control level event and mandatory control level event to the list of conditions under which the director may apply to the court for an order appointing the director as receiver of and directing the director to rehabilitate a domestic insurer.

SECTION 4. Effective Date. This specifies that the effective date of this legislation will be on January 1, 1995.

NAIC NEWS SUPPLEMENT

January 1994

Vol. XI, No. 1

Official Newsletter of the National Association of Insurance Commissioners

Questions and Answers

RECEIVED

JAN 19 1994

Risk-Based Capital Requirements Property/Casualty Insurance Companies

DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE

Q: What is the purpose of a capital and surplus requirement for insurers?

A: A capital and surplus requirement is designed to provide an adequate cushion for unexpected increases in liabilities, unexpected decreases in asset values, inadequate rates, cash flow timing problems, and catastrophes.

Q: Do states now have capital requirements for insurers?

A: Yes. State laws generally require insurers to maintain minimum levels of capital and surplus. Historically, insurers' capital and surplus requirements have been established by law at a fixed amount for each major line of insurance. For example, now, a state might have a \$1,000,000 minimum capital standard for all companies in the state that write property/casualty insurance, regardless of the size of the company or the differing degrees of risk to which different companies are exposed.

Q: What are the limitations of fixed capital standards?

A: Fixed capital requirements are unrelated to the risk posed by a particular insurer's business practices. As a result, they are too low for many insurers, particularly those that engage in business practices that pose a relatively high risk for consumers. Furthermore, they often provide an insufficient basis for timely regulatory action involving inadequately capitalized insurers.

Q: What is a risk-based capital requirement?

A: When a law requires that the minimum level of required capital be maintained with reference to the specific risks faced by institutions, it is known as a risk-based capital requirement.

Q: Why are state insurance regulators changing to a risk-based capital system for insurers?

A: In recent years insurers' business practices — particularly as they relate to exposure to risk — have become more diverse. While some insurers remain conservative in both their investments and their underwriting practices, others have become less conservative. Companies that assume a more aggressive, risk-taking approach must assure that their consumers are protected from the financial hazards created by that risk-taking through the establishment of higher capital standards.

Q: What are the objectives of a risk-based capital requirement?

A: A risk-based capital requirement establishes a standard of capital adequacy that is related to risk. Furthermore, it raises the safety net to protect consumers from the potential for capital inadequacy of insurers. Finally, such a requirement would provide insurance regulators with the regulatory authority to take action when a company's actual capital falls below the risk-based capital standard.

Q: What process has the NAIC gone through to develop risk-based capital requirements?

A: In 1990, the NAIC decided that risk-based capital requirements were superior to fixed standards and established two working groups to develop such standards. One group was charged with the development of the standards for life and health insurers, while the other group was charged with doing the same for property and casualty companies.

Since that time, the property/casualty working group has sought wide input from insurance regulators, experts, academics, industry associations and insurers. Additionally, the NAIC has conducted extensive research and testing designed to help develop the formula, evaluate the reasonableness of the formula results for insurers, assess the industrywide impact of the formula, and refine the formula. The testing has involved industry and company results, the allocation of risk-based capital charges by risk, individual insurer "case analyses," comparisons with rating agency results and results from the NAIC's Insurance Regulatory Information System (IRIS), a sensitivity analysis, a failed insurer analysis, simulation and scenario testing, and special surveys of insurer data.

Q: What types of risks will be factored into a company's risk-based capital requirement?

A: Under the present version of the formula, four types of risk — asset risk, underwriting risk, credit risk and off-balance sheet risk — go into the calculation of a property/casualty insurer's risk-based capital requirement.

Q: What is an asset risk?

A: Asset risk is the risk of asset default for fixed assets and loss in market value for equity assets. In other words, asset risk is the risk that a long-term mortgage or bond held by an insurer may go into default, or that the value of a real estate property will fall.

Q: How did the working group derive the factors for asset risk?

A: The formulas developed by the Life Risk-Based Capital Working Group were used as a starting point. Adjustments to those factors were made based upon the differences in valuation reporting for property/casualty insurers as well as other distinctions.

Q: How is the asset risk calculated?

A: The formula establishes a risk-based capital level for each of a number of asset categories. For example, there are six categories of bonds, reflecting the differing levels of risk posed by different quality obligations. The reported value of the assets in each asset category is multiplied by a risk factor that reflects the asset category's relative risk. For example, a bond rated NAIC 3 (the equivalent of a BB rating by Standard and Poor's) has a risk factor of 0.02, twice the risk factor of a less risky bond rated NAIC 2 (the equivalent of a BBB bond). Additionally, the asset portion of risk-based capital is increased in the event of high concentrations in single exposures.

Q: What is the credit risk?

A: Credit risk is the risk of losses from unrecoverable reinsurance and the inability of insurers to collect agents' balances and other receivables.

Q: How is the credit risk calculated?

A: A factor of 10 percent is charged for reinsurance recoverables from non-affiliated reinsurers and affiliated non-U.S. reinsurers, less the reinsurance penalty already taken on the annual statement under the so-called "90-day rule." Miscellaneous receivables require a 5 percent capital charge.

Q: What is the underwriting risk?

A: Underwriting risk is the risk of errors in pricing and reserves.

Q: How is the underwriting risk calculated?

A: The factors are based partially on the industry's worst accident year loss reserve development and accident year loss ratio over a 10-year period. The industry worst-case factors are modified to limit the disparities between lines of insurance. Furthermore, the factors are adjusted for individual company experience and the time value of money.

Q: What are the off-balance sheet risks?

A: The primary off-balance sheet risk is the risk created by excessive growth. Rapidly growing companies have a greater propensity to encounter financial difficulty.

Q: How is growth risk calculated?

A: The growth risk-based capital formula uses an average growth in gross premiums written and reserves over the previous three years as a baseline. Insurers with growth exceeding 10 percent receive a charge to premiums and reserves.

Q: Will the results of the risk-based capital formula calculations be made public?

A: Yes, both the calculation of each company's risk-based capital requirement and its total adjusted capital will be reported on the Annual Statement filed by the company. However, the NAIC has cautioned that the formula has not been designed to rate or rank adequately capitalized companies and should not be used for that purpose.

Q: Once a company has calculated its risk-based capital requirement and has reported it on the annual statement, what does the regulator do with that information?

A: The regulator compares the company's total adjusted capital against the risk-based capital requirement to determine if regulatory action is called for. That question is answered by the Risk-Based Capital for Insurers Model Act.

Q: What does the model law do that is not accomplished by the formula itself?

A: The formula provides a mechanism for the calculation of an insurance company's Authorized Control Level Risk-Based Capital and its total adjusted capital. The model law sets forth the points at which a commissioner is authorized and expected to take regulatory action.

Q: What are the various levels of risk-based capital established by the model law?

A: The first level is known as the Company Action Level RBC, which is set at twice the Authorized Control Level RBC. The second level is the Regulatory Action Level RBC, at 1.5 times the Authorized Control Level RBC. The third is the Authorized Control Level RBC, and the fourth is the Mandatory Control Level RBC, set at 70 percent of the Authorized Control Level RBC. (See table)

Risk-Based Capital Levels

Name of RBC Level	Percentage of Authorized Control Level RBC
Company Action Level RBC	200 Percent
Regulatory Action Level RBC	150 Percent
Authorized Control Level RBC	100 Percent
Mandatory Control Level RBC	70 Percent

Q: What happens when a company's total adjusted capital falls below the Company Action Level RBC?

A: If a company files a risk-based capital report (RBC report) which indicates that, while the total adjusted capital is higher than the Regulatory Action Level RBC, it is lower than the Company Action Level RBC, the insurer must submit to the insurance commissioner a comprehensive financial plan. That plan must identify the conditions in the insurer that contribute to the company's financial condition, contain proposals to correct the financial problems of the company, and provide projections of the company's financial condition, both with and without the proposed corrections. The plan must also list the key assumptions underlying the projections, and identify the quality of, and problems associated with, the insurer's business.

Q: What if the company's total adjusted capital falls below the Regulatory Action Level RBC?

A: If a company's capital falls between the Regulatory Action Level RBC and the Authorized Control Level RBC, or if the company fails to file an RBC plan when required, the Commissioner shall perform such examination or analysis as he or she deems necessary of the insurer's business and operations and issue any appropriate corrective orders to address the company's financial problems.

Q: What happens if the company's total adjusted capital falls below the Authorized Control Level RBC?

A: In addition to those actions available to the Commissioner for less serious financial problems, the Commissioner may place the insurer under regulatory control.

Q: What if the company's total adjusted capital falls below the Mandatory Control Level RBC? What happens then?

A: In that case, the Commissioner will be required to place the insurer under regulatory control.

Q: When will the risk-based capital requirements for property/casualty insurers become effective?

A: The risk-based capital formula will take effect with the Annual Statement for the calendar year ending December 31, 1994, which will be filed by insurers in the spring of 1995. The model law prescribing regulatory actions accompanying the results of the formula will take effect on a state-by-state basis upon each state's adoption of the law.

Q: Will the Model Act be made a part of the Financial Regulation Standards of the NAIC and, therefore, be required for certification by the NAIC?

A: That has yet to be formally determined by the NAIC. The NAIC added the Life Risk Based Capital Model Act to the standards in the fall of 1993 and will not take up consideration of the addition of the property/casualty amendments to the standards until 1994 at the earliest.

NAIC

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Insurance
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Risk-Based Capital Requirements for Insurers

A New Solvency Tool for Consumer Protection

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Introduction

State laws generally require insurers to maintain minimum levels of capital or surplus. Historically, state laws have established insurers' capital and surplus requirements at a fixed amount for each major line of insurance. For example, a state might have a \$1,000,000 minimum capital standard for all companies in the state that write life insurance, regardless of the size of the company or of the differing degrees of risk to which different companies are exposed.

In recent years insurers' business practices—particularly as they relate to exposure to risk—have become more diverse. While some insurers remain conservative in both their investments and their underwriting practices, others have become less conservative. These less conservative practices by some insurers ran headlong into the economic troubles of the late 1980s and created an increase in the failure of insurance companies, to the detriment of policyholders and taxpayers.

In 1990, the NAIC examined both the existing capital requirements and this growing diversity in insurer business practices and concluded that consumers should be protected by subjecting companies that assume a more aggressive, risk-taking approach to higher capital requirements. This conclusion led to the formation of two working groups charged with the development of risk-based capital requirements for insurers. After extensive research and expert advice, the NAIC adopted life/health risk-based capital requirements in December 1992 and adopted property/casualty risk-based capital requirements in December 1993.

It is helpful to think of each of the NAIC's risk-based capital proposals as consisting of two parts:

- The formula and reporting requirement, under which each insurer calculates and reports to regulators its capital requirement and total adjusted capital.

There are two formulas, one for life/health companies and one for property/casualty companies.

- The Risk-Based Capital (RBC) for Insurers Model Act, which establishes duties for both the company and insurance regulators based upon the figures generated by the formulas. There is one model law that covers both life/health and property/casualty risk-based capital requirements.

This booklet describes the life/health formula, the property/casualty formula, and the RBC for Insurers Model Act.

The Life/Health Formula

The Calculation of the Risk-Based Capital Requirement

Four types of risk—asset risk, insurance risk, interest risk and business risk—go into the calculation of a life insurer's risk-based capital requirement.

Asset risk is the risk of asset default for debt assets and loss in market value for equity assets. In other words, asset risk is the risk that a long-term mortgage or bond held by an insurer may go into default, or that the value of a real estate property will fall.

The formula establishes a risk-based capital charge for each of a number of asset categories. For example, there are six categories of bonds, reflecting the differing levels of risk posed by different quality obligations. The reported value of the assets in each asset category is multiplied by a risk factor that reflects the asset category's relative risk. Bond factors are adjusted up or down based on the number of issuers. Additionally, the asset portion of the risk-based capital requirement is increased if an insurer's assets are highly concentrated in single exposures.

Insurance risk is the risk that claims might exceed expectations, both from random fluctuations and from not making adequate provision in the pricing for unexpected risks. The factors chosen represent surplus needed to provide for excess claims over expected. For example, the risk factor for life insurance risk is based upon the net amount at risk. Companies with larger net amounts at risk have lower factors since the larger the amount, the greater its predictability.

The interest rate risk is the risk of losses due to changes in interest rate levels. The impact of interest rate changes is greatest on those products where the guarantees are most in favor of the policyholders and where the policyholder is most likely to be responsive to changes in interest rates by withdrawing funds from the insurer.

Therefore, risk categories vary by the withdrawal provision (i.e., whether there is a substantial penalty for withdrawal).

Like all companies, insurers face a wide range of general business risks. However, the characteristics of these risks are difficult to quantify in a general way for all companies. One risk that is somewhat quantifiable, and therefore serves as the basis for the calculation of general business risk, is the risk that, because of the failure of other insurers, the insurer in question would be charged a guaranty fund assessment. Under the current system of guaranty associations, a financial crisis in the industry would likely trigger payments by the surviving insurers through the guaranty funds. A company's exposure to this risk is based upon the total volume of business written by the insurer in a given year, as measured by premium income.

These four types of risks are combined in a formula that produces the company's Authorized Control Level Risk-Based Capital, which then serves as a standard for regulatory action. The purpose of the formula is to estimate the capital levels required to deal with losses that may be caused by a catastrophic financial event. However, because it is unlikely (indeed, impossible) that all such possible losses will occur at once, a "covariance adjustment" is made to the formula. The adjustment operates on the assumption that asset risk and interest rate risk are correlated, while insurance risk is independent of the other two.

While risk-based capital requirements are intended to be used only as a regulatory tool, each company's Authorized Control Level Risk-Based Capital requirement and its Total Adjusted Capital will be reported on the annual statement filed by the company, and, therefore, will be available to insurance consumers. However, the NAIC has cautioned that the formula has not been designed to rate or rank adequately capitalized companies and should not be used for that purpose.

The Calculation of Total Adjusted Capital

Regulators will use a company's risk-based capital requirement as a baseline standard against which to compare that company's Total Adjusted Capital. The Total Adjusted Capital is the sum of a company's capital and surplus, Asset Valuation Reserve¹, voluntary investment reserves, 50 percent of its dividend liability, and its subsidiary company amounts.²

¹The Asset Valuation Reserve is described in greater detail in the NAIC publication, *The Valuation of Insurer Assets and the NAIC Securities Valuation Office*.

² The subsidiary company amounts are the sum of the subsidiaries' Asset Valuation Reserve, voluntary investment reserves, and half the dividend liability times the insurer's percent ownership.

The Property/Casualty Formula

The Calculation of the Risk-Based Capital Requirement

There are four broad types of risks included in the calculation of the property/casualty risk-based capital requirement:

1. **Asset Risk**—the risk of default and decline in market value of assets.
2. **Credit Risk**—the risk that premiums and reinsurance recoverables may not be collected.
3. **Underwriting Risk**—includes the risk that prices and/or reserves are not adequate.
4. **Off-Balance Sheet Risk**—includes excessive premium growth and potential liabilities not reported in the annual statement.

Asset Risk

The capital requirements to support the invested asset risk is based on the capital charges established by the Life Risk-Based Capital Working Group. The life/health formula factors were then adjusted due to differences in valuation reporting and other differences between life/health and property/casualty companies. The property/casualty formula requires, as does the life/health formula, an adjustment for bond diversification and asset concentration, in order to add risk-based capital for insurers with more concentrated portfolios.

Credit Risk

Credit risk is the risk of losses from unrecoverable reinsurance and other receivables, such as due and accrued income from interest; dividends from real estate; and recoverables from parents, subsidiaries, and affiliates, among others.

Underwriting Risk

Underwriting risk is primarily the risk of pricing and reserving errors. Since reserves are difficult to estimate with high degrees of accuracy, the question remains as to how much capital is necessary to support any given reserve level. Because reserves for the various types of business possess rather different frequency and severity characteristics and are, therefore, not homogeneous, it is appropriate to make that determination by line of business. The approach that the NAIC adopted is to consider the calendar year reserve developments, by line of business, for the industry as a whole over the last 10 years and to base the capital charges on those developments, selecting the worst year of development as the base for the risk based capital requirement.

However, the formula makes two modifications to this deficiency factor. The first adjustment considers each individual company's reserving experience. Companies with reserve developments that are better than the industry average are given a credit in the formula while those exhibiting worse reserve developments are surcharged. The second adjustment is for the time value of money. The reserves and the capital requirement are discounted at 5% interest using payment patterns established at the Internal Revenue Service for each line of business.

The capital to support the other underwriting risk, that is, the risk that current premiums charged are not sufficient to pay future losses, is calculated in much the same way as the reserve risk. Here the formula uses the worst industrywide loss ratio over the past 10 years modified by the company's experience and again discounted for the time value of money. The resultant factor is applied to the previous years written premium. Thus, the formula establishes a capital standard that requires the industry as a whole to have sufficient capital to survive a repeat of the worse underwriting year in recent history.

The worst case scenario factors for reserves and premiums are modified to increase the RBC required for lines with relatively favorable historical experience and to lower the RBC required for lines with relatively adverse historical experience. This recognizes that particularly favorable or unfavorable historical experience will not necessarily repeat itself in the future.

Off-Balance Sheet Risk

Off-balance sheet risk is comprised of four factors: non-controlled assets, guarantees for affiliates, contingent liabilities, and premium and reserve growth risk.

Non-controlled assets are the amount of all assets not exclusively under the control of the company, or assets that have been sold or transferred subject to a put option contraction currently in force.

Guarantees for affiliates include guarantees for the benefit of an affiliate that result in a material contingent exposure of the company's assets to liability.

The property/casualty RBC working group found that rapidly growing companies have a greater propensity to encounter financial difficulty. To reflect that

additional risk, insurers with growth exceeding an average of 10% per year over the three previous years receive a charge to premiums and reserves.

Like the life/health formula, the property/casualty formula addresses the presumption that not all that could happen will happen all at once through a covariance adjustment.

The Calculation of Total Adjusted Capital

Like the life/health RBC instructions, the property/casualty RBC instructions provide for a modification to the insurer's statutory capital and surplus in the calculation of total adjusted capital, the figure that is compared with the Authorized Control Level RBC to determine appropriate regulatory action. All non-tabular discounts are to be subtracted from statutory surplus with a five-year phase-in—20% the first year, with 20% added every year after until it is 100%.