

ALASKA LEGISLATURE COMMITTEES, 2003-2008 86/2

11667 HOUSE STATE AFFAIRS

HB

208

ALASKA STATE LEGISLATURE



Sponsor

Statement

SESSION:
Alaska State Capitol Room 13
Juneau, AK 99801
(907) 465-4457 Office
(907) 465-3519 Fax
(800) 928-4457 Toll Free

INTERIM:
119 N. Cushman, Suite 211
Fairbanks, AK 99701
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Representative David Guttenberg

SPONSOR STATEMENT House Bill 208

Alaskan veterans deserve a cemetery that is located in the Interior which honors their service. Their sacrifices while serving our country, often in less comfortable conditions and many times in harms way, should be recognized.

There are many hardships involved in losing a loved one. Alaska has more residents in the military on a per-capita basis than any other state. According to the U.S. Department of Veterans Affairs (VA), the Fairbanks North Star Borough has approximately 11,164 veterans. Forty percent of families in the Fairbanks area have at least one veteran in their household and 16% have at least one woman in the household who is a veteran.

A state veterans' cemetery in the Interior would better serve the needs of veterans and their families, and provide a place that is centrally located, honorable, and well maintained. HB 208 seeks to establish a state cemetery similar to the Fort Richardson and Sitka National Cemeteries. It will provide a place in the Interior for soldiers to be laid with full military funeral honors, pallbearers, rifle team, flag folding, and flag presentation.

HB 208 authorizes the Alaska Department of Military and Veterans' Affairs to establish and maintain a state veterans' cemetery with funds from the U.S. Department of Veterans Affairs, State Cemetery Grants Program. Through the State Cemetery Grants Program, the Alaska Department of Military and Veterans' Affairs can be awarded up to 100 percent of allowable costs for design, construction and operating equipment for an approved project.

The VA's long-term goal is to provide an operational veterans' cemetery within 75 miles of 90 percent of the veterans in the country. Ft. Richardson National Cemetery, located 350 miles away in Anchorage, is the nearest veterans' cemetery to Fairbanks. According to VA's criterion, a cemetery in Fairbanks would increase the number of veterans served by a veterans' cemetery.

To date, the VA has awarded 137 grants totaling more than \$209 million to establish, expand or improve 62 veterans cemeteries in 32 states plus Guam. Fifty-six cemeteries in 29 states and Guam are now operational.

I urge your support on this legislation.

Representative.David.Guttenberg@legis.state.ak.us
<http://guttenberg.akdemocrats.org>

Ian Laing

From: Tim-Jerri [tim-jerri@gci.net]
Sent: Monday, April 04, 2005 4:38 PM
To: Rep. Paul Seaton
Subject: HB-208

I urge your support for the passage of HB 208. With Alaska having the highest per capita number of veterans than any other state, people who served their country and Alaska with dedication and pride, I am not alone in feeling it only appropriate that the state show some appreciation by getting behind any effort to provide them a suitable resting place of honor.

Tim Armstrong
8169 Thunder Street
Juneau, Alaska 99801

30 year resident of Alaska
Vietnam Combat Veteran
Past VFW Post Commander
Past American Legion Post Commander
Vice Commander Disabled American Veterans
Life Member Military Order of the Purple Heart

Support

4/4/2005

Opinion

Veterans' cemetery

April 5, 2005

To the editor:

Currently, Alaska has more residents in the military per-capita than any other state in the nation. Just the Fairbanks North Star Borough alone has 11,164 veterans and many more in rural Alaska. As a representative on the Alaska Native Veterans Association Chapter 1 here in Fairbanks, we have been the voice for all veterans in the villages for many years. Let's make House Bill 208 the first step to help our veterans in the Interior.

Yes, there is a cemetery near Anchorage, but how can our people from the Interior travel to this site? The distance from Interior villages to Fairbanks is in the same region and makes good sense for a veterans cemetery here in Fairbanks. The Alaska Native Veterans Association has been encouraging hub villages to start their own chapters to be part of Chapter 1 in Fairbanks. This is how your voices will be heard in Washington, D.C.

Currently for years many of our veterans in the Interior do not utilize the benefits given at Fairbanks and Anchorage. The people of Alaska sooner or later must look to help all our veterans, including the ones coming back to us from Iraq and war on terrorism conflicts. On April 9, at 9:30 a.m., the House State Affairs Committee will consider HB 208. Please call or get with your representatives to support this bill. Any questions may be sent to: AK NVA, 1006 22nd Ave. Fairbanks, AK 99701.

Pete J. Peter
AK NVA administrator
Fairbanks

Fairbanks Daily News-Miner

Guttenberg pushes for veterans' cemetery

Friday, March 11, 2005 - By DANIEL RICE

News-Miner Juneau Bureau

JUNEAU--With so many veterans in Fairbanks, state Rep. David Guttenberg believes the area should have a veterans' cemetery.

Guttenberg, D-Fairbanks, has introduced a bill to build a state veterans' cemetery in Fairbanks that would be similar to the national veterans' cemeteries in Sitka and on the Fort Richardson Army Post in Anchorage.

House Bill 208 would create a veterans' cemetery fund within the state budget to pay for maintenance and operation of the new burial grounds.

The start-up money, Guttenberg said, would come from a federal Department of Veterans Affairs cemetery grant program, which to date has paid out more than \$209 million for some 62 cemeteries around the nation. The state would also have to find a suitable site of about 20 acres.

Once established, the cemetery would take about \$80,000 in annual state money to maintain, Guttenberg said.

"There's always a lot of worry about state dollars," he said, "but I think with so many veterans, it's a worthy cause, and if that's what it takes to put one in Fairbanks, then I think it's worth it."

The Fairbanks North Star Borough is home to about 11,164 veterans, according to figures cited by Guttenberg in a sponsor statement for his bill. The 2000 U.S. Census put the number of veterans in the borough at 10,468.

Guttenberg said the widow of a Fairbanks veteran helped convince him to pursue the idea in the Legislature.

"This is just giving them (veterans) one place," he said.

The idea of a state veterans' cemetery in the Interior has been floated off and on in the past within various veteran circles, though there's never been united support for the idea, said Joe Fields, chairman of the Interior Veterans Coalition and a member of the state Veterans Advisory Council.

While many veterans seem to support the emotional appeal of having a veterans' cemetery in the Interior, he said, they also recognize that the state maintenance dollars could take away from funding for programs for living veterans.

Fields said he would personally rather see the money spent on outreach programs for veterans in rural areas of Alaska.

"We certainly have to pay our respects to the dead, but I think you got to do more for the living," he said.

Fields added that Fairbanks already features burial options for veterans. For example, Birch Hill Cemetery and Northern Lights Memorial Park on Yankovich Road both feature plots for veterans.

HB208 has been referred to the House Military and Veterans Affairs Committee. Guttenberg said he has requested a hearing, though one has not yet been set.

Reporter Daniel Rice can be reached at drice@newsminer.com or (907)463-4893.



The Interior needs its own state veterans cemetery

By REP. DAVID GUTTENBERG

Alaska is a great place to live. The vast mountainous landscape and potential for adventure and exploration has drawn people from all walks of life, including a large resident population of military veterans. According to the Dept. of Veterans Affairs, the Fairbanks North Star Borough has approximately 11,164 veterans.

With so many veterans in the Fairbanks area, the creation of a state veterans' cemetery in the Interior would better serve the needs of veterans and their families, as well as provide a respectable place that is centrally located and well maintained.

The Interior region qualifies for a grant from the U.S. Department of Veterans Affairs (VA) State Cemetery Grants Program to establish a state veterans cemetery. This federal grant would

provide 100 percent of the design and construction costs, which is a wonderful opportunity for the Interior veteran residents. Once established, the Alaska Military and Veterans Affairs would maintain and operate the cemetery similar to the two national cemeteries at Fort Richardson in Anchorage and Sitka.

From Fairbanks, the nearest military cemetery is a six to seven hour, 360-mile drive to Anchorage at the Fort Richardson National Cemetery. I would think you would agree with me that such a drive is unreasonable, especially during the winter months.

There is no reason that friends and families of veterans should be burdened with such a long drive to pay their respects especially when the region qualifies for a federal grant to construct a state veterans cemetery and that is why I spon-

sored HB 208, "a bill that establishes a state veterans cemetery in the Interior".

For more information about HB 208, or any other bills or issues of concern, I want to make sure it is easy to contact me. Your letters, faxes, and emails are always welcome. My address is Rep. David Guttenberg, State Capitol Room 13, Juneau AK 99801. My fax number is (907) 465-3519. You can also reach me by e-mail anytime at Representative_David_Guttenberg@legis.state.ak.us. In addition, I would be happy to add you to my e-mail list to give you updates on issues that you care about.

Rep. David Guttenberg is a Democrat and represents district 8 Fairbanks and Denali Borough in the Alaska State House.



Alaska State Legislature

Representative David Guttenberg

<http://guttenberg.akdemocrats.org>

Representative David Guttenberg

Telephone: 907-465-4457

Fax: 907-465-3519

Year Round from Fairbanks: 456-8172

Toll Free from Denali Borough: 1-800-928-4457

guttenberg@akdemocrats.org

FOR IMMEDIATE RELEASE · March 7, 2005

Guttenberg Files Bill For Veterans' Cemetery ***Bill establishes burial ground in Interior Alaska***

JUNEAU - Representative David Guttenberg, D-Fairbanks, introduced a bill today to establish a state veterans' cemetery in the Interior.

"Forty percent of families in the Fairbanks area have at least one veteran in their household and 16 percent have at least one woman in the household who is a veteran," Representative Guttenberg said. "Alaska Natives have the highest per capita service record of any ethnic group in the country. Alaskan veterans deserve a cemetery that is located in the Interior that honors their service. Their sacrifices while serving our country, often in less-than-comfortable conditions and many times in harm's way, should be recognized."

Representative Guttenberg's bill establishes a state cemetery similar to the Fort Richardson and Sitka National Cemeteries. It will provide a place in the Interior for soldiers to be laid to rest with full military funeral honors, pallbearers, rifle team, flag folding, and flag presentation.

House Bill 208 authorizes the Alaska Department of Military and Veterans' Affairs to establish and maintain an Alaskan veterans cemetery with funds from the U.S. Department of Veterans Affairs' State Cemetery Grants Program. Through the State Cemetery Grants Program, the Alaska Department of Military and Veterans' Affairs can be awarded up to 100 percent of the development costs for an approved project.

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 http://www.akdemocrats.org/Documents/030705_guttenberg_dignified_veterans_resting_place.pdf

Additional information: [Representative David Guttenberg](#)

 Print  Forward this page

Putting Alaskans First · Moving Alaska Forward 2005

3/25/05

REP. DAVID GUTTENBERG
119 N. CUSHMAN ST. SUITE 211
FAIRBANKS, AK 99701

(907) 451-9293 (FAX)

RE: HB 208 STATE VET CEMETERY

DEAR REP GUTTENBERG

DAVID,

I AM IN SUPPORT OF HB 208.

IT'S TIME IS OVERDUE. BOTH

FT RICH & SICKLES' MILITARY

CEMETERIES ARE TOO FAR

AWAY FOR INTERIOR VETERANS

USE. MY CONCERNS ABOUT

CEMETERY
MAINTENANCE OF COMPLETED HAVE

BEEN ADDRESSED. "CORKY"

L.D. "CORKY" CORKRAN - FAIRBANKS

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By: Luke Hopkins
Hank Bartos
Introduced: 03/24/05
Adopted: 03/24/05

FAIRBANKS NORTH STAR BOROUGH

RESOLUTION NO. 2005 - 15

A RESOLUTION SUPPORTING THE CREATION OF A STATE VETERANS' CEMETERY IN THE INTERIOR THROUGH LEGISLATION THAT ESTABLISHES AN ALASKAN VETERANS CEMETERY WITH FUNDS FROM THE U.S. DEPARTMENT OF VETERANS AFFAIRS (VA) STATE CEMETERY GRANTS PROGRAM.

WHEREAS, Alaskan veterans deserve a cemetery that is located in the Interior that honors their service; and

WHEREAS, according to the Department of Veterans Affairs National Cemetery Administration, Alaska has more residents in the military on a per-capita basis than any other state. There are approximately 11,164 veterans living in the Fairbanks North Star Borough; and

WHEREAS, the nearest officially designated military cemetery is located in Anchorage at Fort Richardson Army base; and

WHEREAS, the VA National Cemetery Administration follows a 6-step process to build a new state veterans cemetery: site selection; environmental assessment; land acquisition; master planning and design development; construction documents preparation; and construction award and completion; and

WHEREAS, the Alaska Department of Military and Veterans' Affairs can be awarded up to 100 percent of the development costs from the VA State Cemetery Grants Program for an approved project and the VA has awarded 137 grants to establish and improve veterans cemeteries around the country; and

WHEREAS, a State Veterans' Cemetery in the Interior would better serve needs of the veterans and their families, and provide a place that is centrally located, honorable, and would provide a place in the Interior for soldiers to be laid with full military funeral honors, pallbearers, rifle team, flag folding, and flag presentation; and

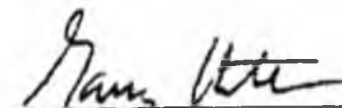
NOW THEREFORE BE IT RESOLVED, that the Fairbanks North Star Borough Assembly supports the creation of a State Veterans' Cemetery in the Interior and recognizes veterans' sacrifices while serving our country.

MAR 29 11:04 AM '05

46 BE IT FURTHER RESOLVED, that copies of this resolution shall be
47 forwarded to The Honorable Governor Frank Murkowski, the Alaska Interior Delegation,
48 members of the House Military and Veterans Affairs Committee, Major General Craig E.
49 Campbell Adjutant General/Commissioner, Military and Veterans Affairs, The Honorable
50 Senator Ted Stevens, the Honorable Senator Lisa Murkowski, the Honorable
51 Congressman Don Young.


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PASSED AND APPROVED THIS 24th DAY OF MARCH 2005.



Garry Hutchison
Presiding Officer

ATTEST:



Mona Lisa Drexler, CMC
Municipal Borough Clerk

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Ayes: Romans, Bartos, Sattley, Rex, Williams, Hopkins, Aldridge, Frank, Hutchison
Noes: None

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number _____
 Bill Version: HB 208
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. affected: Military and Veterans Affairs
 Title: An Act authorizing DMVA to establish and RDU: Military and Veterans Affairs
maintain an Alaskan veterans' cemetery Component: Veterans Services
 Sponsor: Representative Gultenberg
 Requester: Military and Veterans Affairs Component No: 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
Miscellaneous
TOTAL OPERATING

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

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

Estimate of any current year (FY2005) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	.	.	.	.	.	.
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

At this time the Department is unable to determine the fiscal impact of maintaining a Veterans' Cemetery in Fairbanks, Alaska. Further information, such as the location of where the cemetery will be, the size of the cemetery, the amount that would be developed each year from inception, the approximate number of plots per year used, the size of cremains section if one will be included, how many structures built, etc. This is all necessary in order to calculate annual supplies, equipment, personal services, and other maintenance costs.

Prepared by: John Cramer Phone: (907) 465-4602
 Division: Division of Administrative Services Date/Time: 3/11/05 11:51 AM
 Approved by: Commissioner Craig E. Campbell Date: 3/11/2005
 Agency: Military and Veterans Affairs

-Original Message-----

From: Jayne, Bill [mailto:bill.jayne@va.gov]

Sent: Friday, March 04, 2005 12:55 PM

To: Danielle Brown

Subject: RE: Ft. Wainwright

Danielle,

The State Cemetery Grants Program in the U.S. Department of Veterans Affairs (VA) is able to provide grants to states to establish, expand and improve state-owned and state-operated veterans cemeteries. Current law authorizes us to provide 100 percent of allowable costs for design, construction and operating equipment in the case of a grant to establish a new cemetery. The state is entirely responsible for the land and for operations and maintenance.

VA's long-term goal is to provide an operational veterans' cemetery—either a national or state facility—within 75 miles of 90 percent of the veterans in the country. Ft. Richardson National Cemetery, located 350 miles away in Anchorage, is the nearest veterans' cemetery to Fairbanks. According to VA's criterion, a cemetery in Fairbanks would increase the number of veterans served by a veterans' cemetery.

A very rough, ballpark estimate of the total grant cost for design, construction and operating equipment for the Interior would be about \$3.5 to \$4.0 million. My estimate is based on the total grant cost of some recent, comparable projects (in terms of the number of veterans to be served). My estimate includes a minimal amount for allowable administrative costs such as some travel, legal fees for land transfer, etc. It has \$300,000 for "A/E", which is architect/engineer; that is, design work. There's another \$50,000 for "other A/E" which would account for consultants such as environmental, historic, etc. Plus I have \$50,000 for inspection. The actual construction cost is \$3 million. Equipment needed to operate the cemetery is estimated at \$300,000. Finally, we factor in a "contingency" allowance of 5% of the construction cost, which amounts to \$150,000 in this case. The grand total is \$3,855,000.

If this model is accurate, the state would need about \$350,000 "front" money to accomplish the necessary planning. That money would be reimbursed when the grant is awarded.

I've tried to quickly factor in an allowance for increased construction costs in Alaska, but I don't have any data to go on. This estimate is about 15% higher than the cost of a grant we awarded to Kansas two years ago to build a cemetery in Dodge City.

Background

The \$300 VA plot allowance would be paid to the state to help off-set the cost of operating and maintainin, the cemetery (i.e., making interments). In every case that I know of, the plot allowance payments are put toward the cemetery budget. The allowance is payable for each veteran buried at no cost. So, if 100 veterans were buried, VA would pay the state \$30,000.

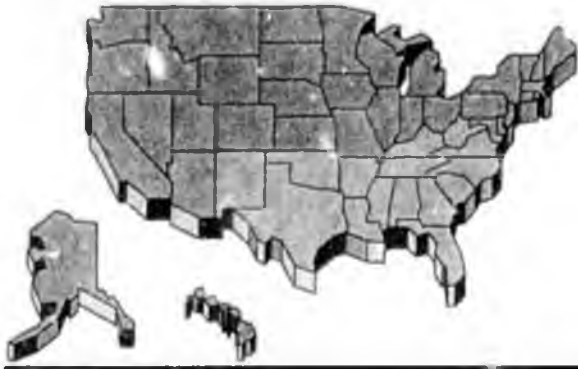
Bill Jayne

Director, State Cemetery Grants Service (41E) National Cemetery
Administration U.S. Department of Veterans Affairs
State Cemetery Grants Program
Washington, DC 20420
(202) 565-6152

FAIRBANKS VETERANS CEMETERY WORKSHEET OPERATIONAL AND MAINTENANCE COSTS

Demographic Factors	Data	Notes
Veterans in four areas	11,164	Fairbanks/North Star and 3 adjoining areas
Avg. annual death rate	149	2005-2026 VA figures
Usage factor	0.50 ¹	50% of veterans will use cemetery
Dependents factor	1.50	1 dependent per 2 veterans
Annual burial rate	112	[Death rate x usage] x dependents facto.
Graves per acre (gross)	600	Rule of thumb
Min. gravesites needed (20 yr.)	1,676	[Annual burials x 0.75] x 20
Min. burial acreage needed	2.79	One of four is a "second interment"
Gross acreage recommended	20.00 ²	Min. gravesites/600 see note below
Personnel Factors		
	Data	
Admn. Workers (230 inter. Per FTE)	0.49	Based on NCA estimates
Field workers		Cumulative
Interments (250 per FTE)	0.45	Includes PT, temp., etc.
Gravesites (7,844.4 per FTE)	0.21	Rises over time
Acres Maint. (10.7 per FTE)	0.26	Burial acres used/developed acres may vary
Field Workers Subtotal	0.92	
Employees	1.41	Admn. & field workers
Cem. Director (GS 9--\$36.7 x 1.3 for fringes)	\$47,652.80	NCA Costs 1.0 Full Time Equivalent Employee (FTEE)
Equip. Operator (WG-8--\$28 x 1.3)	\$36,142.60	1.0 FTEE
Total Salary	\$83,795.40	
Operations Factors		
	Data	
Utilities & communications	\$1,117.50	Phone, water, electricity, gas (\$400 x acres)
Supplies & materials	\$2,095.31	Fuel, fertilizer, etc. (\$750 x acres)
Contractual services	\$1,187.34	Janitorial, security, irrigation (\$425 x acres)
Subtotal	\$4,400.16	
Total Annual Operations \$88,195.56		
<i>Maintenance and Repairs extra</i>		
<i>Equipment Replacement extra</i>		

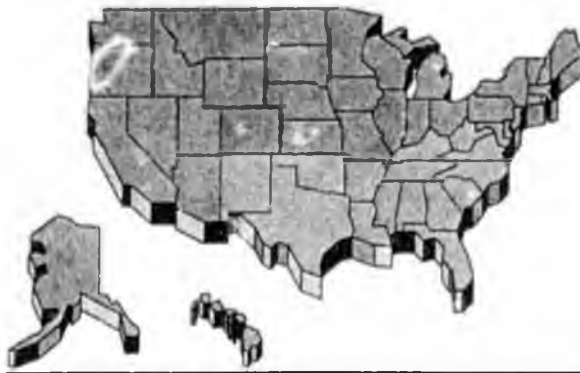
- ¹ The standard usage factor is 25% but we have increased the factor to 50% in this case because of the difficulty in projecting usage in this area. While 50% usage may be high, it would be better to estimate a higher number at this point rather than a lower number.
- ² The model assumes a suitable site with easily developed cemetery land. In this case, it would be better to acquire as large a parcel as possible in order to assure suitable land and the ability to buffer surrounding land uses. At least 20 acres should be considered.



STATE CEMETERY GRANTS
National Cemetery Administration
(41E)
Washington, DC 20420
(202) 565-6152

State Cemetery Grants Program Facts

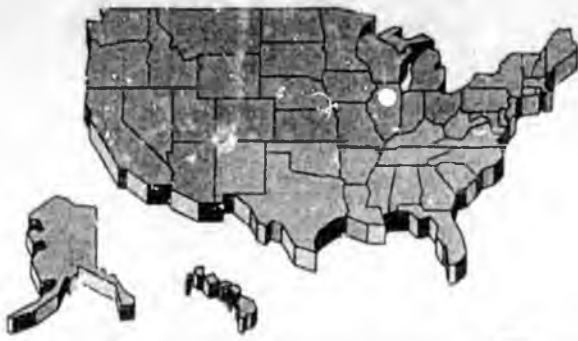
- The U.S. Department of Veterans Affairs (VA) State Cemetery Grants Program was established in 1978 to complement VA's network of national cemeteries.
- The program assists states in providing gravesites in those areas where the National Cemetery Administration (NCA) cannot fully satisfy their burial needs.
- Grants may be used only for the purpose of establishing, expanding or improving veterans cemeteries that are owned and operated by the state. Aid can be granted only to states or territories. VA cannot provide grants to private organizations, counties, cities or other government agencies.
- VA can now provide up to 100 percent of the development cost for an approved project. For establishment of new cemeteries, VA can provide for operating equipment. VA does not provide for acquisition of land.
- Cemeteries established under the grant program must conform to VA-prescribed standards and guidelines for site selection, planning and construction.
- Cemeteries must be operated solely for the interment of service members who die on active duty, veterans, and their spouses and minor children. States may impose residency requirements for eligibility.
- The administration, operation and maintenance of a VA-supported state cemetery is solely the responsibility of the state. Applicants must assure VA that they will operate and maintain cemeteries built with grant funds according to the standards of the National Cemetery Administration.
- VA is authorized to pay a "plot allowance" of \$300 to a state for expenses incurred if the veteran's burial is provided without charge to the next-of-kin.
- VA has awarded 137 grants totaling more than \$209 million to establish, expand or improve 62 veterans cemeteries in 32 states plus Guam. Fifty-six cemeteries in 29 states and Guam are now operational.



STATE CEMETERY GRANTS
National Cemetery Administration
(41E)
Washington, DC 20420
(202) 565-6152

VA Share of State Cemetery Grants is Up to 100%

- The Veterans Benefits Enhancement Act of 1998, Public Law 105-368, went into effect on January 11, 1999. Codified at 38 U.S.C., Section 2408, the law improved VA's State Cemetery Grants Program.
- Originally proposed by VA, the measure authorizes the federal government to pay up to 100 percent of the cost of establishing, improving or expanding state-owned and -operated veterans cemeteries.
- The legislative change was backed by \$32 million in funding for each of FY 2003 and FY 2004. VA requested the same amount for FY 2005. VA now also provides funding for equipment needed to operate new cemeteries.
- Under the original State Cemetery Grants law, VA provided up to 50 percent of the total cost. The law, however, did not provide for the cost of equipment needed to operate the cemetery. Neither the original law nor the current change allows VA to provide operational support to the cemetery.
- Under the old law, the value of the land could be counted toward the state's matching share, with certain limitations. With the new, 100 percent formula, the value of the land will not be included as an allowable cost under the grant award. States are solely responsible for acquisition of the land needed.
- States continue to be responsible for operation of these cemeteries. The program envisions a real, working partnership between the federal government and the states to honor our nation's veterans and help provide for dignified burial.
- There is strong demand for grant funds. Louisiana, Nebraska, Maine, New Mexico, South Carolina, Arizona, Texas, Iowa, Montana, Puerto Rico, Missouri and the U.S. Virgin Islands have applied for grants to establish new cemeteries.



**STATE CEMETERY GRANTS
National Cemetery Administration
(401C)
Washington, DC 20420
(202) 565-6152**

Site Selection Standards

- **Location**—The site should be located as closely as possible to the veteran population center to be served with minimal overlap of areas served by existing veterans cemeteries. Primary consideration should be given to the highway network that would serve the site. The grant cannot fund access roads.
- **Surrounding Land Use**—The site should avoid nearby man-made features such as factories that produce a great deal of noise, visual intrusion or other inappropriate developments. The aesthetic quality of surrounding development should also be considered. Nearby deteriorated manmade development should be avoided.
- **Manmade Constraints**—The site should also avoid easements such as pipelines and roads. Visual intrusions such as power lines should also be avoided. Regularly shaped parcels are most conducive to cemetery development. Irregular parcels and long, narrow parcels can produce undue constraints on the design of the cemetery. Potentially negative impacts on historic sites should be avoided.
- **Surrounding Natural Landscape**—Thought should be given to natural, undisturbed or rural views available from the site. A site with attractive views would be more desirable than one without such scenic qualities if other factors are equal.
- **Natural Constraints**—The State should avoid sites with extensive wetlands, shallow rock, unstable earth and sites that have a negative impact on natural resources such as endangered species. The state must prepare an environmental assessment of the site.
- **Topography**--The land should range from comparatively level to rolling and moderately hilly. Burial areas must have a minimum slope of two percent but cannot exceed 15 percent. Road grades should not exceed ten percent.
- **Utilities**—The site should have reasonable access to utilities including potable water, storm and sanitary sewer, electricity, etc. Public utilities are not required but the cemetery must have an approved means to dispose of storm flow and sewage and must also have an adequate supply of potable water.
- **Size**—Sufficient acreage must be available to provide gravesites for **at least 20 years**. Twenty years is the **minimum** period of service. If the site cannot provide at least 20 years of service, VA cannot award a grant. It is recommended that a site be large enough to **provide for more than 20 years of service**. Buffer areas should also be considered in determining the necessary size of a cemetery.

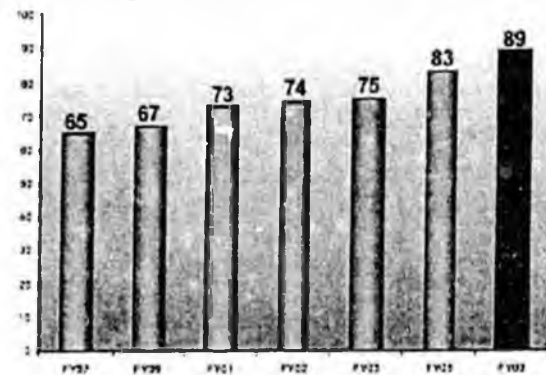


NATIONAL CEMETERY DEVELOPMENT

One of the National Cemetery Administration's (NCA) goals is to provide eligible veterans reasonable access to Department of Veterans Affairs (VA) burial options. Experience and recent historical data show that over 80 percent of persons interred in national cemeteries resided within 75 miles of the cemetery at time of death. NCA considers reasonable access to burial benefits to mean that a first interment option, for casketed or cremated remains in a national or state veterans cemetery, is available within 75 miles of the veteran's place of residence.

To meet the burial needs of veterans, NCA builds new national cemeteries in areas where veterans do not have reasonable access to burial options. NCA also manages the State Cemetery Grants Program that encourages states to build state veterans cemeteries in areas unserved by a national veterans cemetery. The percentage of veterans with reasonable access to burial benefits has increased from 65 percent in 1995 to 75 percent today. By 2009, 89 percent of veterans will have reasonable access to a national or state veterans cemetery.

Percentage of Veteran Population Served



Population within 75 miles of a national cemetery or state veterans cemetery

NCA has built six new national cemeteries since 1997 and is currently directed to build 11 new national cemeteries to serve veterans. NCA also seeks to increase the long-term burial capacity of current national cemeteries by acquiring adjacent land, building columbaria where feasible and using innovative designs that maximize the burial space available.

NCA follows a 6-step process to build a new national cemetery: site selection; environmental assessment; land acquisition; master planning and design development; construction documents preparation; and construction award and completion.

Site Selection

NCA identifies a geographic area with a large veteran population that is unserved by a

national or state veterans cemetery. The cemetery size and number of gravesites are determined by current and future demographic forecasts. NCA canvases the local area for sites of the size needed to meet demographic forecasts. These sites are evaluated for their suitability for cemetery development and the top two to five sites advance to the next step in the process.

Environmental Assessment

To comply with the National Environmental Policy Act (NEPA), the top sites are assessed to determine the impact of cemetery development and operations on the environment. An Environmental Assessment document is prepared, identifying the VA preferred site. The site's assessment must result in a "Finding of No Significant Impact" (FONSI) in order to be considered for acquisition. If the NEPA evaluation results in a FONSI, then NCA makes the results available to the general public for a 30-day comment period. After the comment period, NCA makes a final recommendation to the Secretary of Veterans Affairs, who decides whether to purchase the property.

Land Acquisition

In some instances, land is donated to VA. Federal and state lands have also been transferred to VA at no cost to establish some national cemeteries. Otherwise, land is purchased at the fair market value established by a real property appraisal. Before the final sales contract is signed, the Department of Justice, acting on behalf of VA, reviews all documents to ensure that the contract and title meet all the requirements for a legal transfer of ownership.

Master Planning and Design Development

Once VA takes title to the land, bids are solicited from architectural and engineering (A/E) firms. NCA selects an A/E firm and a contract is negotiated with the firm to design the new cemetery. A master plan for developing all phases of the cemetery on the entire site is prepared, followed by more detailed design development for the first phase of construction. The first phase usually includes the first active burial section and the requisite infrastructure to operate the cemetery. Subsequent phases generally include new burial sections and associated infrastructure in the new section. Typically, each phase of construction is designed to provide sufficient burial space to last 10 years.

Construction Document Preparation

Under a second negotiated contract, the A/E prepares plans and specifications that detail all aspects of phase one construction: active burial sections, administrative buildings, maintenance buildings, public information center, committal shelters, roads and other infrastructure. These documents provide the basis for contractors to bid on constructing the project.

Construction Award and Completion

Finally, NCA solicits bids and awards a contract for construction of the new cemetery. The bid and award process takes about three months; actual construction of phase one takes about 24 months.

Funds approved by Congress must be available in order to complete the various steps. Land purchases and construction require multiple appropriations, over several years of budgets, to complete each phase. Site selection, NEPA compliance, master planning, design and phase one construction require more than five years to complete.



Burial and Plot-Interment Allowances

What Is A VA Burial Allowance ?

A VA burial allowance is a partial reimbursement of an eligible veteran's burial and funeral costs. When the cause of death is not service-related, the reimbursement is generally described as two payments: (1) a burial and funeral expense allowance, and (2) a plot interment allowance.

Who Is Eligible ?

You may be eligible for a VA burial allowance if:

- ❖ you paid for a veteran's burial or funeral **AND**
- ❖ you have not been reimbursed by another government agency or some other source, such as the deceased veteran's employer **AND**
- ❖ the veteran was discharged under conditions other than dishonorable.

In addition, at least one of the following conditions must be met:

- ❖ the veteran died because of a service-related disability **OR**
- ❖ the veteran was receiving VA pension or compensation at the time of death **OR**
- ❖ the veteran was entitled to receive VA pension or compensation but decided not to reduce his/her military retirement or disability pay **OR**
- ❖ the veteran died in a VA hospital or while in a nursing home under VA contract, or while in an approved state nursing home.

How Much Does VA Pay ?

Service-Related Death. VA will pay up to \$1,500 toward burial expenses for deaths prior to September 10, 2001. For deaths on or after September 11, 2001, VA will pay \$2,000. If the veteran is buried in a VA national cemetery, some or all of the cost of moving the deceased may be reimbursed.

Non-service-Related Death. VA will pay up to \$300 toward burial and funeral expenses, and a \$150 plot interment allowance for deaths prior to December 1, 2001. The plot-interment allowance is \$300 for deaths on or after December 1, 2001. If the death happened while the veteran was in a VA hospital or under contracted nursing home care, some or all of the costs for transporting the deceased's remains may be reimbursed.

How Can You Apply ?

You can apply by filling out VA Form 21-530, Application for Burial Allowance. You should attach proof of the veteran's military service (DD 214), a death certificate, and copies of funeral and burial bills you have paid.

Related Benefits

Burial in VA National Cemeteries
Presidential Memorial Certificates

Headstones and Markers
Burial Flags

For More Information Call Toll-Free 1-800-827-1000
Or Visit Our Web Site At <http://www.vam.va.gov>



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[Military Funeral Honors](#)

[State Cemetery Grants Program](#)

[Obtaining Military Records & Medals](#)

[Office of Construction Management](#)

[FAQs](#)

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Burial & Memorial Benefits

Veterans Benefits & Services

*State will mirror
the National requirements*

Burial Benefits Eligibility

To confirm your eligibility for burial benefits, please call a Veteran's Benefits Counselor at:

1-800-827-1000

Persons Eligible for Burial in a VA National Cemetery

VA national cemetery directors have the primary responsibility for verifying eligibility for burial in VA national cemeteries. A determination of eligibility is usually made in response to a request for burial in a VA national cemetery. VA Regional Offices will also assist in determining eligibility for burial in a VA national cemetery. The toll-free number for the nearest VA Regional Office is 1-800-827-1000.

a. Veterans and Members of the Armed Forces (Army, Navy, Air Force, Marine Corps, Coast Guard)

(1) Any member of the Armed Forces of the United States who dies on active duty.

(2) Any veteran who was discharged under conditions other than dishonorable. With certain exceptions, service beginning after September 7, 1980, as an enlisted person, and service after October 16, 1981, as an officer, must be for a minimum of 24 continuous months or the full period for which the person was called to active duty (as in the case of a Reservist called to active duty for a limited duration). Undesirable, bad conduct, and any



other type of discharge other than honorable may or may not qualify the individual for veterans benefits, depending upon a determination made by a VA Regional Office. Cases presenting multiple discharges of varying character are also referred for adjudication to a VA Regional Office.

(3) Any citizen of the United States who, during any war in which the United States has or may be engaged, served in the Armed Forces of any Government allied with the United States during that war, whose last active service was terminated honorably by death or otherwise, and who was a citizen of the United States at the time of entry into such service and at the time of death.

b. Members of Reserve Components and Reserve Officers' Training Corps

(1) Reservists and National Guard members who, at time of death, were entitled to retired pay under Chapter 1223, title 10, United States Code, or would have been entitled, but for being under the age of 60. Specific categories of individuals eligible for retired pay are delineated in section 12731 of Chapter 1223, title 10, United States Code.

(2) Members of reserve components and members of the Army National Guard or the Air National Guard, who die while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while performing active duty for training or inactive duty training, or undergoing such hospitalization or treatment.

(3) Members of the Reserve Officers' Training Corps of the Army, Navy, or Air Force who die under honorable conditions while attending an authorized training camp or on an authorized cruise, while performing authorized travel to or from that camp or cruise, or while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while engaged in one of those activities.

(4) Members of reserve components who, during a period of active duty for training, were disabled or died from a disease or injury incurred or aggravated in line of duty or, during a period of inactive duty

training, were disabled or died from an injury or certain cardiovascular disorders incurred or aggravated in line of duty.

c. Commissioned Officers, National Oceanic and Atmospheric Administration

(1) A Commissioned Officer of the National Oceanic and Atmospheric Administration (formerly titled the Coast and Geodetic Survey and the Environmental Science Services Administration) with full-time duty on or after July 29, 1945.

(2) A Commissioned Officer who served before July 29, 1945, and,

(a) Was assigned to an area of immediate military hazard as determined by the Secretary of Defense while in time of war, or in a Presidentially declared national emergency; or,

(b) Served in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter.

d. Public Health Service

(1) A Commissioned Officer of the Regular or Reserve Corps of the Public Health Service who served on full-time duty on or after July 29, 1945. If the service of the particular Public Health Service Officer falls within the meaning of active duty for training, as defined in section 101(22), title 38, United States Code, he or she must have been disabled or died from a disease or injury incurred or aggravated in the line of duty.

(2) A Commissioned Officer of the Regular or Reserve Corps of the Public Health Service who performed full-time duty prior to July 29, 1945:

(a) In time of war;

(b) On detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or,

(c) While the Service was part of the military forces of the United States pursuant to Executive Order of the President.

(3) A Commissioned Officer serving on inactive duty training as defined in section 101(23), title 38, United States Code, whose death resulted from an injury incurred or aggravated in the line of duty.

e. World War II Merchant Mariners

(1) United States Merchant Mariners with oceangoing service during the period of armed conflict, December 7, 1941, to December 31, 1946. Prior to the enactment of Public Law 105-368, United States Merchant Mariners with oceangoing service during the period of armed conflict of December 7, 1941, to August 15, 1945, were eligible. With enactment of Public Law 105-368, the service period is extended to December 31, 1946, for those dying on or after November 11, 1998. A DD-214 documenting this service may be obtained by submitting an application to Commandant (G-MVP-6), United States Coast Guard, 2100 2nd Street, SW, Washington, DC 20593. Notwithstanding, the Mariner's death must have occurred on or after the enactment of Public Law 105-368.

(2) United States Merchant Mariners who served on blockships in support of Operation Mulberry during World War II.

f. The Philippine Armed Forces

(1) Any Philippine veteran who was a citizen of the United States or an alien lawfully admitted for permanent residence in the United States at the time of their death; and resided in the United States at the time of their death; and,

(a) Was a person who served before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including organized guerilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who died on or after November 1, 2000; or,

(b) Was a person who enlisted between October 6, 1945, and June 30, 1947, with the Armed Forces of the United States with the consent of the Philippine government, pursuant to section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who died on or after December 16, 2003.

g. Spouses and Dependents

(1) The spouse or surviving spouse of an eligible veteran is eligible for interment in a national cemetery even if that veteran is not buried or memorialized in a national cemetery. In addition, the spouse or surviving spouse of a member of the Armed Forces of the United States whose remains are unavailable for burial is also eligible for burial.

(2) The surviving spouse of an eligible veteran who had a subsequent remarriage to a non-veteran and whose death occurred on or after January 1, 2000, is eligible for burial in a national cemetery, based on his or her marriage to the eligible veteran.

(3) The minor children of an eligible veteran. For purpose of burial in a national cemetery, a minor child is a child who is unmarried and:

(a) Who is under 21 years of age; or,

(b) Who is under 23 years of age and pursuing a full-time course of instruction at an approved educational institution.

(4) The unmarried adult child of an eligible veteran. For purpose of burial in a national cemetery, an unmarried adult child is:

Of any age but became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a full-time course of instruction at an approved educational institution. Proper supporting documentation must be provided.

g. Others

Such other persons or classes of persons as designated by the Secretary of Veterans Affairs (38 U.S.C. § 2402(6)) or the Secretary of Defense (Public Law 95-202, § 401, and 38 CFR § 3.7(x)).

Persons NOT Eligible for Burial in a VA National Cemetery

a. Former Spouses

A former spouse of an eligible individual whose marriage to that individual has been terminated by annulment or divorce, if not otherwise eligible.

b. Other Family Members

Family members of an eligible person except those defined as eligible in Section III, paragraph g.

c. Disqualifying Characters of Discharge

A person whose only separation from the Armed Forces was under dishonorable conditions or whose character of service results in a bar to veterans benefits.

d. Discharge from Draft

A person who was ordered to report to an induction station, but was not actually inducted into military service.

e. Person Found Guilty of a Capital Crime

Under 38 U.S.C. § 2411, interment or memorialization in a VA cemetery or in Arlington National Cemetery is prohibited if a person is convicted of a Federal capital crime and sentenced to death or life imprisonment, or is convicted of a State capital crime, and sentenced to death or life imprisonment without parole. Federal officials are authorized to deny burial in veterans cemeteries to persons who are shown by clear and convincing evidence to have committed a Federal or State capital crime but were not convicted of such crime because of flight to avoid prosecution or by death prior to trial. The Secretary is authorized to provide aid to States for the establishment, expansion and/or improvement of veterans cemeteries on the condition that the State is willing to prohibit

interment or memorialization in such cemeteries of individuals convicted of Federal or State capital crimes, or found by clear and convincing evidence to have committed such crimes, without having been convicted of the crimes due to flight to avoid prosecution or death prior to trial. (38 U.S.C. § 2408 (d)(2)). This prohibition is also extended to other burial benefits, including furnishing a Presidential Memorial Certificate, a burial flag, or a headstone or marker.

f. Subversive Activities

Any person convicted of subversive activities after September 1, 1959, shall have no right to burial in a national cemetery from and after the date of commission of such offense, based on periods of active military service commencing before the date of the commission of such offense, nor shall another person be entitled to burial on account of such an individual. Eligibility will be reinstated if the President of the United States grants a pardon.

g. Active or Inactive Duty for Training

A person whose only service is active duty for training or inactive duty training in the National Guard or Reserve Component, unless the individual meets the eligibility criteria listed in Section III.1.b. of this information sheet.

h. Other Groups

Members of groups whose service has been determined by the Secretary of the Air Force under the provisions of Public Law 95-202 as not warranting entitlement to benefits administered by the Secretary of Veterans Affairs.

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[Freedom of Information Act](#) / [Contact the VA](#) / [Accessibility Notice](#)



Marine Corp League

Detachment #674

PO Box 73324

Fairbanks, AK 99707-3324

The Marine Corps League Detachment # 674 is at last count 100% in favor of a veteran's cemetery in Fairbanks, Alaska. We believe that this is a good move that will honor our many veterans in the Interior. Instead of having to drive or fly at the families' expense to the Anchorage area, especially at the price of gas, vehicle use and or plane fare.

On a personal note I thoroughly believe that there should be a veteran's cemetery in every County, Borough and Parish through out the United States. Simply because in my opinion it is ridiculous to expect a veteran, or their family members to travel half way or totally across their state of residence to visit the site of their past friends and loved ones.

Please pass this bill we are all registered voters.

Dana Nachtrieb Past Commandant

Marine Corps League #674

Fairbanks, Alaska



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the David Gutterberg
 Committee on HB 208 ^{In honor of AK} vet cemetery ^{Committee Name} Dated 4 09 05
 Bill / Subject

Representative

I would like to ask for HB 208 which seeks to establish a state veterans' cemetery in the interior of Alaska.

It is my concern that our veterans has to travel over 300 miles to the nearest state veterans cemetery. In other states it is not that much of a hardship to travel to their state veterans cemetery.

I feel it is our duty to help our veterans in any way possible to help honor our military that protect our America. The Land of the Free May God Bless us always.

SIGNED:

Margaret Mantel
 Testifier

I am a member of the D.A.R.
 Representing

506 Sprucewood Rd Fairbanks, AK 99709
 Address / Phone Number 907 479 5384



April 8, 2005

The Honorable Paul Seaton, Chair
House State Affairs Committee
Alaska State Capitol, Room 102
Juneau, Alaska 99801-1182

Dear Chair Seaton:

RE: HB 208 (Guttenberg) – Support

On behalf of the AARP members in Alaska, we encourage your colleagues on the House State Affairs Committee to support HB 208, authored by Representative David Guttenberg and co-sponsored by Representatives Nancy Dahlstrom and your Committee member Jay Ramras.

HB 208 would establish a new veterans' cemetery in the Interior. As you know, the closest military cemetery is in Anchorage yet the Fairbanks area alone has over 11,000 veterans, many of whom are AARP members.

Burial in a veterans' cemetery is one of the last honors we can offer our fellow citizens who have served in the Armed Forces. We think it is a well-deserved tribute to these men and women who served our country and a veterans' cemetery in the Interior simply makes sense. It is a proper thank you to the veterans and their families.

Undoubtedly there may be some costs associated with a new cemetery. Our veterans didn't weigh the costs when they joined the armed services. Surely we can bear the costs of this final thank-you to them.

AARP recommends an "AYE" vote on HB 208.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

Marie Darlin

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Representative Jim Elkins
Representative Berta Gardner
Representative Carl Gatto
Representative Max Gruenberg
Representative Bob Lynn
Representative Jay Ramras
Representative David Guttentberg

HB

214

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 214
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Anatomical Gifts RDU Occupational Licensing (117)
 Component Occupational Licensing
 Sponsor McGuire, Kerttula, Gruenberg
 Requester State Affairs Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 1156 - Receipt Supported Services						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 214 amends AS 13.50 relating to anatomical gifts and the gift donor registry program. New funds are not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division Occupational Licensing Date/Time 3/29/05 6:31 PM
 Approved by: Edgar Blatchford, Commissioner Date 3/29/2005
 Agency Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB214-DHSS-DPH-03-30-05
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 RDU: Public Health
 Component: Community Health/EMS Services

Revision Date/Time (Note if correction): _____
 Title: ANATOMICAL GIFTS

Sponsor: MCGUIRE
 Requester: _____

Component No. 2078

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	2.7					
Travel						
Contractual						
Supplies	3.8					
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	6.5	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	6.5					
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	6.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would add a requirement for EMS responders to notify an organ procurement agency and transmit organ donation documentation for deaths which occur outside of a hospital. The fiscal note addresses the cost to the state of mailing out notice of the reporting requirement to EMS providers, instructors, First Responder services, and Ground and Air Medical Services, but does not reflect the cost to the services, many of whom are operating under severe fiscal constraints, including rural EMS services.

Staff time: Preparation of training materials & 3 mailings to EMS providers, instructors & services: \$2.7.

Supplies: Supplies & postage for 3 mailings: \$3.8.

Prepared by: Richard Mandsager, MD
 Division: Public Health
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-3090
 Date/Time: 03/30/2005
 Date: 03/30/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB214-DPS-ASTD-3-30-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to anatomical gifts and the anatomical RDU Alaska State Troopers
gift donor registry program." Component AST Detachments
 Sponsor Representative McGuire
 Requester House State Affairs Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY 2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill impacts the Department of Public Safety by amending AS 13.52.200. The amendment requires law enforcement officers dealing with a body or individual from a death or impending death that is taken to a hospital, to additionally notify a procurement organization with documentation of an anatomical gift (organ donation) or evidence of refusal to make a gift. Also, if the individual or body is not taken to a hospital, law enforcement officers shall now notify a procurement organization and send the document or other evidence to the procurement organization.

Passage of this bill will have no fiscal impact on the Department of Public Safety.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223
 Division: Alaska State Troopers Date/Time 3/30/05 4:35 PM
 Approved by: Commissioner William Tardeske Date 3/30/2005
 Agency: Department of Public Safety

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*** THIS SECTION IS CURRENT THROUGH THE MARCH 17, 2005 ISSUE OF ***
*** THE FEDERAL REGISTER ***

TITLE 21 -- FOOD AND DRUGS
CHAPTER I -- FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES
SUBCHAPTER L -- REGULATIONS UNDER CERTAIN OTHER ACTS ADMINISTERED BY THE FOOD AND DRUG ADMINISTRATION
PART 1271 -- HUMAN CELLS, TISSUES, AND CELLULAR AND TISSUE-BASED PRODUCTS
SUBPART D -- CURRENT GOOD TISSUE PRACTICE [EFFECTIVE MAY 25, 2005.]

21 CFR 1271.170

§ 1271.170 Personnel. [Effective May 25, 2005.]

[PUBLISHER'S NOTE: This section was added at 69 FR 68612, 68683, Nov. 24, 2004, effective May 25, 2005.]

- (a) General. You must have personnel sufficient to ensure compliance with the requirements of this part.
- (b) Competent performance of functions. You must have personnel with the necessary education, experience, and training to ensure competent performance of their assigned functions. Personnel must perform only those activities for which they are qualified and authorized.
- (c) Training. You must train all personnel, and retrain as necessary, to perform their assigned responsibilities adequately.

HISTORY: [69 FR 68612, 68683, Nov. 24, 2004]

AUTHORITY: AUTHORITY NOTE APPLICABLE TO ENTIRE PART :
42 U.S.C. 216, 243, 264, 271.

NOTES: [EFFECTIVE DATE NOTE: 69 FR 68612, 68683, Nov. 24, 2004, added Subpart D, effective May 25, 2005.]

NOTES APPLICABLE TO ENTIRE TITLE:

Cross References: Food Safety and Inspection Services, Department of Agriculture: See Meat and Poultry Inspection, 9 CFR CHAPTER III.

Federal Trade Commission: See Commercial Practices, 16 CFR chapter I.

U.S. Customs Service, Department of the Treasury: See Customs Duties, 19 CFR chapter I.

Internal Revenue Service, Department of the Treasury: See Internal Revenue, 26 CFR chapter I.

Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury: See Alcohol, Tobacco Production and Firearms, 27 CFR chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

[EDITORIAL NOTE: For nomenclature changes to chapter I see 59 FR 14366, Mar. 28, 1994.]

[PUBLISHER'S NOTE: For the uniform compliance date for food labeling regulations under Chapter I, see 61 FR 67710, Dec. 24, 1996; 61 FR 68145, Dec. 27, 1996; 62 FR 49881, Sep. 23, 1997.]

NOTES APPLICABLE TO ENTIRE PART :

[PUBLISHER'S NOTE: The authority citation for Part 1271 was revised at *69 FR 29786, 29829, May 25, 2004*, effective May 25, 2005. For the convenience of the user, the authority citation effective May 25, 2005, has been set out below:

42 U.S.C. 216, 243, 263a, 264, 271.]

111 words

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*** THIS SECTION IS CURRENT THROUGH THE MARCH 17, 2005 ISSUE OF ***
*** THE FEDERAL REGISTER ***

TITLE 42 -- PUBLIC HEALTH
CHAPTER IV -- CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND
HUMAN SERVICES
SUBCHAPTER G -- STANDARDS AND CERTIFICATION
PART 482 -- CONDITIONS OF PARTICIPATION FOR HOSPITALS
SUBPART C -- BASIC HOSPITAL FUNCTIONS

42 CFR 482.45

§ 482.45 Condition of participation: Organ, tissue, and eye procurement

(a) Standard: Organ procurement responsibilities. The hospital must have and implement written protocols that:

(1) Incorporate an agreement with an OPO designated under part 486 of this chapter, under which it must notify, in a timely manner, the OPO or a third party designated by the OPO of individuals whose death is imminent or who have died in the hospital. The OPO determines medical suitability for organ donation and, in the absence of alternative arrangements by the hospital, the OPO determines medical suitability for tissue and eye donation, using the definition of potential tissue and eye donor and the notification protocol developed in consultation with the tissue and eye banks identified by the hospital for this purpose;

(2) Incorporate an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage and distribution of tissues and eyes, as may be appropriate to assure that all usable tissues and eyes are obtained from potential donors, insofar as such an agreement does not interfere with organ procurement;

(3) Ensure, in collaboration with the designated OPO, that the family of each potential donor is informed of its options to donate organs, tissues, or eyes or to decline to donate. The individual designated by the hospital to initiate the request to the family must be an organ procurement representative or a designated requestor. A designated requestor is an individual who has completed a course offered or approved by the OPO and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families and requesting organ or tissue donation;

(4) Encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of the families of potential donors;

(5) Ensure that the hospital works cooperatively with the designated OPO, tissue bank and eye bank in educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes take place.

(b) Standard: Organ transplantation responsibilities. (1) A hospital in which organ transplants are performed must be a member of the Organ Procurement and Transplantation Network (OPTN) established and operated in accordance with section 372 of the Public Health Service (PHS) Act (42 U.S.C. 274) and abide by its rules. The term "rules of the OPTN" means those rules provided for in regulations issued by the Secretary in accordance with section 372 of the PHS Act which are enforceable under 42 CFR 121.10. No hospital is considered to be out of compliance with section 1138(a)(1)(B) of the Act, or with the requirements of this paragraph, unless the Secretary has given the OPTN formal

42 CFR 482.45

notice that he or she approves the decision to exclude the hospital from the OPTN and has notified the hospital in writing.

(2) For purposes of these standards, the term "organ" means a human kidney, liver, heart, lung, or pancreas.

(3) If a hospital performs any type of transplants, it must provide organ-transplant-related data, as requested by the OPTN, the Scientific Registry, and the OPOs. The hospital must also provide such data directly to the Department when requested by the Secretary.

HISTORY: [63 *FR* 33856, 33874, June 22, 1998]

AUTHORITY: AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
Secs. 1102 and 1871 of the Social Security Act (42 *U.S.C.* 1302 and 1395hh).

NOTES: [EFFECTIVE DATE NOTE: 63 *FR* 33856, 33874, June 22, 1998, added this section, effective Aug. 21, 1998.]

NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: Nomenclature changes affecting Chapter IV appear at 45 *FR* 53806, Aug. 13, 1980; 50 *FR* 12741, Mar. 29, 1985; 50 *FR* 33034, Aug. 16, 1985; 51 *FR* 41338, Nov. 14, 1986; 53 *FR* 6634, Mar. 2, 1988; 53 *FR* 47201, Nov. 22, 1988; 56 *FR* 8852, Mar. 1, 1991; 66 *FR* 39450, 39452, July 31, 2001; 67 *FR* 36539, 36540, May 24, 2002.]

NOTES APPLICABLE TO ENTIRE PART:

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 482 clarifications, see: 67 *FR* 61805, Oct. 2, 2002.]

574 words

ALASKA STATE LEGISLATURE

Session

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REPRESENTATIVE LESLIE MCGUIRE
HOUSE DISTRICT 28

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& Social Services
Committee
Oil & Gas Committee
Military & Veterans'
Affairs Committee

Sponsor Statement HB 214

"An Act relating to anatomical gifts and the anatomical gift donor registry program."

Last year the Alaska Legislature passed the Anatomical Gifts Registry Bill, which created an official organ donor registry program at the Department of Motor Vehicles. Through this program an organ donor's wishes are kept on record in a central database and are transferred to Life Alaska Donor Services, the state's organ & tissue donor program. This information allows Life Alaska to quickly match the donor's gift to a potential recipient, saving time and lives.

HB 214 makes several simple but important changes to existing law to further the intent of the original enabling legislation and to continue to move the donor registry forward in the State of Alaska. This bill works to make the Alaska Donor Registry program inclusive rather than exclusive, offers expanded definitions that act to clarify the agencies that are responsible for donation within the state as well as for the people who are trained to do the actual recovery procedures, allows increased notification for greater donation potential, and clears up inconsistencies between federal rulings and state laws.

When the Anatomical Gifts Registry Bill was submitted for consideration and subsequently passed into law in the 2004 legislative session, it was done so with the clear intent that the donor registry be operated from within the State of Alaska and not controlled by an out-of-state agency. However, as the law now reads, an out-of-state organ procurement organization has sole control of the registry, excluding the in-state procurement organization. HB 214 would change AS 13.50 to be inclusive rather than exclusive allowing access to both in-state and out-of-state procurement organizations. The current definition of "procurement organization" within AS 13.50.190 and the definition of "organ procurement organization" within AS 13.52.390 are defined as the "organization designated by the United States Department of Health and Human Services..." This definition is restricted to the regional organ procurement organization only. While it is important to have the regional organ procurement organization represented in the state, it is equally important that the in-state procurement organization not be excluded from donation and donation decisions that benefit all Alaskans. HB 214 will change the definitions within both sections to be more inclusive of all procurement organizations and allow them to function equally for the good of donation throughout Alaska.

Also, the current definition of "technician" within AS 13.52.390 is too restrictive and not in line with the laws of any other state. Recognized technicians throughout the state who recover tissues have never been licensed or certified by the State Medical Board. In fact, the State Medical Board does not have a process to license or certify technicians to procure tissues. The FDA, which regulates the tissue procurement agencies, defines a technician under 21 CFR 1271.170 for recovery personnel only by "requir[ing] establishments to employ sufficient personnel with the necessary education, experience, and training to ensure competent performance of their assigned functions." HB 214 will change the definition of technician to more closely reflect the good tissue practices set out by the federal government.

In addition, AS 13.52.200(e) currently only addresses notification to the hospital. HB 214 would expand notification by allowing for law enforcement officers, fire fighters, paramedics, or other emergency rescuer personnel to contact a procurement organization directly. This would allow timely notification on non-hospital deaths to increase the potential of donation within the state.

Finally, there are two paragraphs within AS 13.52 that will be repealed in HB 214; the first being AS 13.52.200(b). This is in direct contradiction to 42 CFR 482.45, which requires the hospital to notify a procurement organization that will determine suitability of donation on *all* deaths or *imminent* deaths. The second is AS 13.52.200(c). This is burdensome to the hospital and is duplicating efforts that are already being done.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
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MEMORANDUM

March 24, 2005

SUBJECT: Sectional Summary of HB 214 relating to anatomical gifts and the anatomical gift donor registry program
(Work Order No. 24-LS0410\F)

TO: Representative Lesil McGuire
Attn: Vanessa

FROM:  Theresa 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. Defines "procurement organization" for the donor registry program.

Section 2. Adds definitions of "donor," "gift," and "part" for the donor registry program.

Section 3. Deletes a reference to AS 13.52.200 to reflect the repeal of AS 13.52.200(c) by sec. 11 of the bill.

Section 4. Makes conforming amendments to reflect the change in terminology to "procurement organization."

Section 5. Makes conforming amendments to reflect the change in terminology to "procurement organization."

Section 6. If an individual or body is taken to a hospital, and if a document of gift or evidence of refusal to make a gift is located under AS 13.52.200(d)(1), this subsection requires the hospital and a procurement organization to be notified of the contents of the document of gift or the evidence of refusal. If the individual or body is not taken to a hospital, requires certain persons (those identified in AS 13.52.200(d)(1)) to notify a procurement organization and send the document or evidence to the procurement organization.

Section 7. Makes a conforming amendment to reflect the change in terminology to "procurement organization."

Sectional

Representative Lesil McGuire

March 24, 2005

Page 2

Section 8. Makes a conforming change to reflect the repeal of AS 13.52.200(b) and (c) by sec. 11 of the bill.

Section 9. Defines "procurement organization" for AS 13.52.200.

Section 10. Amends the definition of "technician" for AS 13.52 to mean an individual who has the education, training, and experience necessary to competently remove or process a part.

Section 11. Repeals a provision stating that a hospital administrator (or a designee) is not required to contact an organ procurement organization if an anatomical gift is not suitable for donation. Repeals a provision requiring that an entry be made in a patient's record relating to the discussion by a representative of an organ procurement organization with the family, agent, or surrogate of the patient. Repeals the definition of "organ procurement organization."

If I may be of further assistance, please advise.

TLB:med

05-211.med



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Life Alaska moves donor registry forward

Sunday, March 13, 2005 - by Joy Mapaye

Anchorage, Alaska - Last year, Life Alaska made a plea to state lawmakers to create a computerized central registry for organ donors.

In June 2004, the registry became a reality with the signing of House Bill 337. The registry would include a new computerized driver's license which allows the Department of Motor Vehicles to enter a donor's information into a central computer system.

By June 2004, roughly 60,000 donors were in the Life Alaska registry. When the first DMV numbers were uploaded this number jumped to 80,000.



Shawn Wilson/KTUU-TV



Shawn Wilson/KTUU-TV

Today, there are about 170,000 donors listed according to the DMV. The registry grows by 200 to 300 names every day.

Life Alaska says it remembers all those who have helped others in a celebration service held each year. Denise Och is one of those at the event. Och lost her son, Nathanael, in an accident about two years ago. The family made the decision to donate his organs and tissues.

"We knew his character. We knew the kind of person that he was, and so the decision that we made as a family was based on what we thought he would want and we've never regretted it," said Och (right).



Shawn Wilson/KTUU-TV

"For years we've had donor cards and other means but the electronic registry allows one by the Internet to check a name instantly. Is this person on the registry? And so we're able to in every case know in Alaska if a person is on the registry," said Bruce Zalneraitis of Life Alaska donor services.



Life Alaska says the direct impact here is the cut down in waiting time, which can mean the difference between life and death. Prior to the change, about 10 to 15 names of people who passed away would appear in the registry every year. Now, five to 10 names appear each week.

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Life Alaska says about 25 other states have some form of electronic registry but the group says this number is changing as new laws go into effect.

 EMAIL ARTICLE  PRINT ARTICLE

Related articles:

- **State bill tries to record organ donors (March 14, 2004)**
Representatives of Alaska's Organ Procurement Program thanked 100 donor families who gathered together Sunday. With the help of the families, the lives of the 80 Alaskans who were at the meeting have been saved.
- **New bill could save thousands of Alaskan lives (June 15, 2004)**
Gov. Frank Murkowski is scheduled to sign House Bill 337 into law Wednesday. The bill would create an official organ donor registry at the Department of Motor Vehicles, and it is just one way organ donation in Alaska is getting easier.



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New bill could save thousands of Alaskan lives

June 15, 2004 - by Joy Mapaye

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Anchorage, Alaska - Gov. Frank Murkowski is scheduled to sign House Bill 337 into law Wednesday. The bill would create an official organ donor registry at the Department of Motor Vehicles, and it is just one way organ donation in Alaska is getting easier.

At Alaska's Department of Motor Vehicles, an organ donor's wish will now be on record. Currently the department doesn't keep records of those who sign up to become organ and tissue donors, but House Bill 337 will change that, allowing the DMV to transfer an organ donor's wishes to Life Alaska.

"We're very excited that Governor Murkowski is due to sign that into legislation," said Brenda Stewart of Life Alaska donor services.

Stewart says the new registry would allow Life Alaska to quickly match the donor's gift to a potential recipient, saving time and lives.

According to the Joint Commission on Accreditation of Healthcare Organizations, more than 85,000 Americans are on the waiting list for life-saving transplants, and more than 6,000 people who are awaiting a transplant die each year.

The group says it has now begun a major initiative to break down barriers that limit donations, including cultural ones. At Life Alaska, however, that process is well underway with a special partnership at the Alaska Native Medical Center.

"The relationship with Life Alaska has been one that has developed or evolved over years," said Phyllis Goodwin, the director of critical care services at the Alaska Native Medical Center.

Goodwin said that in 1991, when she first arrived at the Alaska Native Medical Center, they didn't do organ donations. But over the years it began working on education campaigns with Life Alaska to help the community and help boost Alaska Native donors.

"We've seen our donation numbers increase over time," Goodwin said.

Goodwin says educational campaigns as well as a growing public awareness on organ and tissue donation are helping. Life Alaska agrees and says one person can make a big difference.

Life Alaska says aside from its educational outreach, it works to help families through the grieving process, and during this time the focus is on those who need help.

"It's less about a background or a culture of a person and more about reaching out to people in need," Stewart said. "And if that's done in a caring and sensitive way, then it empowers people to make that decision that's right for them."

It's a decision Life Alaska says education, awareness and the new registry at the DMV are all helping people make.

Becoming part of the registry is optional. The new law will go into effect 90 days after the governor signs the bill.

Related articles:



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HB

215

ALASKA STATE LEGISLATURE

House of Representatives

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Representative Norman Rokeberg

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SPONSOR STATEMENT FOR HB 215 By: Representative Norman Rokeberg by Request

An Act relating to the investment responsibilities of the Alaska Permanent Fund Corporation; relating to regulations proposed and adopted by the Board of Trustees of the Alaska Permanent Fund Corporation and providing procedures for the adoptions of regulations by the board; and providing for an effective date.

The investments of the Alaska Permanent Fund are guided by a "legal list" contained in Alaska Statutes. The corporation's Board of Trustees recently engaged two consulting firms, Callan Associates and RV Kuhns, to review the impact of the legal list restrictions on the Fund's investment risk and returns.

What both firms found is that the Fund may be taking on greater risk without the promise of commensurate returns due to the investment restrictions in state statutes.

Modern investment theory focuses on the combined risk of a total portfolio, rather than the risk of each asset type. In our current environment, it is important to diversify a portfolio among assets that do not respond in the same way to similar market conditions, assets which aren't correlated in their performance. This better ensures a positive return for the Fund and lowers overall risk.

Under the current investment list, the Legislature must change the statutes to allow for new investment types. A small "basket clause" does allow up to 10% of the Fund to be invested in items not included in the legislative list, but with part of the basket already allocated, little room is available for new asset types or growth in existing assets beyond current limits.

Because the Constitution specifies that the Fund will be invested only in assets "specifically designated by law," the Legislature may not simply remove the legal list and direct the Trustees to invest under the Prudent Investor Rule alone. However, a recent Attorney General's opinion states that the Legislature is able to move the list to regulation, where the Trustees may make changes in a more timely fashion.

This legislation would make that change, granting the Board authority to establish and administer a legal investment list in regulation. Several important restrictions will be maintained in statute, including the requirement that all investments conform to the Prudent Investor Rule.

Giving the Board this flexibility will help ensure the continued health of the Fund and the ability to sustain distributions in perpetuity by allowing the Trustees to gain the full benefit of the investment professionals who work for the corporation, its managers and advisors.

For more information, please contact Laura Achee @ Alaska Permanent Fund Corporation, 465-2059.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 215
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Perm Fund Corp. Investments/Regulations RDU AK Permanent Fund Corporation
 Component AK Permanent Fund Corporation
 Sponsor Representative Rokeberg
 Requester House State Affairs Committee Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 215 would move the Permanent Fund's allowed investment list from statute to regulation. APFC does not anticipate significant changes in staff workload or management fees as a result of this legislation.

Prepared by: Michael Burns, Executive Director/CEO Phone 907-465-2047
 Division Alaska Permanent Fund Corporation Date/Time 04/08/05
 Approved by: _____ Date 4/8/2005
 Agency _____

MEMORANDUM

STATE OF ALASKA

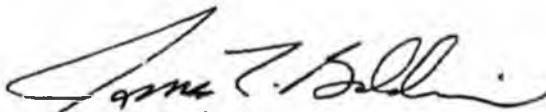
DEPARTMENT OF LAW

TO: Hon. Carl Brady, Chair
Board of Trustees
Alaska Permanent Fund Corporation

DATE: February 15, 2005

FILE NO: 663-05-0141

TEL. NO: 465-3600

FROM: 
James L. Baldwin
Senior Assistant Attorney General
Opinions, Appeals and Ethics

SUBJECT: Power of the Legislature to
authorize Board of Trustees of
Alaska Permanent Fund
Corporation to designate
investment subject only to the
Prudent Investor Rule

The Alaska Permanent Fund Corporation ("the Corporation") requested an opinion on whether the requirement in the Alaska Constitution that investments of the Alaska Permanent Fund ("the permanent fund") be "specifically designated by law" would allow the legislature to further delegate this power of designation to the board of trustees of the permanent fund. The board of trustees is investigating the legal consequences if they were to be given discretion over exercise of the power of designation subject only to the prudent investor rule.

Introduction.

Our advice on this question depends on the interpretation of a phrase in article IX, section 15 of the Alaska Constitution. Section 15 authorizes the establishment of the Alaska Permanent Fund. In pertinent part, the section requires that certain petroleum-related revenue be placed in a permanent fund, "the principal of which shall be used only for those income-producing investments specifically designated by law" as eligible for permanent fund investments. (Emphasis added). You desire to know whether the constitutional requirement that investments be "specifically designated by law" can be interpreted to permit the legislature to give to the board of trustees the power to make investments, not according to a list of investments established in AS 37.13.120 (hereinafter "the legal list"), but rather according to an exercise of discretion consistent with the prudent investor rule.

Short answer:

The legislature may delegate the power to designate investments to the board of trustees subject to the limitations explained in this memorandum.

Legislative History.

The legislative history of the constitutional provision we have been asked to construe provides some evidence that will assist in establishing a meaning. The permanent fund amendment was originally introduced by Governor Jay Hammond.¹ Even though the original approach gained passage in the House of Representatives during the First Session of the Ninth Alaska State Legislature, the governor offered a sponsor substitute the following year. The sponsor substitute proposed creation of a single dedicated fund to receive a stream of revenue from petroleum revenue sources.²

In his letter transmitting the sponsor substitute to presiding officers of each house of the legislature, Governor Hammond said:

The principal of the fund would be used only for investment in income-producing investments which the legislature would establish and change to meet current investment needs of the State.³

As introduced, the substitute resolution was silent concerning designation of permissible investments for the permanent fund. However, Governor Hammond's letter mentioned the legislature's role in setting the kinds of investments that would be appropriate for permanent fund principal. Apparently, he believed that this role was implied within the wording of the substitute version. During legislative hearings on the resolution, amendments were adopted in the House Finance and Judiciary Committees that expressly provided that investments will be designated by law.

The House Finance Committee reported out the resolution with amendments.⁴ As a part of these amendments, the Finance Committee provided that investments of

¹ HJR 39 (9th Alaska State Legislature, First Sess.).

² SSHJR 39 (9th Alaska State Legislature, Second Sess.).

³ 1976 House J. at 39 (January 15, 1976).

⁴ 1976 House J. at 541 (March 10, 1976).

principal "... shall be established by law".⁵ In the House Judiciary Committee, the finance amendments were accepted and incorporated in the Judiciary Committee Substitute with the word "established" deleted and the words "specifically designated" inserted in its place.⁶ This wording remained unchanged during subsequent hearings on the resolution and became the wording ratified by the people at the 1976 general election.

During discussion in the House Judiciary Committee, the stated intent of the provision requiring specific designation was to avoid having the permanent fund become a source of capitalization for existing state loan programs. At that time, revolving loan programs had provisions that enabled the sale or transfer of notes and other evidences of debt to the state treasury and public employee and teachers retirement funds. The proceeds of sale would then provide more money to make loans and thereby create constantly revolving loan enterprises.⁷

In a "Joint Chairman's Report" of the House Finance and Judiciary Committees, the intent of Governor Hammond was repeated that permanent fund money would be placed in "investments which the legislature would establish and change from time to time to meet the needs of the state."⁸ Based on the foregoing it does not appear that the legislature meant that individual investments must be specifically designated before the permanent fund can be invested. Rather, there must be an express authorization of the investment of permanent fund money in a particular manner. This distinction is important. The language of the resolution was not intended to require approval of individual investments but rather to prevent the possibility that authority to make an investment could be provided by or implied from a statute unrelated to the permanent fund. The authority to invest must be specific to the permanent fund and was not intended to include the investment of surplus state money in general.

The attorney general addressed the requirement to specify permanent fund investments in a 1977 opinion. This office concluded that the legislature's power to designate investments

is not plenary but rather is limited by the express terms of the amendment on the one hand and by implied trust concepts on the other. In other words,

⁵ *Id.*

⁶ 1976 House J. at 684 (March 24, 1976).

⁷ See e.g.; former AS 03.10.054 (Agricultural Revolving Loan Fund); AS 16.10.330 (Commercial Fishing Loans); AS 16.10.550 (Fishery Enhancement Loans); AS 44.33.370 (Residential Care Facility Loans).

⁸ 1976 House J. at 684.

the legislature may designate only income-producing investments and may not designate imprudent, income-producing investments or provide for imprudent administration of the fund principal. To the extent, if any that it did, the managers of the fund would nevertheless remain under a duty to make only prudent income-producing investments and to provide a prudent administration.⁹

When investment powers were first implemented for the corporation by the legislature in 1980, there was an express intent to "establish a trust held to a more restricted list of investments than most other fiduciary trusts including the Alaska State Pension Funds."¹⁰ In accomplishing that result, the legislature believed that it was establishing a legal list statute that had "a minimum of investment restrictions yet provides a very definite and certain framework."¹¹ Since 1980, the legislature has expanded the legal list of permitted investments a number of times.¹²

The Delegation Doctrine.

We believe that the courts would interpret the Alaska Constitution to permit the legislature to delegate its power to designate specific investments to the board of

⁹ 1976 Inf. Op Att'y Gen. at 2 (Sept. 16; J66-107-78).

¹⁰ 1980 Senate J. at 671.

¹¹ *Id.*

¹² The legal list set out in AS 37.13.120 originally authorized investment in direct obligations of the United States Treasury, federal agency securities, certificates of deposit, high-grade corporate bonds, quality short-term investments, and federally guaranteed loans. There was direction given to prefer Alaska investments as long as they met the standards of quality set out in law. Specifically, deposits could be made in Alaska banks, mutual savings banks, savings and loan associations, and credit unions. Residential real estate (owner-occupied single family dwellings, duplexes, and condominiums) could also be purchased if the mortgage was privately insured by a company doing business in Alaska. In 1982 the legal list was expanded to include investment equities. The legal list has since been expanded at least five more times by the legislature: in 1989 to include investments in non-U.S. securities; in 1992 to include A-rated corporate bonds; in 1994 to expand permissible real estate investments; in 1999 to make a variety of adjustments to the legal list, to authorize up to five percent of the fund to be invested in other prudent investments not specifically included in the list (the "basket clause"), and to increase the allocation limit placed on equity investments; and in 2004, the five percent limit on the basket clause was increased to ten percent.

trustees.¹³ The scope of a delegation permitted under the wording of the constitution is the question at hand. The legislature would have some latitude in constructing a workable framework for the investment authority of the board of trustees. However, the legislature must establish standards under which the board of trustees would exercise discretion in making its investment decisions. Based on past construction and legislative history, these standards must, at a minimum, be appropriate for a fiduciary relationship and tailored specifically for the permanent fund. Too broad of a grant of power without standards for the exercise of discretion would amount to an invalid delegation of the legislature's power to designate investments.¹⁴ In *Fairbanks North Star Borough*, the court outlined the method for evaluating the validity of a purported delegation of legislative power:

The essential inquiry is whether the specified guidance sufficiently marks the field within which the administrator is to act so that it may be known whether he has kept within it in compliance with the legislative will.¹⁵

The "field" is limited by attaching standards or conditions to the delegated powers under which the administrators are obliged to act in the performance of the powers. The court summed up its holdings on the delegation doctrine as follows.

Review of our decisions which have addressed delegation issues leads to the observation that whether one employs explicit or implicit standards, '[t]he basic purpose behind the nondelegation doctrine is sound:

¹³ See *Boehl v. Sabre Jet Room, Inc.*, 349 P.2d 585, 588 (Alaska 1960) (declaring that the delegation of state legislative powers is not unconstitutional; "a strict theory of separation of powers ignores [the] realities and the practical necessities of government. . . . The real question, then, is not whether there may be delegation. Rather, it is how far the legislature may go in delegating power to an agency . . ."); *Walker v. Alaska State Mortgage Ass'n*, 416 P.2d 245, 254 (Alaska 1966) (holding that creation of Alaska State Mortgage Association was not an unconstitutional delegation of legislative authority to provide for public health and welfare); *DeArmond v. Alaska State Dev. Corp.*, 376 P.2d 717, 722-23 (Alaska 1962) (finding that creation of the Alaska State Development Corporation which provided development loans to businesses was not an improper delegation of legislative authority).

¹⁴ See *State v. Fairbanks North Star Borough*, 736 P.2d 1140 (Alaska 1987) (governor's statutory power to reduce or withhold appropriations held invalid on two grounds: delegation without standards and violation of separation of powers).

¹⁵ 736 P.2d at 1143 (quoting *Synar v. United States*, 626 F. Supp. 1374, 1383-89 (D.D.C. 1986) (quoting *Yakus v. United States*, 321 U.S. 414, 426 (1944) (quotation marks omitted)).

Administrators should not have unguided and uncontrolled discretionary power to govern as they see fit.¹⁶

Based on the *Fairbanks North Slope Borough* case, the legislature should set limits on the amount of discretion that would be afforded to the board of trustees. However, in the absence of a court decision specifically on this question, it is not possible to give absolute certainty as to the validity of one set of standards over another. The Alaska Supreme Court approaches disputes involving delegated powers on a case-by-case basis by measuring the validity of standards according to a sliding scale.

... [t]he constitutionality of a delegation is determined on the basis of the scope of the power delegated and the specificity of the standards to govern its exercise. When the scope increases to immense proportions the standards must be correspondingly more precise.¹⁷

In *Fairbanks North Star Borough*, the court invalidated a statute that purported to convey a significant part of the legislature's power to the governor to amend appropriations. The delegation of power to the governor to impound or reduce enacted appropriations was characterized as a broad grant of power requiring precise standards limiting administrative discretion. The delegation failed because there was a total absence of a standard for performance of the delegated powers. Delegation of investment authority over a substantial amount of the state's wealth is significant but it arguably is not of "immense" proportions. The power to designate investments has been delegated to the Alaska State Pension Investment Board for a substantial amount of retirement funds without much in the way of detail other than recitation of the prudent investor rule set out in AS 37.10.071(c).¹⁸

In *Walker v. Alaska State Mortgage Ass'n*,¹⁹ the court explained that the complexity of the subject matter also affects the detail needed in standards governing the exercise of a delegated power. In *Walker*, the court found that standards for delegated power over a secondary marketing facility for housing mortgages need not be detailed in order to be found valid. The determination of appropriate investments in today's market is arguably a similarly complex subject that would allow a less precise set of standards

¹⁶ *Municipality of Anchorage v. Anchorage Police Department Employee Ass'n*, 839 P.2d 1080, 1086 (Alaska 1992)(quoting 1 K. Davis, *Administrative Law*, § 3:15, at 206).

¹⁷ *Fairbanks North Star Borough*, 736 P.2d at 1143.

¹⁸ See AS 14.25.180(c), and AS 39.35.080.

¹⁹ 416 P.2d 245, 254 (Alaska 1966)

for the exercise of discretion. Thus, it appears that court precedent would support a broadly stated delegation of investment authority to the board of trustees.

The Alaska Supreme Court uses a method of reviewing standards for the exercise of delegated power which does not focus on the precision of the standards but rather on whether they effectively prevent the arbitrary exercise of the delegated power. When it first employed this method, the court cited with approval the following advice on measuring the effect of limits on administrative discretion:

The focus should not be exclusively on standards; it should be on the totality of protections against arbitrariness, including both safeguards and standards. The key should no longer be statutory words; it should be the protections the administrators in fact provide, irrespective of what the statutes say or fail to say. The focus of judicial inquiries thus should shift from statutory standards to administrative safeguards and administrative standards. As soon as that shift is accomplished, the protections should grow beyond the nondelegation doctrine to a much broader requirement, judicially enforced, that as far as is practicable administrators must structure their discretionary power through appropriate safeguards and must confine and guide their discretionary power through standards, principles, and rules.²⁰

The foregoing instructs us that the validity of any legislation proposing a delegation of investment authority heavily depends on an evaluation of the safeguards applied by the legislature to prevent arbitrary administrative decision-making.

Municipality of Anchorage concerned the validity of the Anchorage Municipal Assembly's delegation of power to a private arbitrator to make final and binding determinations in certain labor contract disputes. The court characterized this as "a fairly narrow area, albeit an important one, . . ." ²¹ The court also acknowledged there were a panoply of implied standards that created "an elaborate and detailed structure which guides the arbitrator's decisions and guards against arbitrary action . . ." ²² Principally for these reasons the court held the delegation to be valid. In a subsequent case, the court

²⁰ *Municipality of Anchorage v. Anchorage Police Department Employee Ass'n*, 839 P.2d 1080, 1086 n.12 (Alaska 1992)(quoting 1 K. Davis, *Administrative Law*, §3:15, at 206-07).

²¹ *Id.* at 1086-89.

²² *Id.*

explained that *Municipality of Anchorage* suggests "the delegation doctrine should be animated more by due process concerns than by separation of powers principles."²³

We next consider whether the prudent investor rule would serve as an appropriate limit on the delegated investment power.

The Prudent Investor Rule as a Standard for Delegated Investment Power.

The prudent institutional investor rule provides a detailed structure to guide the decisions of the board of trustees and others with fiduciary investment responsibility.²⁴ The rule has been established since 1994 when it was codified in the Restatement of Trusts (Third).²⁵ The board of trustees have been subject to a form of the prudent investor rule since 1980 when AS 37.13.120(a) was enacted.²⁶ The rule applies to investment decisions made within the constraints of the legal list.²⁷ The prudent investor rule serves as a limitation on the actions of applicable fiduciaries. Under the Restatement, the prudence standard is one of conduct and not a test of the result of performance of a specific investment. The focus of inquiry by a court is how the fiduciary acted in his or her selection of the investment and not whether the investments succeeded or failed.²⁸ The prudent investor rule, not constrained by a legal list, would operate to determine whether the individual trustees, at the time they specified an

²³ *Usibelli Coal Mine, Inc., v. State*, 912 P.2d 1134, 1144, n.15.

²⁴ Restatement (Third) of Trusts, subsec. 277 *et. seq.*

²⁵ The rule was made applicable to the administration of private trusts in the state in May of 1998. It is set out in detail in AS 13.36.225 – 13.36.290.

²⁶ AS 37.13.120 provides:

(a) The prudent-investor rule shall be applied by the board in the management and investment of fund assets. The prudent-investor rule as applied to investments of the fund means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.

²⁷ AS 37.13.120(g).

²⁸ See, *Laborers National Pension Fund v. Northern Trust Quantitative Advisors, Inc.*, 173 F.3d 313, 317 (C.A. 5Tex. 1999)(ERISA implemented by regulations establishing the prudent investor rule).

investment for the permanent fund, used the appropriate methods to investigate the merits of the investment and to structure the investment to achieve the best result. In our opinion, adoption of the prudent investor rule, standing alone, by law would provide an extensive set of instructions to guide investment decisions of the board of trustees. The prudent investor rule is equivalent to the express and implied standards applicable to arbitrators found acceptable in *Municipality of Anchorage*. The prudent investor rule has withstood the test of time by requiring a process that guards against arbitrary exercise of power.

Any legislation to enact an effective standard must be in harmony with the wording of the Alaska Constitution requiring that investments be "specifically designated by law." In order to formalize the designation of prudent investments, we believe that the legislature should, by statute, provide that the designation of investments must be exercised by the adoption of administrative regulations by the board of trustees. The statute providing the specific authority to adopt regulations would be a delegation of authority from the legislature to the board of trustees to set policy and to act in the place of the legislature. Such regulations are reviewed by a court as if they have the effect of law.²⁹ By using this method to specify investments for the permanent fund, the delegation would be textually correct insofar as the Alaska Constitution's command that investments be "specifically designated by law." The asset classes of permitted investments could be set out in regulations.³⁰ In recognition of the need to respond to short term changes in markets, the legislature could establish an abbreviated adoption process for these regulations. This has been done for other financial enterprises of the state.³¹

Regulation adoption procedures have ingrained due process safeguards and protections against arbitrariness. By specifying investments by regulation, the board of trustees would follow an adoption procedure specified in law that requires adequate public notice and opportunity to comment.

Conclusion.

In our opinion, the legislature may delegate to the board of trustees the power to designate investments for the permanent fund. The statute making this delegation must incorporate adequate due process safeguards against arbitrary exercise of the delegated

²⁹ *Kelly v. Zamarello*, 486 P.2d 906, 911 (Alaska 1971).

³⁰ Under this approach, the legal list set out in AS 37.13.120 would be repealed and adopted in administrative regulations.

³¹ See, AS 44.88.085 (Alaska Industrial and Development Authority), and AS 18.56.088 (Alaska Housing Finance Corporation).

power and must contain adequate standards for the exercise of the delegated power. In order to satisfy the foregoing conditions, we recommend that the legislature consider authorizing the board of trustees to specify investments by the adoption of regulations. We further recommend that the legislature provide standards for the exercise of this regulatory power by requiring that the investment decisions formalized in the regulations comply with the prudent investor rule.

We hope the foregoing will assist the board of trustees in determining the validity and scope of legislation that would propose a delegation of investment power conditioned on exercise consistent with the prudent investor rule.

JLB:jn

This is written in a handout from the APFC:

POMV v Status quo in FY2004

POMV protects more of the Fund from overspending than is protected under the current structure.

They then go on to say that 6% realized earnings or \$1.6 billion plus 11% unrealized net gains of \$3.0 billion are either "unprotected or partially protected"

What does unprotected or partially protected mean?

Paul - Peter N. dropped this off
regarding the Perm Fund bill (215)^{SB}

* They are advertising that the PF
would be more "protected" if
legislature gave up their control of
the fund.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 215
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Perm Fund Corp. Investments/Regulations RDU AK Permanent Fund Corporation
 Component AK Permanent Fund Corporation
 Sponsor Representative Rokeberg
 Requester House State Affairs Committee Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 215 would move the Permanent Fund's allowed investment list from statute to regulation. APFC does not anticipate significant changes in staff workload or management fees as a result of this legislation.

Prepared by: Michael Burns, Executive Director/CEO Phone 907-465-2047
 Division Alaska Permanent Fund Corporation Date/Time 04/08/05
 Approved by: _____ Date 4/8/2005
 Agency _____



Alaska Permanent Fund Corporation

Reducing Risk, Increasing Return

Background

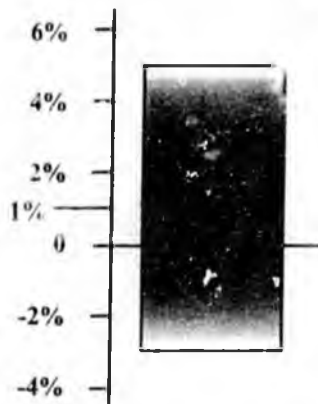
AS 37.13.120 contains a "legal list" of allowed investments for the Alaska Permanent Fund.

The Board of Trustees recently asked two consulting firms, Callan Associates and RV Kuhns, to determine the list's impact on the Fund's potential investment returns and risk. These firms found that the Fund may be taking on greater risk without the promise of commensurate returns under the restrictions in the legal list.

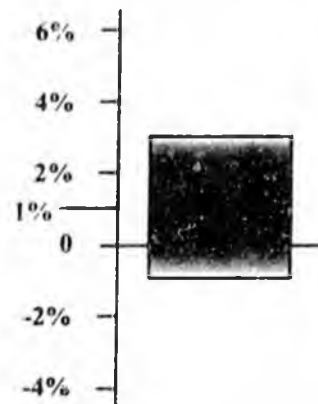
What is risk? Standard deviation? Volatility?

Risk is defined as the measurable possibility of losing value on an investment. It is expressed as the standard deviation above and below the return, the range of possible returns. In the example on the left, 4% is the standard deviation.

Expected return of 1% \pm 4%



Expected return of 1% \pm 2%

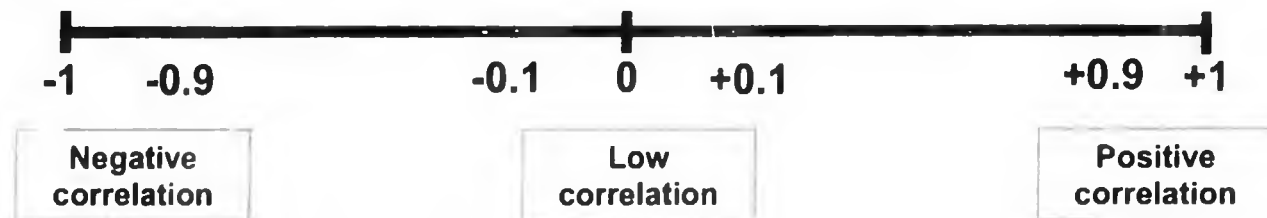


Volatility describes the level of risk for investments, from individual securities to investment strategies to a total portfolio. The returns on highly volatile investments can swing wildly, while the expected returns for less volatile investments will fall into a more narrow range. In the examples above, the figure on the left shows greater volatility and risk than the figure on the right.

What is correlation?

Correlation is a statistical measure of the relationship between two different assets, describing whether or not they move in tandem under various market conditions.

This relationship is expressed with a number between plus one (perfect positive correlation) and minus one (perfect negative correlation). Positively correlated investments usually rise and fall together, while negatively correlated investments move in opposite directions.



Investments with a low correlation (a correlation value close to zero) do not move in relationship to each other. The less correlated the assets, the less able we are to predict how these investments will perform in relation to each other.

Diversifying assets among negatively correlated investments can increase the likelihood of stable performance under various market conditions. Investing in assets with low correlation to each other can lower total portfolio risk even further.

Modern portfolio theory

In the past, institutional portfolios were managed by assessing the individual risk for each asset type. Investments that were considered too risky would not be included in the portfolio.

This is similar to how many individual investors approach their personal retirement portfolios. When the investor is young, they are open to more risk and can invest in more volatile assets. As they approach retirement age and the eventual payout of earnings, it becomes more important to protect the value of the portfolio and the investor shifts to less risky assets.

However, institutional funds have different characteristics than a retirement account. Institutional funds must be protected for the long term, while providing annual payouts. As markets have changed, this has created a modern portfolio theory that focuses more on spreading investments across non-correlated assets than focusing on the individual risk of each asset type. Managing investments in this manner can lower the overall risk of the portfolio, even while the fund is invested in assets that are considered risky.

How does this work?

The following hypothetical examples show how the correlation between assets can affect the overall risk for a portfolio.

<p>Portfolio A is invested in race horses and race tracks.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;"></th> <th style="width: 30%; text-align: center;">Race horses</th> <th style="width: 30%; text-align: center;">Race tracks</th> </tr> </thead> <tbody> <tr> <td>Return</td> <td style="text-align: center;">10.0%</td> <td style="text-align: center;">7.0%</td> </tr> <tr> <td>Std. deviation (risk)</td> <td style="text-align: center;">12.0%</td> <td style="text-align: center;">8.0%</td> </tr> <tr> <td colspan="3">Correlation between assets: .90</td> </tr> </tbody> </table>		Race horses	Race tracks	Return	10.0%	7.0%	Std. deviation (risk)	12.0%	8.0%	Correlation between assets: .90			<p>Portfolio B is invested in Beanie Babies and fine art.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;"></th> <th style="width: 30%; text-align: center;">Beanie Babies</th> <th style="width: 30%; text-align: center;">Fine art</th> </tr> </thead> <tbody> <tr> <td>Return</td> <td style="text-align: center;">10.0%</td> <td style="text-align: center;">7.0%</td> </tr> <tr> <td>Std. deviation (risk)</td> <td style="text-align: center;">13.2%</td> <td style="text-align: center;">8.8%</td> </tr> <tr> <td colspan="3">Correlation between assets: .10</td> </tr> </tbody> </table>		Beanie Babies	Fine art	Return	10.0%	7.0%	Std. deviation (risk)	13.2%	8.8%	Correlation between assets: .10		
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While the assets in each portfolio have corresponding returns, they have different risk levels and different correlations. When they are weighted the same, which portfolio has the greater total risk?

<p style="text-align: center;">Portfolio A</p> <p>Race horses = 56% of portfolio</p> <p>Race tracks = 44% of portfolio</p> <p>Expected return is 8.68%</p> <p>Standard deviation (risk) 10.00%</p>	<p style="text-align: center;">Portfolio B</p> <p>Beanie Babies = 56% of portfolio</p> <p>Fine art = 44% of portfolio</p> <p>Expected return is 8.69%</p> <p>Standard deviation (risk) 8.70%</p>
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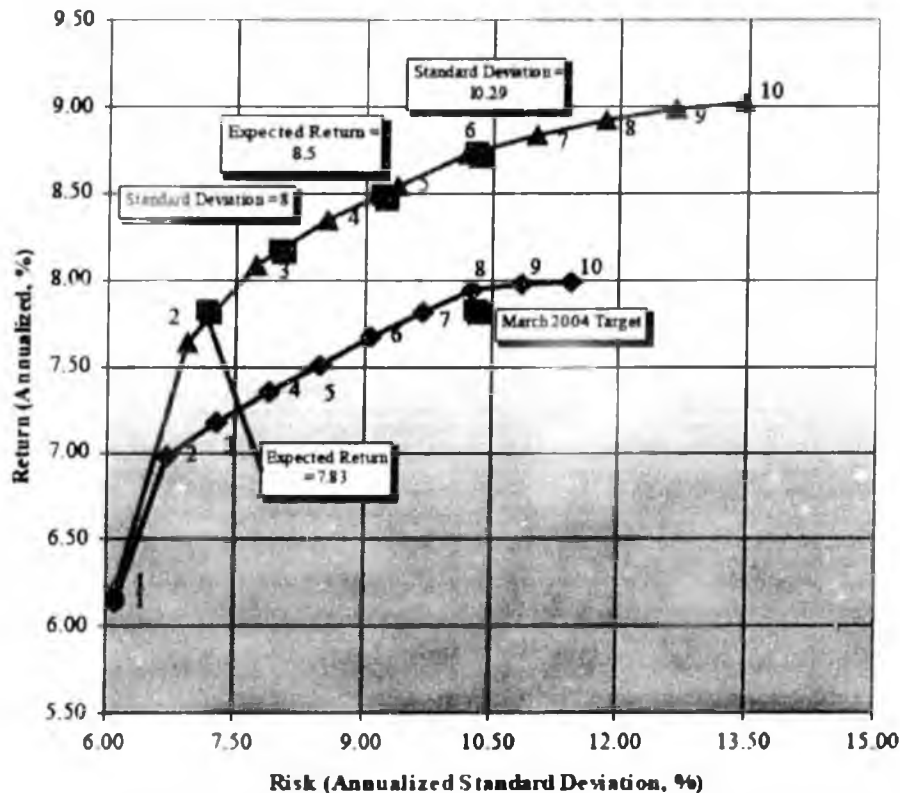
The portfolio using higher risk investments was able to achieve a lower overall risk for equal returns because it used investments that are less correlated.

Where is the Permanent Fund?

The following chart shows potential risk and return for various portfolios under the Fund's current investment restrictions (blue line), and under the Prudent Investor Rule alone (red line). The underlying asset allocations for the main points of this chart are shown on the next page.

The chart demonstrates that under the Prudent Investor Rule, the Fund could potentially earn the same return as the current portfolio (March 2004 target) with more than 3% less risk (Expected Return = 7.83). Or, for the same risk the Fund could earn almost 1% more return (Standard Deviation = 10.29).

Efficient Frontier



The Trustees understand the Legislature's need to balance risk and return for the Fund. While an aggressive rate of growth may be desired by some, others may find it more important to lower the Fund's risk while maintaining a reasonable rate of return.

Increasing the Fund's investment options would allow the Trustees greater flexibility in managing the Fund for the benefit of all Alaskans, whether it is for greater return, lower risk or both. This is especially important as the Legislature begins to contemplate the use of Fund earnings for more than just the dividend program.

How would the Trustees use that flexibility?

The statutory list prevents investments in newer high risk assets such as broad emerging market debt, high yield bonds and certain forms of real estate investments. These assets, while considered risky on their own, can lower the overall risk of a portfolio through low correlation with other asset types.

These asset types are fairly easy to describe, and with time could be added to the statutory list with Legislative approval. However, by the time they are added, the investment opportunity may have closed, leaving the Permanent Fund out in the cold.

As the investment world seeks new ways to improve returns in increasingly efficient markets, investors are creating new strategies that mix multiple investment options or asset types within a single investment mandate. Absolute return strategies, an alternative asset type that the Fund currently invests in under the 10% basket clause, are portfolios that invest for an absolute target return using the most promising investment opportunities available. These portfolios are defined by their return targets, not by the assets they hold.

Large Cap US Equity	30	20	20	20	20
Small/Mid Cap US Equity	7	5	5	5	5
International Equity	16	10	10	10	10
Emerging Markets	2	0	6	0	4
Fixed Income	28	20	20	20	20
Non-US Fixed Income	4	5	0	5	1
Real Estate	6	15	14	15	15
REITs	4	0	0	0	0
Private Equity	2	0	10	4	6
Absolute Return	1	10	5	10	9
Cash Equivalents	0	0	0	0	0
Commodities	0	5	5	5	5
Convertibles	0	0	0	0	6
High Yield	0	0	0	0	0
Real Return	0	1	0	1	0
Timber	0	5	5	5	5
TIPS	0	4	0	0	0
Total	100	100	100	100	100

This new wave of investment practice does not fit well within the rigid structure of a legal list. If the Fund's legal list were moved to regulation as suggested by a recent Attorney General's opinion, it would still require that these strategies have some form of definition. However, the less cumbersome regulatory process would allow Trustees to craft and modify regulatory definitions of alternative investment strategies.

The Prudent Investor Rule

STATE/TERRITORY ADOPTIONS*		
of the PRUDENT INVESTOR ACT		
Alaska (ASPIB)	Maryland **	Pennsylvania
Arizona	Michigan	Rhode Island
Arkansas	Minnesota	South Carolina
California	Missouri	South Dakota
Colorado	Montana	Tennessee
Connecticut	Nebraska	Texas
District of Columbia	Nevada	Utah
Hawaii	New Hampshire	U.S. Virgin Islands
Idaho	New Jersey	Vermont
Illinois	New Mexico	Virginia
Indiana	North Carolina	Washington
Iowa	North Dakota	West Virginia
Kansas	Ohio	Wisconsin
Maine	Oklahoma	Wyoming
Massachusetts	Oregon	
* Source is National Conference of Commissioners on Uniform State Laws		
** Substantially Similar		

The Prudent Investor Rule is a legal standard that requires the APFC Board of Trustees to act as a prudent institutional investor would when making investment decisions. Alaska statutes require that the Board follow the Prudent Investor Rule in addition to the other statutory investment restrictions.

The Permanent Fund's peers—state pension funds and large institutional endowment funds—have been moving away from legal investment lists. Instead, they are simply required to conform to the Prudent Investor Rule.

New York and New Mexico are both seeking legislative approval to expand the investment flexibility for their state pension funds.

What can we do?

The Constitution says that the Alaska Permanent Fund will be invested in assets "specifically designated by law." This prevents the Legislature from removing the legal list and simply requiring that all Fund investments conform to the Prudent Investor Rule. However, a recent Attorney General's opinion says the Legislature may delegate authority to the Board of Trustees to create a list of allowed investments in regulation. A regulatory list may be amended more quickly than statutes, allowing the Trustees the flexibility to respond to changes in the investment world.

Legislation drafted at the request of the Trustees would allow the list to be moved to regulation, while maintaining key restrictions in statute. The most important of these restrictions is the requirement that all Fund investments conform to the Prudent Investor Rule.

The Alaska Permanent Fund Corporation thanks Michael O'Leary of Callan Associates, and Russ Kuhns, Rebecca Gratsinger, and Jim Voytko of RV Kuhns, for their assistance in producing this handout.

HB

238

ALASKA STATE LEGISLATURE

Chair
STATE AFFAIRS

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RESOURCES

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
WAYS AND MEANS



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REPRESENTATIVE PAUL SEATON
House District 35

Sponsor Statement CSHB 238

House Bill 238 creates a mechanism to help non-State and non-School District employers pay their portions of the Public Employees Retirement System (PERS) unfunded liability. Unassisted, the \$3.2 billion unfunded liability of PERS will result in unsustainable employer contribution rates of up to 30%. The legislature recognizes that making such high payments would require many municipalities to cut basic services. In response, HB 238 proposes the creation a Past Service Cost Offset Account (PSCOA), which would make annual payments towards the past service cost of employers. To make these payments over the next 25 years would require an up-front deposit of approximately \$300 million (according to 2004 numbers).

Under the bill, payments from the PSCOA would be linked to the employer's total number of defined contribution (Tier IV) employees. The following equation shows how these contributions on behalf of municipal employers would be calculated.

$(\text{employer's PSC rate}) * (\text{wage base} * \text{No. of Tier IV employees}) = \text{PSCOA payment}$

Although defined contribution employees do not individually have any unfunded liability associated with them, all previous proposals used the employers entire wage base for calculation of contribution rates and HB 238 continues this format.

Many employers have higher than average past service cost rates due to poor financial decisions in the past or the composition of their workforce. State PSCOA payments to the PERS pension fund, made on behalf of the employers is limited under HB 238 to the average past service cost rate for all non-State and non-school PERS district employers.

HB 238 proposes a long-term solution to assist communities with the growing unfunded liability payments. Creating a mechanism that aids employers as new defined contribution hires enter the workforce allows them to handle the complexities of a changing labor market and maintain much needed community services. Over the course of the 25-year amortization period the PSCOA would reduce non-State and non-school district employer past service cost contributions by approximately 44%.



ALASKA STATE LEGISLATURE

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REPRESENTATIVE PAUL SEATON
House District 35

Sectional Analysis for CSHB 238

Sec. 1. (a) Establishes the public employees' pension fund past service cost offset account (PSCOA). Suggests the legislature appropriate funds into the account.

(b) Establishes that the administrator may pay into the pension fund account of the employer the past service cost offset contributions corresponding to the defined contribution employees. States that the amount paid on behalf of employers will be actuarially calculated but the contribution will be limited to the blended employer past service cost rate.

(c) Clarifies how the past service offset contribution will be calculated.

(1) Specifies that the past service cost rate used in calculating PSCOA payments will be calculated based on the entire wage base of the employer. This wage base is calculated including all defined contribution and defined benefit employees. Clarifies that the PSCOA will only pay up to the system wide average past service cost rate for employers as applied to Tier IV employees.

(d) Definitions

- (1) "account" refers to the PSCOA established in this Act
- (2) "blended employer past service cost rate" refers to the average past service cost rate of all PERS employers excluding the State of Alaska and School Districts.
- (3) "past service cost" refers to the annual lump sum payment made towards the PERS system unfunded liability.
- (4) "past service cost rate" means the annual payment as a percentage of total wage base of employee salary required to pay the past service cost as an amortized contribution in percentage of a stipulated number of years.
- (4) "unfunded liability" refers to amount that would need to be paid into the PERS system to cover all of its liabilities.

Sec. 2. Effective date of July 1, 2006



Payment to Unfunded Liability per Tier - Actual Dollar Value

Based on 2003 valuation data

	2005	2010	2015	2020	2025	2028	Total
Matanuska-Susitna Borough	29,537	258,664	337,610	360,085	347,357	80,531	6,701,689
Total	371,161	918,285	839,712	692,614	531,339	110,681	6,701,689
Palmer, City of (Tier 4)	7,324	94,425	123,244	131,448	126,802	19,958	3,563,445
Total	92,030	335,217	306,535	252,837	193,964	27,443	2,360,741
Anchorage Parking Authority (Tier 4)	3,448	35,307	68,498	108,594	155,709	58,205	879,892
Total	40,284	91,263	111,091	136,802	171,316	61,456	1,907,304
Anchorage, Municipality of (Tier 4)	444,182	7,310,690	14,183,299	22,485,682	32,241,566	7,498,837	174,120,449
Total	5,190,006	18,897,098	23,002,843	28,323,628	35,473,261	7,917,684	366,261,047
Fairbanks North Star Borough (Tier 4)	56,943	670,241	1,300,319	2,061,479	2,955,894	961,328	16,558,048
Total	665,343	1,732,479	2,108,892	2,596,974	3,252,175	1,015,023	35,429,486
Fairbanks, City of (Tier 4)	19,500	448,276	917,993	1,509,025	2,201,842	329,204	10,621,260
Total	227,845	1,158,729	1,488,825	1,901,014	2,422,541	347,592	23,077,136
Homer, City of (Tier 4)	14,982	199,049	386,169	612,219	877,843	252,929	4,863,093
Total	175,054	514,512	626,300	771,251	965,932	267,036	10,304,816
Kenai Peninsula Borough (Tier 4)	42,579	768,351	1,490,660	2,363,238	3,388,578	718,840	18,126,201
Total	497,515	1,986,075	2,417,591	2,977,119	3,728,228	758,990	36,021,273
Kachemak, City of (Tier 4)	77	1,781	3,648	5,997	8,750	1,308	42,207
Total	905	4,605	5,916	7,554	9,627	1,381	91,704
Total	905	4,605	5,916	7,554	9,627	1,381	133,911

Prepared by the office of Rep. Paul Seaton

Payment to Unfunded Liability per Tier - Actual Dollar Value

Based on 2003 valuation data

	2005	2010	2015	2020	2025	2028	Total
SYSTEM PERS TOTAL							
Total PERS (Tier 4)	5,070,292	88,999,019	172,841,421	274,195,360	393,278,131	86,810,086	2,094,609,781
Total	59,243,379	230,049,857	280,318,713	345,421,143	432,697,892	91,447,688	4,408,064,674
							6,502,674,455

LEGEND

-  Past Service Cost Associated with Tiers 1, 2 & 3
-  Past Service Cost Associated with Tier 4
-  Total Past Service Costs Payment Amount

***Note:** The past service cost payments are calculated for each individual employer only up to the system wide average. Therefore, the total of payments will be less than the actual unfunded liability for 2003. For example, the total unfunded liability for communities such as Fairbanks that have a higher past service cost payment than the average are not reflected in this chart.

Past Service Cost Offset Account

Helping Employers with the Unfunded Liability



Definitions of Relevant Terms:

- ✓ **Blended employer past service cost rate:** refers to the average past service cost rate of all non-State non-school district PERS employee
- ✓ **Past service cost:** refers to the annual lump sum payment made towards the PERS system unfunded liability.
- ✓ **Past Service Cost Rate:** means the annual payment as a percentage of total wage base of employee salary required to pay the past service cost as an amortized contribution in percentage over a stipulated number of years.
- ✓ **Unfunded Liability:** refers to amount that would need to be paid into the PERS system to cover all of its liabilities.



What is the Past Service Offset Account? (PSCOA)

- The PSCOA is a mechanism to help municipalities pay their unfunded liability over 25 years. The payments are based on a municipality's number of Tier IV employees and contributions are limited to the average experience of the system



How the PSCOA is Calculated

A few hypothetical situations

Example: An sample city's experience the second year of PSCOA

City X



City X has 25 employees



20 are DB employees,
Tier 1, 2 & 3



5 are DC employees, Tier IV –*the PSCOA will pay the PSC for these employees*

Assumptions about City X 2005



Past Service Cost Rate of City X: 30%

Average Past Service Cost Rate: 20%

Average Salary for City X: \$40,000

City's X's Wage Base: \$1 million

The PCSOA will pay on behalf of the 5 DC employees:

(average salary * average employer PSC rate) * number of DC employees =
PCSOA assistance

$$(\$40,000 * .2) * 5 = \$40,000$$

*Present Dollar Value

The PCSOA payment reduces City X's PSC contribution from \$300,000 to \$260,000, or their PSC rate from 30% to 26%

