

12063

SENATE

STATE

AFFAIRS

HB

210

ALASKA STATE LEGISLATURE

Session
State Capitol Building, Room 118
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (907) 465-6592

Interim
716 West Fourth Avenue, Suite 430
Anchorage, Alaska 99501
Phone (907) 269-0250
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REPRESENTATIVE LESTL MCGUIRE
HOUSE DISTRICT 28

Chair
Judiciary Committee

Member
House Leadership
Rules Committee
Health, Education
& Social Services
Committee
Oil & Gas Committee
Military & Veterans'
Affairs Committee

SECTIONAL ANALYSIS HB 210

"An Act relating to blood testing of certain persons alleged to have committed certain offenses directed toward peace officers or emergency workers."

Section 1 – Amends AS 18.15.400 by adding the term adult or juvenile offenders. By replacing *correctional* with public safety officers and replacing *department* with employing agency. This section authorizes bloodborne pathogen testing of prisoners when requested by public safety officer who has received significant exposure from a prisoner.

Section 2 – Amends AS 18.15.410 by adding the term adult or juvenile offenders. By replacing *correctional* with public safety officers and replacing *department* with employing agency. This section specifies the requirement of consent for testing; from the prisoner or the prisoner's representative.

Section 3 – Amends AS 18.15.420 by adding the term adult or juvenile offenders. By replacing *correctional* with public safety officers and replacing *department* with employing agency. This section provides provisions for testing without consent. There must be probable cause that a significant exposure has occurred, a licensed physician has to determine that test results are necessary, or a compelling need for testing exists. The court shall consider the need for the test against privacy or other interests of the prisoner.

Section 4 – Amends AS 18.15.440 by adding the term adult or juvenile offenders. By replacing *correctional* with public safety officers and replacing *department* with employing agency. This section states that confidentiality provisions apply and results can be disclosed only as needed for treatment.

Section 5 – Amends AS 18.15 by adding a new section AS 18.15.445 Assistance by departments and municipalities. Specifically stating that the department, the department of public safety, the department of corrections, and each municipality shall assist public safety officers and employing agencies in complying with the requirements of AS 18.15.400-18.15.450.

Section 6 – Amends AS 18.15.450 by adding new paragraphs. (Definitions)

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SPONSOR STATEMENT HB 210

"An Act relating to blood testing of certain persons alleged to have committed certain offenses directed toward peace officers or emergency workers."

HB 210 takes policies and procedures for testing for blood borne pathogen exposure to correctional officers that were passed by the 23rd Alaskan Legislature and expands them to include peace officers, firefighters, emergency medical technicians and mobile paramedics.

The bill first sets out procedures for determining if the first responders were exposed to blood borne pathogens in the course of their work. Once it is reasonably concluded that such exposure has occurred, the bill then sets out procedures for obtaining the consent of the person who exposed the first responder to have his or her blood tested. These procedures protect the identity of the person tested and pass on only the results of the test to the first responder exposed to the blood borne pathogens. The results of the test are also passed on to the person tested.

The bill also provides procedures for court ordered testing of the person who exposed the first responder to blood borne pathogens if that person refuses to be tested. The bill does not enact any new policies or procedures for blood borne pathogen testing, it simply extends the policies and procedures enacted by the 23rd Alaskan Legislature for correctional officers to the other first responders mentioned above.

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Affairs Committee

REPRESENTATIVE LESLIE MCGUIRE HOUSE DISTRICT 28

MEMORANDUM

To: Senator Therriault
Chair, Senate State Affairs Committee

From: Representative Leslie McGuire 

Date: April 14, 2005

Re: Hearing Request - *HB 210, "An Act relating to blood testing of certain persons alleged to have committed certain offenses directed toward peace officers or emergency workers."*

I respectfully request that *HB 210, "An Act relating to blood testing of certain persons alleged to have committed certain offenses directed toward peace officers or emergency workers."* be scheduled for a hearing at your earliest convenience. I have attached the following for your information:

1. Latest version of the bill
2. Sectional Analysis
3. Sponsor Statement
4. Background Information
5. 4 Zero Fiscal Notes

If you have any questions please feel free to contact me personally, or my staff, Shalon Szymanski, at 6844.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 210(JUD)
(H) Publish Date: 4/1/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title: Bloodborne Pathogen Testing BRU: Alaska Court System
Component: Trial Courts
Sponsor: McGuire
Requester: _____ Component No.: 768

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)

The court system does not anticipate any fiscal impact from the passage of HB 210.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
Division: Alaska Court System Date/Time 3/24/05 9:12 AM
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/24/2005
Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 210(JUD)
(H) Publish Date: 4/1/05

Revision Date/Time (Note if correction): _____ Dept Affected: Corrections
Title: "An act relating to blood testing of certain persons
alleged to have committed certain offenses as directed ..." RDU: Administration & Operations
Sponsor: Representative McGuire Component: Inmate Health Care
Requester: Judiciary, Finance Component No.: 705

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

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

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This legislation expands Ch 142, SLA 04, HCS CSSB 309 (JUD) to include other "public safety officers from other public safety agencies and exposure from juvenile offenders".

The Department of Corrections does not anticipate a significant fiscal impact with the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director Phone: (907) 465-4647
Division: Administrative Services Date/Time: 3/28/05 9:39 AM
Approved by: Portia C. K. Parker, Deputy Commissioner Date: 3/28/2005
Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHR 210(JUD)
(H) Publish Date: 4/1/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to blood testing of certain RDU: CRIMINAL
persons alleged to have committed certain offenses..." Component: Criminal Justice Litigation
Sponsor: Representative McGuire Component No. _____
Requester: House Judiciary

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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)
This bill amends AS 18.15.400 (Health, Safety, and Housing - Disease Control - Blood Testing of Prisoners for Bloodborne Pathogens) by broadening it to include all peace officers and emergency workers who may have exposure to offenders with blood borne pathogens. The current statute protects correctional officers from exposure to prisoners. This bill would also extend beyond prisoners, to any adult or juvenile offender whether incarcerated or not. The bill seeks to acknowledge that the risk of exposure to blood born pathogens is significant for all peace officers and the ability to test blood to identify where and when medical treatment might be needed is an important protection measure.

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
Division: Administrative Services Division Date/Time 3/29/05 4:18 PM
Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/29/2005
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 210(JUD)
 (H) Publish Date: 4/1/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: "An Act relating to blood testing of certain persons
alleged to have committed certain offenses..." RDU: Alaska State Troopers
 Component: AST Detachments
 Sponsor: Rep. McGuire
 Requester: House Judiciary 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 (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)

This bill amends AS 18.15.400 - 18.15.450. Peace officers, fire fighters, emergency medical technicians, mobile intensive care paramedics employed or volunteering for the state or municipality, a volunteer department or emergency medical service provider will be able to request bloodborne pathogen testing when they have been exposed to blood or body fluids during the performance of their duties. The bill will now allow bloodborne testing of certain adult or juvenile offenders in addition to prisoners. The "employing agency" is responsible for insuring the testing procedures are followed correctly. Passage of this bill will have no immediate fiscal impact on the Department of Public Safety, and simply outlines the proper course of action when personnel are exposed to blood or body fluids. DPS has a policy for reporting this kind of exposure.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223
 Division: Alaska State Troopers Date/Time 3/30/05 12:01 PM
 Approved by: Commissioner William Tandeske Date 3/30/2005
 Agency: Department of Public Safety

HB

214

ALASKA STATE LEGISLATURE

Session
State Capitol Building, Room 118
Juneau, Alaska 99801-1182
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Interim
716 West Fourth Avenue, Suite 430
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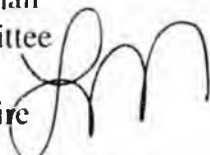
REPRESENTATIVE LESIL MCGUIRE
HOUSE DISTRICT 28

Chair
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Member
House Leadership
Rules Committee
Health, Education
& Social Services
Committee
Oil & Gas Committee
Military & Veterans'
Affairs Committee

MEMORANDUM

To: Senator Gene Therriault, Chair
Senate State Affairs Committee

From: Representative Lesil McGuire 

Date: April 14, 2005

Re: Request for Hearing. CSHB 214(HES): Anatomical Gifts

I respectfully request that CSHB 214(HES), "An Act relating to anatomical gifts and the anatomical gift donor registry program," be scheduled for a hearing at your earliest convenience. I have attached the following for your information:

1. Sponsor Statement
2. CSHB 214(HES)
3. Sectional Analysis
4. Fiscal Notes
5. Applicable Statutes and Federal Regulations
6. Relevant Articles

If you have any questions please feel free to contact me personally, or my staff, Vanessa Tondini, at 4990. Thank you very much.

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Judiciary Committee

Member

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Rules Committee
Health, Education
& Social Services
Committee

Oil & Gas Committee

Military & Veterans'
Affairs Committee

Sponsor Statement CSHB 214(HES)

"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.

CSHB 214(HES) 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. CSHB 214(HES) 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. CSHB 214(HES) 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." CSHB 214(HES) 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. CSHB 214(HES) 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 CSHB 214(HES); 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.

AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 214(HES)

1 Page 2, line 18, following "hospital":

2 Insert "a rural clinic, a mortuary, a hospice,"

3

4 Page 2, line 30, following "hospital":

5 Insert "rural clinic, mortuary, or hospice"

6

7 Page 3, line 1:

8 Delete "is a donor, the hospital"

9 Insert "rural clinic, mortuary, or hospice is a donor, the hospital, rural clinic,
10 mortuary, or hospice"

11

12 Page 3, line 2, following "hospital":

13 Insert "rural clinic, mortuary, or hospice"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 214(HES)

- 1 Page 2, line 28, following "section":
- 2 Insert "or a designee of the persons identified in (d)(1) of this section"

LEGAL SERVICES

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

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FAX (907) 465-2029
Mail Stop 3101

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

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: *JB* 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."

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

Sec. 13.50.190. Definitions.

In AS 13.50.100_ - 13.50.190,

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

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

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

(4) "motor vehicle or identification document" means

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

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

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

(6) "reasonable costs" includes the cost of

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

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

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

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

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

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

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

Sec. 13.52.200. Routine inquiry and required request; search and notification.

(a) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a designee of the hospital shall contact an organ procurement organization so that the organ procurement organization may discuss the potential to make a gift with the family, agent, or surrogate of the patient. The organ procurement organization shall discuss the potential gift with reasonable discretion and sensitivity to the circumstances of the family.

(b) Notwithstanding (a) of this section, a hospital administrator or other designee of the hospital is not required to contact an organ procurement organization if the gift is not suitable, based on accepted medical standards, for a purpose specified in AS 13.52.210.

(c) An entry shall be made in the medical record of the patient, stating the name and affiliation of the individual from the organ procurement organization who discusses the potential gift with the family, agent, or surrogate under (a) of this section, and the relationship to the patient of the family member, agent, or surrogate with whom the potential gift was discussed.

(d) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, fire fighter, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death; and

(2) a hospital or an organ procurement organization, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

(e) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by (d)(1) of this section, and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents, and the document or other evidence must be sent to the hospital.

(f) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made under AS 13.52.170 or 13.52.180(a), or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify an organ procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(g) Notwithstanding AS 13.52.090, a person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

(h) The commissioner of health and social services shall adopt regulations to implement (a) - (c) of this section.

1 of 1 DOCUMENT

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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, Sept. 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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New bill could save thousands of Alaskan lives

June 15, 2004 - by Joy Mapaye

Search

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.

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"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.

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Life Alaska moves donor registry forward

Sunday, March 13, 2005 - by Joy Mapaya

Search

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.



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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.

Hi
vac

"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).



"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.

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.

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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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HB

215

ALASKA STATE LEGISLATURE
House of Representatives

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Representative Norman Rokeberg

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MEMORANDUM

TO: Senator Gene Therriault, Chairman
Senate State Affairs Committee

FROM: Representative Norman Rokeberg *hnrbyhmn*

DATE: April 21, 2005

RE: Request to hear CSHB 215(FIN)

I respectfully request that HB 215, Perm Fund Corp. Investments/Regulations, be scheduled for a hearing. I have attached the following for your information:

1. CSHB 215(215)
2. Sponsor Statement
3. Sectional Analysis by APFC
4. Fiscal Note
5. Attorney General's Opinion
6. AS 37.13.120
7. Current statutory investment limitations
8. History of changes to permanent fund statutes
9. Educational materials provided by APFC
(Once you have scheduled for a hearing, the APFC can provide color copies for the bill packets)
10. Article from the Alaska Budget Report

At this point, I have no particular requests for teleconferencing.

MEMORANDUM

STATE OF ALASKA

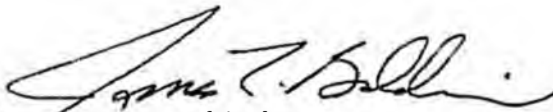
DEPARTMENT OF LAW

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.

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.

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).

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.*

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).



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Analysis of CSHB 215 (FIN)
Prepared by APFC staff
April 15, 2005

This legislation removes the Permanent Fund's allowed investment list from statute and places it in regulation. Four key limits on investments would be retained in statute:

- Investments must be made under the Prudent Investor Rule
- The board may leverage assets only if there is no recourse to the Fund
- The board must maintain a diverse mix of assets
- In-state investments must have a risk and return comparable to other investment alternatives

Section 1 -

AS 37.13.120(a) - Requires the Alaska Permanent Fund Corporation Board of Trustees to adopt regulations that specify allowed investment types. Retains the requirement that investments conform to the Prudent Investor Rule and provides a definition for the standard that specifies the investment decisions be compared to those of other institutional investors.

AS 37.13.120(b) - This section is AS 37.13.120(e) under existing statute. Allows the corporation to leverage Fund assets as long as there is no recourse to the Fund and allows for direct leveraging. Previously assets could only be leveraged through a separate entity.

AS 37.13.120(c) - This section is a combination of AS 37.13.120(c) and (l) under existing statute. Requires the board to maintain a diverse mix of assets within the Fund. Also requires the board to make in-state investments if the investments have a risk level and expected return comparable to similar investments outside of the state and conform to the Prudent Investor Rule.

AS 37.13.120(d) - This section is AS 37.13.120(f) under existing statute. Allows the corporation ("board" in existing statute) to enter necessary contracts for managing the Fund. In a change from existing statute, the provision gives examples of some types of investment contracts.

AS 37.13.120(e) - Combines AS 37.13.120(d) under existing statute with new provisions. The new portion requires that proposed regulations be submitted in electronic form to the Legislative Budget and Audit Committee for comment before the regulations are adopted. The rest of the paragraph continues to require the board to submit investment reports to the LBA Committee at least quarterly.

Section 2 -

Adds new provisions regarding the adoption of regulations:

AS 37.13.206(a) Allows the board to adopt regulations, and requires the board to adopt regulations as specified in AS 37.13.120(a). Exempts the board from the provisions regarding the adoption of regulations contained in AS 44.62. This exception is recommended by the Department of Law because market changes could require faster action than is possible under standard regulation adoption guidelines. The AIDEA, AHFC and the Alaska Commission on Postsecondary Education all follow the abbreviated guidelines contained in this legislation.

AS 37.13.206(b) - Allows the board to adopt regulations by motion, resolution, or by means specified in the APFC's bylaws.

AS 37.13.206(c) - Requires public notice of proposed regulation change to be made at least 15 days before adoption, and outlines how that notice will be made.

AS 37.13.206(d) - Requires that the public notice include the time and place where the regulation change proceedings will take place.

AS 37.13.206(e) - Requires the board to allow public testimony on the proposed regulation change at the time of the proceedings.

AS 37.13.206(f) - Creates guidelines under which the board may make an emergency regulation change without conforming to the requirements under (c) - (e) of this section. Emergency regulations will expire after 120 days.

AS 37.13.206(g) - Specifies when regulation changes adopted under this section will take effect and requires regulation changes to be submitted to the Lt. Governor and the Administrative Regulation Review Committee.

Section 3 - repeals AS 37.13.205, the statutes that allowed APFC to draft regulations under the provisions contained in AS 44.62.

Section 4 - Allows the Board to adopt regulations prior to the effective date of section 1, although the regulations will not take effect until January 1, 2006.

Section 5 - Allows an immediate effective date for sections 2 and 3, which provide new procedures for drafting APFC regulations.

Section 6 - Effective date for section 1, which repeals the statutory legal investment list on January 1, 2006.

ALASKA STATE LEGISLATURE

House of Representatives

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Representative Norman Rokeberg

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SPONSOR STATEMENT FOR CSHB 215(FIN)

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.



Alaska Permanent Fund Corporation

Reducing Risk, Increasing Return

Background

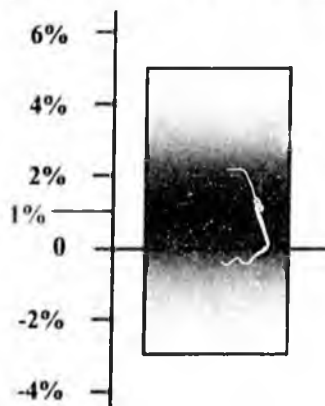
AS 37.13.120 contains a "legal list" of allowed investments for the Alaska Permanent Fund.

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.

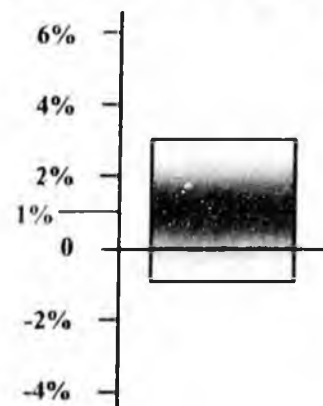
What is risk? Standard deviation? Volatility?

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 $1\% \pm 2\%$

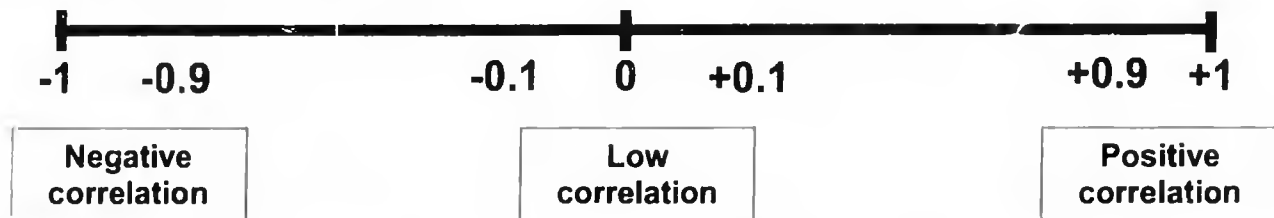


Volatility describes the level of risk for investments, from individual securities to investment strategies to a total portfolio. The returns on highly volatile investments can swing wildly, while the expected returns for less volatile investments will fall into a more narrow range. In the examples above,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

Portfolio A is invested in race horses and race tracks.

	Race horses	Race tracks
Return	10.0%	7.0%
Std. deviation (risk)	12.0%	8.0%
Correlation between assets: .90		

Portfolio B is invested in Beanie Babies and fine art.

	Beanie Babies	Fine art
Return	10.0%	7.0%
Std. deviation (risk)	13.2%	8.8%
Correlation between assets: .10		

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?

Portfolio A

Race horses = 56% of portfolio
Race tracks = 44% of portfolio
Expected return is 8.68%
Standard deviation (risk) 10.00%

Portfolio B

Beanie Babies = 56% of portfolio
Fine art = 44% of portfolio
Expected return is 8.69%
Standard deviation (risk) 8.70%

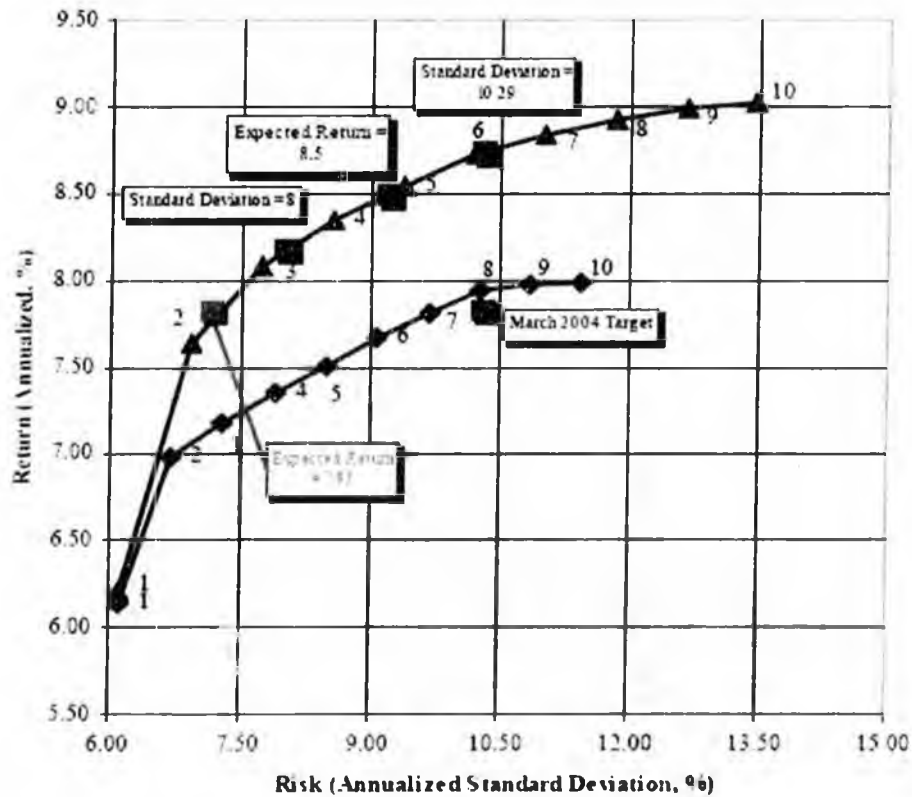
The portfolio using higher risk investments was able to achieve a lower overall risk for equal returns because it used investments that are less correlated.

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.

Asset Classes	March 2004 Target	Expected Return = 7.83	Standard Deviation = 10.29	Standard Deviation = 8	Expected Return = 8.5
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	0
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.



Alaska Permanent Fund Corporation
801 West 10th Street, Suite 302 Juneau, AK 99801
Tel: (907) 465-2047 Fax: (907) 586-2057

Notes on the Prudent Investor Rule

Prepared by APFC
April, 2005

The Prudent Investor Rule is a legal standard which provides guidance to investment managers regarding the standards for managing an investment portfolio in a legally satisfactory manner.

In 1994, the National Conference of Commissioners on Uniform State Laws developed The Uniform Prudent Investor Act, based on the Prudent Investor Rule. The Uniform Prudent Investor Act has been passed as law, with various modifications, in most states. In Alaska, The Uniform Prudent Investor Act is contained in AS 13.36.225-290.

In addition, HB 215 sets out an additional layer of responsibility for the Trustees in AS 37.13.120(a). This is contained in Page 1, line 11 through Page 2, line 4 of the bill. This additional direction is the definition for a prudent institutional investor contained in the Restatement of the Law Third, Trusts, 1992.

From HB 215:

“The prudent-investor rule as applied to investment activity of the fund means that the corporation shall exercise the judgment and care under the circumstances then prevailing that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the designation and management of large investments entrusted to it, not in regard to speculation, but in regard to the permanent disposition of funds, considering preservation of the purchasing power of the fund over time while maximizing the expected total return from both income and the appreciation of capital.”

**Regulation Adoption Process Comparison
AS 44.62 / HB 215**

Normal Regulation adoption process:

1. Public notice must be given at least 30 days before a regulation is adopted.
2. There is a public comment period within the notice period.
3. The regulations are adopted at the conclusion of the notice period. After adoption, the regulations are submitted to the Dept of Law for review and approval.
4. The regulations attorney must formally approve the regulations.
5. The approved regulations are transmitted to the Lt Gov where they are filed.
6. The regulations take effect 30 days after filing.

HB 215 Regulation adoption process:

1. Public notice at least 15 days before regulation is adopted.
2. Notice can specify a date for public comment.
3. Notice given to Legislative Budget and Audit Committee.
4. The regulations are adopted at the conclusion of the notice period.
5. The regulations take effect immediately upon adoption.
6. Within 45 days after adoption, notice of the regulations is given to the Administrative Regulation Review Committee.

There is also an emergency regulation adoption process:

Regular emergency adoption process:

1. Must be a finding of emergency, and fiscal note.
2. Regulations are adopted.
3. Regulations are filed with the Lieutenant Governor and take effect immediately.
4. Public notice of the emergency regulations must be given within five days after filing.
5. Regulation remains in effect for 120 days unless steps are taken to make it permanent.

HB 215 emergency process:

1. Finding of emergency is made by APFC.
2. Notice given to the Legislative Budget and Audit Committee.
3. Regulations are adopted.
4. Regulations take effect immediately.
5. Regulations remain in effect for 120 days unless steps are taken to make permanent.

HB

229

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, AK 99762
907-443-5036
Fax 907-2162



During Session
State Capitol Rm. 410
Juneau, AK 99801-1182
907-465-3789
Fax 907-465-3242

Majority Whip

MEMORANDUM

To: Senator Gene Therriault, Chair
Senate State Affairs
From: Representative Richard Foster
Date: April 25, 2005

Re: Scheduling HB 229

I respectfully request that the Senate State Affairs committee schedule House Bill 229 "An Act relating to the reinstatement of Native corporations; and providing for an effective date" as soon as practical.

If you have question please contact Paul in my office extension 3789

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, AK 99762
907-443-5036
Fax 907-2162



During Session
State Capitol Rm. 410
Juneau, AK 99801-1182
907-465-3789
Fax 907-465-3242

Majority Whip

House Bill 229

"An Act relating to the reinstatement of Native corporations; and providing for an effective date."

Sponsor's Statement

This legislation has been introduced at the request of one of the Regional Native Corporations within our District. Corporations have been involuntarily dissolved by the commissioner under AS 10.06.633 and failed to apply for reinstatement during the grace period established in statute.

This legislation provides a one-time window during which Native Village Corporations who have been dissolved can apply for reinstatement.

The legislation is needed because these corporations were established under the Alaska land claims settlement and legally own village corporation assets. A new corporation could be created but it would not have the same legal standing as the original corporations nor legally own those assets.

The Final provision of the bill allows a Village Native Corporation's board of directors to legally change the corporation's name, if another corporation has taken the previously used name.

This Legislation will apply to Caswell Native Association (date not known), Savoonga Native Corporation (should have reinstated by 12/31/03), Arviq Incorporated (should have reinstated by 2/25/04), and Oscarville Native Corporation (should have reinstated by 2/25/04)

HB 229

"An Act relating to the reinstatement of Native corporations; and providing for an effective date."

Representative Richard Foster

Talking Points

- Legislation provides a one-time window during which Native village corporation who have been involuntarily dissolved can apply for reinstatement.
- These Corporations need to be reinstated because they hold the assets that were granted to Native village incorporation under the Alaska land claims settlement.
- A newly created corporation would not automatically hold those same assets even if it had the same name as the original corporation.

Possible Side Issues

- Every two years a \$100 fee and a report listing the corporate officers are required by the State.
- A request for reinstatement can be made during the next two years. A penalty of 37.5 is added to the \$100. At the end of this two-year period the corporation is involuntarily dissolved.
- To be reinstated the corporation would have to pay the two required \$100 fees and two penalty fees, i.e. \$275
- The approximate cost for issuing the certificate of incorporation is \$61 so there is a slight positive fiscal impact but not enough to warrant anything but a zero fiscal note.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 229
 (j) Publish Date: _____

Revision Date/Time (Note if correction):
 Title Reinstatement of Native Corporations

Dept. Affected: Commerce
 RDU Occupational Licensing (117)
 Component Occupational Licensing

Sponsor Foster, Hawker
 Requester House Community & Regional 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 ()						
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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						
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)

This legislation reinstates certain Native corporations that have been involuntarily dissolved under AS10.06.633(e), provided they apply on or before December 31, 2006. New funds are not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by: Edgar Blatchford, Commissioner
 Agency: Commerce, Community, and Economic Development

Phone (907) 465-2144
 Date/Time 3/30/05 4:59 PM
 Date 3/30/2005

HB

245

Alaska State Legislature

Chair

Military and Veterans Affairs Committee

Member

Labor and Commerce Committee
State Affairs Committee
Econ Dev, Int'l Trade & Tourism
Education Committee
Joint Armed Services Committee

Finance Subcommittees

Labor and Workforce Development
Community and Economic Development
Military and Veterans' Affairs



A Communication From

REPRESENTATIVE BOB LYNN

Chairman

House Military and Veterans' Affairs Committee

E-Mail: Representative_Bob_Lynn@legis.state.ak.us

"Bob Lynn's Alaska Blog" AlaskaDistrict31.blogspot.com

Session:

Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931

Fax: (907) 465-4316

Toll Free: (800) 870-4391

Interim:

716 W. 4th Ave., #650

Anchorage, AK 99501-2133

Phone: (907) 269-0205

Fax: (907) 269-0207

HB 245

Veterans' Vehicle Fees/Taxes

HB 245 will allow DMV to issue special registration plates for one noncommercial motor vehicle to a person who was awarded the Congressional Medal of Honor. Currently there are no Congressional Medal of Honor recipients in Alaska but that could change at any time. The bill will also waive any registration or plate fees for the Congressional Medal of Honor recipient and deletes the \$30.00 license plate fee for Purple Heart recipients.

Alaska State Legislature

Chairman

Military & Veterans' Affairs Committee

Member

Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism
Committee

Education Committee

Joint Armed Services Committee

Finance Subcommittees

Labor & Workforce Development

Community & Economic Development

Military & Veterans' Affairs



A Communication From

REPRESENTATIVE BOB LYNN

District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" AlaskaDistrict31.blogspot.com

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Interim:

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Phone: (907) 269-0205

Fax: (907) 269-0207

March 29, 2006

To: Senator Gene Therriault, Chair
Senate State Affairs Committee

Fr: Representative Bob Lynn

Re: CSHB 245

"An Act relating to motor vehicle registration plates and fees for Purple Heart recipients and Congressional Medal of Honor recipients; and providing for an effective date."

Thank you for scheduling HB 245 in Senate State Affairs Committee. Attached is a copy of the Bill and supporting documents. It's possible we might have a CS that we will want the Committee to adopt but still not sure at this point and will bring one down to you tomorrow if that happens.

Bob Lynn _____

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 245(FIN)
 (H) Publish Date: 2/10/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to registration and licensee fees.." RDU: Division of Motor Vehicles
 Component: Motor Vehicles
 Sponsor: (H) Special Committee MVA
 Requester: (H) Special Committee MVA Component No.: 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	5.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(2.0)	(2.0)	(2.0)	(2.0)	(2.0)	(2.0)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health						
1156 Rcpt Svcs	5.0					
TOTAL	5.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will eliminate the 1-time fee paid by Recipients of the Purple Heart for special request license plates. We project 50 new applicants annually. (50 x \$30.00 = \$1500.00 decrease in revenue)

This bill will also allow expand the free vehicle registration to include recipients of the Congressional Medal of Honor (CMoH), current Prisoner's of War and the spouse of a current Prisoner of War. We project a small number of applicants above the 21 Former Prisoner of War vehicle registrations recorded today (5 X \$100. = \$500. decrease in revenue)

The one time contractual cost will provide necessary programming changes for the sale of the Purple Heart plate. Also registration and registration renewal fee changes of vehicles owned by CMoH recipients.

Prepared by: Duane Bannock, Director Phone: 269 5008
 Division: Motor Vehicles Date/Time: 1/30/2006 4:00pm
 Approved by: Mike Tibbles, Deputy Commissioner Date: _____
 Agency: Department of Administration

LEGISLATIVE RESEARCH REPORT

APRIL 13, 2005



REPORT NUMBER 05.252

VEHICLE REGISTRATION AND LICENSE PLATE PROVISIONS FOR CONGRESSIONAL MEDAL OF HONOR RECIPIENTS AND PRISONERS OF WAR

PREPARED FOR REPRESENTATIVE BOB LYNN

BY PATRICIA YOUNG, MANAGER

You wished to know the number of states that offer free vehicle registration or license plates to recipients of the Congressional Medal of Honor. You also wished to know the number of states that provide similarly for current prisoners of war or their spouses.

The attached table shows the results of our search of state laws on LEXIS. As you will see, we identified 31 states that offer special license plates to Medal of Honor recipients. Of these, all but one waive registration fees and provide such plates without charge or at a reduced rate. Four also specify that a recipient's surviving spouse is eligible for the plates.

We identified 40 states, including Alaska, that offer special license plates to former prisoners of war. All but seven waive registration fees and provide the plates without charge or at a reduced rate. Twenty-nine specify that a prisoner's surviving spouse is also eligible.

Although some address persons missing in action, *none of the state laws we identified address current prisoners of war or their spouses.*¹

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

¹ Some states define "prisoner of war" narrowly: Georgia law, for example, defines the term as a veteran who was held by enemy forces while serving in the U.S. military in World War I, World War II, the Korean War, or the Vietnam War. In a number of states, however, the term is defined more broadly. Alabama law, for example defines the term as a person who, as a member of the U.S. armed forces, or while serving with a formal U.S. ally force, or as a U.S. civilian, was held . . . during "any armed conflict by forces hostile to the United States." Provisions for current prisoners would likely require a similarly broad definition.



Medal of Honor Breakdown

(By War and Service - As of May 2003)

War	Totals	Army	Navy	Marines	Air Force	Coast Guard	Posthumous
Civil War	1522	1198	307	17	0	0	32
Indian Campaigns	426	426	0	0	0	0	13
Korea 1871	15	0	9	6	0	0	0
Spanish American	110	31	64	15	0	0	1
Samoa	4	0	1	3	0	0	0
Philippine Insurrection	80	69	5	6	0	0	4
Philippine Outlaws	6	1	5	0	0	0	0
Boxer Rebellion	59	4	22	33	0	0	1
Mexican Campaign	56	1	46	9	0	0	0
Haiti	6	0	0	6	0	0	0
Dominican Republic	3	0	0	3	0	0	0
World War I	124	95	21	8	0	0	33
Haiti 1919-1920	2	0	0	2	0	0	0
Nicaraguan Campaign	2	0	0	2	0	0	0
World War II	464	324	57	82	0	1	266
Korean War	131	78	7	42	4	0	94
Vietnam	245	159	16	57	13	0	154
Somalia	2	2	0	0	0	0	2
Non-Combat	193	3	185	5	0	0	5
Unknowns	9	9	0	0	0	0	9
GRAND TOTALS							
	3459	2400	745	296	17	1	614

These totals reflect the total number of Medals of Honor awarded. Nineteen (19) men received a second award; fourteen of these men received two separate Medals for two separate actions, five received both the Navy and the Army Medals of Honor for the same action. The total number of Medal of Honor recipients is 3,408.


Total Medals of Honor awarded: 3,459

Total number of Medal of Honor recipients: 3,440

Total number of double recipients: 19

As of 13 April 2003, there are 137 living Medal of Honor recipients.

Source: Congressional Medal of Honor Society, 40 Patriots Point Rd, Mt Pleasant
SC 29464

	Return to CMH Online
	<i>Last updated 3 October 2003</i>

A Brief History - The Medal of Honor*

The first formal system for rewarding acts of individual gallantry by the nation's fighting men was established by General George Washington on August 7, 1782. Designed to recognize "any singularly meritorious action," the award consisted of a purple cloth heart. Records show that only three persons received the ward: Sergeant Elijah Churchill, Sergeant William Brown, and Sergeant Daniel Bissel Jr.

The Badge of Military Merit, as it was called, fell into oblivion until 1932, when General Douglas MacArthur, then Army Chief of Staff, pressed for its revival. Officially reinstated on February 22, 1932, the now familiar Purple Heart was at first an Army award, given to those who had been wounded in World War I or who possessed a Meritorious Service Citation Certificate. In 1943, the order was amended to include personnel of the Navy, Marine Corps, and Coast Guard. Coverage was eventually extended to include all services and "any civilian national" wounded while serving with the Armed Forces.

Although the Badge of Military Merit fell into disuse after the Revolutionary War, the idea of a decoration for individual gallantry remained through the early 1800s. In 1847, after the outbreak of the Mexican-American War, a "certificate of merit" was established for any soldier who distinguished himself in action. No medal went with the honor. After the Mexican-American War, the award was discontinued, which meant there was no military award with which to recognize the nation's fighting men.

Early in the Civil War, a medal for individual valor was proposed to General-in-Chief of the Army Winfield Scott. But Scott felt medals smacked of European affectation and killed the idea.

The medal found support in the Navy, however, where it was felt recognition of courage in strife was needed. Public Resolution 82, containing a provision for a Navy medal of valor, was signed into law by President Abraham Lincoln on December 21, 1861. The medal was "to be bestowed upon such petty officers, seamen, landsmen, and Marines as shall most distinguish themselves by their gallantry and other seamanlike qualities during the present war."

Shortly after this, a resolution similar in wording was introduced on behalf of the Army. Signed into law July 12, 1862, the measure provided for awarding a medal of honor "to such noncommissioned officers and privates as shall most distinguish themselves by their gallantry in action, and other soldierlike qualities, during the present insurrection."

Although it was created for the Civil War, Congress made the Medal of Honor a permanent decoration in 1863.

Almost 3,400 men and one woman have received the award for heroic actions in the nation's battles since that time.

* Quoted from "Armed Forces Decorations and Awards," a publication of the American Forces Information Service. Copies of the pamphlet are available upon request (in print format only), via the "DefenseLINK Comment/Question Form" in the "Questions" section.

- Updated 22 Jun 1998
- QUESTIONS?**
- Frequently Asked Questions
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The Nation's Highest Military Award

The Medal of Honor

The Bravest of the Brave

**World War II Congressional Medal of Honor Recipient
Lieutenant Audie L. Murphy**



Major General "Iron Mike" O'Daniel, CG, 3rd Infantry Division, presents the Medal of Honor to Lieutenant Audie L. Murphy for heroism during World War II.



AUDIE L. MURPHY

AMERICA'S MOST DECORATED WAR
HERO



Audie Murphy was born on June 20, 1924, near Kingston (Hunt County) Texas, one of thirteen children. On June 30, 1942, at the Federal Building in Dallas, Texas, Audie was inducted into the United States Army-Paratroopers. Audie had initially applied to the Marines but was turned down as being underweight and too short. He received his basic training at Camp Wolters, Texas, and advanced infantry training was carried out at Ft. Meade, Maryland. On March 3, 1943, Audie was assigned to Company B, 1st Battalion, 15th Infantry, 3rd Infantry Division. On May 7, 1943, he was promoted to Private First Class; through subsequent promotions including Corporal, Sergeant, Staff Sergeant, and finally on October 14, 1944, was given a battlefield commission to Second Lieutenant. He was promoted to First Lieutenant after his Medal of Honor action.

Before his 21st birthday, and after more than two years overseas, most of it front line duty, Audie Murphy returned home at the end of World War II with every decoration for valor this country could bestow. He participated in nine battle campaigns, including participating in the assault landings at Sicily and Southern France. His fame earned him the title of "The most decorated combat soldier of World War II."

Audie's string of decorations began on March 2, 1944 with the Bronze Star Medal with "V" device for valorous conduct in action against the enemy on the Anzio Beachhead, Italy. This was followed with the First Oak Leaf Cluster on the Bronze Star Medal for his exemplary conduct in ground combat on or about 8 May, 1944. Also at this time, Audie was awarded the Combat Infantry Badge.

After landing near Ramatuelle in Southern France, Audie earned the Distinguished Service Cross on 15 August, 1944. Audie Murphy advanced inland with his squad but was halted by intense machine gun and small arms fire from a boulder covered hill to his front. Acting alone, he obtained a light machine gun and in the ensuing duel, he was able to silence the enemy weapon. Killing two of it's crew and wounding the third. As he proceeded further up the draw, two Germans advanced toward him they were quickly killed. Still alone, Audie then dashed further up the draw toward the enemy strong point disregarding the hail of bullets directed at him. Closing in, he wounded two more Germans with Carbine fire, killed two others in a fire fight, and forced the remaining five to surrender. But it was during this action that took the life of his dear friend, Lattie Tipton. So devastated by this loss, that Audie co-dedicated his autobiographical book "To Hell and Back" to PVT Lattie Tipton and to PVT Joe Sieja who was killed in action on the Anzio Beachhead in January, 1944



On the morning of 2 October 1944, near the Cleurie Quarry, France, Audie inched his way over rugged terrain toward an enemy machine gun which had fired upon a group of American Officers on reconnaissance. Getting to within fifteen yards of the German gun, Audie stood up, and disregarding a burst of enemy fire, flung two hand grenades into the position, killing four Germans and wounding three more thus destroying the position. For this action, Audie was awarded the Silver Star. Just three days later, on October 5, 1944, on a hill in the Vosges Mountains near Le Tholy, France, he earned an Oak Leaf Cluster to the Silver Star. Carrying an SCR536 radio, and alone, Audie crawled fifty yards under severe enemy machine gun and rifle fire, to a point 200 yards from a strongly entrenched enemy. For an hour Audie Murphy directed artillery fire upon the enemy, killing fifteen Germans and inflicting approximately thirty-five casualties.

Audie Murphy's three Purple Hearts recognize wounds he received on 15 September 15, 1944, in his action near Genevreuille, France, October 26, 1944 in action near Les Rouges, Eaux, France, January 25, 1945, in action in the Colmar Pocket.

Audie Murphy received a severe hip wound from a German mortar on October 26, 1944. Tired of the monotony of hospital life, he took it upon himself to rejoin Company B. He was still in a state of convalescence on January 26, 1945 when Audie earned the Nation's highest tribute for action in the Riedwihr Woods near Holtzwihr, France. The Third Division was engaged in fierce fighting in the Colmar Pocket which consisted of a heavily fortified bulge stretching from the Rhine into France. At midnight on January 25, Company B moved through the Riedwihr Woods, but fierce fighting reduced the company to two officers and about 28 men. Despite five replacements, the company remained critically under strength. As the senior ranking officer, Audie was placed in charge of the company and was ordered to advance to the edge of the forest and hold the line until relieved. Company B was supported by two tank destroyers from the 601st Tank battalion which were attached to the 15th Infantry, but they would soon be out of action.



The frozen ground was covered with 10-12 inches of snow; it was impossible for the men to dig in. Audie's company was strung along a three hundred yard front at the edge of the woods. Company B was in a defensive position when at 1400 hours, on January 26, 1945, the Germans began a fierce attack from Holtzwihr. This assault consisted of six heavy Jagdpanther tanks supported by approximately 250 German infantry attired in white snow capes. The first tank destroyer slid into a drainage ditch and could not extricate itself. The second TD received a direct hit from a German 88, killing the commander and gunner. Seeing that the situation was desperate, Audie ordered his men to fall back to an alternate position. At this time, Audie began calling in artillery supported by a field telephone through Battalion Headquarters. With his ammunition depleted, Audie decided to mount the burning TD and employ its .50 caliber machine gun. After removing the dead TD commander, Audie sprayed deadly fire upon the German infantry. With the TD in danger of blowing up at any moment, the Germans gave it a wide berth. The black smoke streaming from the TD made it difficult for the Germans to see Audie, but it also reduced his view of the advancing infantry. At this point, Audie called in more artillery support even though it was dangerously close to his own position. For an hour, Audie managed to kill or wound approximately 50 to 100 Germans and confused the rest as to the source of the deadly fire. The German tanks, lacking infantry support, were forced to withdraw. Audie jumped from the burning TD only to hear it explode seconds later. Thus ended one of the most famous Medal of Honor actions of World War II.

Following the presentation of the Medal of Honor on June 2, 1945, at an airfield near Werfen, Austria, Audie was also awarded the Legion of Merit. In addition to the US awards, Audie received the French Legion of Honor (Grade of Chevalier), the French Croix du Guerre with Silver Star, the French Croix du Guerre with Palm and the Belgium Croix du Guerre 1940 with Palm. Despite the weight and burden of his medals, Audie always stated that the "the real heroes were the ones with the wooden crosses."



On July 14, 1950, Audie was sworn in as a member of the Texas national Guard's 36th Infantry Division and promoted to the rank of Captain. He was promoted to the rank of Major on February 14, 1956.

Audie Murphy's fame earned him the cover of Life Magazine on July 16, 1945. His popular appeal led him to a film career in Hollywood. He was in forty-four movies, mainly westerns. His most noteworthy were "To Hell and Back," "The Red Badge of Courage," and "The Unforgiven."

Audie was a passenger in an Aero Commander 680E when it crashed in the Appalachian Mountains 12 miles northwest of Roanoke, Virginia on Memorial Day weekend, May 28, 1971. He was buried at Arlington National Cemetery with full military honors. Audie's resting place is one of the most frequently visited sites at Arlington. There were many tributes paid to Audie, mostly after his untimely death. In the end, Audie was destined to cast a longer shadow than most Medal of Honor recipients.

[Visit the Audie L. Murphy Medal of Honor Tribute](#)



Audie Murphy's Military Award List

Military Service Number 01 692 509

Medal of Honor

Distinguished Service Cross

Silver Star with First Oak Leaf Cluster

Legion of Merit

Bronze Star Medal with "V" Device and First Oak Leaf Cluster

Purple Heart with Second Oak Leaf Cluster

U.S. Army Outstanding Civilian Service Medal

Good Conduct Medal

Distinguished Unit Emblem with First Oak Leaf Cluster

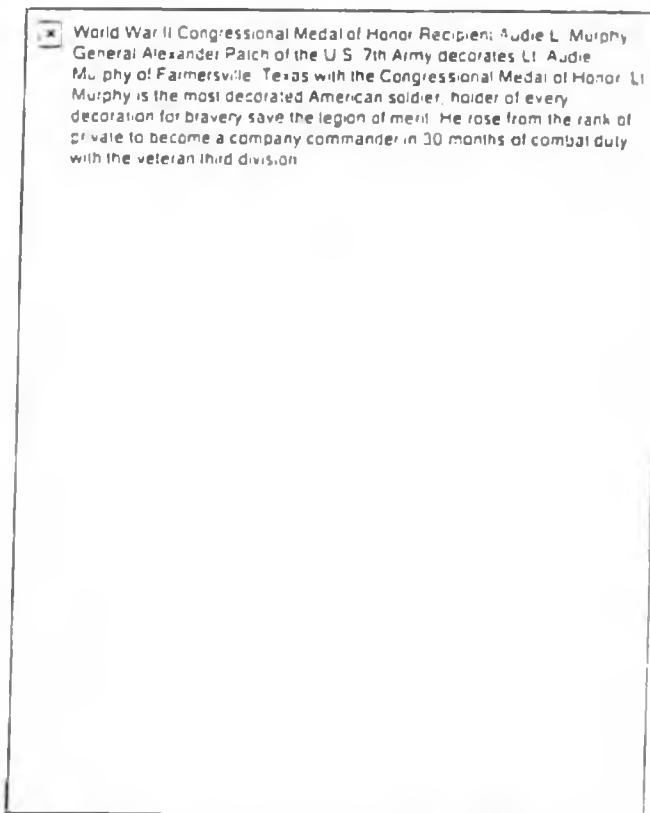
American Campaign Medal



European-African-Middle Eastern Campaign Medal with One Silver Star, Four Bronze Service Stars (representing nine campaigns) and one Bronze Arrowhead (representing assault landing at Sicily and Southern France)
 World War II Victory Medal
 Army of Occupation Medal with Germany Clasp
 Armed Forces Reserve Medal
 Combat Infantry Badge
 Marksman Badge with Rifle Bar
 Expert Badge with Bayonet Bar
 French Fourragere in Colors of the Croix de Guerre
 French Legion of Honor, Grade of Chevalier
 French Croix de Guerre With Silver Star
 French Croix de Guerre with Palm
 Medal of Liberated France
 Belgian Croix de Guerre 1940 Palm



Reprinted from a letter dated 7 Sept 1979, from the Department of the Army, Office of the Adjutant General and the Adjutant General Center, Washington, D.C. 20314. Subject: Maj Audie Murphy - Authorization for Awards and Decorations



General Alexander Patch of the U.S. 7th Army decorates Lt. Audie Murphy of Farmersville, Texas with the Congressional Medal of Honor. Lt. Murphy is the most decorated American soldier, holder of every decoration for bravery save the legion of merit. He rose from the rank of private to become a company commander in 30 months of combat duty with the veteran third division.

Official Narrative
 For Medal of Honor Recipient

MURPHY, AUDIE L.

CITATION: 2ND Lt. Murphy commanded Company B, which was attacked by 6 tanks and waves of infantry. 2ND Lt. Murphy ordered his men to withdraw to prepared positions in a woods, while he remained forward at his command post and continued to give fire directions to the artillery



by telephone. Behind him, to his right, 1 of our tank destroyers received a direct hit and began to burn. Its crew withdrew to the woods. 2ND Lt. Murphy continued to direct artillery fire which killed large numbers of the advancing enemy infantry. With the enemy tanks abreast of his position, 2ND Lt. Murphy climbed on the burning tank destroyer, which was in danger of blowing up at any moment, and employed its .50 caliber machine gun against the enemy. He was alone and exposed to German fire from 3 sides, but his deadly fire killed dozens of Germans and caused their infantry attack to waver. The enemy tanks, losing infantry support, began to fall back. For an hour the Germans tried every available weapon to eliminate 2ND Lt. Murphy, but he continued to hold his position and wiped out a squad which was trying to creep up unnoticed on his right flank. Germans reached as close as 10 yards, only to be mowed down by his fire. He received a leg wound, but ignored it and continued the single-handed fight until his ammunition was exhausted. He then made his way to his company, refused medical attention, and organized the company in a counterattack which forced the Germans to withdraw. His directing of artillery fire wiped out many of the enemy, he killed or wounded about 50. 2ND Lt. Murphy's indomitable courage and his refusal to give an inch of ground saved his company from possible encirclement and destruction, and enabled it to hold the woods which had been the enemy's objective.



Audie Murphy was a successful movie star earning his own star on the Hollywood Walk of Fame



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The Nation's Highest Military Award

The Medal of Honor

The Bravest of the Brave

**Vietnam War Congressional Medal of Honor Recipient
Major Bernard Francis Fisher, USAF**



Major Bernard Fisher was awarded the Medal of Honor, the first airman in the Vietnam War to receive it. It was presented by President Lyndon Baines Johnson at the White House, Jan. 19, 1967.



**MAJOR BERNARD FRANCIS FISHER
UNITED STATES AIR FORCE**

for conspicuous gallantry and intrepidity in action at the risk of his life above and beyond the call of duty in :



Rank and organization: Major, U.S. Air Force, 1st Air Commandos.

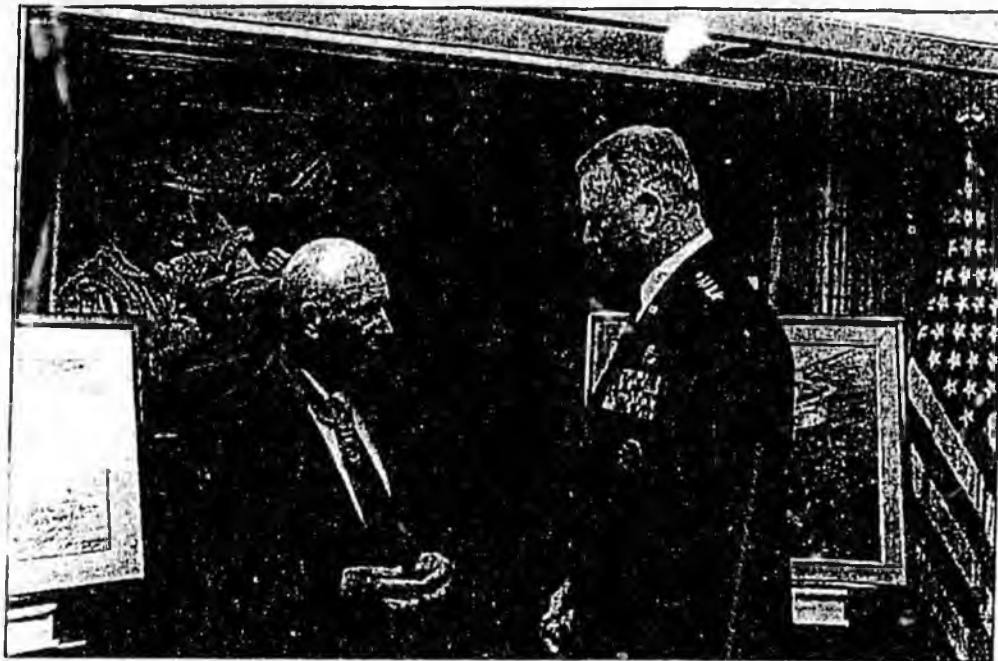
Place and date: Bien Hoa and Pleiku, Vietnam, 10 March 1966.

Entered service at: Kuna, Idaho.

Born: 11 January 1927, San Bernardino, Calif.

Citation: For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty. On that date, the special forces camp at A Shau was under attack by 2,000 North Vietnamese Army regulars. Hostile troops had positioned themselves between the airstrip and the camp. Other hostile troops had surrounded the camp and were continuously raking it with automatic weapons fire from the surrounding hills. The tops of the 1,500-foot hills were obscured by an 800 foot ceiling, limiting aircraft maneuverability and forcing pilots to operate within range of hostile gun positions, which often were able to fire down on the attacking aircraft. During the battle, Maj. Fisher observed a fellow airman crash land on the battle-torn airstrip. In the belief that the downed pilot was seriously injured and in imminent danger of capture, Maj. Fisher announced his intention to land on the airstrip to effect a rescue. Although aware of the extreme danger and likely failure of such an attempt, he elected to continue. Directing his own air cover, he landed his aircraft and taxied almost the full length of the runway, which was littered with battle debris and parts of an exploded aircraft. While effecting a successful rescue of the downed pilot, heavy ground fire was observed, with 19 bullets striking his aircraft. In the face of the withering ground fire, he applied power and gained enough speed to lift-off at the overrun of the airstrip. Maj. Fisher's profound concern for his fellow airman, and at the risk of his life above and beyond the call of duty are in the highest traditions of the U.S. Air Force and reflect great credit upon himself and the Armed Forces of his country.

Vietnam War Congressional Medal of Honor Recipient Major Bernard Francis Fisher, USAF



Medal of Honor recipient Colonel Bernard Fisher (USAF, Ret.) and USAF Chief of Staff General Mike Ryan share a moment during a ceremony which took place at the Pentagon on March 9, 1999.

If Bernie Fisher went into the airstrip at A Shau, his chances of coming out again would not be good...

[Into the Valley of Fire](#)

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The Nation's Highest Military Award

The Medal of Honor

The Bravest of the Brave

World War I Congressional Medal of Honor Recipient
Sgt. Alvin C. York, US Army



Alvin C. York Wearing Congressional Medal - March 4, 1961
Famed World War I hero, Sgt. Alvin C. York, (left) was "mightily grateful" when he learned that the Internal Revenue Bureau had agreed on March 18th, to settle his \$25,000 tax debt. The Revenue Bureau's announcement followed a national drive started by House Speaker Sam Rayburn, who donated \$1,000 himself, to raise the money for Sgt York's income tax debt. In this March photo, York's coveted Congressional Medal of Honor is admired by his grandson Larry Jackson York, (right). Pall Mall, Tennessee

U.S. Constitution




MEDAL OF HONOR RECIPIENTS
Iraq



*SMITH, PAUL R.

Rank and Organization: Sergeant First Class, United States Army
 For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty, Sergeant First Class Paul R. Smith distinguished himself by acts of gallantry and intrepidity above and beyond the call of duty in action with an armed enemy near Baghdad International Airport, Baghdad, Iraq on 4 April 2003. On that day, Sergeant First Class Smith was engaged in the construction of a prisoner of war holding area when his Task Force was violently attacked by a company-sized enemy force. Realizing the vulnerability of over 100 fellow soldiers, Sergeant First Class Smith quickly organized a hasty defense consisting of two platoons of soldiers, one Bradley Fighting Vehicle and three armored personnel carriers. As the fight developed, Sergeant First Class Smith braved hostile enemy fire to personally engage the enemy with hand grenades and anti-tank weapons, and organized the evacuation of three wounded soldiers from an armored personnel carrier struck by a rocket propelled grenade and a 60mm mortar round. Fearing the enemy would overrun their defenses, Sergeant First Class Smith moved under withering enemy fire to man a .50 caliber machine gun mounted on a damaged armored personnel carrier. In total disregard for his own life, he maintained his exposed position in order to engage the attacking enemy force. During this action, he was mortally wounded. His courageous actions helped defeat the enemy attack, and resulted in as many as 50 enemy soldiers killed, while allowing the safe withdrawal of numerous wounded soldiers. Sergeant First Class Smith's extraordinary heroism and uncommon valor are in keeping with the highest traditions of the military service and reflect great credit upon himself, the Third Infantry Division "Rock of the Marne," and the United States Army.

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***For God & Country
By Ed Knoebel
Post 27 Service Officer***

I have been a Service Officer for the past thirty years and wanted to pass on some things that I have learned in that time.

Do you know what the oldest military decoration in the world is? It was established by General George Washington at Newburgh, NY in August 1782, during the Revolutionary War and is awarded in the name of the President of the United States. The recipient of this badge is permitted to pass guards and sentinels without challenge. It is specifically a combat decoration and is the only medal that can not be given to you for something you have done, but is awarded to members of the armed forces who are wounded in war by the enemy.

Do I have you guessing? The answer is The Purple Heart. There is an organization, formed in 1932 known as the "Military Order of the Purple Heart," that is composed exclusively of Purple Heart recipients. It is the only veterans service organization comprised strictly of "combat" veterans.

If you are like me, and forgot to duck, you should be registered with the VA and be listed as a Category II or III. If you haven't registered you are missing out on having to pay nothing (or a very minimal amount) of money out of your own pocket for your medicine and you should also be eligible to receive combat pay (CRSC). If you have not registered yet ask your service officer for a DD2860 Form and that will get you going to start receiving the benefits you deserve and paid a high price for.

The next time you see a Purple Heart recipient, take the time to stop give a snappy salute and thank them for the sacrifice that he or she made for God and Country.