

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672
11051 HOUSE STATE AFFAIRS

HB

330

Bill History/Action Display



BILL: HB 330

SHORT TITLE: DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

BILL VERSION:

CURRENT STATUS: (H) STA
THEN FIN

STATUS DATE: 03/31/04

SPONSOR(s): RLS BY REQUEST OF THE GOVERNOR

TITLE: "An Act shortening the time periods after which certain unclaimed property is presumed to be abandoned; and providing for an effective date."

Bill Root: [Display Bill Root](#) [Next Bill](#)

[Full Text](#) [Fiscal Notes](#)

[Committee Action with Bill History](#)

Jrn-Date	Jrn-Page	Action
05/21/03	2068	(H) READ THE FIRST TIME - REFERRALS
05/21/03	2068	(H) L&C, STA
05/21/03	2069	(H) FN1: (REV)
05/21/03	2069	(H) GOVERNOR'S TRANSMITTAL LETTER
03/31/04	3131	(H) L&C RPT CS(L&C) NT 3DP 1NR
03/31/04	3131	(H) DP: LYNN, DAHLSTROM, ANDERSON;
03/31/04	3131	(H) NR: GUTTENBERG
03/31/04	3132	(H) FN1: (REV)
03/31/04	3132	(H) REFERRED TO STATE AFFAIRS
03/31/04	3150	(H) FIN REFERRAL ADDED AFTER STA

[Similar Subject Match](#) or [Exact Subject Match](#)
PROPERTY

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CS FOR HOUSE BILL NO. 330(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/31/04

Referred: State Affairs, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to unclaimed property; and providing for an effective date."**

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

3 *** Section 1.** AS 34.45.110(a) is amended to read:

4 (a) Except as otherwise provided in AS 34.45.120 - 34.45.780, all intangible
5 property, including income or increment derived from the property, less lawful
6 charges, that is held, issued, or owing in the ordinary course of a holder's business and
7 has remained unclaimed by the owner for more than three [FIVE] years after
8 becoming payable or distributable is presumed abandoned.

9 *** Sec. 2.** AS 34.45.150(a) is amended to read:

10 (a) Other than money payable on an instrument that is subject to
11 AS 34.45.140, money payable on a check, draft, or similar instrument on which a
12 banking or financial organization is directly liable, including a cashier's check and a
13 certified check, that has been outstanding for more than five [SEVEN] years after it
14 was payable or after its issuance if payable on demand, is presumed abandoned. This
15 presumption does not apply if the owner, within the preceding five [SEVEN] years,

1 has communicated in writing with the banking or financial organization concerning
2 the instrument or has otherwise indicated an interest as evidenced by a memorandum
3 or other record, on file, prepared by an employee of the organization.

4 * Sec. 3. AS 34.45.160(a) is amended to read:

5 (a) A demand, savings, or matured time deposit with a banking or financial
6 organization, including a deposit that is automatically renewable, and money paid
7 toward the purchase of a share, a mutual investment certificate, or other intangible
8 property interest in a banking or financial organization is presumed abandoned unless
9 the owner, within the preceding five [SEVEN] years, has

10 (1) in the case of a deposit, increased or decreased its amount or
11 presented the passbook or other similar evidence of the deposit for the crediting of
12 interest;

13 (2) communicated in writing with the banking or financial organization
14 concerning the property; or

15 (3) otherwise indicated an interest in the property as evidenced by a
16 memorandum or other record, on file, prepared by an employee of the banking or
17 financial organization [;

18 (4) OWNED OTHER PROPERTY TO WHICH (1), (2), OR (3) OF
19 THIS SUBSECTION APPLIES AND THE BANKING OR FINANCIAL
20 ORGANIZATION HAS COMMUNICATED IN WRITING WITH THE OWNER
21 WITH REGARD TO THE PROPERTY THAT WOULD OTHERWISE BE
22 PRESUMED ABANDONED UNDER THIS SUBSECTION AT THE ADDRESS TO
23 WHICH COMMUNICATIONS REGARDING THE OTHER PROPERTY ARE
24 REGULARLY SENT; OR

25 (5) HAD ANOTHER RELATIONSHIP WITH THE BANKING OR
26 FINANCIAL ORGANIZATION CONCERNING WHICH THE OWNER HAS

27 (A) COMMUNICATED IN WRITING WITH THE
28 BANKING OR FINANCIAL ORGANIZATION OR OTHERWISE
29 INDICATED AN INTEREST AS EVIDENCE BY A MEMORANDUM OR
30 OTHER RECORD, ON FILE, PREPARED BY AN EMPLOYEE OF THE
31 BANKING OR FINANCIAL ORGANIZATION; AND

1 (B) THE BANKING OR FINANCIAL ORGANIZATION
 2 COMMUNICATES IN WRITING WITH THE OWNER WITH REGARD TO
 3 THE PROPERTY THAT WOULD OTHERWISE BE ABANDONED
 4 UNDER THIS SUBSECTION AT THE ADDRESS TO WHICH
 5 COMMUNICATIONS REGARDING THE OTHER RELATIONSHIP
 6 REGULARLY ARE SENT].

7 * Sec. 4. AS 34.45.170(a) is amended to read:

8 (a) Money held or owing under a life or endowment insurance policy or
 9 annuity contract that has matured or terminated is presumed abandoned if unclaimed
 10 for more than three [FIVE] years after the money became due and payable as
 11 established from the records of the insurance company holding or owing the money.
 12 [HOWEVER, PROPERTY DESCRIBED IN (c)(2) OF THIS SECTION IS
 13 PRESUMED ABANDONED IF UNCLAIMED FOR MORE THAN TWO YEARS.]

14 * Sec. 5. AS 34.45 is amended by adding a new section to read:

15 **Sec. 34.45.175. Certain property distributed in insurance company**
 16 **reorganizations.** (a) Property distributed in the course of a demutualization,
 17 rehabilitation, or related reorganization of an insurance company is presumed
 18 abandoned two years after the date of the demutualization, rehabilitation, or related
 19 reorganization if, at the time of the demutualization, rehabilitation, or related
 20 reorganization, the last known address of the owner on the books and records of the
 21 holder is known to be incorrect, or a distribution or statement is returned by the post
 22 office as undeliverable, and the owner has not

23 (1) communicated in writing with the holder or its agent regarding the
 24 property; or

25 (2) otherwise communicated with the holder regarding the property as
 26 evidenced by a memorandum on file with the holder or its agent.

27 (b) The conditions raising a presumption of abandonment for property
 28 distributable in the course of a demutualization, rehabilitation, or related
 29 reorganization of a mutual insurance company that is not subject to (a) of this section
 30 are as otherwise provided in AS 34.45.110 - 34.45.780.

31 * Sec. 6. AS 34.45.200 is repealed and reenacted to read:

1 **Sec. 34.45.200. Stock and other intangible interests in business**
2 **associations or financial organizations.** (a) Stock or other equity interest in a
3 business association or financial organization is presumed abandoned five years after
4 the earliest of

5 (1) the date of the most recent dividend, stock split, or other
6 distribution unclaimed by the owner;

7 (2) the date that a statement of account or other notification or
8 communication concerning the stock or other equity interest was returned as
9 undeliverable; or

10 (3) the date that the holder of the stock or other equity interest
11 discontinued mailings, notifications, or communications to the owner.

12 (b) Unmatured or unredeemed debt of a business association or financial
13 organization, other than a bearer bond or an original issue discount bond, is presumed
14 abandoned five years after the date of the most recent interest payment unclaimed by
15 the owner.

16 (c) Matured or redeemed debt, including bearer bonds and original issue
17 discount bonds, is presumed abandoned five years after the date of maturity or
18 redemption.

19 (d) At the time property is presumed abandoned under this section, any other
20 property right accrued or accruing to the owner as a result of the property interest and
21 not previously presumed abandoned is also presumed abandoned.

22 (e) A distribution of net margins by a cooperative incorporated under
23 AS 10.25 is presumed abandoned if the distribution remains unclaimed by the owner
24 for more than one year after the date authorized for the distribution. The distribution
25 presumed abandoned under this subsection reverts to the cooperative if the cooperative
26 has, at least six months before the proposed date that the distribution reverts to the
27 cooperative, both

28 (1) mailed a notice of the proposed reversion to the last known address
29 of the owner as shown on the cooperative records; and

30 (2) published notice of the proposed reversion in the manner provided
31 by law or court rule for service of a summons by publication.

1 * **Sec. 7.** AS 34.45.220(a) is amended to read:

2 (a) Intangible property and income or increment derived from the intangible
3 property held in a fiduciary capacity for the benefit of another person is presumed
4 abandoned unless the owner, within three [FIVE] years after it has become payable or
5 distributable, has increased or decreased the principal, accepted payment of principal
6 or income, communicated concerning the property, or otherwise indicated an interest
7 as evidenced by a memorandum or other record, on file, prepared by the fiduciary.

8 * **Sec. 8.** AS 34.45.240(a) is amended to read:

9 (a) A gift certificate or a credit memo, issued in the ordinary course of an
10 issuer's business, that remains unclaimed by the owner for more than three [FIVE]
11 years after becoming payable or distributable is presumed abandoned.

12 * **Sec. 9.** AS 34.45 is amended by adding a section to article 3 to read:

13 **Sec. 34.45.270. Burden of proof as to property evidenced by record of**
14 **check, draft, or similar instrument.** A record of the issuance of a check, draft, or
15 similar instrument is prima facie evidence of an obligation. In claiming property from
16 a holder who is also the issuer, the department's burden of proof as to the existence
17 and amount of the property and its abandonment is satisfied by showing issuance of
18 the instrument and passage of the requisite period of abandonment. Defenses of
19 payment, satisfaction, discharge, and want of consideration are affirmative defenses
20 that must be established by the holder.

21 * **Sec. 10.** AS 34.45.280(f) is repealed and reenacted to read:

22 (f) The requirements of this section apply to the holder of intangible property
23 with a total aggregate value greater than \$750 that is presumed abandoned under
24 AS 34.45.110 - 34.45.780 during the year preceding June 30 of each year. For
25 purposes of determining total aggregate value under this subsection, the holder shall
26 include all intangible property from prior years that was not reported under
27 AS 34.45.110 - 34.45.780.

28 * **Sec. 11.** AS 34.45.290 is repealed and reenacted to read:

29 **Sec. 34.45.290. Requests for reports and examination of records.** (a) The
30 department may require a person who has not filed a report under AS 34.45.280 or a
31 person who the department believes has filed an inaccurate, incomplete, or false

1 report, to file a verified report in a form specified by the department. The report must
2 state whether the person is holding property reportable under AS 34.45.110 -
3 34.45.780, describe property not previously reported or as to which the department has
4 made inquiry, and specifically identify and state the amounts of the property that may
5 be in issue.

6 (b) The department, at reasonable times and upon reasonable notice, may
7 examine the records of any person to determine whether the person has complied with
8 AS 34.45.110 - 34.45.780. The department may conduct the examination even if the
9 person believes it is not in possession of any property that must be reported, paid, or
10 delivered under AS 34.45.110 - 34.45.780. The department may contract with any
11 other person to conduct the examination on behalf of the department.

12 (c) The department at reasonable times may examine the records of an agent,
13 including a dividend disbursing agent or transfer agent, of a business association or
14 financial organization that is the holder of property presumed abandoned if the
15 department has given the notice required by (b) of this section to both the association
16 or organization and the agent at least 90 days before the examination.

17 (d) Documents and working papers obtained or compiled by the department,
18 or the department's agents, employees, contractors, or designated representatives in the
19 course of conducting an examination under AS 34.45.110 - 34.45.780 are confidential
20 and are not public records, but the documents and papers may be

21 (1) used by the department in the course of an action to collect
22 unclaimed property or otherwise enforce AS 34.45.110 - 34.45.780;

23 (2) used in joint examinations conducted with or under an agreement
24 with another state, the federal government, or any other governmental subdivision,
25 agency, or instrumentality;

26 (3) produced under subpoena or court order; or

27 (4) disclosed to the unclaimed property office of another state for that
28 state's use in circumstances equivalent to those described in this subsection, if the
29 other state is bound to keep the documents and papers confidential.

30 (e) If an examination of the records of a person results in the disclosure of
31 property reportable under AS 34.45.110 - 34.45.780, the department may assess the

1 cost of the examination against the holder at the rate of \$200 a day for each examiner,
 2 or a greater amount that is reasonable and was incurred, but the assessment may not
 3 exceed the value of the property found to be reportable under AS 34.45.110 -
 4 34.45.780. The cost of an examination made under (c) of this section may be assessed
 5 only against the business association or financial organization.

6 (f) If a holder does not maintain the records required by AS 34.45.300 and the
 7 records of the holder available for the periods subject to AS 34.45.110 - 34.45.780 are
 8 insufficient to permit the preparation of a report, the department may require the
 9 holder to report and pay to the department the amount the department reasonably
 10 estimates, on the basis of any available records of the holder or by any other
 11 reasonable method of estimation, should have been but was not reported.

12 * **Sec. 12.** AS 34.45.300(a) is repealed and reenacted to read:

13 (a) Except as otherwise provided in (b) of this section, a holder required to file
 14 a report under AS 34.45.280 shall maintain the records containing the information
 15 required to be included in the report for 10 years after the holder files the report,
 16 unless a shorter period is provided by regulations adopted by the department.

17 * **Sec. 13.** AS 34.45.310 is repealed and reenacted to read:

18 **Sec. 34.45.310. Notice and publication of lists of unclaimed property.** (a)

19 The department shall notify apparent owners of unclaimed property under
 20 AS 34.45.110 - 34.45.780 in the manner and method set out in (b) of this section. In
 21 deciding whether to use an additional method specified in (b)(2) of this section, and
 22 which of those methods to use, the department shall employ the most cost-effective
 23 method available within its appropriations.

24 (b) The department

25 (1) shall notify all apparent owners of the unclaimed property in
 26 accordance with this section by means of posting on the department's website on the
 27 Internet;

28 (2) may use any of the following to provide additional notice to the
 29 apparent owners:

30 (A) publication in a newspaper of general circulation in the
 31 area of the state in which the last known address of a person to be named in the

1 notice is located, or if the address is unknown, in the area in which the holder
2 has its principal place of business in the state;

3 (B) individual contact by regular or electronic mail, or by
4 telephone, if the department has current contact information on file under
5 AS 34.45.110 - 34.45.780;

6 (C) any other manner and method that the department considers
7 effective for providing notice and publication under AS 34.45.110 - 34.45.780.

8 (c) In its notice and publication under (b) of this section, the department shall
9 provide the names of the apparent owners of the property and information regarding
10 recovery of the unclaimed property.

11 (d) The department is not required to publish in the notice an item of less than
12 \$100 in value.

13 (e) This section does not apply to money payable on traveler's checks, money
14 orders, and other written instruments presumed abandoned under AS 34.45.140.

15 * Sec. 14. A. 34.45.760(10) is amended to read:

16 (10) "intangible property"

17 (A) includes

18 (i) money, checks, drafts, warrants, deposits, interest,
19 dividends, and income;

20 (ii) credit balances, customer overpayments, gift
21 certificates, security deposits, refunds, credit memos, unpaid wages,
22 and unidentified remittances;

23 (iii) stocks and other intangible ownership interests in
24 business associations;

25 (iv) money deposited to redeem stocks, bonds, coupons,
26 and other securities, or to make distributions;

27 (v) amounts due and payable under the terms of
28 insurance policies; [AND]

29 (vi) amounts distributable from a trust or custodial fund
30 established under a plan to provide health, welfare, pension, vacation,
31 severance, retirement, death, stock purchase, profit-sharing, employee

1 savings, supplemental unemployment insurance, or similar benefits;

2 and

3 (vii) amounts due and payable as mineral proceeds;

4 (B) does not include

5 (i) unused airline tickets;

6 (ii) shares of stock issued by a corporation organized
7 under 43 U.S.C. 1601 - 1629a (Alaska Native Claims Settlement Act)
8 or unclaimed dividends payable on the shares of stock; or

9 (iii) overpaid contributions by employers to the
10 unemployment compensation fund under AS 23.20.130;

11 * Sec. 15. AS 34.45.760(11) is repealed and reenacted to read:

12 (11) "last known address" means

13 (A) if the address is sufficient to direct the delivery of mail or
14 receipt of a communication by the means known to the holder, a description of
15 the location of the apparent owner's residence or business;

16 (B) if the address is not sufficient as described in (A) of this
17 paragraph, a description indicating that the apparent owner was located within
18 this state;

19 * Sec. 16. AS 34.45.760 is amended by adding new paragraphs to read:

20 (18) "gift certificate" means an obligation of a business association
21 arising from a transaction between the business association and a consumer to provide
22 goods or services at a future date; "gift certificate" includes a gift certificate, stored
23 value card, gift card, on-line gift account, or other representation or evidence of the
24 obligation of a business association;

25 (19) "mineral" means gas; oil; other gaseous, liquid, and solid
26 hydrocarbons; oil shale; cement material; sand and gravel; road material; building
27 stone; chemical raw material; gemstone; fissionable and nonfissionable ores; colloidal
28 and other clay; steam and other geothermal resources; or any other substance defined
29 as mineral by other state law;

30 (20) "mineral proceeds" means amounts payable for the extraction,
31 production, or sale of minerals, or, upon the abandonment of those payments, all

1 payments that become payable after the abandonment; "mineral proceeds" includes
2 amounts payable

3 (A) for the acquisition and retention of a mineral lease,
4 including bonuses, royalties, compensatory royalties, shut-in royalties,
5 minimum royalties, and delay rentals;

6 (B) for the extraction, production, or sale of minerals, including
7 net revenue interests, royalties, overriding royalties, extraction payments, and
8 production payments;

9 (C) under an agreement or option, including a joint operating
10 agreement, unit agreement, pooling agreement, and farm-out agreement.

11 * Sec. 17. The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 APPLICABILITY. The changes made by this Act apply to property that meets either
14 of the following:

15 (1) property that, on the effective date of this Act, already was subject to a
16 statutory provision amended by this Act;

17 (2) property that, on or after the effective date of this Act, becomes subject to
18 a statutory provision amended by this Act.

19 * Sec. 18. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB330(L&C)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Decrease Time to Report Unclaimed Property RDU Revenue Programs & Services
Component Treasury Management
Sponsor House Rules
Requester Governor Component No. 121

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	2010
Personal Services	50.0					
Travel						
Contractual	10.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	60.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	1,000.0	1,500.0	500.0			
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	60.0					
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	60.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary	0.75					

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 34.45, the Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state. Generally those properties presumed abandoned after five years will, under this bill, be presumed abandoned after three years. Those properties presumed abandoned after seven years will be presumed abandoned after five years. The first couple of years will see a strong increase in property reported due to the changes in dormancy requiring additional personal and contractual services. Subsequent years should not see major impacts.

Abandoned property transferred to the state averages around \$2.5 million per year. Changing the abandonment time by two years could increase revenue to the general fund for a few years for a total of \$1 to \$3 million. This bill will have no effect on revenue in subsequent years.

Prepared by: Betty Martin, State Comptroller Phone 465-2352
Division Treasury Date/Time 3/31/04 11:05 PM
Approved by: Steve Porter, Deputy Commissioner Date 3/31/2004
Agency Department of Revenue



**Reasons for Proposed Unclaimed Property Legislative Changes
HB 330**

1. This change to section AS 34.45.110(a) will make the general abandoned period for property not defined in other parts of the Act three years instead of five years.
2. This change will make section AS 34.45.150(a) consistent with the Uniform Unclaimed Property Act. Time period for money payable on a negotiable instrument is changed from seven years to five years.
3. The change will make section AS 34.45.160(a) consistent with the Uniform Unclaimed Property Act. Ensures all property regardless of known or unknown by the owner will fall under the protection of the Act.
4. This change will make section AS 34.45.170(a) consistent with the Uniform Unclaimed Property Act. When life endowment and annuity contracts do not mature by actual proof of death, but the insured or annuitant has reached the limiting age of mortality, they should be reported consistent with other forms of life and endowment insurance.
5. Adds a new section AS 34.45.175 for distributions in insurance company reorganizations. Mutual companies are owned by their policyholders. In order to create capital or enhance financial strength mutual companies demutualize and convert to a stock form of ownership. Policyholders are entitled to receive compensation in the form of cash or stock.

Mutual companies do not have reoccurring contact with fully paid policyholders. Contact only occurs when a policyholder's estate files a claim for benefits.

Alaska's current statutes do not take into consideration the fact that virtually all policyholders were lost as of the date of the demutualization and have in fact been lost for decades prior.

6. Deleting AS 34.45.200 (b) allows companies to report unclaimed property based on inactivity or lack of owner contact. Alaska's current language requires the company to make seven distributions before property is considered unclaimed. E.g. a company may issue stock splits every two or three years. In that case, it could take fourteen to twenty-one years before it would become reportable as unclaimed property.
7. This change will make section AS 34.45.220(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.
8. This change will make section AS 34.45.240(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.

9. Adds a new section, AS 34.45.270 Burden of Proof consistent with the Uniform Unclaimed Property Act. This language clearly specifies an obligation exists between a Holder and an Owner as evidenced by a check or draft. The Holder must defend satisfaction, discharge or want by the owner of the consideration in order to exclude the item as an outstanding obligation.
10. This change to AS 34.45.280(f) allows holders of unclaimed property to aggregate and report property with a value greater than \$750.
11. This change makes AS 34.45.290 consistent with the Uniform Unclaimed Property Act. The new language allows the department to examine company records to verify compliance. Current statute allows examination if there is a reason to believe based on reporting discrepancies.
12. AS 34.45.300 (a) increases the record retention period to 10 years. Holder's records are vital to verifying an owner's claim.
13. Replacing AS 34.45.310 allows the department to evaluate technological advancements, promotional resources and cost effective methods to notify owners of unclaimed property. Current statute mandates publishing a notice in newspapers throughout the state. Last year's publication cost was \$30,000. Publication costs are expected to continually increase in the future.
14. AS 34.45.760 (10) Alaska has natural resources yet the unclaimed property statute does not clearly define mineral and mineral proceeds. These types of property are often missed during a Holder's reporting process. These definitions are consistent with the Uniform Unclaimed Property Act.
15. AS 34.45.760(11) Repeal
16. AS 34.45.760 (18) Gift certificates are no longer just a piece of paper. Gift obligations are in many forms such as electronic cards, on-line gift accounts, stored-value cards, etc. This description helps define a gift obligation as any commitment between a holder and a purchaser where an exchange of money for future goods or services has transpired. (19) adds definition for mineral, section (20) adds definition for mineral proceeds consistent with Uniform Act.
17. Standard transition language
18. Effective date

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

April 27, 2004

The Honorable Bruce Weyhrauch,
Chair – House State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Re: HB 330; Shortening time periods after which certain unclaimed property is presumed to be abandoned.

Dear Mr. Chair:

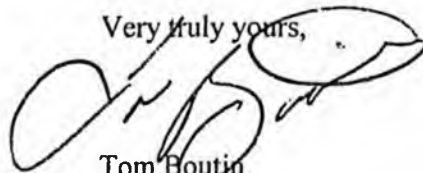
HB 330 was scheduled for a hearing in the House State Affairs Committee, and postponed. This legislation amends AS 34.45, Alaska's Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state.

I am enclosing a copy of necessary amendments. One amendment is responsive to the insurance industry to incorporate the industry standard language for demutualization. The other amendment corrects punctuation and redundant language.

The department has already provided you with backup materials in support of HB 330. If you need further information, please do not hesitate to contact me at 465-3669.

Your rescheduling HB 330 for a hearing in the House State Affairs Committee at your earliest convenience will be appreciated.

Very truly yours,



Tom Boutin
Deputy Commissioner

Enclosure

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

April 23, 2004

SUBJECT: Amendments to CSHB 330(L&C) relating to unclaimed property
(Work Order No. 23-GH1151D)

TO: Representative Bruce Weyhrauch
Chair, House State Affairs Committee
Attn: Ginny

FROM: *JB*
Theresa L. Bannister
Legislative Counsel

This memo accompanies the amendments requested for this bill.

Reference to financial institutions. I would like to bring your attention to a problem in the bill, which is carried over into amendment D.2. Since "financial institution" is included in the definition of "business association" (AS 34.45.760(3)), it is not necessary to mention it when referring to business associations in the bill. In AS 34.45.200, as amended in the bill, financial institutions are referred to as an alternate to "business association." See the title, subsection (a), and subsection (b) of AS 34.45.200 in the bill. This also occurs in amended AS 34.45.290(e) and in the proposed amendment (D.2) to the definition of "intangible property." This approach is not technically correct, and may cause a problem with interpreting "business association" when "business association" appears by itself. I recommend that the references to "financial institutions" either be removed or drafted something like "business associations, including financial institutions,"

Last known address. Amendment D.2 repeals the definition of "last known address" in AS 34.45.760(11). As a result, the term, which is used in AS 34.45.120, 34.45.170(b) and (e), 34.45.280(b) and (e), 34.45.370(a), and 34.45.390(a), will not have any special meaning. This is not a problem if you are willing to have the term be given its common meaning in those statutes.

If I may be of further assistance, please advise.

TLB:med:mdr
04-445.med

Enclosure

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 330(L&C)

1 Page 8, following line 14:

2 Insert new bill sections to read:

3 **** Sec. 14.** AS 34.45.320(d) is amended to read:

4 (d) The holder of an equity [OWNERSHIP] interest under AS 34.45.200 shall
5 deliver a duplicate certificate, or other evidence of ownership if the holder does not
6 issue certificates of ownership, to the department. Upon delivery of a duplicate
7 certificate to the department, the holder and a transfer agent, registrar, or other person
8 acting for or on behalf of a holder in executing or delivering the duplicate certificate is
9 relieved of all liability, in accordance with the provisions of AS 34.45.330 to every
10 person, including a person acquiring the original certificate or the duplicate of the
11 certificate issued to the department, for loss or damage resulting to a person by the
12 issuance and delivery to the department of the duplicate certificate.

13 *** Sec. 15.** AS 34.45.330(c) is amended to read:

14 (c) A holder who has delivered property [, INCLUDING A CERTIFICATE
15 OF AN OWNERSHIP INTEREST IN A BUSINESS ASSOCIATION,] other than
16 money to the department under AS 34.45.110 - 34.45.430 [,] may reclaim the property
17 if it is still in the possession of the department, without payment of a fee or other
18 charge, upon filing proof that the owner has claimed the property from the holder."
19

20 Renumber the following bill sections accordingly.

21

22 Page 8, line 23:

23 Delete "ownership"

1 Insert "equity [OWNERSHIP]"

2

3 Page 8, line 24, following "associations":

4 Insert "or financial organizations"

5

6 Page 9, lines 11 - 18:

7 Delete all material.

8

9 Renumber the following bill sections accordingly.

10

11 Page 10, following line 10:

12 Insert a new bill section to read:

13 "* **Sec. 18.** AS 34.45.760(11) is repealed."

14

15 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 330(L&C)

1 Page 3, lines 15 - 30:

2 Delete all material and insert:

3 "Sec. 34.45.175. Certain property distributed in insurance company
4 reorganizations. (a) The following property distributable in the course of a
5 demutualization or related reorganization of an insurance company is considered
6 abandoned two years after the date of the demutualization or reorganization:

7 (1) money that remains unclaimed, if the owner has not otherwise
8 communicated with the holder or the holder's agent regarding the property, as
9 evidenced by a memorandum or other record on file with the holder or the holder's
10 agent;

11 (2) stock or other equity interest if

12 (A) the instrument or statement reflecting the distribution has
13 been

14 (i) mailed to the owner and returned by the post office
15 as undeliverable; or

16 (ii) not mailed to the owner because the owner's address
17 on the holder's books and records is known to be incorrect; and

18 (B) the owner has not otherwise communicated with the holder
19 or the holder's agent regarding the property, as evidenced by a memorandum or
20 other record on file with the holder or the holder's agent.

21 (b) Property that is not subject to (a) of this section is reportable as otherwise
22 provided in AS 34.45.110 - 34.45.780."

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

April 18, 2004

The Honorable Bruce Weyhrauch,
Chair – House State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Re: HB 330; Shortening time periods after which certain unclaimed property is presumed to be abandoned.

Dear Mr. Chair:

HB 330 is presently in the House State Affairs Committee. This legislation amends AS 34.45, Alaska's Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state. Generally, those properties presumed abandoned after five years will, under HB 330, be presumed abandoned after three years; property presently presumed abandoned after seven years will be presumed to be abandoned after five years. The first year will see a strong increase in property reported because of the changes in dormancy, requiring additional personal and contractual services. During the following two years there will be additional reporting of property as holders compress their records into the shortened dormancy periods. After the third year, reporting will be at a consistent level. The small fiscal impact to this legislation will outweigh the increase in FY 2005 revenues, and Alaska's Uniform Unclaimed Property Act will be more up to date.

There is no opposition to this legislation, and there are several benefits of this legislation, including protection to consumers. The Department of Revenue will have a higher success rate of locating owners during shorter abandonment periods, and the holder is relieved of the liability of carrying old accounts on their books. Additionally, Alaskans will benefit because revenues will be held by the state and used for various projects until the owners come forward, and because the state will earn interest on the accounts.

I have attached a sectional analysis explaining the bill, and the need for its passage.

Your scheduling HB 330 for a hearing in the House State Affairs Committee at your earliest convenience will be appreciated.

Very truly yours,



Landa B. Baily
Special Assistant to
Commissioner Corbus

Enclosure

State of Alaska

Department of Revenue

Treasury Division Unclaimed Property Unit



FRANK MURKOWSKI, GOVERNOR

333 WILLOUGHBY AVENUE, 11TH FLOOR
PO BOX 110405
JUNEAU, ALASKA 99811-0405
PHONE: (907)465-3728
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Reasons for Proposed Unclaimed Property Legislative Changes HB 330

1. This change to section AS 34.45.110(a) will make the general abandoned period for property not defined in other parts of the Act three years instead of five years.
2. This change will make section AS 34.45.150(a) consistent with the Uniform Unclaimed Property Act. Time period for money payable on a negotiable instrument is changed from seven years to five years.
3. The change will make section AS 34.45.160(a) consistent with the Uniform Unclaimed Property Act. Ensures all property regardless of known or unknown by the owner will fall under the protection of the Act.
4. This change will make section AS 34.45.170(a) consistent with the Uniform Unclaimed Property Act. When life endowment and annuity contracts do not mature by actual proof of death, but the insured or annuitant has reached the limiting age of mortality, they should be reported consistent with other forms of life and endowment insurance.
5. Adds a new section AS 34.45.175 for distributions in insurance company reorganizations. Mutual companies are owned by their policyholders. In order to create capital or enhance financial strength mutual companies demutualize and convert to a stock form of ownership. Policyholders are entitled to receive compensation in the form of cash or stock.

Mutual companies do not have reoccurring contact with fully paid policyholders. Contact only occurs when a policyholder's estate files a claim for benefits.

Alaska's current statutes do not take into consideration the fact that virtually all policyholders were lost as of the date of the demutualization and have in fact been lost for decades prior.

6. Deleting AS 34.45.200 (b) allows companies to report unclaimed property based on inactivity or lack of owner contact. Alaska's current language requires the company to make seven distributions before property is considered unclaimed. E.g. a company may issue stock splits every two or three years. In that case, it could take fourteen to twenty-one years before it would become reportable as unclaimed property.
7. This change will make section AS 34.45.220(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.
8. This change will make section AS 34.45.240(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.

9. Adds a new section, AS 34.45.270 Burden of Proof consistent with the Uniform Unclaimed Property Act. This language clearly specifies an obligation exists between a Holder and an Owner as evidenced by a check or draft. The Holder must defend satisfaction, discharge or want by the owner of the consideration in order to exclude the item as an outstanding obligation.
10. This change to AS 34.45.280(f) allows holders of unclaimed property to aggregate and report property with a value greater than \$750.
11. This change makes AS 34.45.290 consistent with the Uniform Unclaimed Property Act. The new language allows the department to examine company records to verify compliance. Current statute allows examination if there is a reason to believe based on reporting discrepancies.
12. AS 34.45.300 (a) increases the record retention period to 10 years. Holder's records are vital to verifying an owner's claim.
13. Replacing AS 34.45.310 allows the department to evaluate technological advancements, promotional resources and cost effective methods to notify owners of unclaimed property. Current statute mandates publishing a notice in newspapers throughout the state. Last year's publication cost was \$30,000. Publication costs are expected to continually increase in the future.
14. AS 34.45.760 (10) Alaska has natural resources yet the unclaimed property statute does not clearly define mineral and mineral proceeds. These types of property are often missed during a Holder's reporting process. These definitions are consistent with the Uniform Unclaimed Property Act.
15. AS 34.45.760(11) Repeal
16. AS 34.45.760 (18) Gift certificates are no longer just a piece of paper. Gift obligations are in many forms such as electronic cards, on-line gift accounts, stored-value cards, etc. This description helps define a gift obligation as any commitment between a holder and a purchaser where an exchange of money for future goods or services has transpired. (19) adds definition for mineral, section (20) adds definition for mineral proceeds consistent with Uniform Act.
17. Standard transition language
18. Effective date

HB

331

HOUSE COMMITTEE REPORT

(7)
 Date Referred to Committee: May 21, 2003 FURTHER REFERRALS: Labor and Commerce
Finance

Date of Committee Action: April 14/2004

The STATE AFFAIRS Committee considered: HB 331

HOUSE BILL NO. 331 RETIREMENT: TEACHERS/JUDGES/PUB EMPLOYEES

"An Act relating to federal requirements for governmental plan and other qualifications for the teachers' retirement system, the public employees' retirement system, and the judicial retirement system; and providing for an effective date."

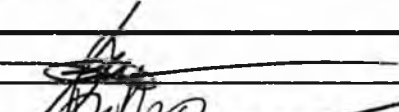
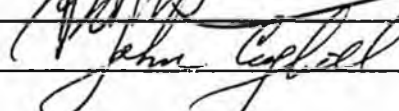
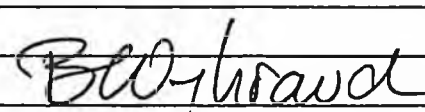
Recommends it be replaced with [] HCS or [] CS for HB 331 (STA)
 For Senate Bills with new title: [] Technical Title [] New Title: HCR _____ [] Same Title [] New Title

- [] attach amendments
- [] add new referral to _____ Committee
- [] Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>ADM</u>				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
<u>ADM</u>	<u>1</u>			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	<u>Lynn</u>	✓			
	<u>Coghill</u>	X		✓	
Chair: 	<u>Weyhrauch</u>	Y			
Chair:					

23-GH1009\D
Craver
4/1/04

Rep Weyrauch
Co-p 102

CS FOR HOUSE BILL NO. 331()

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

BY

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to federal tax requirements for and other provisions of the teachers'
2 retirement system, the public employees' retirement system, and the judicial retirement
3 system; removing village public safety officers from the public employees' retirement
4 system; eliminating the public employees' retirement system conditional duty to refund
5 contributions under \$1,000 to inactive employees; limiting service credit for village
6 public safety officer service in the public employees' retirement system to five years; and
7 providing for an effective date."

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

9 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
10 to read:

11 **PURPOSE.** The purpose of this Act is to

12 (1) ensure that the teachers' retirement system, the public employees'
13 retirement system, and the judicial retirement system continue to meet governmental plan

1 qualifications set by the Internal Revenue Service so that those plans may qualify for
2 favorable federal tax treatment; and

3 (2) implement changes in those retirement systems so that members can take
4 advantage of changes in federal tax laws and better plan their retirement.

5 * Sec. 2. AS 14.25.010(b) is amended by adding a new subsection to read:

6 (c) An amendment to this chapter does not provide a person with a vested
7 right to a benefit if the Internal Revenue Service determines that the amendment will
8 result in disqualification of the plan under the Internal Revenue Code.

9 * Sec. 3. AS 14.25.050(a) is amended to read:

10 (a) Except as provided in (c) of this section, beginning January 1, 1991, each
11 member [TEACHER] shall contribute to the system an amount equal to 8.65 percent
12 of the member's [TEACHER'S] base salary accrued from July 1 to the following
13 June 30. The employer shall deduct the contribution from the member's
14 [TEACHER'S] salary at the end of each payroll period, and the contribution shall be
15 credited by the system to the member contribution account. The contributions
16 shall be deducted from employee compensation before the computation of applicable
17 federal taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2).
18 A member may not have the option of making the payroll deduction directly in cash
19 instead of having the contribution picked up by the employer.

20 * Sec. 4. AS 14.25.060(a) is amended to read:

21 (a) If a member first joined the system [SERVICE] before July 1, 1990, and
22 has military service or Alaska Bureau of Indian Affairs (BIA) service, or if a member
23 joined the system before July 1, 1978, and has creditable outside service, the member
24 may claim this service. If the member claims the service, the member is indebted
25 to the system as follows:

26 (1) at [AT] the time of first becoming a member of the system, the
27 arrearage indebtedness is seven percent of the base salary multiplied by the total
28 number of years of creditable outside, military, and Alaska BIA service; the [. THE]
29 administrator shall add compound interest at the rate prescribed by regulation to the
30 arrearage indebtedness beginning July 1, 1963, or at the time the member first
31 becomes eligible to claim the service, whichever is later, to the date of payment or the

1 date of retirement, whichever occurs first; [.]

2 (2) if [IF] a member terminates from the system and is subsequently
3 reemployed as a member, the arrearage indebtedness to the system for outside,
4 military, or Alaska BIA service accumulated in the interim is seven percent of the base
5 salary upon reentering membership service, multiplied by the number of years of
6 interim outside, military, and Alaska BIA service; compound [. COMPOUND]
7 interest at the rate prescribed by regulation shall be added to the arrearage
8 indebtedness beginning July 1, 1963, or the date of reemployment as a member,
9 whichever is later, to the date of payment or the date of retirement, whichever occurs
10 first.

11 * Sec. 5. AS 14.25.062 is amended to read:

12 Sec. 14.25.062. Reinstatement indebtedness. A member [TEACHER] who
13 has received a refund of contributions in accordance with AS 14.25.150 forfeits
14 corresponding credited service under this chapter. A member may elect to
15 reinstate credited service associated with the refund by repaying the total amount
16 of the refund. If an election is made under this section, an indebtedness [IS
17 INDEBTED] to the system in the amount of the total refund shall be established.
18 Compound interest at the rate prescribed by regulation shall be added to the
19 reinstatement indebtedness from the date of the refund to the date of repayment or the
20 date of retirement, whichever occurs first.

21 * Sec. 6. AS 14.25.070 is amended to read:

22 Sec. 14.25.070. Contributions by employer. An employer shall contribute to
23 the system an amount equal to the percentage, as certified by the administrator, of the
24 sum total of the base salaries of all members [TEACHERS] that is required in
25 addition to member [TEACHER] contributions to provide the benefits of this chapter
26 times the sum total of the base salaries paid to members [TEACHERS], including any
27 adjustments to contributions required by AS 14.25.173(a), by the employer.

28 * Sec. 7. AS 14.25.075(a) is amended to read:

29 (a) An employee who is eligible to purchase credited service under
30 AS 14.25.047 or 14.25.048, a member who is eligible to purchase credited service
31 under AS 14.25.048, 14.25.050, 14.25.060 [AS 14.25.060], 14.25.061, 14.25.062,

1 [OR] 14.25.100, or 14.25.107, or a teacher who is eligible to purchase credited service
 2 under AS 14.20.345, AS 14.25.050, 14.25.062, or 14.25.105 [IS A MEMBER FOR
 3 PURPOSES OF THIS SECTION. A MEMBER], in lieu of making payments directly
 4 to the system, may elect to have the member's employer make payments as provided
 5 in this section.

6 * Sec. 8. AS 14.25.075(b) is amended to read:

7 (b) A member may elect to have the employer make payments for all or any
 8 portion of the amounts payable for the member's purchase of credited service through
 9 a salary reduction program as follows:

10 (1) the amounts paid under a salary reduction program are in lieu of
 11 contributions by the member making the election; the electing member's salary or
 12 other compensation shall be reduced by the amount paid by the employer under this
 13 subsection [SECTION];

14 (2) the member shall make an irrevocable election under this
 15 subsection [SECTION] to purchase credited service as permitted in AS 14.20.345,
 16 AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, AS 14.25.062, 14.25.100,
 17 [OR] 14.25.105, or 14.25.107 before the member's termination of employment; the
 18 irrevocable election must specify the number of payroll periods that deductions will
 19 be made from the member's compensation and the dollar amount of deductions for
 20 each payroll period during the specified number of payroll periods; the deductions
 21 made under this paragraph cease upon the earlier of the member's termination
 22 of employment with the employer or the member's death; amounts paid by an
 23 employer under (f) of this section may not be applied toward the payment of the
 24 dollar amount of the deductions representing the portion of the credited service
 25 that is being purchased by the member through payroll deduction in accordance
 26 with the member's irrevocable election under this paragraph;

27 (3) [A MEMBER WHO MAKES AN ELECTION UNDER THIS
 28 SECTION TO HAVE THE EMPLOYER MAKE PAYMENTS FOR LESS THAN
 29 ALL OF THE AMOUNTS PAYABLE FOR THE MEMBER'S PURCHASE OF
 30 CREDITED SERVICE MAY SUBSEQUENTLY ELECT TO HAVE THE
 31 EMPLOYER MAKE PAYMENTS FOR ALL OR ANY PORTION OF THE

1 REMAINING AMOUNTS PAYABLE FOR THE MEMBER'S PURCHASE OF
2 CREDITED SERVICE;

3 (4)] amounts paid by an employer under this subsection [SECTION]
4 shall be treated as employer contributions for the purpose of determining tax treatment
5 under 26 U.S.C. (Internal Revenue Code); the amounts paid by the employer under
6 this section may not be included in the member's gross income for income tax
7 purposes until those amounts are distributed by refund or retirement benefit payments.

8 * Sec. 9. AS 14.25.075(f) is amended to read:

9 (f) The [TO THE EXTENT THAT A PAYMENT UNDER THIS SECTION
10 DOES NOT ALTER, AMEND, OR REVOKE ANY ONE OR MORE CURRENTLY
11 EFFECTIVE ELECTIONS MADE BY THE EMPLOYEE, THE] board may accept
12 rollover [EMPLOYEE] contributions from a member, and direct transfers as
13 described in the subsection, for the purchase, in whole or in part, of forfeited
14 credited service under this section for the reinstatement, in whole or in part, of
15 forfeited credited service under AS 14.25.062. Contributions made under this
16 subsection may not be applied to purchase service being paid under (b) of this
17 section. A rollover contribution or transfer as described in this subsection [,
18 WHICH] shall [ALSO] be treated as employer contributions for the purpose of
19 determining tax treatment under the Internal Revenue Code and may be made [, FOR
20 THE PAYMENT FOR CREDITED SERVICE PURCHASES MADE UNDER THIS
21 SECTION IN WHOLE OR IN PART,] by any one or a combination of the following
22 methods:

23 (1) subject to the limitations prescribed in [26 U.S.C. 401(a)(3) AND]
24 26 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more
25 retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or
26 accepting rollovers directly from a member [AN EMPLOYEE];

27 (2) subject to the limitations prescribed in 26 U.S.C. 408(d)(3)(A)(ii),
28 accepting from a member [AN EMPLOYEE] conduit rollover contributions that are
29 received by the member [EMPLOYEE] from one or more conduit rollover individual
30 retirement accounts previously established by the member [EMPLOYEE];

31 (3) subject to the limitations prescribed in 26 U.S.C. 403(b)(13),

1 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
2 member [EMPLOYEE], on or [AND] after January 1, 2002, from a tax sheltered
3 annuity described in 26 U.S.C. 403(b);

4 (4) subject to the limitations prescribed in 26 U.S.C. 457(e)(17),
5 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
6 member [EMPLOYEE], on or [AND] after January 1, 2002, from an eligible deferred
7 compensation plan of a tax-exempt organization or a state or local government
8 described in 26 U.S.C. 457(b);

9 (5) accepting direct trustee-to-trustee transfer from an account
10 established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska
11 Supplemental Annuity Plan).

12 * Sec. 10. AS 14.25.075(i) is amended to read:

13 (i) On satisfaction of the eligibility requirements of AS 14.20.345,
14 AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.062, 14.25.100,
15 [OR] 14.25.105, or 14.25.107, the requirements of this section, and the administrative
16 filing requirements specified by the board, the system shall adjust the member's
17 credited service history and add any additional service credits acquired.

18 * Sec. 11. AS 14.25.110(k) is amended to read:

19 (k) For system fiscal years beginning after December 31, 1975, and
20 notwithstanding [NOTWITHSTANDING] any other provision of this chapter, the
21 projected annual benefit provided by this chapter and the benefit from all other defined
22 benefit plans required to be aggregated with the benefits from this system under the
23 provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount
24 permitted under 26 U.S.C. 415 at any time. In the event that any projected annual
25 benefit of a member exceeds the limitation of 26 U.S.C. 415 for a limitation year, the
26 system shall take any necessary remedial action to correct an excess accrued annual
27 benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under that
28 statute, as applied to qualified defined benefit plans of governmental employers are
29 incorporated as part of the terms and conditions of the system. This subsection applies
30 to any member of this system.

31 * Sec. 12. AS 14.25.165(h) is amended to read:

1 (h) Unless otherwise specified, the provisions of this section apply to calendar
2 years beginning on or after January 1, 1983 [1989].

3 * Sec. 13. AS 14.25.220(2) is amended to read:

4 (2) "actuarial adjustment" means the adjustment necessary to obtain
5 equality in value of the aggregate expected payments under two different forms of
6 pension payments, considering expected mortality and interest earnings on the basis of
7 assumptions, factors, and methods specified in regulations issued under the
8 system that are formally adopted under AS 14.25.022 by the board and that
9 clearly preclude employer discretion in the determination of the amount of any
10 member's benefit [TABLES REFERRED TO IN THE INFORMATION
11 HANDBOOK PUBLISHED UNDER AS 14.25.030(5)];

12 * Sec. 14. AS 14.25.220(42) is amended to read:

13 (42) "teacher" and [OR] "member" are used interchangeably under
14 this chapter and mean [MEANS] a person eligible to participate in the system and
15 who is covered by the system, limited to

16 (A) a certificated full-time or part-time elementary or
17 secondary teacher, a certificated school nurse, or a certificated person in a
18 position requiring a teaching certificate as a condition of employment in a
19 public school of the state, the Department of Education and Early
20 Development, or the Department of Labor and Workforce Development;

21 (B) a full-time or part-time teacher of the University of Alaska
22 or a person occupying a full-time administrative position at the University of
23 Alaska that requires academic standing; the approval of the administrator must
24 be obtained before an administrative position qualifies for membership in the
25 system; however, a teacher or administrative person at the university who is
26 participating in the optional university retirement program under AS 14.40.661
27 - 14.40.799 is not a member under this system;

28 (C) a state legislator who elects membership under
29 AS 14.25.040(b);

30 * Sec. 15. AS 22.25.011 is amended to read:

31 **Sec. 22.25.011. Contributions of judges and justices.** Each justice and

1 judge appointed after July 1, 1978, is a member under the judicial retirement
2 system as of the date of the justice's or judge's appointment and shall contribute
3 seven percent of the base annual salary received by the justice or judge to the judicial
4 retirement system. Contributions shall be made for all creditable service under this
5 chapter up to a maximum of 15 years. This contribution is made in the form of a
6 deduction from compensation, at the end of each payroll period, and is made even if
7 the compensation paid in cash to the justice or judge is reduced below the minimum
8 prescribed by law. The contributions shall be deducted from the justice's or judge's
9 compensation before the computation of applicable federal taxes and shall be treated
10 as employer contributions under 26 U.S.C. 414(h)(2). A member may not have the
11 option of making the payroll deduction directly in cash instead of having the
12 contribution picked up by the employer. Each justice and judge is considered to
13 consent to the deduction from compensation. Payment of compensation less the
14 deduction constitutes a full discharge of all claims and demands for the services
15 rendered by the justice or judge during the period covered by the payment, except as
16 to the benefits provided for under this chapter. The contributions shall be credited to
17 the judicial retirement fund established in accordance with AS 22.25.048.

18 * Sec. 16. AS 22.25.012(a) is amended to read:

19 (a) An administrative director of the Alaska court system appointed under art.
20 IV, sec. 16 of the state constitution is a member under the judicial retirement
21 system as of the date of the administrative director's appointment and is entitled
22 to retirement benefits under this chapter on the terms and conditions applicable to a
23 superior court judge appointed after July 1, 1978, except that an administrative
24 director may receive retirement benefits only with service as administrative director
25 for 10 or more years.

26 * Sec. 17. AS 22.25.025 is amended by adding a new subsection to read:

27 (b) An amendment to this chapter does not provide a person with a vested
28 right to a benefit if the Internal Revenue Service determines that the amendment will
29 result in disqualification of the plan under the Internal Revenue Code.

30 * Sec. 18. AS 22.25.048(i) is amended to read:

31 (i) If the judicial retirement system is terminated,

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(1) a member whose contributions have not been refunded, regardless of the member's employment status at the date of the termination of the system, shall be considered fully vested in the member's adjusted accrued retirement benefits as of the date of the termination of the system; and

(2) if [IF, UPON TERMINATION OF THE SYSTEM,] all liabilities are satisfied, any excess assets arising from erroneous actuarial computation shall revert to the employer.

* Sec. 19. AS 22.25.900(1) is amended to read:

(1) "actuarial equivalent" means the adjustment necessary to obtain equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of assumptions, factors and methods specified in regulations issued under the system that are formally adopted under AS 22.25.027 by the commissioner of administration that clearly preclude employer discretion in the determination of the amount of any justice's, judge's, or member's benefit [TABLES REFERRED TO IN THE INFORMATION HANDBOOK PUBLISHED UNDER AS 22.25.025];

* Sec. 20. AS 39.35.010 is amended by adding a new subsection to read:

(d) An amendment to this chapter does not provide a person with a vested right to a benefit if the Internal Revenue Service determines that the amendment will result in disqualification of the plan under the Internal Revenue Code.

* Sec. 21. AS 39.35.120 is amended to read:

Sec. 39.35.120. Commencement of participation. (a) An employee of the state shall be included in this system upon commencement of employment with the state, or on January 1, 1961, whichever is later. Unless an employee has elected to participate in the optional university retirement program under AS 14.40.661 - 14.40.799, an employee of a political subdivision or public organization that becomes an employer shall be included in the system on the effective date of the employer's participation or the date of the employee's commencement of employment with the employer, whichever is later. [UNLESS THE VILLAGE PUBLIC SAFETY OFFICER WAIVES COVERAGE UNDER AS 39.35.127, A VILLAGE PUBLIC SAFETY OFFICER EMPLOYED UNDER THE VILLAGE PUBLIC SAFETY

1 OFFICER PROGRAM ESTABLISHED IN AS 18.65.670 IS INCLUDED IN THIS
2 SYSTEM ON THE EFFECTIVE DATE OF THIS BILL SECTION OR UPON THE
3 OFFICER'S COMMENCEMENT OF EMPLOYMENT WITH THE EMPLOYER,
4 WHICHEVER IS LATER.]

5 (b) Inclusion in the system is a condition of employment for an employee
6 except as otherwise provided for

7 (1) an elected official;

8 (2) an employee making an election under AS 39.35.150(b); and

9 (3) an employee of the university who has elected to participate in the
10 optional university retirement program under AS 14.40.661 - 14.40.799 [; AND

11 (4) A VILLAGE PUBLIC SAFETY OFFICER EMPLOYED BY A
12 NONPROFIT REGIONAL CORPORATION AS SET OUT IN AS 39.35.127].

13 * Sec. 22. AS 39.35.165(b) is amended to read:

14 (b) An employee may elect to have the employer make payments for all or any
15 portion of the amounts payable for the employee's purchase of credited service
16 through a salary reduction program as follows:

17 (1) the amounts paid under a salary reduction program are in lieu of
18 contributions by the employee making the election; the electing employee's salary or
19 other compensation shall be reduced by the amount paid by the employer under this
20 subsection;

21 (2) the employee shall make an irrevocable election under this section
22 to purchase credited service as permitted in AS 39.35.310, 39.35.330, 39.35.340,
23 39.35.342, 39.35.345, 39.35.350, 39.35.360, 39.35.370, 39.35.375, or 39.35.381 and
24 before the employee's termination of employment; the irrevocable election must
25 specify the number of payroll periods that deductions will be made from the
26 employee's compensation and the dollar amount of deductions for each payroll period
27 during the specified number of payroll periods; the deductions made under this
28 paragraph cease upon the earlier of the member's termination of employment
29 with the employer or the member's death; amounts paid by an employer under
30 (f) of this section may not be applied toward the payment of the dollar amount of
31 the deductions representing the portion of the credited service that is being

1 purchased by the member through payroll deduction in accordance with the
2 member's irrevocable election under this subsection;

3 (3) [AN EMPLOYEE WHO MAKES AN ELECTION UNDER THIS
4 SECTION TO HAVE THE EMPLOYER MAKE PAYMENTS FOR LESS THAN
5 ALL OF THE AMOUNTS PAYABLE FOR THE EMPLOYEE'S PURCHASE OF
6 CREDITED SERVICE MAY SUBSEQUENTLY ELECT TO HAVE THE
7 EMPLOYER MAKE PAYMENTS FOR ALL OR ANY PORTION OF THE
8 REMAINING AMOUNTS PAYABLE FOR THE EMPLOYEE'S PURCHASE OF
9 CREDITED SERVICE;

10 (4)] amounts paid by an employer under this subsection [SECTION]
11 shall be treated as employer contributions for the purpose of determining tax treatment
12 under the Internal Revenue Code; the amounts paid by the employer under this section
13 may not be included in the member's gross income for income tax purposes until those
14 amounts are distributed by refund or retirement benefit payments.

15 * Sec. 23. AS 39.35.165(f) is amended to read:

16 (f) The [TO THE EXTENT THAT A PAYMENT UNDER THIS SECTION
17 DOES NOT ALTER, AMEND, OR REVOKE ANY ONE OR MORE CURRENTLY
18 EFFECTIVE ELECTIONS MADE BY THE EMPLOYEE, THE] board may accept
19 rollover [EMPLOYEE] contributions from a member and direct transfers, as
20 described in this subsection, for the purchase, in whole or in part, of credited
21 service for the reinstatement, in whole or in part, of forfeited credited service
22 under AS 39.35.350. A rollover contribution or transfer as described in this
23 subsection [, WHICH] shall also be treated as employer contributions for the purpose
24 of determining tax treatment under the Internal Revenue Code and may be made [,
25 FOR THE PAYMENT FOR CREDITED SERVICE PURCHASES MADE UNDER
26 THIS SECTION IN WHOLE OR IN PART,] by any one or a combination of the
27 following methods:

28 (1) subject to the limitations prescribed in 26 U.S.C. 401(a)(3) and 26
29 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more
30 retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or
31 accepting rollovers directly from a member [AN EMPLOYEE];

1 (2) subject to the limitations prescribed in 26 U.S.C. 408(d)(3)(A)(ii),
2 accepting from a member [AN EMPLOYEE] conduit rollover contributions that are
3 received by the employee from one or more conduit rollover individual retirement
4 accounts previously established by the member [EMPLOYEE];

5 (3) subject to the limitations prescribed in 26 U.S.C. 403(b)(13),
6 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
7 member [EMPLOYEE], on or [AND] after January 1, 2002, from a tax sheltered
8 annuity described in 26 U.S.C. 403(b);

9 (4) subject to the limitations prescribed in 26 U.S.C. 457(e)(17),
10 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
11 member [EMPLOYEE], on or [AND] after January 1, 2002, from an eligible deferred
12 compensation plan of a tax-exempt organization or a state or local government
13 described in 26 U.S.C. 457(b);

14 (5) accepting direct trustee-to-trustee transfer from an account
15 established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska
16 Supplemental Annuity Plan).

17 * Sec. 24. AS 39.35.200(b) is amended to read:

18 (b) [IF, UPON TERMINATION OF EMPLOYMENT, AN EMPLOYEE
19 HAS CREDITED SERVICE OF LESS THAN FIVE YEARS AND HAS LESS
20 THAN \$1,000 IN THE EMPLOYEE CONTRIBUTION ACCOUNT, A REFUND OF
21 THE EMPLOYEE CONTRIBUTION ACCOUNT MUST BE MADE UNLESS THE
22 EMPLOYEE INDICATES IN WRITING THAT FUTURE RETIREMENT IS
23 INTENDED AND CONTRIBUTIONS SHOULD NOT BE REFUNDED.] An
24 employee who is reemployed with an employer and whose contributions have not
25 been refunded before reemployment is not eligible for a refund.

26 * Sec. 25. AS 39.35.342(a) is amended to read:

27 (a) A [EXCEPT FOR EMPLOYMENT FOR WHICH THE EMPLOYEE
28 WAIVED COVERAGE UNDER AS 39.35.127, A] vested employee is entitled to
29 credited service for employment as a village public safety officer under the program
30 established under AS 18.65.670 for which the employee has not otherwise received
31 credited service under this system. An employee is not entitled to credited service for

1 employment as a village public safety officer unless the employee was employed as a
2 village public safety officer for at least one year. The credited service claimed
3 under this section may not exceed five years. Benefits are not payable on credited
4 service for village public safety officer service under this section unless the employee
5 makes retroactive contributions to the system for the period of time that service credit
6 is claimed.

7 * Sec. 26. AS 39.35.370(i) is amended to read:

8 (i) For system fiscal years beginning after December 31, 1975, and
9 notwithstanding [NOTWITHSTANDING] any other provision of this chapter, the
10 projected annual benefit provided by this chapter and the benefit from all other defined
11 benefit plans required to be aggregated with the benefits from this system under the
12 provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount
13 permitted under 26 U.S.C. 415 at any time. In the event that any projected annual
14 benefit of a member exceeds the limitation of 26 U.S.C. 415(g) for a limitation year,
15 the system shall take any necessary remedial action to correct an excess accrued
16 annual benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under
17 that statute, as applied to qualified defined benefit plans of governmental employers
18 are incorporated as part of the terms and conditions of the system. This subsection
19 applies to any member of this system.

20 * Sec. 27. AS 39.35.371(h) is amended to read:

21 (h) Unless otherwise specified, the provisions of this section apply to calendar
22 years beginning on or after January 1, 1983 [1989].

23 * Sec. 28. AS 39.35.680(2) is amended to read:

24 (2) "actuarial adjustment" means the adjustment necessary to obtain
25 equality in value of the aggregate expected payments under two different forms of
26 pension payments, considering expected mortality and interest earnings on the basis of
27 assumptions, factors and methods specified in regulations issued under this
28 system that are formally adopted under AS 39.35.042 by the board that clearly
29 preclude employer discretion in the determination of the amount of any
30 member's benefit [TABLES REFERRED TO IN THE INFORMATION
31 HANDBOOK PUBLISHED UNDER AS 39.35.060(8)];

1 * Sec. 29. AS 39.35.680(17) is amended to read:

2 (17) "employer" means

3 (A) the State of Alaska; or

4 (B) [A NONPROFIT REGIONAL CORPORATION, BUT
5 ONLY WITH RESPECT TO VILLAGE PUBLIC SAFETY OFFICERS
6 EMPLOYED BY THE CORPORATION UNDER AS 18.65.670 WHO HAVE
7 NOT TERMINATED PARTICIPATION IN THE SYSTEM UNDER
8 AS 39.35.127; OR

9 (C)] a political subdivision or public organization of the state
10 that participates in the system;

11 * Sec. 30. AS 18.65.670(d); AS 39.35.127, and 39.35.285 are repealed.

12 * Sec. 31. The uncodified law of the State of Alaska enacted in sec. 49, ch. 59, SLA 2002,
13 is amended by adding a new subsection to read:

14 (f) Notwithstanding AS 14.25.177 and AS 39.35.547, the following provisions
15 of this Act are retroactive to January 1, 1993:

16 (1) AS 14.25.163, enacted by sec. 9 of this Act;

17 (2) AS 22.25.022, enacted by sec. 19 of this Act;

18 (3) AS 39.35.195, enacted by sec. 32 of this Act.

19 * Sec. 32. Section 48, ch. 59, SLA 2002, is repealed.

20 * Sec. 33. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
23 catchline for

24 (1) AS 14.25.050 from "Contributions by teachers" to "Contributions of
25 members";

26 (2) AS 39.35.546 from "Tax exemption" to "State and federal taxation of
27 benefits."

28 * Sec. 34. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT AND BENEFITS

FRANK H. MURKOWSKI, GOVERNOR

PO BOX 110203
JUNEAU, AK 99811-0203
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March 29, 2004

The Honorable Bruce Weyhrauch
House State Affairs Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

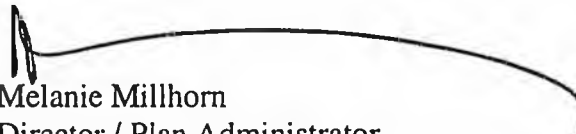
RE: Committee Substitute for House Bill 331
Federal requirements related to retirement system plan qualification

Dear Mr. Chair:

The Committee Substitute for House Bill No. 331 places into law those changes to the statutes of the Alaska Public Employees' System, Alaska Teachers' Retirement System, and the Alaska Judicial Retirement System that are required as result of a detailed review of each plan by the Internal Revenue Service. These changes must be implemented so that all three plans remain proper qualified plans under the Internal Revenue Code.

The changes in the original bill and this Committee Substitute do not add new benefits that have not been provided for previously. It also does not increase costs to the state, political subdivisions, and school districts, if the legislation is adopted in the form submitted.

Sincerely,


Melanie Millhorn
Director / Plan Administrator

MAM/mm

Attachments

Fiscal Note CSHB 331
Sectional Analysis
CS for House Bill No. 331 (STA)

cc: Ray Matiashowski
Deputy Commissioner

Kevin Jardell
Assistant Commissioner

Anselm Staack
Chief Financial Officer

Sectional Analysis
2004 Session Committee Substitute for HB 331 – CSHB 331 ()

This is an Act relating to federal tax requirements for and other provisions of the teachers' retirement system, the public employees' retirement system, and the judicial retirement system; removing village public safety officers from the public employees' retirement system, delete requiring the PERS from refunding accounts under \$1,000 to inactive employees.

The changes introduced with this substitute add the changes requested by the Internal Revenue Service. It also repeals prior legislation (SB 145, 2001 Legislative Session) which would have allowed village public safety officers (VPSO) employed under the village public safety officer program to become members of the public employees' retirement system. The repeal of the inclusion of VPSOs in PERS results directly from a specific negative Private Letter Ruling that does not allow for the inclusion of VPSOs in PERS as specified in SB 145.

Section 1 States that the purpose of this Act is that the retirement systems continue to meet governmental plan qualifications of the Internal Revenue Code. To also make changes so members can take advantage of changes in federal tax laws to better plan retirement.

Sections 2 - 15 relate to the Teachers' Retirement System

Section 2 Provides for a new subsection that states that no amendment to the TRS statutes are meant to provide a vested right to a benefit if the IRS determines that the amendment would result in disqualification of the plan under the Internal Revenue Code.

Section 3 Uses the broader definition of "member or member's" versus the previous use of "teacher or teacher's". A member is more in line with how the IRC refers to plan participants.

(This reference change to "member(s)" versus "teacher(s)" or "employee(s)" is throughout the entire legislation.)

Section 4 Makes the claiming of BIA service optional. The prior language makes the service claim mandatory.

Section 5 Makes the reinstatement of prior service, because of a previous refund of contributions, optional. The prior language makes the reinstatement mandatory.

Section 6 Specifies member(s) rather than teacher(s) in the affected statute.

Section 7 Allows additional sections in TRS to be paid for by pre-tax transfers and contributions, not previously included.

Section 8 Further clarifies the tax law requirements relating to the purchase of service credits through a salary reduction program and conforms the statute to those rules acceptable to the IRS. It adds additional sections where contributions would be acceptable, highlights the fact that the selection is irrevocable, and when contributions must cease.

Section 9 Further clarifies the tax law requirements relating to the purchase of service credit through transfers from other plans, and the coordination required with a salary reduction program.

Section 10 Updates the sections related to purchase of service credits. Conforms this subsection to new additions in other subsections.

Section 11 Conforms the referenced section of the system statute with the IRC date of applicability.

Section 12 Conforms the referenced section of the system statute with the IRC date of applicability.

Section 13 Makes the requirement that the assumptions, factors, and methods that form the basis of actuarial adjustment factors must be specified in regulation.

Section 14 Indicates that "teacher" or "member" is intended to be used interchangeably (the purpose to reduce confusion as to whom a particular section applies to).

Sections 15 - 19 relate to the Judicial Retirement System

Section 15 Further specifies when a Judge or Justice becomes a member in JRS.

Section 16 Further specifies when the administrative director of the Alaska court system becomes a member of JRS.

Section 17 Makes the stipulation that no amendment to the JRS statutes are meant to provide a vested right to a benefit if the IRS determines that the amendment would result in disqualification of the plan under the Internal Revenue Code.

Section 18 Specifies vesting criteria in the event of termination of the JRS plan.

Section 19 Makes the requirement that the assumptions, factors, and methods that form the basis of actuarial adjustment factors must be specified in regulation.

Sections 20 - 30 relate to the Public Employees' Retirement System

Section 20 Makes the stipulation that no amendment to the PERS statutes are meant to provide a vested right to a benefit if the IRS determines that the amendment would result in disqualification of the plan under the Internal Revenue Code.

Section 21 Removes Village Public Safety Officers employed by a nonprofit regional corporation as included PERS members by virtue of their employment status with the nonprofit regional corporation.

Section 22 Further clarifies the tax law requirements relating to the purchase of service credits through a salary reduction program and conforms the statute to those rules acceptable to the IRS. It adds additional sections where contributions would be acceptable, highlights the fact that the selection is irrevocable, and when contributions must cease.

Section 23 Further clarifies the tax law requirements relating to the purchase of service credit through transfers from other plans, and the coordination required with a salary reduction program.

Section 24 Removes the requirement for a member to cash out their account if they have less than five years of service and less than \$1,000 in their refundable balance.

Section 25 Part of the coordinated VPSO changes.

Section 26 Conforms the referenced section of the system statute with the IRC date of applicability.

Section 27 Conforms the referenced section of the system statute with the IRC date of applicability.

Section 28 Makes the requirement that the assumptions, factors, and methods that form the basis of actuarial adjustment factors must be specified in regulation.

Section 29 Part of the coordinated VPSO removal. Removes a nonprofit regional corporation who employs VPSOs as an eligible employer.

Section 30 Part of the coordinated VPSO removal.

Uncodified Law Changes related to indicated plans

Section 31 Stipulates when certain statutes apply to conform them with the Internal Revenue Code.

Section 32 Repeals a prior part of the Uncodified Law that applied to certain contributions that could not take place until the IRS approved them.

Section 33 A reviser's instruction to change section titles in PERS and TRS.

Effective Date

Section 34 Immediate effective date of the Act.

THE
FOLLOWING
DOCUMENT(S)
ARE
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ORIGINAL
COPIES

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 331
 () Publish Date: _____

Committee Substitute for HB 331
 Revision Date/Time (Note if correction): 3/28/2004 08:00 Dept. Affected: Various
 Title An Act relating to federal requirements for governmental plan and other qualifications for TRS, PERS, and JRS RDU various
 Component various
 Sponsor Rules Committee
 Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	-	-	-	-	-	-
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

This bill is required to place into law those changes to the statutes of Public Employees', Teachers', and Judicial Retirement Systems that are required as a result of a review by the Internal Revenue Service. These changes must be implemented so that the plans remain qualified under the Internal Revenue Code.

IMPORTANT NOTE: The present version of HB 331, dated 5/21/03, requires certain revisions and additions to include IRS changes that were received after the date of the bill's initial introduction. Such changes were expected.

AS 24.08.036 FISCAL NOTES ON BILLS AFFECTING STATE RETIREMENT SYSTEMS, requires an additional analysis of the long term and short term costs to the state if a bill is adopted, as well as the impact of the bill on the actuarial soundness of the funds.

This bill, in the form submitted on the date above indicated will not increase costs to the state if it is adopted in the form submitted. Any modification to the legislation from the form here submitted requires an updated analysis.

Prepared by: Melanie Millhorn, Director / Anselm Staack, CFO Phone 465-4408
 Division Retirement and Benefits Date/Time 4/2/04 1:49 PM
 Approved by: Ray Matashowski, Deputy Commissioner Date 4/2/2004
 Agency Administration

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 331
(H) Publish Date: 5/21/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An Act relating to federal require- BRU: Centralized Admin Services
ments for governmental plan qualification... Component: Retirement & Benefits
Sponsor: Rules
Requester: Governor Component No.: 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill makes technical corrections to the Public Employees', Teachers', and Judicial Retirement Systems to bring them into compliance with provisions of the Internal Revenue Code. The bill has no fiscal impact on the State of Alaska or any other employer participating in these systems.

Prepared by: Guy Bell
Division: Retirement & Benefits
Approved by: Mike Miller
Agency: Department of Administration

Phone: _____
Date/Time: May 20, 2003
Date: May 20, 2003

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB331
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
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FAX (907) 465-3532
WWW.GOV.STATE.AK.US

May 20, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to federal requirements for governmental plan qualifications for the teachers' retirement system, the public employees' retirement system, and the judicial retirement system, as required by the federal Internal Revenue Service.

This bill also would further implement changes that allow retirement system members to selectively transfer pre-tax money, or make additional contributions, to repay indebtedness and to purchase permissible service credits in the Alaska retirement systems. These changes would allow members to better plan their retirement and to make their financial future more secure. Taking advantage of such tax law provisions would strengthen the retirement systems in a cost-effective manner.

Sincerely,

A handwritten signature in cursive script that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor

Uniform Issue List Nos.: 402.01-00
414.09-00



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

AUG 13 2003

State of Alaska
PO Box 110203
Juneau, AK 99811-0203

RECEIVED

AUG 19 2003

Div. of Ret. & Benefits

Attn: Melanie A. Millhorn, Director
Public Employees' Retirement System of Alaska

Legend:

State	= State of Alaska
Department B	= Alaska Department of Public Safety
Plan X	= Public Employees' Retirement System of Alaska
Group C Employees	= Employees of the State of Alaska and its political subdivisions, public corporations and public organizations, and employees of other employers whose participation in the Public Employees' Retirement System of Alaska is authorized by Statute D
Statute D	= Alaska Statutes Title 39. Chapter 35. Sections 39.35.010 et seq.
Act E	= The Alaskan Native Claims Settlement Act of 1971, 43 U.S.C. Sections 1601 et seq.
Code F	= Alaska Administrative Code
Manual G	= Village Public Safety Officer Field Manual
Program H	= Village Public Safety Officer Program
Community Officers	= Village Public Safety Officers
Number J	= Eighty-five

K Corporations

= Aleutian Pribilof Islands Association,
Association of Village Council Presidents,
Bristol Bay Native Association,
Chugachmiut,
Kodiak Area Native Association,
Kawerak,
Tanana Chiefs Conference,
Maniilaq Manpower,
Central Council Tlingit Haida Indian Tribes of
Alaska

Dear Ms. Millhorn:

This is in response to correspondence dated October 16, 2001, as supplemented by additional correspondence dated February 1, 2002, March 15, 2002, May 16, 2002, November 1, 2002, November 15, 2002, November 27, 2002, December 6, 2002, March 31, 2003 and May 6, 2003, from your authorized representative, in which you request a ruling on whether the status of Plan X as a governmental plan under §414(d) of the Internal Revenue Code ("the Code") will be adversely affected by the inclusion of Community Officers.

The following facts and representations have been submitted:

Pursuant to Statute D, the State created Plan X (also referred to herein as "the System") in 1961 as a defined benefit pension and retirement system to provide retirement and other benefits for Group C Employees. Plan X is intended to meet the qualification requirements of Code §401(a) to the extent that section applies to a governmental plan within the meaning of §414(d) of the Code.

Effective January 1, 1987, all participating employees are required to contribute a percentage of their compensation to Plan X. No option to receive this amount in cash has ever been permitted. Statute D also allows the State to pick up and pay the mandatory contributions to Plan X pursuant to §414(h) of the Code. As of January 1, 1987, the State has treated the employee contributions in a manner consistent with §414(h)(2).

In 1985, the State established Program H within Department B pursuant to State Statute. Program H was established to assist local governments and villages in protecting life and property in rural areas of the State and to provide probation and parole supervision services. Program H, however, was not designed to be a village or community police force. Under Program H the role of a Community

Officer is more than just law enforcement, and the vast majority of requests for the services of a Community Officer are for non-criminal matters. The Community Officer provides (1) support in the rendering of emergency medical services, (2) search and rescue support, (3) fire safety and prevention support, (4) water and boating safety, and (5) minor law enforcement service to a community, primarily the handling of misdemeanor infractions of the State's criminal code. Community Officers are not obligated to respond to or participate in any type of armed conflict. In accordance with Code F, Community Officers are prohibited under the state funding grants from carrying firearms in the regular course of their duties, except in an emergency.

Community Officers are employed by certain K Corporations established pursuant to Act E. All K Corporations (which may be nonprofit or for profit) employing Community Officers intended to be covered by this ruling are organized under state law as nonprofit corporations and have been in existence prior to the establishment of Program H. Under Act E, Native Indians of the State own the stock in the K Corporations. The State, including Department B, does not participate in the selection of the board of directors for the K Corporations. The involvement of K Corporations in Program H is separable from the other activities and functions of the K Corporations.

Program H is funded through grants issued by Department B. Department B and the K Corporations enter into a written grant agreement detailing the Program responsibilities and duties. Program H sets forth detailed policies and procedures that must be followed in order for a grant to be approved and maintained. In addition, several key personnel positions are required by the Program H enabling legislation to ensure that Program H operates as intended and in accordance with State Statutes. The written agreement between Department B and a K Corporation must also name the K Corporation as the employer, for all purposes, of a Community Officer.

State Troopers are Department B employees. A State Trooper is responsible for making periodic visits to a village or community in which a Community Officer has been assigned, acting as a mentor and as a liaison between the Department and the community or Community Officer, providing on-the-job training to the Community Officer, reviewing the Community Officer's log book, monitoring the Community Officer for compliance with applicable rules and providing the K Corporation with an evaluation of the Community Officer's performance. State Troopers, however, do not supervise the daily activities of Community Officers. The State Trooper is responsible for providing state law enforcement services to a village or community to which a Community Officer is assigned. The

Community Officer is not a police officer, and ultimate responsibility for criminal law enforcement lies with the State Trooper, particularly in regard to crimes more serious in nature than mere misdemeanor violations.

State Trooper superiors participate in the review of certain Program H documentation required to be provided by the K Corporation to Department B. The Program H Coordinator is a Department B position that has responsibility for overseeing the overall operation of the Program. The K Corporation Coordinator is an employee of the K Corporation who has responsibility for evaluating the performance of Community Officers, as well as allocating and distributing the funds supplied by a grant.

The K Corporation may not use grant money to employ a Community Officer for a particular village unless the village, through its governing body, enters into a written agreement with the K Corporation. According to relevant provisions of Code F, the village or community, in its agreement with the K Corporation, sets out the job description for the Community Officer, specifying duties that the community expects the officer to perform. The community also names a local supervisor to assume the daily control of the Community Officer's work and to act as a liaison between the Community Officer and the community. The party responsible for supervision of the daily activities of a Community Officer is identified in Code F as the "governing body" of the village or community. The "governing body" means the elected city council, traditional council, or elders council that the State recognizes as having governmental functions and that the K Corporation accepts as appropriate to supervise the daily activities of a Community Officer. All non-criminal activity (the majority of the work) conducted by the Community Officer is at the direction and priority of the village councils. Currently there are approximately the Number J of villages or communities to which a Community Officer has been assigned.

The written agreement between the K Corporation and the village or community recognizes that the Community Officer is an employee of the K Corporation. In the resolution of any dispute arising under the agreement, including the removal of a Community Officer from the position and the position from the village or community, the President of the K Corporation, or his or her designee, has final and conclusive authority to resolve the dispute.

The State represents that Department B has control over Program H by virtue of the fact the K Corporations and the Community Officers are subject to regulations, policies and procedures that are found in the Program H authorizing legislation, the grant agreement, Code F and Manual G. The State maintains that these rules, policies and procedures that the K Corporations and Community Officers must adhere to are enforceable by Department B by (1) controlling the

grant of authority and funding, (2) monitoring of Community Officers by the State Trooper, and (3) the requirement by authorizing legislation of a State Trooper, K Corporation Coordinator, and a Program H Coordinator to ensure that the program operates as intended.

The State proposes to permit the K Corporations to adopt the System as the retirement benefit plan for persons employed as Community Officers. Based on the foregoing facts and representations, you requested the following rulings:

1. That the adoption of the System by certain K Corporations with respect to Community Officer employees only, will not adversely affect the System's status as a governmental plan within the meaning of Code §414(d).
2. That the mandatory employee contributions paid to the System by the State on behalf of the Community Officer employees, will qualify as "picked-up" contributions within the meaning of §414(h)(2) of the Code.

Section 414(h)(2) of the Code provides that, in the case of any plan established by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing, where the contributions of employing units are designated as employee contributions but where any employing unit picks up the contributions, the contributions so picked up will be treated as employer contributions.

Section 414(d) of the Code provides that a governmental plan means a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

Revenue Ruling 89-49, 1989-1 C.B. 117, provides that a plan will not be considered a governmental plan merely because the sponsoring organization has a relationship with a governmental unit or some quasi-governmental power. It holds that one of the most important factors to be considered in determining whether an organization is an agency or instrumentality of the United States or any state or political subdivision thereof is the degree of control that the federal or state government has over the organization's everyday operations. Other factors listed in Revenue Ruling 89-49 include: (1) whether there is specific legislation creating the organization; (2) the source of funds for the organization; (3) the manner in which the organization's trustees or operating board are selected; and (4) whether the applicable governmental unit considers the

employees of the organization to be employees of the applicable governmental unit. Although all of the above factors are considered in determining whether an organization is an agency of a government, the mere satisfaction of one or all of the factors is not necessarily determinative.

In the instant case, applying the principles set forth in Revenue Ruling 89-49, we find the degree of control exercised by the State over the daily operations of the Community Officers to be minimal, with control in the hands of the K Corporation and the village or community to which a Community Officer is assigned.

As represented, a Community Officer is subject to monitoring by a State Trooper, an employee of Department B. The State Trooper's superior participates in the review of certain Program H documentation that must be provided by the K Corporation to Department B. The Program H Coordinator is a Department B position that has responsibility for overseeing the overall operation of the Program.

The State has not demonstrated that the aforementioned Departmental positions control or supervise the daily activities of Community Officers. The monitoring provided by the State Trooper consists of periodic visits with Community Officers, mentoring and other administrative duties. There has been no representation that the Program H Coordinator is involved with the daily activities of a Community Officer. In addition, Manual G, a Department B field manual for Community Officers, states that the K Corporation Coordinator, an employee of the K Corporation, is responsible for evaluating the performance of Community Officers. The Manual further provides that in completing the evaluation, the "community representative" responsible for the Community Officer's supervision, the individual Community Officer and the assigned State Trooper are contacted for comment.

Further, the K Corporation may not employ a Community Officer for a particular village unless the village, through its governing body, enters into a written agreement with the K Corporation setting forth the duties that the village or community expects the Community Officer to perform. In Code F, the term "village" is defined to mean a community with a population of less than 1,000 individuals. The community representative responsible for supervision of the daily activities of a Community Officer is identified in Code F as the "governing body" of the village or community. The "governing body" means the elected city council, traditional council, or elders council that the State recognizes as having governmental functions and that the K Corporation accepts as appropriate to supervise the daily activities of a Community Officer.

Considering the other factors set forth in Rev. Rul. 89-49, the enabling legislation for Program H did not establish the K Corporations or specify that the K Corporations would be the vehicle or medium to implement Program H. The K Corporations were already in place throughout the State when Program H was established.

Funding for Program H is provided entirely by Department B through grants to the K Corporations. The State maintains that it controls the K Corporations due to the fact that Department B, in its discretion, may terminate a grant if the K Corporation or a participating village or community is not complying with all the Program policies and procedures. However, the State's argument that it controls the K Corporations and the Program, through funding, is diminished by the fact that the K Corporation Coordinator, a K Corporation employee, has responsibility for the allocation and distribution of funds supplied by the state grant. The K Corporations formally employ the Community Officers, enter into contracts specifying the terms of Program H and pay officers' salaries with the funds granted by the State. Although Program H is supported by State funds, we do not find this factor to be determinative of agency or instrumentality status in this case because the K Corporations possess the authority to allocate the funds. No funded Community Officer position can be assigned to a requesting village or community unless the K Corporation, not the State, enters into a written agreement with the village or community.

The State, including Department B, does not participate in the selection of the board of directors for the K Corporations. Pursuant to Act E, the management of the K Corporation is vested in a board of directors, all of whom shall be stockholders over the age of eighteen (the stockholders of the K Corporations are Native Indians of the State). Due to the fact that the State does not participate in the selection process, the board of directors is not controlled by the State. Thus, the State does not possess the requisite degree of control over the K Corporation decision-making process in the day to day implementation of Program H (i.e., through lack of control over key personnel such as the K Corporation Coordinator).

Finally, Community Officers are not employees of the State or a political subdivision thereof. State Statute requires that Department B and the K Corporation enter into an agreement in which, among other requirements, there must be a provision that names the K Corporation as the employer, for all purposes, of a Community Officer. The K Corporation may not use grant money to employ a Community Officer to serve in a particular village or community unless the village or community, through its governing body, enters into a written agreement with the K Corporation. The written agreement between the K

Corporation and the village or community recognizes that the Community Officer is an employee of the K Corporation, and that in the resolution of any dispute arising under the agreement, including the removal of a Community Officer from the position, the President of the K Corporation, or his or her designee, has final and conclusive authority to resolve the dispute.

The State has represented that the villages or communities to which a Community Officer has been assigned, as incorporated municipalities or unincorporated villages, are political subdivisions of the State. Although we find that the village or community may exert a significant degree of supervision over the daily activities of a Community Officer, we must conclude that the Community Officer is an employee of the K Corporation and that the K Corporation exerts the ultimate degree of control over a Community Officer's employment.

Thus, we conclude that the K Corporation(s) is not an agency or instrumentality of the State or a political subdivision thereof. Accordingly, as for the first ruling requested, we find that the inclusion in Plan X of Community Officers, who are employees of a K Corporation which does not qualify as an agency or instrumentality of the State or a political subdivision of the State, will adversely affect the status of Plan X as a governmental plan under §414(d) of the Code.

Similarly, because we have determined in accordance with Revenue Ruling 89-49, that a K Corporation does not qualify as an agency or instrumentality of the State or a political subdivision thereof, it is concluded with respect to ruling request two that the applicability of the provisions of §414(h)(2) of the Code to Plan X will be adversely affected by including as members therein the Community Officer employees of the K Corporations, and that the mandatory contributions of such employees to Plan X which may be assumed and paid by the State will not qualify as "picked-up" contributions within the meaning of §414(h)(2) of the Code.

This ruling is directed only to the taxpayer that requested it. Section 6110(k) of the Code provides that it may not be used or cited by others as precedent.

A copy of this ruling is being sent to your authorized representative pursuant to a power of attorney on file in this office. Should you have any questions pertaining to this ruling, you may contact Denise Y. Bowen (ID # 50-21343) of this office at (202) 283-9580.

Sincerely yours,


Donzell H. Littlejohn Acting Manager,
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of the Ruling
Notice of Intention to Disclose, Notice 437

cc: Thomas M. Mayer
400 One Financial Plaza
Minneapolis, MN 55402

EP Area Manager Pacific Coast Area, STOP 7000
Internal Revenue Service
300 N. Los Angeles Street
Los Angeles, CA 90012-3335

HB

337

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 12, 2004

FURTHER REFERRALS: HES Finance

Date of Committee Action: Jan. 27, 2004

The STATE AFFAIRS Committee considered:

HB 337

HOUSE BILL NO. 337

ANATOMICAL GIFTS REGISTRY

"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."

Recommends it be replaced with [] HCS or [x] CS for HB 337 (STA)
For Senate Bills with new title: [] Technical Title [] New Title: HCR [] Same Title [x] New Title

- [] attach amendments
[] add new referral to Committee
[] Letter of Intent Committee

List of Abbrev for Depts.: ADM, CED, COR, CRT, EED, DEC, DFG, GOV, HSS, LEG, LAW, LWF, MVA, DNR, DPS, REV, DOT, UA

Table with 5 columns: List by Dept(s), *FN#, Fiscal, Indet., Zero. Row 1: HSS, checkmark in Zero column.

Table with 5 columns: List by Dept(s), FN#, Fiscal, Indet., Zero. Empty table.

Table with 6 columns: Signing with recommendations, Printed Last Name, DP, DNP, NR, AM. Contains handwritten signatures and initials.

ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
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STATE AFFAIRS COMMITTEE

Fax

To: Leg. Legal

From: Ginny Austerman *Ginny*

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.

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.

Alaska State Legislature

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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-LS1257D)

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.

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:
716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

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

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

January 14, 2004

SUBJECT: Sectional summary of HB 337, a bill relating to anatomical gifts and living wills (Work Order No. 23-LS1257A)

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

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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-LS1257I)

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



P.O. Box 231809
Anchorage, AK 99523-1809
907.562.5433 • 800.719.5433
Fax: 907.562.5333
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.

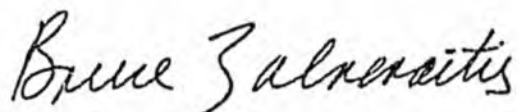
Life Alaska Donor Services strongly supports this proposed legislation, and appreciates your support in our ongoing mission to populate the Donor Gift Registry and increase the number of organs and tissues made available for transplantation to save and enhance lives. Families of donors feel most strongly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

A handwritten signature in cursive script that reads "Bruce Zalneraitis". The signature is written in dark ink and is positioned above the printed name and title.

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
Visit our Web Site: 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. Zalneraitis,

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




[Become A Donor](#)
[Get The Facts](#)
[Our Services](#)
[News & Events](#)
[About Us](#)
[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.

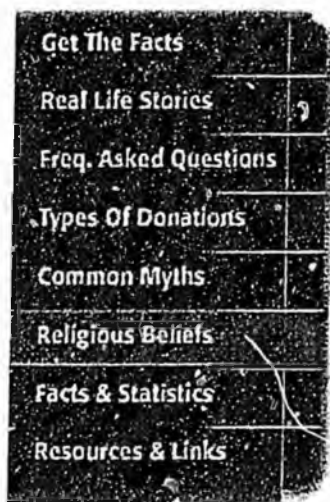
"No one will want my organs because of my medical history. Besides I'm too old to be a donor."

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 Loma 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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[Washington](#)

ORGAN DONOR NETWORK

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB337
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 RDU Public Health
 Component Community Health/EMS Services

Revision Date/Time (Note if correction):
 Title ANATOMICAL GIFT ACT

Sponsor MCGUIRE

Requester STATE AFFAIRS COMM

Component No. 2078

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 337 establishes a Donor Registry Program. It is unclear whether the legislation requires the registry program to be established within the Department of Health and Social Services. If DHSS is the responsible agency for the Donor Registry program a revised fiscal note will have to be submitted.

Prepared by: Janet Clarke
 Division Administrative Services
 Approved by: _____
 Agency Department of Health and Social Services

Phone 465-1630
 Date/Time 01/19/2004
 Date 01/19/2004