

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 86/2

10752 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

that the delegates never intended the governor's article II appropriations veto power to apply to anything other than monetary appropriations.

The framers' intention to limit the scope of article II appropriations to money bills is made clear by the entire constitutional framework, as extending the scope of article II appropriations to encompass non-monetary asset transfers would create a host of problems in interpreting other articles of the Alaska Constitution. For example, if non-monetary asset transfers were deemed appropriations, application of article II, section 13 — confining bills for appropriations only to appropriations<sup>27</sup> — would become problematic. *Knowles II* adopted a five-part test for determining whether a bill satisfies that section's clause confining appropriations bills only to appropriations, stating that

to satisfy the confinement clause, "the qualifying language must be the minimum necessary to explain the Legislature's intent regarding how the money appropriated is to be spent. It must not administer the program of expenditures. It must not enact law or amend existing law. It must not extend beyond the life of the appropriation. Finally the language must be germane, that is appropriate, to an appropriations bill."<sup>28</sup>

As evidenced by S.B. 7, which governs both the transfer of land to the university and the management of that land by the university, the separation of bills concerning appropriations and substantive law mandated by article II, section 13 of the Alaska Constitution's confinement clause would be virtually impossible to maintain if non-

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<sup>27</sup> Alaska Const. art. II, § 13 provides in relevant part that "[e]very bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations."

<sup>28</sup> *Knowles II*, 21 P.3d at 377 (quoting No. 1JU-80-1163 CI (Alaska Super., May 25, 1983)).

monetary asset transfers were considered appropriations under article II.<sup>29</sup> As difficult as it is for the legislature to maintain the line between making monetary appropriations and creating substantive law, it would be far more difficult for the legislature to make non-monetary asset transfers without straying into substantive law. Adopting an exclusively monetary concept of appropriations under article II of the Alaska Constitution comports with the overall constitutional intent to avoid such confusion.

Article IX of the Alaska Constitution, which governs finance and taxation, also supports limiting the scope of the governor's article II, section 15 appropriations veto power to monetary bills. Article IX requires the governor to submit a budget to the legislature at a fixed time each year; the budget must "set[] forth all proposed expenditures and anticipated income."<sup>30</sup> At the same time, the governor must submit a general appropriation bill to authorize the proposed expenditures.<sup>31</sup> This strictly monetary concept of appropriations suggested by article IX, section 12 of the Alaska Constitution is instructive in this case. If non-monetary asset transfers were deemed to be appropriations, article IX, section 12 would presumably require such asset transfers to be included in the several appropriation bills submitted by the governor.

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<sup>29</sup> C.S.S.B. 7.

<sup>30</sup> Alaska Const. art IX, § 12.

<sup>31</sup> Alaska Const. art. IX, § 12 provides:

The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

Additionally, viewing non-monetary land transfers as appropriations would not comport with article IX, section 16 of the Alaska Constitution,<sup>32</sup> which establishes a \$2.5 billion limit on annual legislative appropriations (adjusted for inflation). Treating non-monetary asset transfers as appropriations is not only inconsistent with the language of article IX, section 16, but it poses the further problem of how to calculate the value of such asset transfers to ensure that they fall within the appropriations limits imposed by the Alaska Constitution. In expressing the limit in dollars, article IX, section 16 reflects a constitutional structure that treats "appropriations" as dealing exclusively with money transfers. Because article IX does not include non-monetary asset transfers within the scope of "appropriations," it provides further proof that non-monetary asset transfers are not subject to the governor's appropriations veto under article II of the Alaska Constitution. \*

That the governor's appropriations veto under article II is limited to money bills is also suggested by article VIII, which grants broad powers over land to the legislature. A number of sections of article VIII grant the legislature a land-disposal power that is not consistent with the enhanced appropriations veto power claimed by the

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<sup>32</sup> Alaska Const. art. IX, § 16 provides in relevant part that:

Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981.

governor. Article VIII, section 2 establishes the legislature's general power to manage and control Alaska's land, stating that "[t]he legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people."<sup>33</sup> Section 9 establishes the legislature's power to "provide for the sale or grant of state lands, or interests therein, and establish sales procedures."<sup>34</sup> Section 12 provides that the legislature can transfer non-monetary state assets by law through the creation of mineral leases and permits.<sup>35</sup> These sections of article VIII establish the legislature's power to dispose of and manage state land and the minerals contained within that land. The existence of this power is inconsistent with the governor's argument that the disposal of state lands is subject to the enhanced veto reserved for appropriations. Article VIII in its entirety suggests that the framers intended to provide the legislature with control over state lands subject only to the governor's less restrictive, non-appropriations veto. \*

Because the minutes of the Constitutional Convention and articles VIII and IX of the Alaska Constitution mandate an exclusively monetary concept of "appropriations," we hold that only monetary asset transfers constitute "appropriations" under article II of the Alaska Constitution. Therefore, S.B. 7's transfer of land to the university is not subject to the governor's enhanced appropriations veto.

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<sup>33</sup> Alaska Const. art. VIII, § 2.

<sup>34</sup> Alaska Const. art. VIII, § 9.

<sup>35</sup> Alaska Const. art. VIII, §12 provides, in relevant part:  
Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas . . . may be authorized by law.

**B. Senate Bill 7's Provisions Concerning the Income from Transferred Land Do Not Provide the University with a Sufficiently Definite Sum of Money To Constitute an Appropriation.**

The legislative council argues that the superior court erred in holding that the portions of S.B. 7 governing income produced by the transferred lands make S.B. 7 an appropriations bill. It contends that S.B. 7 does not contain any of the elements necessary to qualify as an appropriation under articles II and IX of the Alaska Constitution. The legislative council proposes that an appropriation is defined by three essential elements and argues that S.B. 7 meets none of them: It does not authorize a government expenditure, it does not sufficiently state a purpose for the alleged expenditure, and it does not set aside a certain sum of money. The governor responds that S.B. 7 must be considered an appropriation because it restricts the income derived from the transferred land to the university.<sup>36</sup> Because we agree with the legislative council that appropriations must set aside a certain sum of money and that S.B. 7 does not specifically appropriate a certain sum of money to the university, we do not consider the other two prongs of this proposed test.

We have previously defined an "appropriation" as "the setting aside from the public revenue of a certain sum of money for a specified object, in such manner that the executive officers of the government are authorized to use that money, and no more,

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<sup>36</sup> C.S.S.B. 7 amends AS 14.40.400(a) to read (underlined text is new):

The Board of Regents shall establish a separate endowment trust fund in which shall be held in trust in perpetuity all

.....  
(2) net income derived from the sale, lease, or management of the land selected by and conveyed to the University of Alaska under AS 14.40.365[.] . . .

for that object, and no other.’ ”<sup>37</sup> Subsequently, in *Knowles II* we defined an item in an appropriations bill as “ ‘a sum of money dedicated to a particular purpose.’ ”<sup>38</sup> While neither of the above cases specifically dealt with the “sum certain” requirement, they both recognized that an act must authorize the expenditure of an ascertainable sum of money in order to qualify as an appropriation. The governor’s item and general appropriation vetoes apply to items and bills that provide state officials with enough of a description to ascertain the transfer of a specific amount of money at a specific point in time.<sup>39</sup> In this case, the income that S.B. 7 seeks to provide for the university is so uncertain, due to its dependance on the university’s selection and management of the land, that it may never materialize or it may take many years to do so. Because the provisions of S.B. 7 concerning income derived from transferred lands are so indefinite, we hold that those portions of S.B. 7 are not appropriations subject to the governor’s enhanced appropriations veto.

**C. We Decline To Address Whether S.B. 7 Is an Unconstitutional Dedication Under Article IX, Section 7 of the Alaska Constitution.**

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<sup>37</sup> *Thomas v. Rosen*, 569 P.2d 793, 796 (Alaska 1977) (quoting *State ex rel. Finnegan v. Dammann*, 264 N.W. 622, 624 (Wis. 1936)).

<sup>38</sup> 21 P.3d at 373.

<sup>39</sup> The requirement that the legislature sufficiently describe monetary asset transfers exists so that the legislature cannot purposefully fail to include a sum certain in order to avoid the governor’s appropriations veto. But the degree of specificity required is only that necessary to allow identification of the monies involved. For example, we have previously treated as an appropriation a bill containing language stating that “an amount equal to the unexpended and unobligated balance on June 30, 1997, of the fiscal year 1997 general fund receipts from the salmon marketing tax (AS 43.76.110), from the seafood marketing assessment (AS 16.51.120), and from the fishery resource landing tax (AS 43.77.011) is appropriated from the general fund to the Alaska Seafood Marketing Institute.” *Id.* at 386, app. A.

The legislative council argues that the superior court determined that S.B. 7 was an unconstitutional dedication under article IX, section 7 of the Alaska Constitution.<sup>40</sup> While there is language in the superior court's decision that might be interpreted to address S.B. 7's constitutionality,<sup>41</sup> the superior court explicitly declined to address whether S.B. 7 was an unconstitutional dedication because the parties only contested whether S.B. 7 was an appropriation subject to the governor's enhanced veto. The conservation amici now argue that we should "bear in mind the Dedicated Funds Clause and the important policies underlying it." They also claim that they should be allowed to renew their motion to intervene upon remand to represent the position that S.B. 7 is an unconstitutional dedication. We agree. \*

We decline to address the question of whether S.B. 7 violates the constitutional prohibition on dedications because the matter was not fully litigated below. The superior court correctly declined to decide the dedication issue because the only question before the court was whether S.B. 7 is an appropriations bill. Because that is the only question presented by this appeal, we decline to address the dedication issue.<sup>42</sup>

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<sup>40</sup> Alaska Const. art. IX, § 7 states: "The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska."

<sup>41</sup> The superior court stated that S.B. 7 "is not . . . a simple land transfer bill. Rather, the bill explicitly removes land from the public domain and dedicates income from that land exclusively to the University in perpetuity." It further stated that "Senate Bill 7 results in a sum of money, income from the land grant, being dedicated to a particular purpose, funding for the University[.]" *Legislative Council v. Knowles*, No. 1JU-00-1237 CI (Alaska Super., August 17, 2001).

<sup>42</sup> *Earth Movers of Fairbanks, Inc. v. State, Dep't of Transp. and Pub.*  
(continued...)

## V. CONCLUSION

Because we hold that S.B. 7 was not an appropriation, we REVERSE the superior court's decision holding that the governor's enhanced appropriations veto applies to S.B. 7. We REMAND for consideration of the issue whether S.B. 7 is an unconstitutional dedication.<sup>43</sup>

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<sup>42</sup>(...continued)  
*Facilities*, 824 P.2d 715, 718 (Alaska 1992).

<sup>43</sup> On remand, the superior court should first rule on the motion of the conservation amici to intervene.

Sec. 14.40.365. University land from Statehood Act land selection conveyances. [See editor's note].

(a) The University of Alaska may select and is entitled to receive the conveyance of not less than 250,000 and not more than 260,000 acres of land conveyed to the state under Sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339). The Board of Regents of the University of Alaska shall periodically submit a list of selections to the commissioner of natural resources and, if the list of selections contains land within the boundaries of a municipality, the Board of Regents of the University of Alaska shall submit the list to the municipality. The Board of Regents and the commissioner of natural resources shall periodically and jointly submit to the legislature, within 30 days of the beginning of a regular legislative session, a list of the selections of land proposed to be conveyed by the state to the University of Alaska under this section. If the list submitted to the legislature contains land within the boundaries of a municipality, the Board of Regents and the commissioner of natural resources shall provide a copy of the list to the municipality. Each list must contain not more than 25 percent of the total acres of land to which the university is entitled after subtracting previous conveyances under this section, but not less than 25,000 acres or the remaining entitlement under this section, whichever is less. A list of selections submitted shall be considered approved for conveyance to the University of Alaska unless the legislature acts to disapprove the list during the legislative session during which the list was submitted. If the amount of land to be conveyed exceeds the balance due the university under this section, the university shall set out the land to be conveyed in priority order. Land may not be selected if, on the date of its selection by the university, it

(1) is identified in AS 16.20, AS 41.15.300 - 41.15.330, or AS 41.21 or has been reserved by law from the public domain;

(2) is located within a municipality unless the land is vacant, unappropriated, unreserved land; if land included on the list of selections is selected by the municipality with remaining selection rights under AS 29.65 within 120 days of receiving the Board of Regents' list of selections under this subsection, the university may not select the land unless a binding agreement between the university and the municipality is negotiated to allow the selection; if the municipal selection is disapproved, in whole or in part, the university may select the land, or any available portion of the land, and that selection will relate back to the date of the Board of Regents' list of selections under this subsection and shall have priority over all other selections or claims made subsequent to that notice; in this paragraph, "vacant, unappropriated, unreserved land" has the meaning given in AS 29.65.130;

(3) is land

(A) included in a five-year proposed oil and gas leasing program under AS 38.05.180(b); or

(B) leased under, or for which a lease application is pending under, AS 38.05.180(d) or 38.05.150;

(4) is subject to

(A) an oil, gas, or coal lease, or coal prospecting permit;

(B) a mining claim, offshore prospecting permit, a prospecting site, an upland mining lease, or a mining leasehold location;

(5) is necessary to carry out the purpose of an interagency land management agreement; or

(6) is subject to conveyance under a land exchange or land settlement agreement.

(b) Notwithstanding AS 38.05.125(a), the transfer of ownership and management of land from the Department of Natural Resources to the Board of Regents of the University of Alaska under this section includes the interest of the state in

(1) the coal, ores, minerals, fissionable materials, geothermal resources, and fossils that may be in or on the land; and

(2) the oil and gas that may be in or on the land, but only as to land that is selected by the University of Alaska under this section on and after July 20, 2003.

(c) When the University of Alaska selects the land to which it is entitled under this section, selections must be made in parcels of 40 acres or larger unless the selection is an isolated tract or the commissioner of natural resources finds it is in the best interest of the state to convey less. When the University of Alaska becomes entitled to land under this section, the commissioner of natural resources shall convey a document of interim conveyance under (j) of this section or a patent to land.

(d) Notwithstanding any other provision of law, for land selected under (a) of this section but not yet patented to the University of Alaska or for which a document of interim conveyance has not been issued to the University of Alaska under this section,

(1) the state, with the concurrence of the University of Alaska, is authorized to enter into contracts and grant leases, licenses, prospecting sites, claims, permits, rights-of-way, or easements and any interim conveyance or patent shall be subject to the contract, lease, license, prospecting site, claim, permit, right-of-way, or easement, except that the authority granted the state by this paragraph is the authority that the state otherwise would have had under existing laws and regulations had the land not been selected by the University of Alaska;

(2) income from and management of the land is subject to AS 14.40.368.

(e) The list of selections of land submitted to the legislature may not include a land selection made by the University of Alaska under this section if the commissioner of natural resources determines in writing that the proposed selection

(1) includes land that the commissioner, in consultation with the commissioner of fish and game, determines has demonstrated value to the public as a habitat area that is especially critical to the perpetuation of fish or wildlife;

(2) includes land for which, at the time of its selection under this section, a municipality has made a selection under AS 29.65 unless the land selection is, at a later date, rejected by the commissioner of natural resources or relinquished by the municipality;

(3) includes land that the commissioner reasonably believes may be selected by a newly formed municipality under AS 29.65.030, but the commissioner may not withhold selection under this paragraph for more than three years after the municipality's incorporation;

(4) includes land within the boundaries of a municipality, the municipality has a remaining entitlement under AS 29.65, and the municipality selects the land under AS 29.65 within 120 days after receipt by the municipality of the Board of Regents' list of selections under (a) of this section;

(5) includes land that, at the time of its selection under this section,

(A) is subject to an oil and gas exploration license; or

(B) the commissioner reasonably believes will be made part of an oil and gas exploration license issued under AS 38.05.131 - 38.05.134; the commissioner may not refuse to convey title to land to the University of Alaska under this subparagraph for more than two years after its first selection by the University of Alaska; or

(6) includes land the commissioner of natural resources reasonably believes would not be in the best interests of the state to convey outside of state ownership.

(f) When land is conveyed to the University of Alaska under this section, the University of Alaska takes the land subject to any valid possessory interest held by another person on the effective date of the conveyance.

(g) In conveying land to the University of Alaska under this section, the commissioner of natural resources shall give public notice that substantially complies with notice requirements under AS 38.05.945(b) and (c) and provide for access under AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not apply.

(h) Land transferred or conveyed to the University of Alaska under this section

(1) is subject to

(A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339);

(B) art. IX of the state constitution;

(C) AS 19.10.010;

(D) the payment requirements to the Alaska permanent fund under AS 37.13.010(a) and (b); and

(E) any easement, right-of-way, or other access under former 43 U.S.C. 932 (sec. 8, Act of July 26, 1866, 14 Stat. 253);

(2) excludes any interest transferred to the state by quitclaim deed dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat. 141;

(3) based on a land selection filed by the University of Alaska on or after July 20, 2000 and until July 19, 2003, is subject to reservation by the state in perpetuity of all oil and gas that may be in or on the land, together with the right to explore the land for oil and gas and to remove from the land all oil and gas located in and on it.

(i) The University of Alaska shall bear all of its own costs of selection, platting, surveying, and, except as provided in (k) of this section, conveyance of the land that it selects under this section and, subject to appropriation, shall reimburse the Department of Natural Resources for the reasonable costs incurred by that department relating to that selection, platting, surveying, and conveyance. As to land due the University of Alaska under (c) of this section,

(1) if the land has been surveyed, the boundaries of the land conveyed must conform to the public land subdivisions established by the approved survey;

(2) if the land is unsurveyed, the commissioner shall survey the exterior boundaries of the land to be conveyed without interior subdivision and shall issue patent in terms of the exterior boundary survey within one year of the later of the effective date of the approval by the legislature of the list containing the land or the adjournment of the legislative session during which the list containing the land was not disapproved by the legislature.

(j) For land due the University of Alaska under (c) of this section that is unsurveyed, pending the survey of exterior boundaries and issuance of patent, the

commissioner of natural resources shall, within one year of the later of the effective date of the approval by the legislature of the list containing the land or the adjournment of the legislative session during which the list containing the land was not disapproved by the legislature, prepare and provide to the University of Alaska a document of interim conveyance for the land to be conveyed.

(k) Management of land conveyed to the University of Alaska by patent or by a document of interim conveyance vests with the University of Alaska from the date of recording of the patent or document of interim conveyance. The state shall pay the cost of recording all patents and documents of interim conveyance.

(l) The University of Alaska may not make a land selection under this section after December 31, 2010.

(m) The commissioner of natural resources, when conveying land under this section, shall reserve easements, rights-of-way, and other forms of access

(1) required under the Constitution of the State of Alaska or other law; and

(2) sufficient to ensure reasonable access to the public to all navigable and public water under AS 38.05.127.

(n) The University of Alaska may seek review of the decision of the commissioner of natural resources under (e) of this section through the process established by the Department of Natural Resources.

(o) Notwithstanding (a)(1) of this section, land identified under AS 41.23 or included within the Tanana Valley State Forest created in AS 41.17.400 may be selected by the University of Alaska if the selection satisfies the other requirements of this section.

History -

(Sec. 5 ch 136 SLA 2000)

Cross References -

For findings and intent related to the enactment of this section, see secs. 1 and 2, ch. 136, SLA 2000 in the 2000 Temporary and Special Acts.

Effective Date Notes -

Section 5, ch. 136, SLA 2000, which enacted this section, took effect on July 20, 2000.

See the editor's note for additional information as to the effectiveness of this enactment.

Editors Notes -

The Superior Court has held that HCS CSSB 7(FIN), which has been designated as ch. 136, SLA 2000, and which amended this section, was not validly enacted. Alaska Legislative Council Knowles, 1-JU-00-1237 CI (First Jud. Dist. at Juneau; August 17, 2001). Appeal is pending before the Alaska Supreme Court (Supreme Court No. S-10344).

Sec. 14.40.366. Management requirements for university land. [See editor's note].

(a) The Board of Regents shall, by policy, establish procedures for mineral entry or location and mineral leasing on university land selections made under AS 14.40.365 that are consistent with the Constitution of the State of Alaska and the Alaska Statehood Act (P.L. 85 - 508, 72 Stat. 339).

(b) Notwithstanding other provisions of law, the University of Alaska shall seek public comment on proposals for development, exchange, or sale of university selections made under AS 14.40.365. The Board of Regents shall adopt policies that provide that the university shall prepare an annual plan for management and disposition of university land under this section and shall, not less than 60 days before scheduled approval by the Board of Regents of the plan,

(1) make copies of the plan available at all legislative information offices and at other locations as the university may designate;

(2) publish a notice in newspapers of general circulation in the state that provides the public with information on the locations where the plan is available for public inspection;

(3) give notice to all legislators and to local governments with jurisdiction over the land affected by the proposal; and

(4) seek public comment on the annual plan before action by the Board of Regents approving the plan.

(c) Subject to appropriation of the income, the Board of Regents shall use an amount up to 20 percent of the earnings derived from the management of university land conveyed to the university under AS 14.40.365 for programs and services supporting the development of natural resources within the region from which the earnings were derived. The earnings shall be used by the campus or campuses located within the region from which the earnings were derived if a municipality within which the campus or campuses are located provides to the campus or campuses a match of the same amount. This subsection does not apply if the match is not made available by a municipality.

(d) Before the conveyance or the disposal of an interest in the land to a third party, land conveyed to the University of Alaska under AS 14.40.365 shall be managed in a manner that, to the extent practicable, permits reasonable activities of the public that do not interfere with the use or management of the land by the university. The Board of Regents shall adopt a permitting process consistent with this subsection.

History -

(Sec. 5 ch 136 SLA 2000)

Effective Date Notes -

Section 5, ch. 136, SLA 2000, which enacted this section, took effect on July 20, 2000.

See the editor's note for additional information as to the effectiveness of this enactment.

Editors Notes -

The Superior Court has held that HCS CSSB 7(FIN), which has been designated as ch. 136, SLA 2000, and which amended this section, was not validly enacted. *Alaska Legislative Council v. Knowles*, 1-JU-00-1237 CI (First Jud. Dist. at Juneau; August 17, 2001). Appeal is pending before the Alaska Supreme Court (Supreme Court No. S-10344).

Sec. 14.40.368. Encumbrances and trespasses. [See editor's note].

Except as provided in AS 14.40.365(b), for the land selected by the University of Alaska under AS 14.40.365 that is subject to a lease, license, contract, prospecting site, claim, sale, permit, right-of-way, or easement, or to trespass,

(1) if the lease, license, contract, prospecting site, claim, sale, permit, right-of-way, easement, or trespass

(A) existed before the selection of the land by the University of Alaska, the state is entitled to receive the income obtained from the lease, license, contract, prospecting site, claim, sale, permit, right-of-way, easement, or trespass until the land is conveyed to the University of Alaska by the issuance of a document of interim conveyance or a patent;

(B) did not exist before the selection of the land by the University of Alaska, the income obtained from the lease, license, contract, prospecting site, claim, sale, permit, right-of-way, or easement, or from trespass

(i) before the recording of the conveyance to the University of Alaska by the issuance of a document of interim conveyance or a patent shall be separately accounted for under AS 37.05.142, and the legislature may appropriate the balance of the account to the University of Alaska; nothing in this sub-subparagraph creates a dedicated fund;

(ii) on the date of and after the recording of the conveyance to the University of Alaska by the issuance of a document of interim conveyance or a patent is the property of the University of Alaska;

(2) the responsibility for the management of the land vests with the University of Alaska on the date of recording of the conveyance of the land to the university by a document of interim conveyance or patent.

History -

(Sec. 5 ch 136 SLA 2000)

Effective Date Notes -

Section 5, ch. 136, SLA 2000, which enacted this section, took effect on July 20, 2000.

See the editor's note for additional information as to the effectiveness of this enactment.

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The Superior Court has held that HCS CSSB 7(FIN), which has been designated as ch. 136, SLA 2000, and which amended this section, was not validly enacted. *Alaska Legislative Council v. Knowles*, 1-JU-00-1237 CI (First Jud. Dist. at Juneau; August 17, 2001). Appeal is pending before the Alaska Supreme Court (Supreme Court No. S-10344).

Sec. 14.40.461. University demonstration forest. [See editor's note].

(a) For the purpose of advancing research into forest management practices, from land conveyed to the University of Alaska under AS 14.40.365 that is suitable for the purpose, the Board of Regents may establish a University of Alaska demonstration forest.

(b) The demonstration forest shall be managed under

(1) the principles of multiple use and sustained yield; and

(2) a management plan prepared by the University of Alaska in consultation with residents of any community within or adjacent to the demonstration forest.

(c) The Board of Regents shall

(1) include within the demonstration forest sufficient land that is within one watershed so that management of the resources of the demonstration forest under multiple-use and sustained yield principles applicable to forest land within a watershed may be fairly tested and evaluated; and

(2) analyze possible timber utilization programs for the demonstration forest to illustrate how timber in the forest can be completely and profitably used, including, to the extent possible, on-site or off-site value-added product manufacture in the state.

(d) The information generated as a result of management of the demonstration forest established under this section is public information. The Board of Regents shall compile, analyze, and distribute the information for the benefit of the timber industry and the state and federal governments.

(e) In this section, "sustained yield" has the meaning given in AS 41.17.950.

History -

(Sec. 7 ch 136 SLA 2000)

Effective Date Notes -

Section 7, ch. 136, SLA 2000, which enacted this section, took effect on July 20, 2000.

See the editor's note for additional information as to the effectiveness of this enactment.

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# Alaska State Legislature

Legislative Research Agency



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December 7, 1992

## MEMORANDUM

TO:

FROM: Christine M. Cheff *CWC*  
Legislative Analyst

RE: Land Endowments to United States Land Grant Colleges and Universities  
Research Request 93.033

You asked for information about land endowments made to colleges and universities in the United States. Specifically, you wanted to know how much land was given to the institutions by state and federal governments, what restrictions applied to those lands, and the lands selection methods employed by each state.

Under the Morrill Act of 1862, each state was entitled to receive a grant for public lands, the income from which would provide the financial base of operation for at least one college or university (Attachment A).<sup>1</sup> The purpose of the act was to "promote the liberal and practical education of the industrial classes in the several pursuits and professions in life." We found many sources of historical information concerning the Morrill Act itself, but were unable to find any comprehensive information about the individual state grants.<sup>2</sup> The Bureau of Land Management (BLM) did provide some approximate figures on the amount of land received by each state (Attachment B).<sup>3</sup> Because the results of the initial research were unsatisfactory, we consulted with your staff and agreed to conduct

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<sup>1</sup>The Morrill Act did not limit states to the establishment of just one land grant school; however, the "Second Morrill Act" of 1890 specifically authorized states to split original land grant funds so that agricultural schools for "colored students" could be established. Additional federal funds, rather than lands, were provided for those schools.

<sup>2</sup>We contacted the following: Association of American Colleges, National Agricultural Library, National Association of State Universities and Land Grant Colleges, United States Department of Education and United States Department of Interior.

<sup>3</sup>The figures are approximate because they are described in a table as, grants made to "other schools." June Wrona, BLM public affairs officer in Washington, D.C., believes the figures are principally reflective of university lands granted. They do not include lands for the public or "common schools" of grades K-12.

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separate state surveys concerning the following geographically representative land grant schools: Colorado State University, Cornell University (New York), the University of Kentucky, Michigan State University, the University of Nevada, South Carolina State College, Washington State University and the University of Wyoming.

Brief summaries of the Morrill Act's general provisions and restrictions, and of the state survey results, are provided below.

#### The Morrill Act of 1862

With passage of the Morrill Act, all of the states were granted the right to select specific amounts of public land within their borders for purposes of establishing university endowments. Individual grants were equal to 30,000 acres for each of a state's congressional representatives and senators. If a state had no available public lands, as was the case in most eastern states, it received government scrip in an amount equivalent to the land entitlement.<sup>4</sup> The intention was for the states to sell the land or the scrip and to assign the proceeds for the operation of designated "land grant" institutions. Legislative action was required of any state wishing to accept a grant.<sup>5</sup> Included in that acceptance was an agreement to abide by the following provisions of the Act:

- no mineral lands could be selected or purchased;
- no more than one million total acres of land scrip purchases could be made in any single state;
- all proceeds from the sale of land or scrip were to be invested and the principal "forever remain unimpaired";
- interest on the principal was to be used for the endowment, support and maintenance of a college "where the leading object shall be . . .to teach such branches of learning as are related to agriculture and the mechanic arts . . ."; and
- no portion of the fund or the interest was to be used for the purchase, erection, preservation, or repair of any building or buildings.

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<sup>4</sup>The scrip was paper proof of a state's entitlement to a certain number of acres of public land.

<sup>5</sup>Under the original act, state legislatures had two years from the date the Morrill Act was approved by the president to accept its provisions. An 1866 amendment extended that time to three years from the date the act passed, and new states were allowed three years from the date of their admission into the Union.

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Twenty-seven states received scrip instead of land, but most of them quickly sold it. They were primarily motivated by the need to establish support endowments for the new schools. The market was so flooded with scrip that its value dropped from \$1.25 to as low as \$0.42 an acre. Not surprisingly, a few individuals ended up owning the majority of the scrip that had been issued.<sup>6</sup> Historians seem to agree that, with the exception of New York, states east of the Mississippi did not make enough profit from either the land or the scrip to adequately endow their universities.

### State Survey Results

The purpose of this survey was to obtain specific information about the university lands selection process employed in eight states and to determine if the states had made any additional grants of land to their universities. We made telephone calls to the land grant schools and government agencies in Colorado, Kentucky, Michigan, Nevada, New York, South Carolina, Washington and Wyoming. Our contacts included university administrators and librarians, state librarians and archivists, land commissioners, and departments of natural resources staff.

Despite talking with such a wide range of people, we obtained a surprisingly small amount of additional information. With the exception of four states, all of the university land grants were settled before the turn of this century.<sup>7</sup> Gaining access to that historical information apparently requires considerable research effort. No information about state lands that may have been added to the original federal grants was available from the agencies we contacted.

Books written about the Cornell University and Michigan State University grants indicate that at the time of the Morrill Act the competition for land was strong among the settlers, railroads and speculators. By the time the universities began their selection, most of the prime land was gone. Michigan and New York were able, however, to realize some success from their grants.

In 1863 the Michigan legislature established an agricultural land grant board to control and manage the selection, care and disposal of its 240,000 acre grant. The original plan was to select land based on its agricultural potential, rather than for its timber. The board reasoned that if a forest was destroyed by fire, the value of the land would be depreciated. That logic was not exclusively

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<sup>6</sup>Paul Wallace Gates, *The Wisconsin Pine Lands of Cornell University*, (The State Historical Society of Wisconsin, 1943).

<sup>7</sup>Alaska, Arizona, Hawaii and Oklahoma.

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applied and a large amount of timber land was selected. Because of conservative management practices, Michigan still had 50,000 unsold acres as late as 1927.<sup>8</sup>

Two of the states in our survey received their grants in scrip. Kentucky sold its 330,000 scrip acres at a loss, for \$0.50 an acre. On the other hand, all of New York's 989,920 acres of scrip was purchased by one man, Ezra Cornell. He had secured the charter for Cornell University and was determined to secure its future as well. With the scrip, he bought available public lands in Wisconsin, Kansas and Minnesota. Those lands eventually produced five million dollars in profit for the university's endowment.<sup>9</sup>

I hope this information will be useful. Please call if we can be of further assistance on this or any other matter.

Attachments

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<sup>8</sup>Herbert Andrew Berg, *The State of Michigan and The Morrill Land Grant College Act of 1862*, Michigan State University, 1965.

<sup>9</sup>*The Wisconsin Pine Lands of Cornell University*, 242 - 243.

ATTACHMENT A  
The Morrill Act of July 2, 1862  
Land-Grant Colleges and Universities, 1862-1962

*Section III*

## Federal Laws and Rulings

Federal Laws and Rulings Relating to Federal Funds for  
Instruction for Land-Grant Colleges and Universities

**F**ROM THE passage of the Morrill Act in 1862 to July 1, 1939, Federal funds for instruction in the land-grant colleges and universities were administered by the Department of the Interior.

From July 1, 1939 to April 11, 1953, these funds were administered through the Federal Security Agency. Under provisions of the act approved April 1, 1953 (67 Stat., 5 U.S.C. 623), known as the Reorganization Plan I of 1953, the Federal Security Agency was abolished and the Department of Health, Education, and Welfare was created. All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare, and all components of the Agency to the new department. Hence, the legal authority for the administration of the Morrill Act of 1862 and its several amendments and supplements appropriating funds for instruction in the land-grant colleges rests with the Secretary of Health, Education, and Welfare. Apart from the certification of grants, the Secretary exercises this authority through the U.S. Commissioner of Education and the Assistant Commissioner for Higher Education.

## Act of July 2, 1862 (First Morrill Act)

[Providing for the Endowment, Support and Maintenance of Colleges of  
Agriculture and Mechanic Arts]

[AN ACT Donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts]

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That there be granted to the several States, for the purposes hereinafter mentioned, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of 1860; *Provided,* That no mineral lands shall be selected or purchased under the provisions of this act.

*Sec. 2. And be it further enacted,* That the land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one-quarter of a section; and wherever there are public lands in a State, subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said State shall be entitled shall be selected from such lands, within the limits of such State; and the Secretary of the Interior is hereby directed to issue to each of the States, in which there is not the quantity of public lands subject to sale at private entry, at one dollar and twenty-five cents per acre, to which said State may be entitled under the provisions of this act, land scrip to the amount in acres for the deficiency of its distributive share; and scrip to be sold by said States, and the proceeds thereof applied to the uses and purposes prescribed in this act, and for no other purpose whatsoever; *Provided,* That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any territory of the United States; but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry, at one dollar and twenty-five cents, or less, an acre: *And provided further,* That not more than one million acres shall be located by such assignees in any one of the States: *And provided further,* That no such location shall be made before one year from the passage of this act.

*Sec. 3. And be it further enacted,* That all the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied, without any diminution whatever, to the purposes hereinafter mentioned.

*Sec. 4 (as amended April 13, 1920, 44 Stat. L. 247).* That all moneys derived from the sale of lands aforesaid by the States to which lands are apportioned and from the sales of land scrip hereinbefore provided for shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired; *Provided,* That the moneys so invested or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 5 of this act), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

*Sec. 5. And be it further enacted,* That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as

well as to the provisions hereinbefore contained, the previous assent of the several States shall be signified by legislative acts:

*First.* If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding 10 per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States;

*Second.* No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings;

*Third.* Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as prescribed in the fourth section of this act, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid;

*Fourth.* An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their costs and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail free, by each, to all the other colleges which may be endowed under the provisions of this act, and also one copy to the Secretary of the Interior;

*Fifth.* When lands shall be selected from those which have been raised to double the minimum price in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionally diminished;

*Sixth.* No State, while in a condition of rebellion or insurrection against the Government of the United States, shall be entitled to the benefit of this act;

*Seventh.* No State shall be entitled to the benefits of this act unless it shall express its acceptance thereof by its legislature within two years from the date of its approval by the President.

**SEC. 6.** *And be it further enacted,* That land scrip issued under the provisions of this act shall not be subject to location until after the first day of January, 1863.

**SEC. 7.** *And be it further enacted,* That land officers shall receive the same fees for locating land scrip issued under the provisions of this act as is now allowed for the location of military bounty land warrants under existing laws: *Provided,* That maximum compensation shall not be thereby increased.

**SEC. 8.** *And be it further enacted,* That the governors of the several States to which scrip shall be issued under this act shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

Approved, July 2, 1862. (13 Stat. 507.)

### Act of 1866 Amending First Morrill Act

[Providing for the Extension of Time Within Which States May Accept Provisions of First Morrill Act]

**AN ACT** To amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the time in which the several States may comply with the provisions of the act of July second, eighteen hundred and sixty-two, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," is hereby extended so that the acceptance of the benefits of the said act may be expressed within three years from the passage of this act, and the colleges required by the said act may be provided within five years from the date of the filing of such acceptance with the Commissioner of the General Land Office: *Provided,* That when any Territory shall become a State and be admitted into the Union such new States shall be entitled to the benefits of the said act of July second, eighteen hundred and sixty-two, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as prescribed in this act: *Provided further,* That any State which has heretofore expressed its acceptance of the act herein referred to shall have the period of five years within which to provide at least one college as described in the fourth section of said act, after the time for providing said college, according to the act of July second, eighteen hundred and sixty-two, shall have expired.

Approved, July 23, 1866. (14 Stat. 208.)

### Digest of Rulings and Opinions on Act of July 2, 1862

*Accounting and reports.*—"Accounts should be kept by the 'proper officers' of all the States having grants 'showing all the facts relating to the sale and leasing of lands granted for agricultural colleges, and the receipt, investment, and disposition of the proceeds arising from such sales and leases; and such officers should, when called on to do so, timely report such facts to the Secretary of the Interior or permit an ascertainment of such facts through inspection and examination of their records by some officer of the Government or other person designated by the Secretary of the Interior for that purpose."

The representatives of the Office of Education or some other officer designated by the Secretary of the Interior should, through reports from the officers of each of the States, or otherwise, from time to time as the occasion may require, ascertain all facts and conditions tending to show the manner in which the funds arising from the lands granted for agricultural colleges are being handled, invested, and disposed of; or furnish a full statement thereof to the Secretary of the Interior.—*Rulings approved by the Secretary of the Interior, October 11, 1923.*

In order that the Department of the Interior through the Commissioner of Education may be able to ascertain whether or not the States are complying with the provisions of the act of 1802, the institutions receiving the benefit of that act are required to submit a statement of the disbursements of the annual income received by them under said act.—*Ruling of Secretary of the Interior, July 11, 1930.*

*Division of fund.*—"A State may by appropriate legislation divide the original 1802 land-grant fund into two parts and provide that the interest of each part shall be available to a particular college and vest in such college, as an agency of the State, the duty of investing its particular part of the funds in bonds of the United States or of the State or some other safe bonds, the determination of the safety of which is to rest with the college."—*Ruling of Secretary of the Interior, September 13, 1935.*

*Income and its use.*—"The income" from the 1802 land-grant endowment "is not a fiscal year or limited fund. It must remain forever at the disposal of the institution entitled to the benefit of the fund. Nor may it ever be covered into the general State funds or used for general State purposes. There can be no default to the State by the institution."

"Proceeds from rentals, sale of timber rights, water rights, and other privileges, and interest on deferred payments of purchase money partake of the same character as the income from invested funds, and must be devoted, without diminution, to the purposes" of the act.

"The only restriction placed by the act of Congress of July 2, 1802, upon the expenditures of the income derived from the sale of public lands granted for the endowment of colleges of agriculture and the mechanic arts and the investment of the purchase money is that no part of such income may be expended for the purchase, erection, preservation, or repair of any building or buildings, nor may this income be used for the purchase of land."—*Rulings of Secretary of the Interior, May 23, 1910.*

*Instruction for women students.*—Instruction in the industries for women is included in instruction in agriculture and mechanic arts.—*Ruling of Secretary of the Interior, May 23, 1916.*

*Military tactics.*—An agricultural college which offers a proper, substantial course in military tactics complies sufficiently with the requirements as to military tactics in the act of July 2, 1802, and the other acts, even though the students at that institution are not compelled to take that course.—*Opinion of Attorney General, June 30, 1930.*

*Default of act of 1862.*—The act of 1860 (20 Stat. 417) with the amendment of 1907 (34 Stat. 1291) is supplementary to the act of 1802; therefore any default of the provisions of the act of 1802 renders the State liable for non-certification for the annual installments of the funds appropriated by the acts of 1860 and 1907.—*Ruling of Secretary of the Interior, May 23, 1916.*

### Act of August 30, 1890 (Second Morrill Act)

[Providing for the Further Endowment and Support of Colleges of Agriculture and Mechanic Arts]

[AN ACT To apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an act of Congress approved July second, eighteen hundred and sixty-two]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be, and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, arising from the sale of public lands, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts now established, or which may be hereafter established, in accordance with an act of Congress approved July second, eighteen hundred and sixty-two, the sum of fifteen thousand dollars for the year ending June thirtieth, eighteen hundred and ninety, and an annual increase of the amount of such appropriation hereafter for ten years by an additional sum of one thousand dollars over the preceding year, and the annual amount of be paid thereafter to each State and Territory shall be twenty-five thousand dollars to be applied only to instruction in agriculture, the mechanic arts, the English language and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life, and to the facilities for such instruction: *Provided,* That no money shall be paid out under this act to any State or Territory for the support and maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of this act if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided,* That in any State in which there has been one college established in pursuance of the act of July second, eighteen hundred and sixty-two, and also in which an educational institution of like character has been established, or may be hereafter established, and is now aided by such State from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money heretofore under the act to which this act is an amendment, the legislature of such a State may propose and report to the Secretary of the Interior a just and equitable division of the fund to be received under this act between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of this act and subject to its provisions, as much as it would have been if it had been included under the act of eighteen hundred and sixty-two, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

SEC. 2. That the sums hereby appropriated to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the thirty-first day of July of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of the Interior, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the college, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurer<sup>1</sup> shall be required to report to the Secretary of Agriculture and to the Secretary of the Interior, on or before the first day of September of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this act are made subject to the legislative assent of the several States and Territories to the purpose of said grants: *Provided*, That payments of such installments of the appropriation herein made as shall become due to any State before the adjournment of the regular session of legislative meeting next after the passage of this act shall be made upon the assent of the governor thereof, duly certified to the Secretary of the Treasury.

SEC. 3. That if any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this act, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, as well as to the Secretary of the Interior, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their costs and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this act.

SEC. 4. That on or before the first day of July in each year, after the passage of this act, the Secretary of the Interior shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this act, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of the Interior shall withhold a certificate from any State or Territory of its appropriation, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory may, if it should so desire, appeal to Congress from the determination of the Secretary of the Interior. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury. And the Secretary of the Interior is hereby charged with the proper administration of this law.

<sup>1</sup> Treasurers of the respective colleges, not State treasurers. (Ruling Oct. 19, 1917.)

SEC. 5. That the Secretary of the Interior shall annually report to Congress the disbursements which have been made in all the States and Territories, and also whether the appropriation of any State or Territory has been withheld, and if so, the reasons therefor.

SEC. 6. Congress may at any time amend, suspend, or repeal any or all of the provisions of this act.

Approved, August 30, 1890. (26 Stat. 417.)

### Nelson Amendment of March 4, 1907

[Providing for the More Complete Endowment and Maintenance of Land-Grant Colleges]

[Extract from an act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and eight]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

That there shall be, and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of agricultural colleges now established, or which may hereafter be established, in accordance with the act of Congress approved July second, eighteen hundred and sixty-two, and the act of Congress approved August thirtieth, eighteen hundred and ninety, the sum of five thousand dollars, in addition to the sums named in said act for the fiscal year ending June thirtieth, nineteen hundred and eight, and an annual increase of the amount of such appropriation thereafter for four years by an additional sum of five thousand dollars over the preceding year, and the annual sum to be paid thereafter to each State and Territory shall be fifty thousand dollars, to be applied only for the purposes of the agricultural colleges as defined and limited in the act of Congress approved July second, eighteen hundred and sixty-two, and the act of Congress approved August thirtieth, eighteen hundred and ninety.

That the sum hereby appropriated to the States and Territories for the further endowment and support of the colleges shall be paid by, to, and in the manner prescribed by the act of Congress approved August thirtieth, eighteen hundred and ninety, entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of the act of Congress approved July second, eighteen hundred and sixty-two," and the expenditure of the said money shall be governed in all respects by the provisions of the said act of Congress approved July second, eighteen hundred and sixty-two, and the said act of Congress approved August thirtieth, eighteen hundred and ninety: *Provided*, That said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of agriculture and the mechanic arts.

Approved, March 4, 1907. (34 Stat. L. 1281.)

ATTACHMENT B  
United States Public Land Grants  
Agricultural Colleges

**UNITED STATES PUBLIC LAND GRANTS  
AGRICULTURAL COLLEGES\***

Alabama	383,785	Maine	210,000	Oklahoma	1,050,000
Alaska	112,084	Maryland	210,000	Oregon	136,165
Arizona	849,197	Massachusetts	360,000	Pennsylvania	780,000
Arkansas	196,080	Michigan	286,080	Rhode Island	120,000
California	196,080	Minnesota	212,160	South Carolina	180,000
Colorado	138,040	Mississippi	348,240	South Dakota	366,080
Connecticut	180,000	Missouri	376,080	Tennessee	300,000
Delaware	90,000	Montana	388,721	Texas	180,000
Florida	182,160	Nebraska	136,080	Utah	556,141
Georgia	270,000	Nevada	136,080	Vermont	150,000
Idaho	386,686	New Hampshire	150,000	Virginia	300,000
Illinois	526,080	New Jersey	210,000	Washington	336,080
Indiana	436,080	New Mexico	1,346,540	West Virginia	150,000
Iowa	286,080	New York	990,000	Wisconsin	332,160
Kansas	151,270	North Carolina	270,000	Wyoming	136,800
Kentucky	330,000	North Dakota	336,080		
Louisiana	256,292	Ohio	699,120		

\* The figures are approximate. They were obtained from the Bureau of Land Management, Public Affairs, Washington, D.C. (Public Land Statistics, Table 4 "Other Schools," U.S. Department of Interior, 1985).

We are unable to account for the fact that the amounts of land received by some western states are significantly disproportionate to entitlements allotted under the Morrill Act formula.

Prepared by the Legislative Research Agency, December 1992 (93.033).

  
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Anchorage Daily News

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**High court backs land grant to UA****NOT AN APPROPRIATION: Lower court must still rule if law is illegal dedicated fund.**

By DAN JOLING

The Associated Press

*(Published: January 10, 2004)*

The Legislature can grant the University of Alaska a 250,000-acre land endowment, the state Supreme Court ruled Friday.

Justices reversed a Superior Court decision that disallowed the grant, which was approved in a law nearly four years ago. The Superior Court had ruled the land was not an "appropriation."

However, the high court declined to make a ruling on whether the law granting the land was a "dedicated fund" and sent that issue back to the Superior Court.

Under the Alaska Constitution, with some exceptions, "the proceeds of any state tax or license shall not be dedicated to any special purpose."

The decision mostly resolves a bitter fight between a Republican-controlled Legislature and former Gov. Tony Knowles, a Democrat.

The Legislature in 2000 passed the bill, sponsored by then-Sen. Robin Taylor, R-Wrangell, over the objections of Knowles and Alaska environmentalists.

Taylor pushed the bill with the argument that development of the land would give the University of Alaska a stable source of future income. The university at the time had 112,000 acres in its land endowment, the second smallest in the nation among land-grant universities.

Knowles had vetoed similar bills twice before and said they were an inefficient and unsuccessful way to secure reliable funding for the university. Knowles said the bill would complicate state management, contribute to significant land-use conflicts and lead to years of litigation. He followed through by vetoing Taylor's bill.

It took two tries, but lawmakers mustered 40 votes for a two-thirds majority to override the veto. The late Rep. Ramona Barnes, R-Anchorage, who had been home suffering from a bout of asthma, made it to the floor to provide the crucial 40th vote.

Knowles, however, claimed victory. He immediately released an attorney general's opinion that said the bill was an appropriation, which requires a three-fourths vote by the Legislature to override.

The state Alaska Legislative Council, controlled by a Republican majority, sued.

Taylor, now a special assistant in the state Department of Transportation, said he was confident of the outcome.

"We have believed all along we would prevail," he said.

Increasing the land grant for the university has been a 40-year process that is finally coming to

fruition, he said.

Gov. Frank Murkowski, a former U.S. senator, worked on legislation that would have granted 500,000 federal acres to the university if the state matched it with the quarter-million acre endowment, Taylor said.

"We have now fulfilled our portion of that opportunity," he said.

Murkowski said he was pleased with the decision.

"I've asked the commissioner of Natural Resources to move forward with the process to provide additional land to the University of Alaska," he said. "DNR will work with the university in the months ahead on a process and schedule to implement the land conveyance."

UA spokesman Bob Miller said the university is not looking for immediate riches from the decision. He said the land conveyance process could take as long as 10 years.

"At best it will be 20 to 25 years before modest financial impacts will be generated," Miller said.

Environmental groups, which filed friend-of-the-court briefs in the case, hold out hope that the measure could be stopped by the part of the decision remanded to Superior Court. Randy Virgin, executive director of the Alaska Center for the Environment, said it still must be decided whether the law violates the constitutional prohibition on dedicating funds for one part of state government.

"The Legislature prevailed in round one, but they still have to deal with the Constitution," Virgin said.

Taylor, a lawyer, questioned whether Virgin's group has any standing in the case if the Legislature and the governor agree to settle the matter.

He said if the Supreme Court has determined that the land grant is not an appropriation, it's not likely to determine that it's dedicated revenue.

"I think that's a specious argument," Taylor said.

Virgin said the law was billed as a way of helping the university but was a thinly veiled attempt by Taylor to liquidate public lands and get them into private hands.

He said the university would choose land that can be developed at the expense of environmental concerns and that it had a poor record at land management, citing a logging project near Yakutat.

UA's Miller took issue with that opinion.

"I don't think they understand diddly squat about land management," Miller said.

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TO READ the Alaska Supreme Court's decision, visit

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## Talking Points on CSHB 333

### University and Education Land Grant Endowment Bill

This Bill endows the University of Alaska and the Public School Trust Fund with land grants.

Each will receive a grant of an undivided 2% interest in all state domain land. See. Sec 14.40.507

- 1 Rights and management will be retained by DNR.
- 2 DNR will not owe a heightened fiduciary duty to either the University or the Education Trust Fund.
- 3 Each shall receive receipts annually from their respective interests.
- 4 After deducting contributions to the Permanent Fund; and deducting administrative/ service fees, etc.

Receipts are limited to new receipts accruing to each's interest after the effective date of the act.

This Bill rescinds Senate Bill 7 ( the 250 to 260,000 acre) land grant to the University

Question asked "can the existing Public School Trust Fund be utilized instead of creating an Education Trust fund?

Answer seems to be: YES.

**Conceptual Amendment:** *replace in bill where applicable language creating an Education Trust Fund and Board with the existing Public School Trust Fund and Public School Trust Fund Advisory Board (As 37.14.110-170)*

Questioned asked: Does the transfer of an interest in state lands and mineral rights to these trusts violate Section 6(i) of the statehood compact?

University indicated: NO

1964 Attorney General Opinion No. 7 indicates: NO.

“The use of the words “hereby granted” signifies a present grant of lands to be thereafter identified by selection. By virtue of that grant the state became at once vested with the right of property in selected lands. It cannot be divested of such right. 1964 Op. Attorney General No. 7.”

=====

Three changes from last Draft are included in version \C



HB

337

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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## MEMORANDUM

February 6, 2004

**SUBJECT:** Draft CSHB 337(HES) (Work Order No. 23-LS1257V)

**TO:** Representative Peggy Wilson  
Chair of House Health, Education and Social Services Committee  
Attn: Linda

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

This memo accompanies a draft of the bill described above.

Correction needed. In the process of drafting this bill, it was discovered that a significant correction was needed. This is not connected with the changes you requested, but carries through an error made in an earlier version.

In bill sec. 3, sec. 13.50.100(a), on page 2, line 3, the "cr" should be deleted after "registry" and a comma inserted. In HB 337, sec. 13.50.100(a) read: "Except for information on a motor vehicle document issued to a donor who declines to participate in a registry, when a donor to whom a motor vehicle document was issued dies, or when a person who applies for a motor vehicle document makes a gift with the application,...." The changes should have been made when I originally removed the clause, "when a donor to whom a motor vehicle document was issued dies," from the bill.

These changes are essential to the basic operation of the bill. As the bill stands now, it can be read to exempt persons who make anatomical gifts from having their information sent to the registry. This is inconsistent with the basic intent of the bill and does not make sense.

I recommend allowing us to make these changes for this bill. However, if this is not possible, please forward this memo along to the next committee of referral so that committee can consider the changes.

If I may be of further assistance, please advise.

TLB:med  
04-147.med

Enclosure

**CS FOR HOUSE BILL NO. 337(HES)**

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

**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVES MCGUIRE, Gruenberg, Gatto, Seaton, Wilson, Kerttula, Heinze, Anderson, Dahlstrom, Holm, Kapsner, Meyer, Samuels**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to anatomical donor registries, to an anatomical gift awareness fund, to**  
2 **an anatomical gift awareness program, to mo. or vehicle licenses and registrations, and**  
3 **to state identification cards."**

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

5 **\* Section 1.** AS 13.50.080 is amended to read:

6 **Sec. 13.50.080. Uniformity of interpretation.** AS 13.50.010 - 13.50.090  
7 [THIS CHAPTER] shall be construed and interpreted so as to carry out their [ITS]  
8 general purpose to make uniform the laws in those states that [WHICH] enact them  
9 [IT].

10 **\* Sec. 2.** AS 13.50.090 is amended to read:

11 **Sec. 13.50.090. Short title.** AS 13.50.010 - 13.50.090 [THIS CHAPTER]  
12 may be cited as the Uniform Anatomical Gift Act.

13 **\* Sec. 3.** AS 13.50 is amended by adding new sections to read:

14 **Article 2. Donor Registry Program.**

1           **Sec. 13.50.100. Transfer of information.** (a) Except for information on a  
2 motor vehicle or identification document issued to a donor who declines to participate  
3 in a registry or when a person who applies for a motor vehicle or identification  
4 document makes a gift with the application, the department shall electronically  
5 transfer all information that appears on the front of the motor vehicle or identification  
6 document and any changes that are subsequently received by the department from the  
7 donor to a procurement organization that intends to establish a donor registry under  
8 AS 13.50.110.

9           (b) A donor to whom a motor vehicle or identification document is issued is  
10 not required to participate in a registry, and the department may not transfer  
11 information under (a) of this section from a donor who declines to participate in a  
12 registry.

13           **Sec. 13.50.110. Use of transferred information.** (a) A procurement  
14 organization that obtains information under AS 13.50.100 shall use the information to  
15 establish a statewide donor registry accessible by a recognized organization in

16           (1) this state that handles the recovery or placement of parts of the  
17 body; and

18           (2) another state that handles the recovery or placement of parts of the  
19 body when a donor who is a resident of this state is not located in this state at the time  
20 of or immediately before death.

21           (b) A procurement organization may not

22           (1) use registry information for fund raising; or

23           (2) disseminate information obtained under AS 13.50.100 unless  
24 authorized by this section or by federal law.

25           (c) A procurement organization may disseminate information obtained under  
26 AS 13.50.100 to another procurement organization.

27           **Sec. 13.50.120. Acquisition of other donor information.** A procurement  
28 organization may acquire donor information from sources other than the department.

29           **Sec. 13.50.130. Registry costs.** (a) A procurement organization that has  
30 requested registry information from the department shall pay the reasonable costs  
31 associated with the creation by the organization of a registry and the reasonable costs

1 associated with the initial installation and establishment of the facilities necessary for  
2 electronic transfer of the donor information to the organization by the department.

3 (b) After the initial transfer of information under (a) of this section, the  
4 department shall make all transfers of donor information without charge to a  
5 procurement organization.

6 **Sec. 13.50.140. Notification of cancellation.** (a) A donor whose motor  
7 vehicle or identification document information is on a registry shall notify a  
8 procurement organization of the destruction or mutilation of the motor vehicle or  
9 identification document or revocation of the gift under AS 13.50.050 in order to  
10 remove the donor's name from a registry. If the procurement organization that is  
11 notified does not maintain a registry, the organization shall notify all procurement  
12 organizations that do maintain a registry.

13 (b) The failure of a donor to make the notification under (a) of this section  
14 does not affect the revocation of a gift under AS 13.50.050.

15 **Sec. 13.50.150. Monetary donation program.** (a) An applicant for a motor  
16 vehicle or identification document may donate \$1 or more to the fund to promote the  
17 donation of body parts under AS 13.50.010 - 13.50.090 (Uniform Anatomical Gift  
18 Act). The donation is voluntary and may be declined by the applicant. The  
19 department shall make available to all applicants information on the importance of  
20 making gifts.

21 (b) The department shall collect the donations made under (a) of this section  
22 and credit the donations to the fund. At least quarterly, the department shall transfer  
23 the donations to the fund.

24 (c) The department shall ask each applicant for a motor vehicle or  
25 identification document whether the applicant is interested in making the donation  
26 under (a) of this section.

27 (d) Each procurement organization shall pay its proportionate share of the  
28 reasonable costs associated with the creation of the donation program created under  
29 this section, unless another amount is agreed to by the department.

30 **Sec. 13.50.160. Anatomical gift awareness fund.** (a) The anatomical gift  
31 awareness fund is established. The fund consists of all donations made under

1 AS 13.50.150, other donations to the fund for a purpose identified under (b) of this  
2 section, money received by the department under AS 13.50.130, and appropriations  
3 made to the fund.

4 (b) The purposes of the fund are to promote gifts under AS 13.50.010 -  
5 13.50.090 and to administer the donation program established under AS 13.50.150.

6 (c) Donations to the fund shall be segregated within the fund until they are  
7 appropriated for use by the fund.

8 (d) Money appropriated to or for use by the fund may be spent for the  
9 purposes of the fund without further appropriation.

10 **Sec. 13.50.170 Penalty.** A person who knowingly violates  
11 AS 13.50.110(b)(1) or (2) is guilty of a class B misdemeanor.

12 **Sec. 13.50.190. Definitions.** In AS 13.50.100 - 13.50.190,

13 (1) "department" means the Department of Administration;

14 (2) "donation" means a monetary donation made under AS 13.50.150;

15 (3) "fund" means the anatomical gift awareness fund established under  
16 AS 13.50.160;

17 (4) "motor vehicle or identification document" means

18 (A) a motor vehicle registration, a driver's license, or an  
19 instruction permit, or a renewal of the registration, license, or permit; or

20 (B) an identification card issued under AS 18.65.310;

21 (5) "procurement organization" means an organization that has been  
22 designated by the United States Department of Health and Human Services to  
23 coordinate activities for the procurement of body parts for any portion of this state;

24 (6) "reasonable costs" includes the cost of

25 (A) computer programming and installing software and  
26 software upgrades;

27 (B) employee training that is specific to a registry or the  
28 donation program established under AS 13.50.150;

29 (C) producing literature that is specific to a registry or the  
30 donation program established under AS 13.50.150; and

31 (D) making hardware upgrades or handling other issues for a

1 registry or the donation program established under AS 13.50.150;

2 (7) "registry" means a donor registry established under AS 13.50.110;

3 (8) "registry information" means information obtained under  
4 AS 13.50.100;

5 (9) "state" means a state, territory, or possession of the United States,  
6 the District of Columbia, or the Commonwealth of Puerto Rico.

7 \* Sec. 4. AS 18.65.311(a) is amended to read:

8 Sec. 18.65.311. **Anatomical gift or living will document.** (a) The  
9 department shall provide a method, at the time that an identification card is issued, [A  
10 FORM FOR A DOCUMENT] by which the card holder may make an anatomical gift  
11 under AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12  
12 (Living Wills and Do Not Resuscitate Orders). The method [DOCUMENT (1) MAY  
13 NOT BE LARGER THAN AN IDENTIFICATION CARD, (2) MUST CONTAIN  
14 SUFFICIENT SPACE FOR THE SIGNATURE OF TWO WITNESSES OR A  
15 PERSON WHO IS QUALIFIED TO TAKE ACKNOWLEDGMENTS UNDER  
16 AS 09.63.010, (3) MUST USE THE FORMS AND DESIGNS DEVELOPED  
17 UNDER AS 18.12.037, AND (4)] must provide a means by which the card holder may  
18 cancel the gift or the living will. [IF THE DOCUMENT IS EXECUTED BY THE  
19 APPLICANT, IT SHALL BE SEALED IN PLASTIC AND ATTACHED TO THE  
20 IDENTIFICATION CARD.] A symbol developed under AS 18.12.037 indicating the  
21 existence of the anatomical gift or living will document must be displayed in the lower  
22 right-hand corner on the face of the identification card.

23 (b) An employee of the department who processes an identification card  
24 application, other than an application received by mail, shall ask the applicant orally  
25 whether the applicant wishes to execute an anatomical gift or a living will. The  
26 department shall, by placement of posters and brochures in the office where the  
27 application is taken, and by oral advice, if requested, make known to the applicant the  
28 method by which the cardholder may make an anatomical [PROCEDURE  
29 NECESSARY TO EXECUTE A] gift under AS 13.50 or a living will under AS 18.12.  
30 The department shall inform each applicant for an identification card in writing  
31 that, if the applicant executes a gift under AS 13.50 or includes an anatomical gift

1 in a living will under AS 18.12 and if the gift is made with the registration, the  
2 department will transmit the information on the identification card to a donor  
3 registry created under AS 13.50.110. The department shall also direct the  
4 applicant to notify a procurement organization under AS 13.50.140 if the  
5 identification card is destroyed or mutilated or the gift is revoked under  
6 AS 13.50.050. The department shall carry out the requirements of AS 13.50.100 -  
7 13.50.190.

8 \* Sec. 5. AS 28.10.021(c) is amended to read:

9 (c) An employee of the department who processes an application for  
10 registration or renewal of registration, other than an application received by mail or an  
11 application for registration under AS 28.10.152, shall ask the applicant orally whether  
12 the applicant wishes to execute an anatomical gift or a living will. The department  
13 shall make known to all applicants the procedure for executing a gift under AS 13.50  
14 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living Wills and Do  
15 Not Resuscitate Orders) by displaying posters in the offices in which applications are  
16 taken, by providing a brochure or other written information to each person who  
17 applies in person or by mail, and, if requested, by providing oral advice. The  
18 department shall inform each applicant in writing that, if the applicant executes  
19 a gift under AS 13.50 or includes an anatomical gift in a living will under  
20 AS 18.12 and if the gift is made with the registration application, the department  
21 will transmit the information on the registration to a donor registry created  
22 under AS 13.50.110. The department shall also direct the applicant to notify a  
23 procurement organization under AS 13.50.140 if the registration is destroyed or  
24 mutilated or the gift is revoked under AS 13.50.050. The department shall carry  
25 out the requirements of AS 13.50.100 - 13.50.190.

26 \* Sec. 6. AS 28.15.061(d) is amended to read:

27 (d) An employee of the department who processes a driver's license  
28 application, other than an application received by mail, shall ask the applicant orally  
29 whether the applicant wishes to execute an anatomical gift or a living will. The  
30 department shall make known to all applicants the procedure for executing a gift under  
31 AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living

1 Wills and Do Not Resuscitate Orders) by displaying posters in the offices in which  
2 applications are taken, by providing a brochure c other written information to each  
3 person who applies in person or by mail, and, if requested, by providing oral advice.  
4 The department shall inform each applicant in writing that, if the applicant  
5 executes a gift under AS 13.50 or includes an anatomical gift in a living will  
6 under AS 18.12 and if the gift is made with the driver's license application, the  
7 department will transmit the information on the license to a donor registry  
8 created under AS 13.50.110. The department shall also direct the applicant to  
9 notify a procurement organization under AS 13.50.140 if the license is destroyed  
10 or mutilated or the gift is revoked under AS 13.50.050. The department shall  
11 carry out the requirements of AS 13.50.100 - 13.50.190.

12 \* Sec. 7. AS 28.15.111(b) is amended to read:

13 (b) The department shall provide a method, at the time that an operator's  
14 license is issued, [A FORM FOR A DOCUMENT] by which the owner of a license  
15 may make an anatomical gift under AS 13.50 or a living will under AS 18.12. The  
16 method [DOCUMENT (1) MAY NOT BE LARGER THAN AN OPERATOR'S  
17 LICENSE, (2) MUST CONTAIN SUFFICIENT SPACE FOR THE SIGNATURE OF  
18 TWO WITNESSES OR A PERSON WHO IS QUALIFIED TO TAKE  
19 ACKNOWLEDGMENTS UNDER AS 09.63.010, (3) MUST USE THE FORMS  
20 AND DESIGNS DEVELOPED UNDER AS 18.12.037, AND (4)] must provide a  
21 means by which the owner may cancel the gift or the living will. [IF THE  
22 DOCUMENT IS EXECUTED BY THE APPLICANT, IT SHALL BE SEALED IN  
23 PLASTIC AND ATTACHED TO THE LICENSE.] A symbol developed under  
24 AS 18.12.037 indicating the existence of the anatomical gift or living will document  
25 must be displayed in the lower right-hand corner on the face of the driver's license.  
26 The department shall inform each applicant in writing that, if the applicant  
27 executes a gift under AS 13.50 or includes an anatomical gift in a living will  
28 under AS 18.12 and if the gift is made with the license, the department will  
29 transmit the information on the license to a donor registry created under  
30 AS 13.50.110. The department shall also direct the applicant to notify a  
31 procurement organization under AS 13.50.140 if the license is destroyed or

1

mutilated or the gift is revoked under AS 13.50.050. The department shall carry

2

out the requirements of AS 13.50.100 - 13.50.190.

# Alaska State Legislature

**Session:**

State Capitol  
Anchorage, AK 99501  
Phone: (907) 465-2995  
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**Interim:**

716 W 4<sup>th</sup> Avenue, Suite 430  
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**Representative Lesil McGuire**  
Chair, Judiciary Committee

## HB 337

*"An Act relating to anatomical donor registries, to an anatomical gift awareness fund, to an anatomical gift awareness program, and to motor vehicle licenses and registrations."*

### SPONSOR STATEMENT

Currently there are nearly 84,000 men, women and children waiting for organ transplants nationwide, of which 85 are Alaskans. In addition, many more of your fellow Alaskans are currently waiting for tissue (bone, tendon, skin, heart valve, cornea) donations. While 66 people receive organ transplants in the U.S. every day, another 17 people on the waiting list will die because not enough organs are available.

Alaskans have always been known for their generosity and caring for their neighbors and the Uniform Anatomical Gift Act continues this long tradition. This legislation creates a donor registry program in which a donor's License/ID information can be transferred to Life Alaska Donor Services, the state's organ & tissue donor program. Should the donor not want to have their information transferred to the donation program, the donor can choose not to participate. Also the donor can opt out of the program at any time and their information will be removed from the registry.

Currently, the licensee's donor status is only located as a printed statement on the physical ID and not within the DMV database. This lack of a registry creates a problem for donation in a timely fashion. The DMV currently keeps no records of the Licensee's status; therefore the donation program may not realize the donor's wishes or may realize the donor's wishes too late for the donation to be medically acceptable.

With this legislation, the donor's status and other information will be available to Life Alaska Donor Services so that the donor's gift may be realized with or without the donor having their License/State ID card at the time of death. This will also allow Life Alaska to quickly ascertain the donor status of the Licensee and match the donor's gift with a suitable recipient.

In addition to the creation of the registry, HB 337 will create a monetary donation program in which a motor vehicle applicant may donate \$1 or more to the Organ & Tissue Donation Awareness Fund. The purpose of the fund is to promote organ & tissue donation and to administer the Organ & Tissue Donation Awareness Fund. Although the donation is voluntary the Department of Motor Vehicles will make information on the importance of organ donation available to all applicants.

Similar bills have already been passed in Washington and Montana in 2003 with great success. Please support this bill, so that Life Alaska Donor Services will have quick and efficient access to information that will ultimately save the life of you or a loved one.

# LEGAL SERVICES

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Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 27, 2004

**SUBJECT:** Proposed amendment to version "S" of CSHB 337(STA)  
(Work Order No. 23-LS1257\S)

**TO:** Representative Lesil McGuire  
Attn: Heath  
JB

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

This memo responds to a question you have asked regarding the bill described above, as that bill is amended to delete the requirement that the anatomical gift registry be composed only of residents of the state. You have asked whether there is a state requirement that the registry be composed only of residents. This is asked in the context of the Department of Administration being required by AS 13.50.100 to transmit the motor vehicle document information of donors to the registry. Under this requirement the Department would be required to transmit the information on persons who applied for, e.g., drivers' licenses, to a registry even if they were not residents.

Although AS 01.10.055 provides a general definition of "residency" for the statutes,<sup>1</sup> there does not appear to be a constitutional or statutory requirement that the registry

---

<sup>1</sup>AS 01.10.055 reads as follows:

**Sec. 01.10.055. Residency.** (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.

(b) A person demonstrates the intent required under (a) of this section

(1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and

(2) by providing other proof of intent as may be required by law or regulation, which may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

(c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory, or country, or performs other acts or is absent under circumstances that are

Representative Lesil McGuire

January 27, 2004

Page 2

consist only of residents. Under the only state constitutional provision that seems applicable to this inquiry, sec. 6, art. IX of the state constitution, that provision does not speak to whether the appropriation is for residents, but requires that appropriations be made for a "public purpose." Here that provision would apply to the extent appropriations are made to enable the department to participate in transferring the information to a registry. The clear public purpose of facilitating anatomical gifts would only be enhanced if other persons connected with the state, e.g., non-resident persons obtaining driver's licenses in the state, were included in the registry. With regard to the state's statutes, I am not aware of another state statute that would require that the registry be limited to residents, so the amended bill can stand by itself in that regard.

If I may be of further assistance, please advise.

TLB:med

04-090.med

---

inconsistent with the intent required under (a) of this section to remain a resident of this state.

# Alaska State Legislature

*Session:*  
State Capitol  
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*Interim:*  
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Fax: (907) 269-0249

Representative Lesil McGuire  
Chair, Judiciary Committee

## MEMORANDUM

To: Terri Bannister – Legal Drafting  
Cc:  
From: Heath E. Hilyard – Rep. McGuire's Office  
Date: January 16, 2004  
Re: Changes to HB 337 (WO 23-LS1257A)

---

Per our discussions I have the following changes that need to be incorporate into the latest version of the bill.

- 1) Pg. 2, Line 2 – When a donor to whom a motor vehicle document was issued [DIES]. According to the Department of Motor Vehicles and Life Alaska there is no way to effectuate this in a timely fashion to allow for organ harvesting. Department of Motor Vehicles does perform an annual data purge as a result of information received from the Bureau of Vital Statistics.
- 2) As a point of clarification, other offices have inquired about the phrasing of Sec. 13.50.110 (2)(b) (Pg. 2, Lines 21-23). Can "only" be substituted for "all"?
- 3) Is there a way to strengthen privacy guarantees provided for 13.50.110 (2)(c)? Rep. McGuire suggested the possibility of including a misdemeanor penalty for a violation of that section.
- 4) With respect to your question about the inclusion of AS 18.65.311(a), the following deletions need to be made for DMV.

(a) The department shall provide, at the time that an identification card is issued, [A FORM FOR A DOCUMENT] method by which the card holder may make an anatomical gift under AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living Wills and Do Not Resuscitate Orders). The [DOCUMENT] method [(1) MAY NOT BE LARGER THAN AN IDENTIFICATION CARD, (2) MUST CONTAIN SUFFICIENT SPACE FOR THE SIGNATURE OF TWO WITNESSES OR A PERSON WHO IS QUALIFIED TO TAKE ACKNOWLEDGMENTS UNDER AS 09.63.010, (3) MUST USE THE FORMS AND DESIGNS DEVELOPED UNDER AS 18.12.037, AND (4)] must provide a means by which the card holder may cancel the gift or the living will. [IF THE DOCUMENT IS EXECUTED BY THE APPLICANT, IT SHALL BE SEALED IN PLASTIC AND ATTACHED TO THE IDENTIFICATION CARD.] A symbol developed under AS 18.12.037 indicating the existence of the anatomical gift or living will document must be displayed in the lower right-hand corner on the face of the identification card.

# LEGAL SERVICES

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Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 14, 2004

**SUBJECT:** Sectional summary of HB 337, a bill relating to anatomical gifts and living wills (Work Order No. 23-LS1257D)

**TO:** Representative Lesil McGuire  
Attn: Ryan

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

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

Section 1. Makes conforming and technical amendments.

Section 2. Makes a conforming amendment.

Section 3. Adds a new article covering an anatomical donor registry program to AS 13.50.

Sec. 13.50.100. When a motor vehicle document applicant makes an anatomical gift or a motorvehicle document holder dies, requires the department to transfer all information from the front of the motor vehicle document and subsequent changes to a state procurement organization that intends to establish a donor registry, unless the person does not want to participate in a registry.

Sec. 13.50.110. Directs a state procurement organization that obtains information under AS 13.50.100 to use the information to establish a statewide donor registry accessible by certain identified organizations. Requires a registry to include all residents of this state. Prohibits a state procurement organization from using registry information for fund raising and from disseminating the information unless authorized by this section or federal law. Indicates to whom a state procurement organization may disseminate the information.

Sec. 13.50.120. Allows a state procurement organization to acquire donor information from sources other than the department.

Sec. 13.50.130. Requires a state procurement organization that has requested registry information from the department to pay the reasonable costs associated with the creation of a registry and certain other initial costs. After the initial department transfer of information, directs the department to make information transfers without charge to the organization.

Representative Lesil McGuire  
January 14, 2004  
Page 2

Sec. 13.50.140. Directs a donor to notify a state procurement organization of the destruction or mutilation of the motorvehicle document or revocation of the gift to remove the donor's name from a registry.

Sec. 13.50.150. Establishes a monetary donation program. Allows an applicant for a motor vehicle document to make a donation to a fund to promote anatomical gifts. Directs the department to make available information on the importance of making anatomical gifts. Directs the department to collect the donations and credit them to the fund and to transfer the donations to the fund at least quarterly. Directs the department to ask motor vehicle document applicants whether they are interested in making donations. Requires each state procurement organization to pay certain described costs associated with the creation of the donation program.

Sec. 13.50.160. Establishes the anatomical gift awareness fund consisting of donations to the fund, money received by the department under AS 13.50.130, and appropriations to the fund. Describes the purposes of the fund. Requires that donations be segregated within the fund until appropriated for fund use. Allows money appropriated to or for use by the fund to be spent for fund purposes without further appropriation.

Sec. 13.50.190. Defines terms for the new article.

**Section 4.** Amends a section dealing with motor vehicle registrations to require the department to inform applicants that, if the applicant executes an anatomical gift with the application, the department will transmit the information to a donor registry. Requires the department to direct the applicant to notify a state procurement organization if the document is destroyed or mutilated or the gift is revoked. Directs the department to carry out the requirements of the new article.

**Section 5.** Amends a section dealing with drivers' license applications to require the department to inform applicants that, if the applicant executes an anatomical gift with the application, the department will transmit the information to a donor registry. Requires the department to direct the applicant to notify a state procurement organization if the document is destroyed or mutilated or the gift is revoked. Directs the department to carry out the requirements of the new article.

**Section 6.** Amends a section dealing with drivers' licenses to require the department to inform applicants that, if the applicant executes an anatomical gift with the license, the department will transmit the information to a donor registry. Requires the department to direct the applicant to notify a state procurement organization if the document is destroyed or mutilated or the gift is revoked. Directs the department to carry out the requirements of the new article.

If I may be of further assistance, please advise.

TLB:mdr  
04-013.mdr

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

December 23, 2003

**SUBJECT:** Bill relating to anatomical donor registry  
(Work Order No. 23-LS1257U)

**TO:** Representative Lesil McGuire  
Attn: Heath

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

This memo provides additional information for the bill described above.

1. Fund language. Please review proposed sec. 13.50.160. Among the changes is new language (see (d)) to prevent a sweep by the Budget Reserve Fund of money appropriated to the Anatomical Gift Awareness Fund. Without this new language, any money (except for donated money) is subject to being "swept" into the Budget Reserve Fund at the end of each fiscal year (art. IX, sec. 17(d)). Money received by the department under AS 13.50.130 will not be protected unless it is appropriated to the fund by June 30 of the fiscal year in which it is received.

2. Number of registries. I realize that, as a practical matter, you do not foresee more than one registry being established. However, this draft does not limit the number of registries allowed. If you want to actually limit the legislation to one registry, this draft needs to be changed..

If I may be of further assistance, please advise.

TLB:mdr  
03-237.mdr

January 20, 2004



JAN 27 2004  
1407 116th Ave NE  
Suite E 210  
Bellevue, WA 98004  
Referrals: (888) 543-3287  
Public Info: (877) 275-5269  
Business: (425) 201-6563  
FAX: (425) 688-7641

Representative Peggy Wilson  
State Capitol Room 104  
Juneau, AK 99801

Dear Representative Wilson,

LifeCenter Northwest recognizes the right of every individual to determine the disposition of his organs and tissues upon his death. House Bill 337 is about honoring an individual's legally documented intent to donate organs. I hope you will help drive this legislation forward.

As individuals make decisions about organ donation, it is important to assure them that their decisions will be upheld. House Bill 337 will create a registry to be responsible to the thousands of Alaska residents who have already made the decision to be organ and tissue donors, by marking "organ donor" on their driver's licenses or signing donor commitment cards.

Successful passage will bring Alaska up to speed with 31 other states that have already implemented formal organ and tissue donation registry systems in the last two years, and make Alaska's law consistent with the existing Alaska Uniform Anatomical Gift Act and the federal Anatomical Gift Act.

An organ and tissue donation registry in the state of Alaska will provide access to the wishes of the deceased. This information will be accessed only by certified procurement organizations and will be kept confidential and protected. Information will not be sold or shared. Registry information is for the express purpose of determining a deceased individual's wishes regarding organ and tissue donation.

Voting in favor of House Bill 337 will save lives. On behalf of our donor families and the patients waiting for life-saving transplants in Alaska, we thank you for your recognition of the importance of this legislation and your support.

Sincerely,

A handwritten signature in cursive script that reads "Jill Steinhaus".

Jill Steinhaus  
Director of Development

C: Representative L. McGuire  
B. Zalneraitis  
D. Bannock

Enclosure

Alaska

Montana

Northern Idaho

Washington

ORGAN DONOR NETWORK



## **First Person Consent / Organ and Tissue Donation Registry**

Presented By:

LifeCenter Northwest - The Organ Donation Network

Life Alaska and LifeCenter Northwest, in collaboration with Alaska State legislators, would like to pass legislation that would call for the development and on-going use of an organ and tissue donor registration system. This system would ensure every individual's decision about organ and tissue donation would be accessible to a designated procurement organization for the purposes of providing consent for donation at the time of death.

### **Background Information**

It is believed that every individual shall have the right to make known his/her wishes regarding organ and tissue donation and to have those wishes carried out at the time of death. First person consent processes ensure this occurs.

### **What is First Person Consent?**

First person consent is the act of utilizing a document provided by the deceased as consent for the donation of organs and tissues. This document may be a driver's license, donor card or indication in an Organ Procurement Organization (OPO) approved donor registry.

### **Other OPOS are Participating**

Currently 31 states are actively involved in first person consent, with 25 OPOs implementing formal organ and tissue donor registry systems in the last two years.

### **Why is First Person Consent Important?**

The public think there is a "registration" system for donation already and therefore are confused when we advocate for family discussion and consent.

In a March 2002 survey conducted for LifeCenter Northwest by Robinson Research in Spokane, WA, when asked the question "To the best of your knowledge, does marking "organ donor" on your driver's license register you to be an organ donor in the event of your death?" 74% of respondents answered yes, an additional 11% were uncertain.

It is the law.

The pursuit of first person consent processes are in accordance with current Washington, Montana, Idaho and Alaska state donation statutes. This is consistent with the federal Anatomical Gift Act and the intent of such legislation from the onset.

### **Why Hasn't the Law Been Upheld Until Now?**

State statutes regarding organ and tissue donation were originally developed with language, which supported the individual's choice to make a decision and have that decision carried out at the time of death. Recognizing the potential for public relations issues if the family of the deceased was not supportive of the wish to donate, OPOs moved toward seeking family consent, regardless of the donor's designation.

### **The Organ and Tissue Donation Registry**

In order to acknowledge every individual's decision (donor designation), a central collection system, which will provide certified procurement organization's access to confirm the wishes of the deceased, is necessary.

There is a Need for an Organ and Tissue Donation Registry

- 17 people die each day waiting for a life-saving organ transplant.
- Locally approximately 1,100 people are listed for an organ transplant.
- More than 80,000 people are on the National Transplant Waiting List.

Privacy

All information in the Organ and Tissue Donation Registry will be kept confidential and protected. Information will not be sold or shared. Registry information is for the express purposes of determining a deceased individual's wishes regarding organ and tissue donation.

Can a Person Change Their Mind or Be Selective of Donation Options?

Through a confidential process individuals will be able to change their mind or specify which organs and/or tissues they consent to donate.

Donate a Dollar

By offering a voluntary dollar or more contribution at the time of an individual's vehicle registration renewal, certified procurement organizations will offset the costs of the donor registry and provide for increased community education programs.

For more information about organ donation or the Organ and Tissue Donation Registry contact Jill Steinhaus, Director of Development and the Living Legacy Foundation at LifeCenter Northwest. 425.201 6591 or via email at [jills@lcnw.org](mailto:jills@lcnw.org).

- end -



P.O. Box 231809  
Anchorage, AK 99523-1809  
907.562.5433 • 800.719.5433  
Fax: 907.562.5333  
[www.lifealaska.org](http://www.lifealaska.org)

January 19, 2004

Rep. Lesil McGuire  
State Capitol, Rm. 118  
Juneau, AK 99801

Dear Ms. McGuire:

Thank you for drafting and introducing the proposed legislation allowing for electronic downloading of organ and tissue donors' information to Life Alaska's Donor Gift Registry database, and for creation of the Anatomical Gift Awareness Fund.

Life Alaska Donor Services strongly supports this proposed legislation, and appreciates your support in our ongoing mission to populate the Donor Gift Registry and increase the number of organs and tissues made available for transplantation to save and enhance lives. Families of donors feel most strongly about the decision to donate when they know the wished of their loved ones.

Currently in Alaska we have a voluntary donor registry maintained by Life Alaska. To register as a donor the candidate must complete a donor registration form and that form is mailed to Life Alaska by the donor or by the DMV staff when the form is filled out at a DMV office. Life Alaska staff will then hand-enter information into a database of registrations.

This legislation will streamline donor registration, facilitate rapid entry of the potential donor's name into our Donor Gift Registry database, make identification of donors faster and easier, and will allow Life Alaska to recover more organs and tissues. In addition, Life Alaska Donor Awareness Fund will allow us to continue to expand our outreach to Alaska communities. All of these activities directly save lives.

As you know, similar laws have been passed in WA and MT in 2003, with a subsequent increase in registered organ and tissue donors in both states that now exceed 3,201,000 registrations for WA & MT! We happily anticipate a similar result in Alaska when this legislation is passed.

Warm regards,

*Bruce Zalneraitis*

Bruce Zalneraitis  
Executive Director



# MADD

Activism | Victim Services | Education™

Anchorage Chapter  
4105 Turnagain Boulevard, Suite A • Anchorage, AK 99517  
(907) 562-6890/Fax (907) 562-6896  
Email: [info@maddalaska.com](mailto:info@maddalaska.com)  
Visit our Web Site: [www.maddalaska.com](http://www.maddalaska.com)

Our Mission is to stop drunk driving, support the victims of this violent crime and prevent underage drinking

July 23, 2003

Bruce Zalneraitis  
Life Alaska Transplant  
PO Box 231809  
Anchorage, AK 99523-1809

Dear Mr. Zalneraitil,

I am writing in support of the efforts of Life Alaska to implement a Single Donor Registration and automatic donor registration download through the Division of Motor Vehicle as a means of streamlining Tissue and Organ registration in Alaska.

On behalf of MADD in Anchorage, we support the introduction of legislation that will make this project a reality.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Marti Greeson  
Executive Director  
MADD Anchorage Chapter

Drunk Driving is Breaking Alaska's



**Life Alaska**  
Tissue and Organ Donation  
P.O. Box 231809  
Anchorage, AK 99523-1809  
1-907-562-5433 • 1-800-719-5433  
Fax 1-907-562-5333



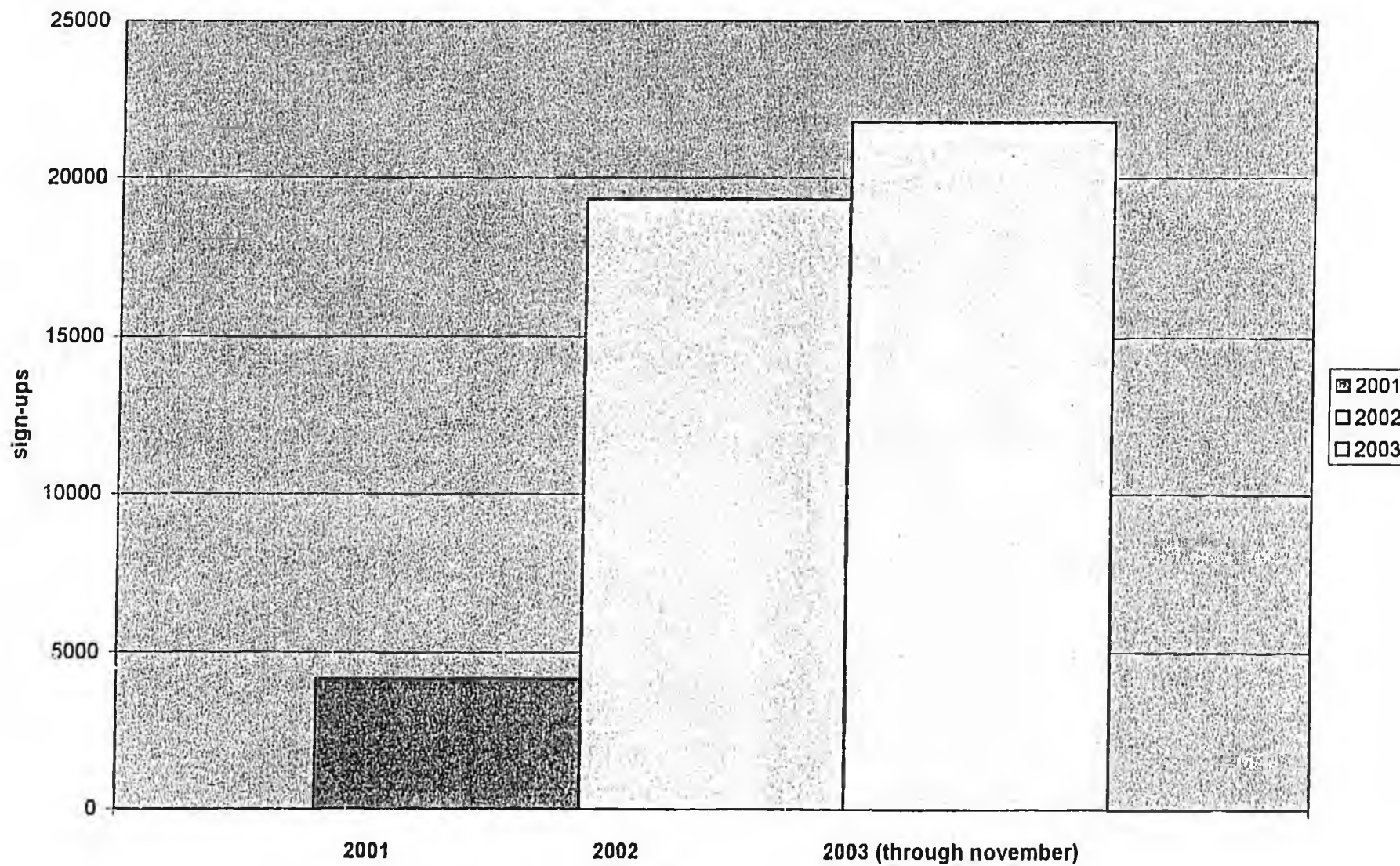
## **DMV Donor Gift Registry Statistics Graphs**

Registry sign-ups forwarded to Life Alaska Donor Services by various DMV offices across the state are tracked on a daily basis. Numbers of new Registrants, by DMV office location, are tallied and forwarded to the DMV Director on the last day of each month.

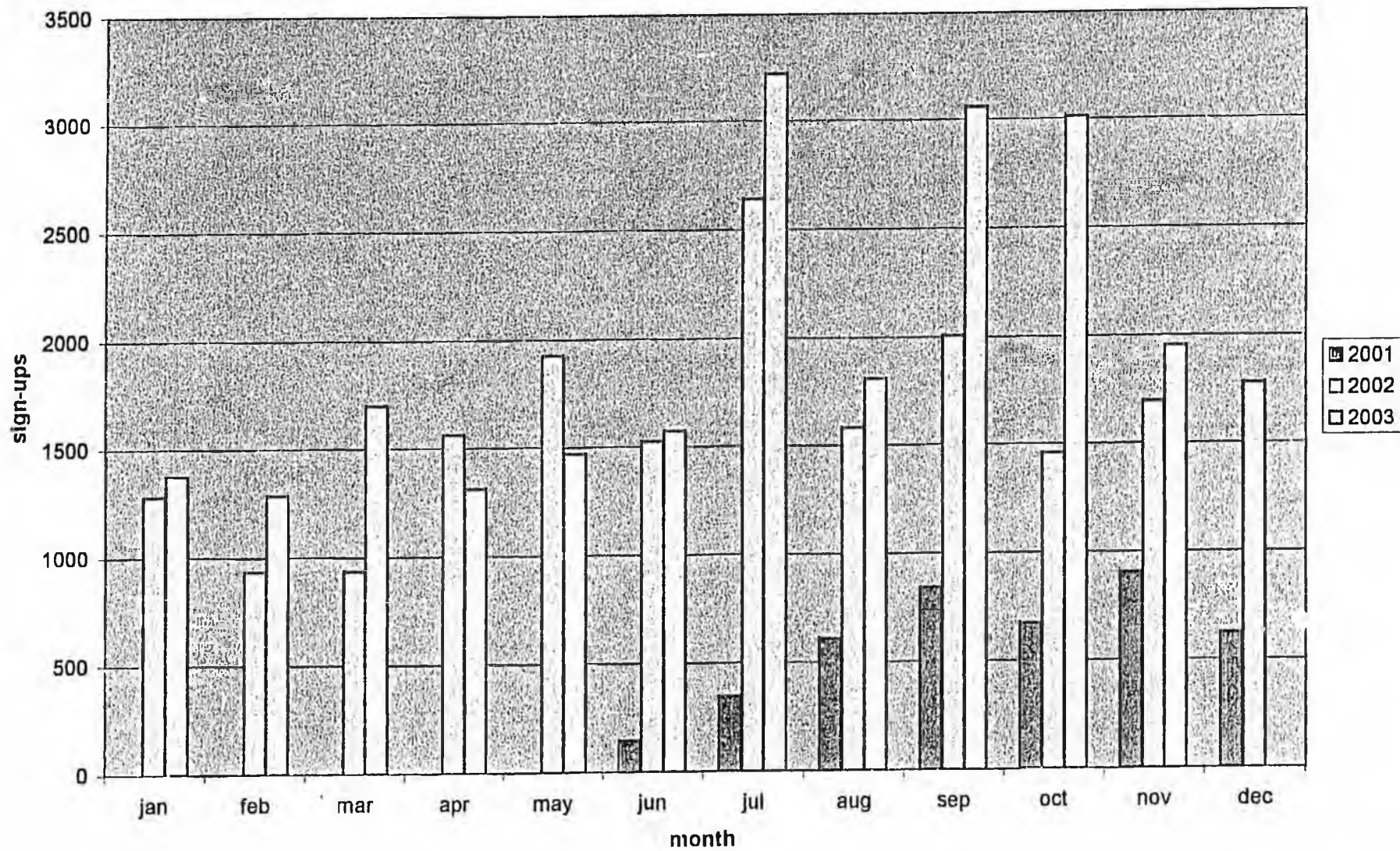
The Registry was created in August of 2001. For each subsequent year, the number of new Registrants has increased.

The DMV is a strong and valuable partner for Life Alaska; over 90% of the 50,000+ Registrants in the Donor Gift Registry came to Life Alaska via the DMV program.

### registry sign-ups by year



sign-ups by month





- Get The Facts
- Real Life Stories
- Freq. Asked Questions
- Types Of Donations
- Common Myths
- Religious Beliefs
- Facts & Statistics
- Resources & Links

## Myths About Organ Donation

Some people have opted not to be an organ donor based on urban legends and other myths. We understand that you might have concerns about donation but want to be sure your decision about organ donation is based on the facts. Test yourself with the questions below – how well do you know the facts about organ donation?

- If I'm admitted into the hospital and the doctors know I want to be a donor, they won't try and save my life.
- I carry a donor card and it is in my will that I want to be a donor, so I don't have to tell my family about my wishes.
- I have heard about people who steal kidneys and sell them on the black market.
- Rich and famous people are moved to the top of the waiting list and regular people have to wait even longer.
- Donation will be costly to my family.
- My religion doesn't allow organ and tissue donation.
- I can't be a donor because I want an open casket funeral.
- No one will want my organs because of my medical history. Besides I'm too old to be a donor.
- They might take my organs before I am really dead.

**"If I'm admitted into the hospital and the doctors know I want to be a donor, they won't try and save my life."**

There is no conflict between saving lives and using organs for transplantation. Medical professionals will do everything they can to save your life. The doctors who work to save your life are not the same doctors involved with organ donation. It is only after every attempt has been made to save your life that donation will be considered.

**"I carry a donor card and it is in my will that I want to be a donor, so I don't have to tell my family about my wishes."**

Designating your wishes on your driver's license or signing a donor card ensures that you'll be considered as a donor. By the time your will is read, it will be too late to recover your organs. Telling your family now that you want to be an organ and tissue donor is the best way to ensure that your wishes are carried out.

**"I have heard about people who steal kidneys and sell them on the black market."**

There is no evidence of such activity ever occurring in the United States or any other industrialized country. While this tale may sound credible, it has no basis in the reality of organ transplantation. According to the Uniform Anatomical Gift Act of 1984, it is illegal to buy or sell human

organs. Violators are subject to fines and imprisonment. In addition, a national governing body reviews every organ donation and transplant. Strict regulations prevent any type of "black market" existence in the United States.

**"Rich and famous people are moved to the top of the waiting list and regular people have to wait even longer."**

The organ allocation and distribution system is blind to wealth or social status. The length of time it takes to receive a transplant is influenced by a variety of factors including location, severity of illness, physical characteristics (blood type, weight, genetic typing, and size) and length of time on the waiting list. Factors such as race, gender, age, income or celebrity status are never considered when determining who receives an organ.

**"Donation will be costly to my family."**

There is no cost to the donor's family for organ and tissue donation. Hospital expenses incurred before the donation of organs in attempts to save the donor's life and funeral expenses remain the responsibility of the donor's family. All costs related to donation are paid for by the organ procurement agency.

**"My religion doesn't allow organ and tissue donation."**

Most religions throughout the world support organ and tissue donation as a humanitarian act of giving. Transplantation is consistent with the life preserving traditions of these faiths. You are encouraged to discuss donation with your religious or spiritual leader.

**"I can't be a donor because I want an open casket funeral."**

The body is treated with a great deal of respect and dignity. The recovery of organs and tissues is conducted under standard, sterile conditions in an operating room by qualified surgeons. The process neither disfigures the body, nor changes the way it looks in a casket. No one, except the family members involved in the decision, will know about the donation.

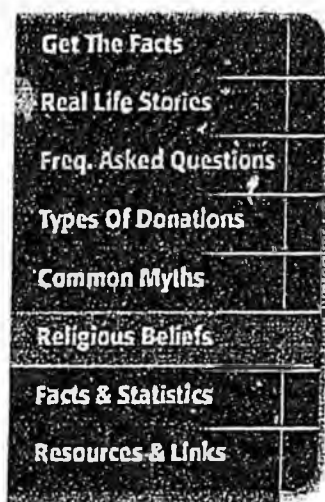
**"No one will want my organs because of my medical history. Besides I'm too old to be a donor."**

At the time of death, the appropriate medical professionals will review your medical and social history to determine if you are a candidate for donation. Anyone, regardless of age, can be considered for organ donation. With recent advances in transplantation, more people than ever before can donate.

**"They might take my organs before I am really dead."**

Organ donation is only accepted following the declaration of death by a doctor not involved in transplantation. In order to donate organs, a patient must be declared brain dead. Brain death is the determination of legal death. It is the complete and irreversible loss of all brain function, including the brain stem. Using specific medical criteria, a physician can confirm brain death beyond any doubt.

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## Religious Beliefs About Organ Donation

Most major religions support organ donation as a humanitarian gift giving life. If you have questions about donation we encourage you to talk with the leader of your religious community.

- [AME & AME Zion](#)
- [Amish](#)
- [Assembly of God](#)
- [Baptist](#)
- [Brethren](#)
- [Buddhism](#)
- [Catholicism](#)
- [Christian Church \(Disciples of Christ\)](#)
- [Christian Science](#)
- [Church of the Nazarene](#)
- [Episcopal](#)
- [Greek Orthodox](#)
- [Gypsies](#)
- [Hinduism](#)
- [Independent Conservative Evangelical](#)
- [Islam](#)
- [Jehovah's Witness](#)
- [Judaism](#)
- [Lutheran Church of America](#)
- [Mennonite](#)
- [Moravian](#)
- [Mormon \(Church of Jesus Christ of Latter-Day Saints\)](#)
- [Pentecostal](#)
- [Presbyterian](#)
- [Protestant](#)
- [Seventh-Day Adventist](#)
- [Shinto](#)
- [Society of Friends \(Quakers\)](#)
- [Unitarian Universalist](#)
- [United Church of Christ](#)
- [United Methodist](#)

### AME & AME Zion

(African Methodist Episcopal) Organ and tissue donation is viewed as an act of neighborly love and charity by these denominations. They encourage all members to support donation as a way of helping others.

### Amish

The Amish will consent to transplantation if they believe it is for the well being of the transplant recipient. John Hostetler, world-renowned authority on Amish religion and professor of anthropology at Temple University in Philadelphia, says in his book, *Amish Society*, "The Amish believe that since God created the human body, it is God who heals. However, nothing in the Amish understanding of the Bible forbids them from using modern medical services, including surgery, hospitalization, dental work, anesthesia, blood transfusions or immunization."

### Assembly of God

The Church has no official policy regarding organ and tissue donation. The decision to donate is left up to the individual. Donation is highly supported by the denomination.

**Baptist**

Organ and tissue donation is supported as an act of charity. The Baptist Church leaves the decision up to the individual. The nation's largest Protestant denomination, the Southern Baptist Convention, adopted a resolution in 1988 encouraging physicians to request organ donation in appropriate circumstances and to "...encourage voluntarism regarding organ donation in the spirit of stewardship, compassion for the needs of others and alleviating suffering."

**Brethren**

While no official position has been taken by the Brethren denominations, according to Pastor Mike Smith, there is a consensus among the National Fellowship of Grace Brethren that organ and tissue donation is a charitable act so long as it does not impede the life or hasten the death of the donor or does not come from an unborn child.

**Buddhism**

Buddhists believe organ and tissue donation is a matter of individual conscience and place a high value on acts of compassion. Reverend Gyomay Masao, president and founder of the Buddhist Temple of Chicago says, "We honor those people who donate their bodies and organs to the advancement of medical science and to saving lives." The importance of letting loved ones know your wishes is stressed.

**Catholicism**

Catholics view organ and tissue donation as an act of charity and love. Transplants are morally and ethically acceptable to the Vatican. According to Father Leroy Wickowski, Director of the Office of Health Affairs of the Archdiocese of Chicago, "We encourage donation as an act of charity. It is something good that can result from tragedy and a way for families to find comfort by helping others." Pope John Paul II has stated, "The Catholic Church would promote the fact that there is a need for organ donors and Christians should accept this as a "challenge to their generosity and fraternal love" so long as ethical principles are followed."

**Christian Church (Disciples of Christ)**

The Christian Church encourages organ and tissue donation, stating that we were created for God's glory and for sharing God's love. A 1985 resolution, adopted by the General Assembly, encourages, "... members of the Christian Church (Disciples of Christ) to enroll as organ donors and prayerfully support those who have received an organ transplant."

**Christian Science**

The Church of Christian Science does not have a specific position regarding organ donation. According to the First Church of Christ Scientist in Boston, Christian Scientists normally rely on spiritual instead of medical means of healing. They are free, however, to choose whatever form of medical treatment they desire - including a transplant. The question of organ and tissue donation is an individual decision.

**The Church of the Nazarene**

The Church of the Nazarene encourages its members who do not object personally to support donor/recipient anatomical organs through living wills and trusts. Further, they appeal for a morally and ethically fair

distribution of organs to those qualified to receive them (Manual, Church of the Nazarene 1997 - 2001 paragraph 904.2).

#### **Episcopal**

The Episcopal Church passed a resolution in 1982 that recognizes the life-giving benefits of organ, blood and tissue donation. All Christians are encouraged to become organ, blood and tissue donors "...as part of their ministry to others in the name of Christ, who gave His life, that we may have life in its fullness."

#### **Greek Orthodox**

According to Reverend Dr. Milton Efthimiou, Director of the Department of Church and Society for the Greek Orthodox Church of North and South America, the Greek Orthodox Church is not opposed to organ donation as long as the organs and tissue in question are used to better human life, i.e., for transplantation or for research that will lead to improvements in the treatment and prevention of disease.

#### **Gypsies**

Gypsies are a people of different ethnic groups without a formalized religion. They share common folk beliefs and tend to oppose organ donation. Their opposition is connected with their beliefs about the afterlife. Traditional belief contends that for one year after death the soul retraces its steps. Thus, the body must remain intact because the soul maintains its physical shape.

#### **Hinduism**

According to the Hindu Temple Society of North America, religious law does not prohibit Hindus from donating their organs. This act is an individual's decision. H.L. Trivedi, in Transplantation Proceedings, stated that, "Hindu mythology has stories in which the parts of the human body are used for the benefit of other humans and society. There is nothing in the Hindu religion indicating that parts of humans, dead or alive, cannot be used to alleviate the suffering of other humans."

#### **Independent Conservative Evangelical**

Generally, Evangelicals have no opposition to organ and tissue donation. Each church is autonomous and leaves the decision to donate up to the individual.

#### **Islam**

The religion of Islam strongly believes in the principle of saving human lives. According to A. Sachedina in his Transplantation Proceedings (1990) article, Islamic Views on Organ Transplantation, "...the majority of the Muslim scholars belonging to various schools of Islamic law have invoked the principle of the priority of saving human life and have permitted the organ transplant as a necessity to procure that noble end."

#### **Jehovah's Witness**

According to the Watch Tower Society, Jehovah's Witnesses believe donation is a matter of individual decision. Jehovah's Witnesses are often assumed to be against donation because of their opposition to blood transfusions. However, this merely means that all blood must be removed from the organs and tissue before being transplanted

**Judaism**

All four branches of Judaism (Orthodox, Conservative, Reform and Reconstructionist) support and encourage donation. According to Orthodox Rabbi Moses Tendler, Chairman of the Biology Department of Yeshiva University in New York City and Chairman of the Bioethics Commission of the Rabbinical Council of America, "If one is in the position to donate an organ to save another's life, it's obligatory to do so, even if the donor never knows who the beneficiary will be. The basic principle of Jewish ethics, 'the infinite worth of the human being,' also includes donation of corneas, since eyesight restoration is considered a lifesaving operation." In 1991, the Rabbinical Council of America (Orthodox) approved organ donation as permissible, and even required, from brain-dead patients. The Reform movement looks upon the transplant program favorably, and Rabbi Richard Address, Director of the Union of America Hebrew Congregation Bio-Ethics Committee and Committee on Older Adults, states that "Judaic Responsa materials provide a positive approach, and by and large the North American Reform Jewish community approves of transplantation."

**The Lutheran Church of America**

Lutherans passed a resolution in 1984 stating that donation contributes to the well being of humanity and can be "an expression of sacrificial love for a neighbor in need." They call on "members to consider donating... and to make any necessary family and legal arrangements, including the use of a signed donor card."

**Mennonite**

Mennonites have no formal position on donation, but are not opposed to it. They believe the decision to donate is up to the individual and/or his or her family.

**Moravian**

The Moravian Church has made no statement addressing organ and tissue donation or transplantation. Robert E. Sawyer, President, Provincial Elders Conference, Moravian Church of America, Southern Province, states, "There is nothing in our doctrine or policy that would prevent a Moravian pastor from assisting a family in making a decision to donate or not to donate an organ." It is, therefore, a matter of individual choice.

**Mormon (Church of Jesus Christ of Latter-Day Saints)**

The Church of Jesus Christ of Latter-Day Saints believes the decision to donate is an individual one made in conjunction with family, medical personnel and prayer. Jerry Cahill, Director of Public Affairs for the Mormon Church, says, "Mormons must individually weigh the advantages and disadvantages of transplantation and choose the one that will bring them peace and comfort. The Church does not interpose any objection to an individual decision in favor of organ and tissue donation."

**Pentecostal**

Pentecostals believe that the decision to donate should be left up to the individual.

**Presbyterian**

Presbyterians encourage and support donation. They respect a person's right to make decisions regarding his or her own body.

**Protestant**

Protestants encourage and endorse organ donation. The Protestant faiths respect an individual's conscience and a person's right to make decisions regarding his or her own body. Reverend James W. Rassbach, Lutheran Board of Communication Services, Missouri-Synod, says "We accept and believe that our Lord Jesus Christ came to give life and give it in abundance. Organ donations enable more abundant life, alleviate pain and suffering and are an expression of love in times of tragedy."

**Seventh-Day Adventist**

Donation and transplantation are strongly encouraged. They have many transplant hospitals, including Lorna Linda in California, which specializes in pediatric heart transplants.

**Shinto**

In Shinto, the dead body is considered to be impure and dangerous, and thus quite powerful. "In old belief context, injuring a dead body is a serious crime..." according to E. Namihira in his article, Shinto Concept Concerning the Dead Human Body. "To this day it is difficult to obtain consent from bereaved families for organ donation or dissection for medical education or pathological anatomy... the Japanese regard them all in the sense of injuring a dead body." Families are often concerned that they not injure the itai, the relationship between the dead person and the bereaved people.

**Society of Friends (Quakers)**

Organ and tissue donation is widely believed to be an individual decision. The Society of Friends does not have an official position on donation.

**Unitarian Universalist**

Organ and tissue donation is widely supported by Unitarian Universalists. They view it as an act of love and selfless giving.

**United Church of Christ**

Reverend Jay Lintner, Director, Washington Office of the United Church of Christ Office for Church in Society, states, "United Church of Christ people, churches and agencies are extremely and overwhelmingly supportive of organ sharing. The General Synod has never spoken to this issue because, in general, the Synod speaks on more controversial issues, and there is no controversy about organ sharing, just as there is no controversy about blood donation in the denomination. Any organized effort to get the General Synod delegates or individual churches to sign organ donation cards would meet with generally positive responses."

**United Methodist**

The United Methodist Church issued a policy statement regarding organ and tissue donation. In it they state, "The United Methodist Church recognizes the life-giving benefits of organ and tissue donation, and thereby encourages all Christians to become organ and tissue donors by signing and carrying donor cards or a driver's license, attesting to their commitment of such organs upon their death to those in need, as

a part of their ministry to others in the name of Christ, who gave His life that we might have life in its fullness." A 1992 resolution states, "Donation is to be encouraged, assuming appropriate safeguards against hastening death and determination of death by reliable criteria." The resolution further states, "Pastoral-care persons should be willing to explore these options as a normal part of conversation with patients and their families."

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**ORGAN DONOR NETWORK**

# ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



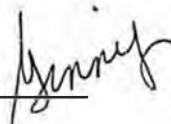
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STATE AFFAIRS COMMITTEE

## Fax

To: Leg. Legal

From: Ginny Austerman 

Fax: 465-2029

Date: Jan. 27, 2004

Phone: 465-2450

Pages: 1 inc. cover

Re: CS for HB 337

CC:

Urgent    For Review    Please Comment    Please Reply

•Comments:

Today the House State Affairs Committee adopted and passed out of committee CS HB 337 Version 23-LS1257\S and amended that version of the bill to delete line 19 page 2 "(b) A registry must include only residents of this state."

Please process this bill in the final form.

Please process this bill in final form.

# Alaska State Legislature

*Session:*  
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Juneau, AK 99801  
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## Representative Lesil McGuire Chair, Judiciary Committee

### MEMORANDUM

To: Terri Bannister – Legal Drafting  
Cc:  
From: Heath E. Hilyard – Rep. McGuire's Office  
Date: January 16, 2004  
Re: Changes to HB 337 (WO 23-LS1257A)

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Per our discussions I have the following changes that need to be incorporate into the latest version of the bill.

- 1) Pg. 2, Line 2 – When a donor to whom a motor vehicle document was issued [DIES]. According to the Department of Motor Vehicles and Life Alaska there is no way to effectuate this in a timely fashion to allow for organ harvesting. Department of Motor Vehicles does perform an annual data purge as a result of information received from the Bureau of Vital Statistics.
- 2) As a point of clarification, other offices have inquired about the phrasing of Sec. 13.50.110 (2)(b) (Pg. 2, Lines 21-23). Can "only" be substituted for "all"?
- 3) Is there a way to strengthen privacy guarantees provided for 13.50.110 (2)(c)? Rep. McGuire suggested the possibility of including a misdemeanor penalty for a violation of that section.
- 4) With respect to your question about the inclusion of AS 18.65.311(a), the following deletions need to be made for DMV.

(a) The department shall provide, at the time that an identification card is issued, [A FORM FOR A DOCUMENT] method by which the card holder may make an anatomical gift under AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living Wills and Do Not Resuscitate Orders). The [DOCUMENT] method [(1) MAY NOT BE LARGER THAN AN IDENTIFICATION CARD, (2) MUST CONTAIN SUFFICIENT SPACE FOR THE SIGNATURE OF TWO WITNESSES OR A PERSON WHO IS QUALIFIED TO TAKE ACKNOWLEDGMENTS UNDER AS 09.63.010, (3) MUST USE THE FORMS AND DESIGNS DEVELOPED UNDER AS 18.12.037, AND (4)] must provide a means by which the card holder may cancel the gift or the living will. [IF THE DOCUMENT IS EXECUTED BY THE APPLICANT, IT SHALL BE SEALED IN PLASTIC AND ATTACHED TO THE IDENTIFICATION CARD.] A symbol developed under AS 18.12.037 indicating the existence of the anatomical gift or living will document must be displayed in the lower right-hand corner on the face of the identification card.

23-LS1257Q  
Bannister  
1/19/04

**CS FOR HOUSE BILL NO. 337( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES MCGUIRE, Gruenberg, Gatto, Seaton, Wilson, Kerttula, Heinze, Anderson**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to anatomical donor registries, to an anatomical gift awareness fund, to**  
2 **an anatomical gift awareness program, to motor vehicle licenses and registrations, and**  
3 **to state identification cards."**

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

5 **\* Section 1. AS 13.50.080 is amended to read:**

6 **Sec. 13.50.080. Uniformity of interpretation. AS 13.50.010 - 13.50.090**  
7 **[THIS CHAPTER] shall be construed and interpreted so as to carry out their [ITS]**  
8 **general purpose to make uniform the laws in those states that [WHICH] enact them**  
9 **[IT].**

10 **\* Sec. 2. AS 13.50.090 is amended to read:**

11 **Sec. 13.50.090. Short title. AS 13.50.010 - 13.50.090 [THIS CHAPTER]**  
12 **may be cited as the Uniform Anatomical Gift Act.**

13 **\* Sec. 3. AS 13.50 is amended by adding new sections to read:**

14 **Article 2. Donor Registry Program.**

1           **Sec. 13.50.100. Transfer of information.** (a) Except for information on a  
2 motor vehicle document issued to a donor who declines to participate in a registry or  
3 when a person who applies for a motor vehicle document makes a gift with the  
4 application, the department shall electronically transfer all information that appears on  
5 the front of the motor vehicle document and any changes that are subsequently  
6 received by the department from the donor to a procurement organization that intends  
7 to establish a donor registry under AS 13.50.110.

8           (b) A donor to whom a motor vehicle document is issued is not required to  
9 participate in a registry, and the department may not transfer information under (a) of  
10 this section from a donor who declines to participate in a registry.

11           **Sec. 13.50.110. Use of transferred information.** (a) A procurement  
12 organization that obtains information under AS 13.50.100 shall use the information to  
13 establish a statewide donor registry accessible by a recognized organization in

14                   (1) this state that handles the recovery or placement of parts of the  
15 body; and

16                   (2) another state that handles the recovery or placement of parts of the  
17 body when a donor who is a resident of this state is not located in this state at the time  
18 of or immediately before death.

19           (b) A registry must include only residents of this state.

20           (c) A procurement organization may not

21                   (1) use registry information for fund raising; or

22                   (2) disseminate information obtained under AS 13.50.100 unless  
23 authorized by this section or by federal law.

24           (d) A procurement organization may disseminate information obtained under  
25 AS 13.50.100 to another procurement organization.

26           **Sec. 13.50.120. Acquisition of other donor information.** A procurement  
27 organization may acquire donor information from sources other than the department.

28           **Sec. 13.50.130. Registry costs.** (a) A procurement organization that has  
29 requested registry information from the department shall pay the reasonable costs  
30 associated with the creation by the organization of a registry and the reasonable costs  
31 associated with the initial installation and establishment of the facilities necessary for

1 electronic transfer of the donor information to the organization by the department.

2 (b) After the initial transfer of information under (a) of this section, the  
3 department shall make all transfers of donor information without charge to a  
4 procurement organization.

5 **Sec. 13.50.140. Notification of cancellation.** (a) A donor whose motor  
6 vehicle document information is on a registry shall notify a procurement organization  
7 of the destruction or mutilation of the motor vehicle document or revocation of the gift  
8 under AS 13.50.050 in order to remove the donor's name from a registry. If the  
9 procurement organization that is notified does not maintain a registry, the organization  
10 shall notify all procurement organizations that do maintain a registry.

11 (b) The failure of a donor to make the notification under (a) of this section  
12 does not affect the revocation of a gift under AS 13.50.050.

13 **Sec. 13.50.150. Monetary donation program.** (a) An applicant for a motor  
14 vehicle document may donate \$1 or more to the fund to promote the donation of body  
15 parts under AS 13.50.010 - 13.50.090 (Uniform Anatomical Gift Act). The donation  
16 is voluntary and may be declined by the applicant. The department shall make  
17 available to all applicants information on the importance of making gifts.

18 (b) The department shall collect the donations made under (a) of this section  
19 and credit the donations to the fund. At least quarterly, the department shall transfer  
20 the donations to the fund.

21 (c) The department shall ask each applicant for a motor vehicle document  
22 whether the applicant is interested in making the donation under (a) of this section.

23 (d) Each procurement organization shall pay its proportionate share of the  
24 reasonable costs associated with the creation of the donation program created under  
25 this section, unless another amount is agreed to by the department.

26 **Sec. 13.50.160. Anatomical gift awareness fund.** (a) The anatomical gift  
27 awareness fund is established. The fund consists of all donations made under  
28 AS 13.50.150, other donations to the fund for a purpose identified under (b) of this  
29 section, money received by the department under AS 13.50.130, and appropriations  
30 made to the fund.

31 (b) The purpose of the fund is to promote gifts under AS 13.50.010 -

1 13.50.090 and to administer the donation program established under AS 13.50.150.

2 (c) Donations to the fund shall be segregated within the fund until they are  
3 appropriated for use by the fund.

4 (d) Money appropriated to or for use by the fund may be spent for the  
5 purposes of the fund without further appropriation.

6 **Sec. 13.50.170 Penalty.** A person who knowingly violates  
7 AS 13.50.110(c)(1) or (2) is guilty of a class B misdemeanor.

8 **Sec. 13.50.190. Definitions.** In AS 13.50.100 - 13.50.190,

9 (1) "department" means the Department of Administration;

10 (2) "donation" means a monetary donation made under AS 13.50.150;

11 (3) "fund" means the anatomical gift awareness fund established under  
12 AS 13.50.160;

13 (4) "motor vehicle document" means a motor vehicle registration, a  
14 driver's license, or an instruction permit, or a renewal of the registration, license, or  
15 permit;

16 (5) "procurement organization" means a person licensed, accredited, or  
17 approved under the laws of a state for the procurement, distribution, or storage of body  
18 parts;

19 (6) "reasonable costs" includes the cost of

20 (A) computer programming and installing software and  
21 software upgrades;

22 (B) employee training that is specific to a registry or the  
23 donation program established under AS 13.50.150;

24 (C) producing literature that is specific to a registry or the  
25 donation program established under AS 13.50.150; and

26 (D) making hardware upgrades or handling other issues for a  
27 registry or the donation program established under AS 13.50.150;

28 (7) "registry" means a donor registry established under AS 13.50.110;

29 (8) "registry information" means information obtained under  
30 AS 13.50.100;

31 (9) "state" means a state, territory, or possession of the United States,

1 the District of Columbia, or the Commonwealth of Puerto Rico.

2 \* Sec. 4. AS 18.65.311(a) is amended to read:

3 Sec. 18.65.311. **Anatomical gift or living will document.** (a) The  
4 department shall provide **a method**, at the time that an identification card is issued, [A  
5 FORM FOR A DOCUMENT] by which the card holder may make an anatomical gift  
6 under AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12  
7 (Living Wills and Do Not Resuscitate Orders). The **method** [DOCUMENT (1) MAY  
8 NOT BE LARGER THAN AN IDENTIFICATION CARD, (2) MUST CONTAIN  
9 SUFFICIENT SPACE FOR THE SIGNATURE OF TWO WITNESSES OR A  
10 PERSON WHO IS QUALIFIED TO TAKE ACKNOWLEDGMENTS UNDER  
11 AS 09.63.010, (3) MUST USE THE FORMS AND DESIGNS DEVELOPED  
12 UNDER AS 18.12.037, AND (4)] must provide a means by which the card holder may  
13 cancel the gift or the living will. [IF THE DOCUMENT IS EXECUTED BY THE  
14 APPLICANT, IT SHALL BE SEALED IN PLASTIC AND ATTACHED TO THE  
15 IDENTIFICATION CARD.] A symbol developed under AS 18.12.037 indicating the  
16 existence of the anatomical gift or living will document must be displayed in the lower  
17 right-hand corner on the face of the identification card.

18 (b) An employee of the department who processes an identification card  
19 application, other than an application received by mail, shall ask the applicant orally  
20 whether the applicant wishes to execute an anatomical gift or a living will. The  
21 department shall, by placement of posters and brochures in the office where the  
22 application is taken, and by oral advice, if requested, make known to the applicant the  
23 **method by which the cardholder may make an anatomical** [PROCEDURE  
24 NECESSARY TO EXECUTE A] gift under AS 13.50 or a living will under AS 18.12.  
25 **The department shall inform each applicant for an identification card in writing**  
26 **that, if the applicant executes a gift under AS 13.50 or includes an anatomical gift**  
27 **in a living will under AS 18.12 and if the gift is made with the registration, the**  
28 **department will transmit the information on the identification card to a donor**  
29 **registry created under AS 13.50.110. The department shall also direct the**  
30 **applicant to notify a procurement organization under AS 13.50.140 if the**  
31 **identification card is destroyed or mutilated or the gift is revoked under**

1           AS 13.50.050. The department shall carry out the requirements of AS 13.50.100 -  
2           13.50.190.

3       \* Sec. 5. AS 28.10.021(c) is amended to read:

4           (c) An employee of the department who processes an application for  
5 registration or renewal of registration, other than an application received by mail or an  
6 application for registration under AS 28.10.152, shall ask the applicant orally whether  
7 the applicant wishes to execute an anatomical gift or a living will. The department  
8 shall make known to all applicants the procedure for executing a gift under AS 13.50  
9 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living Wills and Do  
10 Not Resuscitate Orders) by displaying posters in the offices in which applications are  
11 taken, by providing a brochure or other written information to each person who  
12 applies in person or by mail, and, if requested, by providing oral advice. The  
13 department shall inform each applicant in writing that, if the applicant executes  
14 a gift under AS 13.50 or includes an anatomical gift in a living will under  
15 AS 18.12 and if the gift is made with the registration application, the department  
16 will transmit the information on the registration to a donor registry created  
17 under AS 13.50.110. The department shall also direct the applicant to notify a  
18 procurement organization under AS 13.50.140 if the registration is destroyed or  
19 mutilated or the gift is revoked under AS 13.50.050. The department shall carry  
20 out the requirements of AS 13.50.100 - 13.50.190.

21       \* Sec. 6. AS 28.15.061(d) is amended to read:

22           (d) An employee of the department who processes a driver's license  
23 application, other than an application received by mail, shall ask the applicant orally  
24 whether the applicant wishes to execute an anatomical gift or a living will. The  
25 department shall make known to all applicants the procedure for executing a gift under  
26 AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living  
27 Wills and Do Not Resuscitate Orders) by displaying posters in the offices in which  
28 applications are taken, by providing a brochure or other written information to each  
29 person who applies in person or by mail, and, if requested, by providing oral advice.  
30 The department shall inform each applicant in writing that, if the applicant  
31 executes a gift under AS 13.50 or includes an anatomical gift in a living will

1 under AS 18.12 and if the gift is made with the driver's license application, the  
2 department will transmit the information on the license to a donor registry  
3 created under AS 13.50.110. The department shall also direct the applicant to  
4 notify a procurement organization under AS 13.50.140 if the license is destroyed  
5 or mutilated or the gift is revoked under AS 13.50.050. The department shall  
6 carry out the requirements of AS 13.50.100 - 13.50.190.

7 \* Sec. 7. AS 28.15.111(b) is amended to read:

8 (b) The department shall provide a method, at the time that an operator's  
9 license is issued, [A FORM FOR A DOCUMENT] by which the owner of a license  
10 may make an anatomical gift under AS 13.50 or a living will under AS 18.12. The  
11 method [DOCUMENT (1) MAY NOT BE LARGER THAN AN OPERATOR'S  
12 LICENSE, (2) MUST CONTAIN SUFFICIENT SPACE FOR THE SIGNATURE OF  
13 TWO WITNESSES OR A PERSON WHO IS QUALIFIED TO TAKE  
14 ACKNOWLEDGMENTS UNDER AS 09.63.010, (3) MUST USE THE FORMS  
15 AND DESIGNS DEVELOPED UNDER AS 18.12.037, AND (4)] must provide a  
16 means by which the owner may cancel the gift or the living will. [IF THE  
17 DOCUMENT IS EXECUTED BY THE APPLICANT, IT SHALL BE SEALED IN  
18 PLASTIC AND ATTACHED TO THE LICENSE.] A symbol developed under  
19 AS 18.12.037 indicating the existence of the anatomical gift or living will document  
20 must be displayed in the lower right-hand corner on the face of the driver's license.  
21 The department shall inform each applicant in writing that, if the applicant  
22 executes a gift under AS 13.50 or includes an anatomical gift in a living will  
23 under AS 18.12 and if the gift is made with the license, the department will  
24 transmit the information on the license to a donor registry created under  
25 AS 13.50.110. The department shall also direct the applicant to notify  
26 procurement organization under AS 13.50.140 if the license is destroyed or  
27 mutilated or the gift is revoked under AS 13.50.050. The department shall carry  
28 out the requirements of AS 13.50.100 - 13.50.190.

HB

338

# Alaska State Legislature

*Session:*  
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Representative Lesil McGuire  
Chair, Judiciary Committee

## HB 338

*"An Act relating to attendance at public school; and providing for an effective date."*

### SPONSOR STATEMENT

HB 338 accomplishes two simple, but necessary, statutory changes that govern the entry age for attendance into public school and the process by which local school districts may allow early entry applicants to be accepted.

Currently, AS 14.03.080(c) stipulates that a child under school age may be admitted only if the child can demonstrate "minimum standards prescribed by the board evidencing that the child has the mental, physical, and emotional capacity. . ." Under the current statute, this language requires a full board vote in order to approve such early entry applications. The new language included in HB 338 would allow local school boards to delegate this authority to their chief school administrator, thus relieving the boards from this minor administrative burden more appropriately left to career education professionals.

Further, HB 338 adjusts the date certain, from August 15<sup>th</sup> to September 1<sup>st</sup>, by which a child must have attained the age of five for standard entry in kindergarten. Alaska is one of only three states that have an entrance cut-off date on or before August 15<sup>th</sup>. 35 states have kindergarten entrance cut-off dates between August 31 and October 16<sup>th</sup> with September 1 being shared by 19 states. Because of the large number of new residents arriving from other states with their respective cut-off dates and varying school start dates among Alaska's school districts, we believe this change will create a less confusing standard that will allow the greatest number of Alaskan students to begin school each year without having a disruptive impact on a classroom environment. It is for these reasons that this change is supported by a number of Alaska school districts and the Alaska Department of Education and Early Development.

23-LS1258\S  
Mischel  
3/4/04

**CS FOR HOUSE BILL NO. 338( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE MCGUIRE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to attendance at public school; and providing for an effective date."**

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

3 **\* Section 1.** AS 14.03.070 is amended to read:

4       **Sec. 14.03.070. School age.** A child who is six years of age on or before  
5       September 1 [AUGUST 15] following the beginning of the school year, and who is  
6       under the age of 20 and has not completed the 12th grade, is of school age.

7 **\* Sec. 2.** AS 14.03.080(c) is amended to read:

8       (c) A child under school age may be admitted to a [THE] public school in the  
9       school district of which the child is a resident at the discretion of the governing body  
10       of the school district if the child meets minimum standards prescribed by the board  
11       evidencing that the child has the mental, physical, and emotional capacity to perform  
12       satisfactorily for the educational program being offered. A district's educational  
13       program must prescribe that under school age students advance through the curriculum  
14       or grade level by the following school year. A governing body may delegate the  
15       authority granted under this subsection to the chief school administrator of the

1  
2  
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school district.

\* Sec. 3. AS 14.03.080(d) is amended to read:

(d) A child who is five years of age on or before September 1 [AUGUST 15] following the beginning of the school year, and who is under school age, may enter a public school kindergarten.

\* Sec. 4. This Act takes effect July 1, 2004.

23-LS1258\Q  
Mischel  
2/24/04

**CS FOR HOUSE BILL NO. 338( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE MCGUIRE**

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6           under the age of 20 and has not completed the 12th grade, is of school age.

7 **\* Sec. 2.** AS 14.03.080(c) is amended to read:

8           (c) A child under school age may be admitted to a [THE] public school  
9           kindergarten in the school district of which the child is a resident at the discretion of  
10           the governing body of the school district if the child meets minimum standards  
11           prescribed by the board evidencing that the child has the mental, physical, and  
12           emotional capacity to perform satisfactorily for the educational program being offered.  
13           A district's educational program must prescribe that under school age students advance  
14           through the curriculum or grade level by the following school year. A governing  
15           body may delegate the authority granted under this subsection to the chief school

1        administrator of the school district.

2        \* Sec. 3. AS 14.03.080(d) is amended to read:

3                (d) A child who is five years of age on or before September 1 [AUGUST 15]  
4                following the beginning of the school year, and who is under school age, may enter a  
5                public school kindergarten.

6        \* Sec. 4. This Act takes effect July 1, 2004.

From: McRae\_Patricia  
Sent: Monday, February 16, 2004 12:45 PM  
To: 'ryan\_macinster@legis.state.ak.us'  
Cc: Ginder\_Julie; Long\_Eunice  
Subject: change of entry date for kindergarten students

I am writing to support the proposed change of entry date for Alaskan children into kindergarten from August 15th to September 1st. This change will allow children who turn 5 years of age by September 1st to begin kindergarten in that school year.

As the Executive Director for Elementary Education, I have worked with many, many families whose child turns 5 years of age between August 15th and the first day of school (the day after Labor Day in Anchorage). These parents want their child to begin school with their like-age peers. Because of the August 15th deadline, we must turn these families away, when their children would have turned 5 years of age by the first day of school. This is difficult for many families to understand. It is also my understanding that the entry date for kindergarten in most states across the U.S. is September 1st, and because of the large military populations we deal with in Alaska, the consistency provided in such a change will additionally benefit the children of military families.

My colleagues, Elementary Supervisors Julie Ginder and Eunice Long, concur with the proposed change to September 1st as well. We believe this will allow us to better serve these children and that coming in line with the majority of other states across the union will provide consistency for families who are moving to Alaska.

Thank you,  
Patricia McRae

Patricia McRae, Executive Director  
Elementary Education  
742-4254

"Prosperity is a great teacher; adversity a greater."  
-William Hazlitt