

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

April 10, 2001

8:09 a.m.

**MEMBERS PRESENT**

Representative John Coghill, Chair  
Representative Jeannette James  
Representative Gary Stevens  
Representative Peggy Wilson  
Representative Harry Crawford  
Representative Joe Hayes

**MEMBERS ABSENT**

Representative Hugh Fate

**COMMITTEE CALENDAR**

HOUSE BILL NO. 195

"An Act requiring governmental entities to meet certain requirements before placing a burden on a person's free exercise of religion."

- MOVED CSHB 195(STA) FROM COMMITTEE

HOUSE BILL NO. 20

"An Act relating to state aid to municipalities and certain other recipients, and for the village public safety officer program; relating to municipal dividends; relating to the public safety foundation program; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 17

"An Act relating to the capital projects fund, to distribution of money in the earnings reserve account of the Alaska permanent fund to the capital projects fund and to the dividend fund at the end of fiscal year 2001, and to increasing the amount of permanent fund dividends for calendar year 2001; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 42

"An Act relating to the consumption, purchase, furnishing, delivery, offer for sale, and sale of alcoholic beverages and to driver's licenses and identification cards used to purchase alcoholic beverages."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 200

"An Act establishing July 3 as Drunk Driving Victims Remembrance Day."

- SCHEDULED BUT NOT HEARD

**PREVIOUS ACTION**

BILL: HB 195

SHORT TITLE:FREEDOM OF RELIGION

SPONSOR(S): REPRESENTATIVE(S)DYSON

Jrn-Date	Jrn-Page		Action
03/19/01	0649	(H)	READ THE FIRST TIME - REFERRALS
03/19/01	0649	(H)	STA, JUD, FIN
04/05/01	0869	(H)	COSPONSOR(S): WILSON
04/05/01		(H)	STA AT 8:00 AM CAPITOL 102
04/05/01		(H)	Heard & Held
04/05/01		(H)	MINUTE(STA)
04/06/01	0890	(H)	COSPONSOR(S): CROFT
04/10/01	0940	(H)	COSPONSOR(S): GREEN
04/10/01		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 20

SHORT TITLE:AID TO MUNICIPALITIES AND OTHERS

SPONSOR(S): REPRESENTATIVE(S)MOSES

Jrn-Date	Jrn-Page		Action
01/08/01	0029	(H)	PREFILE RELEASED 12/29/00
01/08/01	0029	(H)	READ THE FIRST TIME - REFERRALS
01/08/01	0029	(H)	CRA, STA, FIN
03/20/01	0669	(H)	COSPONSOR(S): DAVIES
03/20/01		(H)	CRA AT 8:00 AM CAPITOL 124
03/20/01		(H)	Moved CSHB 20(CRA) Out of Committee
03/20/01		(H)	MINUTE(CRA)
03/22/01	0679	(H)	CRA RPT CS(CRA) 3DP 1DNP 2NR
03/22/01	0679	(H)	DP: KERTTULA, MURKOWSKI,

			MORGAN;
03/22/01	0679	(H)	DNP: MEYER; NR: GUESS, SCALZI
03/22/01	0679	(H)	FN1: ZERO(CED)
03/22/01	0679	(H)	FN2: ZERO(REV)
04/05/01		(H)	STA AT 8:00 AM CAPITOL 102
04/05/01		(H)	Scheduled But Not Heard
04/10/01		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 17

SHORT TITLE: CAPITAL PROJ/DISTRIB. OF PERM FUND INC  
 SPONSOR(S): REPRESENTATIVE(S) WHITAKER

Jrn-Date	Jrn-Page		Action
01/08/01	0028	(H)	PREFILE RELEASED 12/29/00
01/08/01	0028	(H)	READ THE FIRST TIME - REFERRALS
01/08/01	0028	(H)	STA, FIN
04/10/01		(H)	STA AT 8:00 AM CAPITOL 102

**WITNESS REGISTER**

REPRESENTATIVE FRED DYSON  
 Alaska State Legislature  
 Capitol Building, Room 104  
 Juneau, Alaska 99801  
 POSITION STATEMENT: Testified as co-sponsor of HB 195.

REPRESENTATIVE ERIC CROFT, Alaska State Legislature  
 Capitol Building, Room 400  
 Juneau, Alaska 99801  
 POSITION STATEMENT: Testified as co-sponsor of HB 195.

JENNIFER RUDINGER, Executive Director  
 Alaska Civil Liberties Union  
 P.O. Box 291844  
 Anchorage, AK 99520-1844  
 POSITION STATEMENT: Testified on HB 195.

R.D. LEVNO  
 [No address provided]  
 POSITION STATEMENT: Testified in opposition to HB 195.

MICHAEL STARK, Assistant Attorney General  
 Criminal Division  
 Department of Law  
 P.O. Box 110300  
 Juneau, Alaska 99811-0300

POSITION STATEMENT: Testified on HB 195.

RICHARD BLOCK, Christian Science Committee on Publications  
[no address provided]

POSITION STATEMENT: Testified in support of HB 195.

LARRY PERSILY, Deputy Commissioner  
Department of Revenue  
P.O. Box 110400  
Juneau, Alaska 99811-0400

POSITION STATEMENT: Testified on HB 195.

ANGELA SALERNO, Program Coordinator  
Division of Public Assistance  
Department of Health and Social Services  
P.O. Box 110640  
Juneau, Alaska 99811-0640

POSITION STATEMENT: Testified on HB 195.

DENNY K. WEATHERS  
[no address provided]

POSITION STATEMENT: Testified on HB 195.

ROBERT ROYCE, Assistant Attorney General  
Governmental Affairs Section  
Department of Law  
1031 West Fourth Avenue, Suite 200  
Anchorage, Alaska 99501-1994

POSITION STATEMENT: Testified on HB 195.

REPRESENTATIVE CARL MOSES  
Alaska State Legislature  
Capitol Building, Room 500  
Juneau, Alaska 99801

POSITION STATEMENT: Testified as sponsor of HB 20.

TIM BENINTENDI, Staff  
to Representative Moses  
Alaska State Legislature  
Capitol Building, Room 500  
Juneau, Alaska 99801

POSITION STATEMENT: Testified on HB 20.

JIM KELLY, Director of Communications  
Alaska Permanent Fund Corporation  
P.O. Box 25500  
Juneau, AK 99802-5500

POSITION STATEMENT: Testified on HB 20.

KEVIN RITCHIE, Executive Director  
Alaska Municipal League  
217 Second Street, Suite 200  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in support of HB 20.

REPRESENTATIVE JIM WHITAKER  
Alaska State Legislature  
Capitol Building, Room 411  
Juneau, Alaska 99801

POSITION STATEMENT: Testified as sponsor of HB 17.

### **ACTION NARRATIVE**

TAPE 01-36, SIDE A  
Number 0001

CHAIR JOHN COGHILL called the House State Affairs Standing Committee meeting to order at 8:09 a.m. Representatives Coghill, James, Stevens, Wilson, and Crawford were present at the call to order. Representative Hayes arrived as the meeting was in progress.

### HB 195 - FREEDOM OF RELIGION

Number 0132

CHAIR COGHILL announced that the first order of business would be HOUSE BILL NO. 195, "An Act requiring governmental entities to meet certain requirements before placing a burden on a person's free exercise of religion."

Number 0156

REPRESENTATIVE FRED DYSON, Alaska State Legislature, came forward to testify as sponsor of HB 195. He began by saying, "One of the really disgusting things about my critics is how often they're right." Jennifer Rudinger, Executive Director of the Alaska Civil Liberties Union, had suggested four amendments to HB 195, and the co-sponsors, myself and Representative Eric Croft, agree that two of them should be adopted. As for the other two suggestions, "One of them we think she's wrong and one of them we still have to think about," Representative Dyson said.

Number 0271

REPRESENTATIVE DYSON explained that the first change with which he and Representative Croft concur is that everywhere in the bill where it says the government shouldn't put a "burden" on religious expression, it should instead say "substantial burden". The second change with which they concur is on page 2, line 21, where the words "clear and convincing" should be deleted. He said the choice before this committee is to do nothing, to accept those two amendments and fix that part now and pass the bill out, or to pass the bill out "and we'll fix it in Judiciary, if that committee agrees."

CHAIR COGHILL noted that Ms. Rudinger was on the teleconference line as were three other witnesses.

Number 0395

REPRESENTATIVE JAMES said she was inclined to agree with saying "substantial burden" as opposed to "burden", but that she had a problem with deleting "clear and convincing" as opposed to just "demonstrating" because it seems that might weaken the most important part and leave the bill unbalanced. She asked Representative Dyson to respond to that.

Number 0477

REPRESENTATIVE DYSON deferred to Representative Croft and suggested that the committee also hear from Ms. Rudinger on the subject.

Number 0511

REPRESENTATIVE ERIC CROFT, Alaska State Legislature, co-sponsor of HB 195, came forward to testify. He said one of the goals of HB 195 is to get as close as possible to Alaska state law before the United States Supreme Court's 1990 Smith decision. That state law was a set of standards that had evolved over 30 years and had been found to work to protect religions liberty, he said. The "clear and convincing" standard was never part of that jurisprudence, and it is a very tough standard, "the toughest standard we use in the civil law," he explained.

REPRESENTATIVE CROFT said the state legal tradition involves some very careful balancing. He gave examples of cases including one involving the Sikh religion, "where they are required by their religion to carry knives. That is legitimate.

That's part of the Sikh tradition. But schoolchildren wanting to carry their Sikh knives to school?" Another case concerned whether prisoners have the right to wear a crucifix and whether that could be used as a weapon. "So these [cases] involve some very difficult balancing issues on public safety," he said. "The balance that was struck is the one we wanted to restore, and this ["clear and convincing" standard] wasn't part of it."

REPRESENTATIVE DYSON suggested asking Ms. Rudinger to comment.

Number 0694

JENNIFER RUDINGER, Executive Director, Alaska Civil Liberties Union (AKCLU), testified by teleconference. She said the AKCLU had just given the committee a position paper, which on page 10 briefly discusses the group's objections to the "clear and convincing" evidence standard. She said that since "strict scrutiny" [the highest level of scrutiny that can applied to a statute] will be applied to any law that substantially burdens free exercise, "it's not necessary to throw 'clear and convincing' into it." She continued:

You're already using the very highest standard. ... But when you start talking about evidence, it's not clear how that is going to be interpreted. You don't usually find a clear and convincing evidence standard in this kind of a case, and often cases like this can be disposed of on what's called summary judgment, where the court can just look at the law, both sides stipulate to what the facts are, and then the court will do the weighing under strict scrutiny. If you demand a showing of evidence, it might be interpreted to push this thing to trial, which is more expensive for the person claiming free exercise of religion, because they're the ones trying to get exempt from a government law, and now to have to have the government putting out evidence, then the other person will have to put out evidence, and it might actually drive up the cost of litigation. And since it is unnecessary, we just would urge that it be stricken to really tone down the standard and make it more clear.

Number 0865

CHAIR COGHILL sought to clarify the places in HB 195 where the co-sponsors were recommending that amendments be made:

Page 2, line 21,  
Delete "clear and convincing"

Page 2, line 19, before "burden",  
Insert "substantial"  
Insert change throughout the bill.

REPRESENTATIVE DYSON said that was correct, and added:

Page 2, line 1, [in the title] before "burden",  
Insert "substantial"

Number 0930

REPRESENTATIVE DYSON added that some of the national groups with whom the sponsors have been corresponding agree with Representative James that the "clear and convincing" language -- although it may be implied, as Representative Croft and Ms. Rudinger believe -- should stay in. Among them is the lead attorney for the Home School Legal Defense Fund.

CHAIR COGHILL explained that he wanted to make sure that it is clear what the sponsors are proposing before continuing with testimony and proceeding with discussion. He announced his intention to try to move HB 195 to the next committee of referral. Noting that it has a House Judiciary Standing Committee referral and that some of the issues "go right into constitutional questions," he said he is looking for a clear policy recommendation [from the House State Affairs Standing Committee] and suggested focusing on the bill as a whole.

Number 1132

R.D. LEVNO, testified by teleconference. She said she has been an Alaskan since 1969 and represents an unorganized part of the community that is "alarmed at the increased encroachment and entanglement of religion and government and law." She said she opposed HB 195, and stated, "We have hundreds of religions and hundreds of minorities, and I think HB 195 can pit one religion against another and can make it hard to defend against minority discrimination of all kinds on the excuse of religious beliefs."

CHAIR COGHILL asked Ms. Levno if she was speaking as an individual or for a group.

MS. LEVNO said she was speaking for herself.

Number 1253

MICHAEL STARK, Assistant Attorney General, Criminal Division, Department of Law, said he had served as lead counsel for the Department of Corrections for the past 21 years and is [speaking for both departments] this morning.

MR. STARK said Mr. Royce would address some of the more general concerns of the Department of Law and other agencies concerning the bill. He referred to earlier testimony saying, "We know that there's not a problem in Alaska in terms of analyzing religious issues and substantial religious burdens on people's exercise of religions." He said as he understands the sponsors' statement, they want this law adopted just in case the [state] Supreme Court changes its mind and decides to follow the U.S. Supreme Court's view in overturning the Smith decision. He said the pre-Smith analysis is the one now being applied by the Alaska courts and suggested, "This is not a problem that's broken; it doesn't need to be fixed."

Number 1346

MR. STARK said he much preferred the wording "substantial burden", as it is consistent with all of the pre-Smith federal case law and with Alaska case law. Similarly, he said, there is no need for the "clear and convincing" evidence standard.

Number 1378

MR. STARK said one other aspect of HB 195 that is "very troublesome" is on page 2, line 23. Currently, if a governmental entity places a burden on somebody's free exercise of religion, the government has to demonstrate that there is a compelling state interest to do that. If the government does that, then the burden must be the least restrictive means of furthering that compelling governmental interest. "And certainly from the corrections standpoint, that creates a number of problems," he said, "particularly in light of the resources that are available to the Department of Corrections."

MR. STARK reminded the committee that the people with whom the Department of Corrections is dealing are prisoners, including murderers, kidnapers, rapists, and armed robbers. He characterized them as people who have not demonstrated the best civic responsibility and who often look for ways to "jerk the chain" of the system. "Certainly a number of them have very sincere, legitimate religious beliefs, and those have been

honored," he said. There is a chaplain's office in the Department of Corrections central office and volunteer chaplains throughout the state work with inmates in the facilities. Mr. Stark assured the committee, "There's not a problem with inmates being able to practice their religion."

MR. STARK predicted that if HB 195 is passed and includes the "least restrictive means" of furthering a compelling governmental interest, the Department of Corrections will have problems. In the Corrections setting, when an inmate requests something to practice religion, the compelling governmental interest that must be considered typically is security of the facility and safety of persons, he explained.

Number 1528

MR. STARK listed requests that inmates have made. They include:

To wear headwear in which contraband or weapons can be hidden.

To meet in groups for religious purposes at times when sufficient staff is not available to supervise them.

To use candles.

To use wine as part of a religious sacrament.

To have special foods that are expensive or difficult to obtain or which have not passed health inspections. [However, he said, most facilities have potlatches once or twice a year that include food from the wild that is part of the Native culture.]

To not participate in required aspects of the sexual offender treatment because its "against their religion" to talk about their offenses or to submit to a test that objectively measures deviant sexual arousal.

To practice witchcraft or cult behavior such as making dolls in the likeness of a staff member or another inmate, and poking it with sharp objects.

To participate in religious meetings with members of the public, including minors not accompanied by a parent or a guardian.

To use tobacco as part of a religion.

To wear robes and other religious garments that can be used to hide contraband or weapons.

To use sweat lodges at unreasonable times.

To not participate in groups or classes or work or be housed with members of other races [which he said is a very common request].

To associate only with members of the inmate's own religion.

MR. STARK explained that if the law requires the least restrictive means, there will be violations under this statute and there will be liability because it is not practically possible given the resources that the state has. He testified:

The correctional staff are stretched to the limit in just maintaining safety in the facility and carrying on their regular duties. They don't have time to provide the staff that can address almost every one of these concerns if, in fact, there were enough staff persons simply to be present when inmates requested to practice these particular religious beliefs.

Number 1869

MR. STARK told the committee that Congress passed a federal law that went into effect in September 2000. That law, the Religious Land Use and Institutionalized Persons Act, includes the standard that is in HB 195 and covers prisoners. "We're dealing with the problems that has caused," he said. "There is no need for this state law."

Number 1920

REPRESENTATIVE WILSON said she thought there are things prisons have to do because of safety, and that the prisoners lose some privileges simply because they are in prison. "How much weight does that hold?" she asked.

MR. STARK replied:

If this bill becomes law, none. You don't make any allowances in here for that situation. What the courts have held is that prisoners obviously lose some rights by virtue of incarceration, but only those rights which are necessary to further a compelling governmental interest. So if they have any constitutional rights, they're only limited to the extent necessary to manage the facility and preserve security...

REPRESENTATIVE WILSON asked, "What about when something has ... to do with safety of others?"

MR. STARK said:

That is the compelling governmental interest we are talking about. So if there is something that one inmate wants to do which threatens the safety of other people, then we identify that compelling interest and then ... do a balancing. Under present law ... [prison officials] look at what the right is the inmate wants versus what the concern is, and if there is a way to balance those interests and still allow it to happen. That's not the "least restrictive means" test that this bill would impose.

Number 2020

REPRESENTATIVE JAMES recalled that during World War II, a person didn't get to be a conscientious objector simply because he said fighting was against his religion. He had to show evidence that he belonged to an organized religion that included that prohibition against fighting in its creed. She said she did not want to support "religion with a small r," simply what a prisoner believes, but only the practice of an organized religion that includes rules and regulations that make the follower a better person and doesn't allow them to be criminals. She said the United States Constitution protects prisoners from illegal search and seizure, gives them due process, and assures that they are assumed innocent until proven guilty, but "I believe after that, they can lose every freedom they have while they're incarcerated." She acknowledged that over the years, judges and legislators have modified the legal system, "and maybe they've modified so much that we're in a trap."

Number 2121

MR. STARK said Representative James had raised a valid point "in terms of what we'd all like to think religion is, which is to make us better people." The problem, he said, is that there are ... hundreds of religions around the world. "Our Constitution didn't just say the three or four principal religions are the ones that are protected; they're all protected," he said. This bill talks about free exercise of religion, and some religions believe in violence against other people.

Number 2223

REPRESENTATIVE JAMES asked Mr. Stark how he would define a "cult."

MR. STARK said he'd have to think about that.

REPRESENTATIVE STEVENS observed that HB 195 seems to speak to all Alaskans, not just those who are institutionalized. "Is there a way of exempting them [prisoners] from the requirements of this bill and placing them under federal law?" he asked.

Number 2233

MR. STARK said everyone is under federal law, and it was not necessary to include anything pertaining to that in this bill.

CHAIR COGHILL recalled that last year, there had been extensive discussion of exemptions. He then noted that there were many department people present to testify and asked that those from the Department of Law keep in mind that HB 195 was going to be heard in the House Judiciary Standing Committee that he wanted the public policy debate to begin in the House State Affairs Standing Committee also wanted to give the sponsors a chance to respond.

Number 2321

REPRESENTATIVE DYSON wished to make three points. He said:

We're only going back to a standard that has been in place since 1960 ..., and as the gentleman testifying says, it's not a problem because the state has been applying it. I absolutely cannot understand the logic that says that this bill, which only puts into law that which has been in law for 30 years and has been

practiced by a Supreme Court, is going to cause any, let alone a landslide of issues coming up.

Secondly, just before he [Mr. Stark] finished his testimony, he said that now with the new federal law, the institutions are under this same standard and so this law is not needed.... If, indeed, we pass this and it just has the same standard as the federal law that's already in effect, nothing changes except that it might be dealt with in a state court.

Lastly, every issue that has come up in this discussion has been dealt with before, at least in a generic sense, and I can show you pages of citations ... For instance, in Felix v. Rowan, in federal court, they said, "Prison order, security and administrative efficiency is a part of the compelling state interest." The state can use that, so if somebody wants to do their ceremony at a time that's inconvenient because of staffing ..., the state can ... [deny that on the basis of] administrative efficiency. There's quite a few citations on that. Same thing on the discrimination. These have gone to court; these have been decided, and the precedents are there ....

Number 2456

RICHARD BLOCK, Christian Science Committee on Publication for Alaska, expressed support for the adoption of HB 195. He said what he sees as the value of adopting this legislation is the overall tenor of the whole bill: it sets out an expression by the legislature as to how it regards legitimate religious activity in the state and asserts that it wants to see legitimate activity protected. For that reason, he would like to see HB 195 adopted. He also noted support for the changes proposed by Representative Dyson.

CHAIR COGHILL noted that HB 195 has once again brought about discussion of what is religion and how is it protected in this society, an issue that has been debated since the founding of this country.

Number 2577

LARRY PERSILY, Deputy Commissioner, Department of Revenue, came forward to testify. He explained that he deals with the

divisions of charitable gaming, permanent fund dividend, and child enforcement support. Child support covers more than 100,000 people, there are more than 600,000 dividend applications a year, and there are hundreds of charitable gaming licensees. Every week, he sees formal appeals, notices of reconsideration, or court cases in which someone is challenging department decisions.

MR. PERSILY said that as he looks at HB 195, he sees an increase in the number of appeals having to deal with those three areas. For example, doing missionary work outside of Alaska is not an allowable absence under the dividend statutes. Under this bill, someone denied a dividend because he or she left the state for a church program is going to come back and say, "show me the compelling state interest." The Child Support Division already has had some people protest that it is against their religion to submit to genetic testing. "We've won those cases, but I look at HB 195 and wonder, will we win the next one?" he said. Other potentially problematic areas include the alcohol excise tax, which applies to sacramental wines, and state regulation of bingo games run by churches.

MR. PERSILY said he did not expect religious groups to be unreasonable. But in light of dealing with hundreds of thousands of cases a year, "I believe this bill would increase the number [of cases] that go to formal hearing and that end up in court, which detracts from time we're able to spend on other cases," he said. Although the Department of Revenue tries to be as accommodating as it can within the law, "I see some problems coming down the road with HB 195," he concluded.

Number 2800

CHAIR COGHILL observed that any time the legislature discusses limiting government, it is important to realize that the limitation may cause problems for [some] agencies of government. He said it is important to remember that the whole idea of our government is restricting government and guaranteeing individual freedom.

Number 2897

ANGELA SALERNO, Program Coordinator, Division of Public Assistance, Department of Health and Social Services, came forward to testify. She expressed concern about the language in Section 4 that allows a person to bring civil action against an agency when the person feels his or her free exercise of

religion has been substantially burdened. She said that could make the division quite vulnerable to costly litigation.

MS. SALERNO explained:

We're now in the business in Public Assistance of assisting families toward self-sufficiency, off welfare towards work. When an applicant comes to the Public Assistance office, they're routinely told that work is part of the deal. They are required to fill out a family self-sufficiency plan that gives the steps they are going to take toward self-sufficiency through work. The eligibility technician, a fairly low-level position, the first person the applicant will come into contact with, will routinely tell them that they must work in order to be eligible for public assistance. At that point, if the individual tells the eligibility technician that it's against their religion to work outside the home, they will be denied benefits. Liability could attach at that point ..."

TAPE 01-36, SIDE B

MS. SALERNO described a case in which applicants, members of a very small Jewish sect, claimed their religion did not allow the woman to work outside the home. The agency lost that case and had to pay court costs and benefits, she said.

MS. SALERNO said the agency's other concern is that "if that individual or others do not work outside the home, their clock is still ticking." Welfare benefits now are limited to 60 months. "So if our hands are tied ... and we cannot compel folks to go to work, we have no way to help them become self-sufficient."

Number 2917

REPRESENTATIVE JAMES commented, "You shouldn't worry about them running out of their time; it's ... the law, their problem, not yours."

Number 2906

CHAIR COGHILL asked Ms. Salerno if the case the department lost was a civil action.

MS. SALERNO said it was a civil rights action.

Number 2883

DENNY K. WEATHERS, who identified herself as "just an Alaskan" from Prince William Sound, testified by teleconference. She said the moral values in the State of Alaska as well as throughout America have been disintegrating and "I wonder if it could be the powers that be right now, not directly related to you guys, but somewhat."

MS. WEATHERS said she said she believes in the Constitution of the United States and of the State of Alaska "in its entirety, not just parts and pieces." She called attention to page 2, lines 20-23 of HB 195. She testified:

You have you want to protect the right but that is unless it directly affects the government. In other words, it's OK to have religion as long as it doesn't directly affect the government. OK, in the Statehood Act, Section 3, that was written in 1958, passed in 1959, it says, "the constitution of the State of Alaska shall always be republican in form and shall not be" - and these are the key words - "shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence." When you go to the Declaration of Independence, I find that most everything we do in Alaska now is repugnant to that. Look at grievance Number 9, "He has made judges dependent on his will alone for the tenure of their offices and the amount of their payment." That's just one. Look at Number 17, and I'm going to point this out because you guys have full bills and tax bills coming in to do this, Number 17 says, "For imposing taxes on us without our consent." Then you have Number 18, which says "depriving us in many cases of the benefit of trial by jury." I know, Mr. Dyson, you were on the Fisheries Committee where you found out that fishermen even though they requested jury trials are not getting that, given a jury trial. And that brings me to Ms. James ....

CHAIR COGHILL apologized for interrupting, but asked the witness to speak to the point of HB 195. He asked her to summarize a yea or nay position on HB 195.

Number 2723

MS. WEATHERS continued:

[Representative] James brought up the due process in the law, and she was talking about what rights they have. She must be aware that we don't always get due process of the law. Some people ... in Alaska are arrested just because they don't have a Social Security number, and jailed. That's just happened recently because ... you guys passed the Senate Bill 19 and all these other bills that require Social Security. So what I'm getting at is religious beliefs. Social Security number. The right you have to provide it. It goes against people's rights, but you don't seem to care about that.

Number 2686

CHAIR COGHILL said:

We do care about it, and that's one of the reasons we're having this discussion; and the compelling government interest, the least restrictive means, substantial burdens are the things that we are discussing ... in this particular bill. And there are problems, and they're worthy of legitimate discussion. So I appreciate your weighing in on it. I hope that you'll enjoy listening as we discuss the remainder of this bill, because those are the very things that we will be discussing ....

CHAIR COGHILL then called upon Mr. Royce and asked him to summarize the Department of Law's position on HB 195.

Number 2649

ROBERT ROYCE, Assistant Attorney General, Governmental Affairs Section, Department of Law, testified by teleconference. He said it is the Department of Law's position that HB 195 has been introduced in response to a federal court decision that the Alaska Supreme Court has refused to adopt. He said he wanted to make sure the committee was aware of the current state of the law regarding free exercise, and he cited Frank v. State, a case in which the court allowed an Athabascan Indian to take a moose out of season for a funeral potlatch. In that case, the court said:

No value has a higher place in our constitutional system of government than that of religious freedom. The freedom to believe is protected absolutely. The freedom to act on one's religious belief is also protected, but some protection may be overcome by compelling state interest. Because of the close relationship between conduct and belief, and because of the high value we assign to religious beliefs, religiously impelled actions can be forbidden only when they pose some substantial threat to public safety, peace, or order, or where there are competing governmental interests that are the highest order and are not otherwise served.

MR. ROYCE said the foregoing is the current status of the law regarding free exercise cases under the Alaska Constitution.

Number 2588

MR. ROYCE said it is the Department of Law's position that the constitutional right is already protected, and for the legislature to establish an additional requirement of the "least restrictive means" would change the test. He pointed out that that was an element of the federal act that had been declared unconstitutional, and it was declared unconstitutional in part because ... the least restrictive means was not used in the pre-Smith jurisprudence [which Representative Dyson is aiming to restore]. "So I think that by adding that additional 'least restrictive means' test, which doesn't appear in our state court cases, it would be changing or altering the right under the Alaska Constitution," he said.

Number 2532

CHAIR COGHILL asked, "Isn't that part of what was handed back to the states to decide?"

MR. ROYCE replied no. He noted that although the sponsor statement for HB 195 says that the states were invited by the court to pass legislation on their own level, "that can be nowhere gleaned from reading the decision.... There has been no invitation by Congress to pass similar legislation on the state level."

Number 2487

CHAIR COGHILL told Mr. Royce that he finds himself "in the precarious position of trying to bring us [the House State Affairs Standing Committee] to a policy decision without wading through every Supreme Court case," knowing that HB 195 also has a referral to the House Judiciary Standing Committee and those things are going to be scrutinized there. He asked the House State Affairs Standing Committee to discuss whether the "least restrictive means" is something they want to bring up for discussion because the bill sponsor has asked them to discuss it. Part of what this committee needs to decide is if they want the policy discussion to continue, and if so, in what form, he added.

CHAIR COGHILL asked the sponsor to come back before the committee to reiterate the amendments and give any response he wished to what had been said.

Number 2390

MS. RUDINGER spoke up to tell the Chair that she was still waiting to testify by teleconference.

CHAIR COGHILL said this is third time she had come before the committee. "You dumped a pretty good load of material on our desk a couple of minutes before the meeting, and we're trying to address at least two of those," he said. He explained that he was going to put her written testimony and suggestions for amendments in the record, and that most of the issues she raised were going to be discussed in the House Judiciary Standing Committee.

Number 2322

REPRESENTATIVE DYSON said all of the issues Ms. Rudinger is raising are substantial and worthy of discussion, "and my commitment is we will do that, and very thoroughly, in Judiciary."

REPRESENTATIVE DYSON said he would prefer to move the bill along, suggesting that the committee make the one amendment Ms. Rudinger had suggested on which all agree, "that is to insert the word 'substantial' in front of 'burden' everywhere it appears."

Number 2258

REPRESENTATIVE DYSON said as he understands it, HB 195 is "only protecting that which has been the common practice since 1960 ... and restoring that in statute." He said he was delighted with Mr. Royce's testimony that the [Alaska] Supreme Court has been applying these kinds of standards. He noted that another Supreme Court might not have the same attitude. He went on to say that he was disappointed to have the administration weigh in against HB 195. "Nothing will change," he emphasized, "and to move away from the 'least restrictive' is, I think, a startling position. Government only ought to restrict freedom of speech or freedom of religion in the least restrictive way that still serves the government's compelling interest."

CHAIR COGHILL announced that it was becoming apparent that the committee was not going to get to HB 42, and apologized to those waiting.

Number 2095

CHAIR COGHILL announced his intention to close testimony on HB 195. He noted the sponsor's suggestion to amend HB 195 by adding the word "substantial".

Number 2029

REPRESENTATIVE DYSON pointed out that the word needs to go in the title as well as on line 19.

Number 2046

REPRESENTATIVE WILSON offered a conceptual amendment [Amendment 1]:

page 1, line 2, before "burden",  
Insert "substantial"

Page 2, line 19, before "burden",  
Insert "substantial"

Insert change throughout the bill

There being no objection. Amendment 1 was adopted.

CHAIR COGHILL asked the will of the committee on HB 195.

Number 2061

REPRESENTATIVE JAMES moved to report HB 195, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 195(STA) was moved from the House State Affairs Standing Committee.

CHAIR COGHILL announced that he was moving HB 200 to the bottom of the calendar.

HB 20 - AID TO MUNICIPALITIES AND OTHERS

Number 1902

CHAIR COGHILL announced that the next order of business before the committee would be HOUSE BILL NO. 20, "An Act relating to state aid to municipalities and certain other recipients, and for the village public safety officer program; relating to municipal dividends; relating to the public safety foundation program; and providing for an effective date."

REPRESENTATIVE CARL MOSES, Alaska State Legislature, came forward to testify as sponsor of HB 20. He explained that he introduced the bill when it became obvious that the legislature was drastically cutting revenue sharing over the past five years, virtually cutting it to the bone.

REPRESENTATIVE MOSES said this would be a major step toward a long-range fiscal plan, and would mesh well with other planned components. It frees up approximately \$50 million from the general fund that could be used for other things that the legislature appears to be short funding in the current budget. In repealing the Municipal Assistance and Revenue Sharing programs, it eliminates one of the most contentious annual funding debates. However, it retains the legislative powers of appropriation, providing an annual opportunity to review specific allocations to police, education, fire service, emergency medical services, roads, and health facilities. "If I had my way, it would be just a flat, blank check and let them decide on a local level [how to allocate the money]," he said.

REPRESENTATIVE MOSES explained that HB 20 provides \$150 per capita per year [to municipalities and others] that could offset local property taxes by providing essential local services. The long-term impact on the PFD is negligible [as the money is drawn from the excess earning of the Permanent Fund after funding permanent fund dividends and inflation-proofing].

Number 1777

REPRESENTATIVE MOSES said that over the past five years, the legislature has, in effect, imposed an indirect tax on constituents. The money has to come from someplace, he noted. "When we cut revenue sharing, they have to come up with some sort of taxes to replace that revenue. That's why I say we indirectly impose taxes."

Number 1741

REPRESENTATIVE MOSES said HB 20 also helps protect the permanent fund from Internal Revenue Service taxation, strengthening the permanent fund's public purpose objective by directly supporting local education and public safety. "I maintain we're not out of the woodwork yet as far as the fund being taxed by IRS," he said. "I think that's just a matter of time if we continue just [to] use it for dividends to individuals. I think it's long past due that we start using it for some public purpose, and this to me is an ideal method to do it."

Number 1702

CHAIR COGHILL asked if the same bill had not come before the committee last year.

REPRESENTATIVE MOSES replied, "It certainly did, Mr. Chairman."

Number 1668

REPRESENTATIVE STEVENS asked about the fiscal note. The one he had before him said zero.

REPRESENTATIVE MOSES said HB 20 would take approximately \$90 million from the surplus earnings of the permanent fund.

TIM BENINTENDI, Staff to Representative Moses, Alaska State Legislature, came forward to testify. He explained that the Department of Community and Economic Development and the Permanent Fund Corporation both had submitted zero fiscal notes because they think they can absorb whatever administrative actions would be required within their existing programs.

Number 1630

REPRESENTATIVE JAMES commented that with the legislature looking at a long-term plan to meet the financial responsibilities of the state, "I have made a pact ... that I am

not going to interfere with that." She said she thinks a long-term plan is going to require changing the way the current dividend is calculated. "We do have to use some of the earnings of the permanent fund," she said. "We do have to have some taxes -- fair, equitable, and broad-based. This particular ...[approach] will protect and keep a dividend of some description over the long period. This does not interfere, in my perspective, with any long-term plan that we might do." She said she would support HB 20.

Number 1549

REPRESENTATIVE MOSES agreed wholeheartedly. "We could very well be faced with a billion-dollar deficit in the year 2003," he said, "and it is, I think, very important that we get off our duff and do something about a long-range plan. This will be just one component of it, and it will go a long way toward closing that gap..."

Number 1507

REPRESENTATIVE CRAWFORD asked why Section 7 gives specific dollar amounts, such as \$20 per person for police protection and \$15 per person for Village Public Safety Officers (VPSOs). It seemed to him that over the years, inflation would eat up those amounts.

Number 1475

MR. BENINTENDI explained that the breakdown had been picked up from the old Public Safety Foundation program. He said he did not know if the numbers had been adjusted for the re-introduction of HB 20, "but I know those figures were generated to be a supplemental assistance, not to bankroll an entire police force or an entire VPSO operation."

REPRESENTATIVE CRAWFORD said he was primarily concerned about the effect of inflation over time.

MR. BENINTENDI explained that the mechanism for changing the numbers would be the legislative power of appropriation, which the bill retains. Annually, or as often as it chose to do so, the legislature could look at the inflation factor and adjust the numbers, he said.

Number 1406

REPRESENTATIVE WILSON asked if the numbers in Section 7 take population into account.

MR. BENINTENDI said it is based on community population and community need. For example, some communities need the VPSOs because they don't have police departments, and vice versa. The money is meant to supplement existing services. He deferred to the Alaska Municipal League to provide the history on that.

Number 1340

REPRESENTATIVE WILSON asked if an unincorporated community gets \$10,000, and the amount of money is based on the number of people, "does that work out that they're going to have enough money to spread it around?"

MR. BENINTENDI explained that the formula would apply only to municipalities. The unincorporated communities would each get \$10,000 to allocate as they wished.

CHAIR COGHILL said he did not intend to move HB 20 today, but would like Representative Moses to come back for further questions before the committee discussed tapping into the permanent fund earnings.

Number 1228

REPRESENTATIVE JAMES volunteered to help in responding to Representative Wilson's concern. "The formula applies and then if it is less than \$10,000, they get \$10,000 anyway," she explained. "Those who qualify for more than \$10,000 get the amount determined by the formula."

Number 1201

CHAIR COGHILL said the committee is going to be asking what HB 20 would do with regard to the spending gap. Are we increasing it? Are we decreasing it? He asked for an overall picture.

REPRESENTATIVE MOSES replied, "It would enable us to take \$50 million off [the] budget, approximately."

CHAIR COGHILL asked, "About \$50 million? That would be the Municipal Grant?"

REPRESENTATIVE MOSES clarified, "What's left of [the] Revenue Sharing Municipal grant, etc."

CHAIR COGHILL asked, "And it would be about \$50 million a year?"

REPRESENTATIVE MOSES affirmed, "Yes."

Number 1121

JIM KELLY, Director of Communications, Alaska Permanent Fund Corporation, came forward to testify. He referred to a financial analysis the corporation had given the committee on the impacts of HB 20. "As testified by Representative Moses, the diminishment of the [permanent fund] dividend is relatively small, amounting to something like \$200 to \$250 over ten years," he said. "As an example of how small that is, the market itself seems to be taking away about a third of that amount of money in a single year." He continued: "It does produce something on the order of \$80 [million] to \$90 million for the municipal dividend at the rate that is written into the bill right now."

Number 1050

REPRESENTATIVE CRAWFORD asked Mr. Kelly to explain the effect of going to the "market value approach" he had talked about [in the financial analysis].

MR. KELLY explained:

The point of that proposal is to ensure that the permanent fund is protected against inflation permanently. That is accomplished by ensuring that you don't pay out any more from the permanent fund than the real income, that is, the income that is generated in excess of what's needed to be retained to offset inflation. We estimate that that's in the range of \$175 [million] to \$300 million a year ... over the next ten years. At these levels, that's well within that range, so this would not affect the ability of the fund to be protected against inflation, and it is money that the fund could generate without any difficulty.

Number 0967

CHAIR COGHILL observed, "It says here that this would be \$150 per dividend recipient. And we would have to figure out people moving in and out of [a] community. Do you anticipate from your

perspective any trouble tracking that or would that be from the municipality giving you that information?

MR. KELLY replied, "To us it would be a simple formula, just like the dividend formula." He said the Permanent Fund Corporation would write one check a year [for the total amount of the municipal dividend], just as it does now for the permanent fund dividend, and others would figure out how much of it goes to each community.

CHAIR COGHILL said it would be up to Representative Moses to make sure that is outlined in HB 20.

REPRESENTATIVE WILSON asked, "...so in other words, you might go by the census figures or something...?"

Number 0884

MR. BENINTENDI said that there are two things at play. He explained:

To determine the pool of money that the municipalities could access, you take ... the number of dividend recipients from the previous year and multiply that times \$150, and then that's the amount of money drawn out of the earnings reserve and put in what would be a municipal dividend fund over in ... Commerce and Economic Development. The communities would draw from that pool of money based on population figures. Generally, the U.S. Census [figures]... would be the figures used, "because in a lot of cases, you have communities where there are more people than there are dividend recipients. So the formula is applied to those five or so ... services that we support ... by multiplying the population of the community times the \$20 a head for police services or whatever it might be.... And that is spelled out in Section 11 of the bill.

Number 0784

REPRESENTATIVE STEVENS said he thinks that currently, or at least until recently, all of the smaller communities were receiving up to \$25,000 a year from revenue sharing, so the amount provided by HB 20 would be a substantial reduction. "Am I understanding this right, that you would do away with revenue

sharing, and so, in fact, we are reducing the smaller communities from \$25,000 to \$10,000...?" he asked.

MR. BENINTENDI replied, "For the unincorporated communities, the draw is \$10,000, and that's what they get now. For small municipalities, there is a minimum set at \$25,000; and, actually, that could be \$45,000 depending on what their particular requirements under the formula would be."

REPRESENTATIVE STEVENS said he knows that smaller communities that are incorporated are totally dependent upon revenue sharing funds to run their municipalities.

MR. BENINTENDI said it was one of the sponsor's hopes that this bill might encourage some incorporation.

Number 0686

CHAIR COGHILL announced that he was not closing public testimony on HB 20, but wished to allow time that day for the presentation of HB 17.

REPRESENTATIVE JAMES asked his intentions regarding HB 200.

CHAIR COGHILL said he had prepared a CS for HB 200 that he was going to offer that "took the flag-raising out of it," which he thought was going to require time to discuss. He said he intended to take up HB 200 at a subsequent meeting. [HB 200 was not heard.]

Number 0550

KEVIN RITCHIE, Executive Director, Alaska Municipal League (AML), thanked Representatives Moses and James for their work on HB 20, which would create long-term stability for revenue sharing. He said AML thinks HB 20 is a good part of a long-range fiscal plan and also a good stand-alone program.

MR. RITCHIE said the individual tax benefits that people receive from this program are substantial and the impact on the permanent fund dividend is much less than the amount of tax relief provided to the state's communities. He said it amounts to an average of \$150 of tax relief for every man, woman, and child in the state. That will have a big, long-term impact in terms of stabilizing state and local taxes, he said.

Number 0550

MR. RITCHIE said he thinks that under HB 20, the unincorporated communities would go from receiving \$3,707 to "\$10,000 plus." He explained that because public safety is so important, if there is an emergency medical technician (EMT) or a fire organization that's operating within a Bush community, even if that community is not a municipality, it would get the same support as a department in a municipality.

MR. RITCHIE explained that the specific allocations, such as the \$20 for fire protection, were the way the program was set up until about 17 years ago. "When the oil money came in, people said, 'Well, that \$20 or \$10 for police; we don't really need to do that. We'll just trust you. Here's a big chunk of money,'" he said. "And then after that, almost every single year, it [the amount appropriated for revenue sharing] got cut, and the reason was because it's a big pot of money and the public really couldn't identify what it was for. The legislature can't really identify what it's for [except that] it's used in various ways in municipalities." He said he agreed with Representative Moses that it would be nice to give each community a lump sum to be locally apportioned among the eligible services. But he thinks that is why revenue sharing has been getting cut. "That's why the public doesn't really know how this money's being spent and can't identify with it," he said. Re-establishing the specific dollar amounts gives the public a direct accounting, so the citizen is aware that, "Yes, I'm giving up a little bit of my permanent fund dividend ..., but I'm getting \$150 worth of tax-free services for my community," and AML thinks the public will think that's a very good thing.

Number 0143

CHAIR COGHILL said it was a good point about the tax relief and the cumulative effect this would have. He then asked Representative Moses to bring back to the committee the figures for the various services and how they had been established. He also wanted the committee to discuss whether the allocation of that money should be totally discretionary or "lined out," and said the larger policy issue to be considered is whether the earnings reserve of the permanent fund should be tapped. [HB 20 was heard and held.]

TAPE 01-37, SIDE A

CHAIR COGHILL said he is reluctant to go into the earnings reserve, but he thinks it is a valuable discussion to have.

HB 17 - CAPITAL PROJ/DISTRIB. OF PERM FUND INC

Number 0136

CHAIR COGHILL announced that the next order of business before the committee would be HOUSE BILL NO. 17, "An Act relating to the capital projects fund, to distribution of money in the earnings reserve account of the Alaska permanent fund to the capital projects fund and to the dividend fund at the end of fiscal year 2001, and to increasing the amount of permanent fund dividends for calendar year 2001; and providing for an effective date."

Number 0187

REPRESENTATIVE JIM WHITAKER, Alaska State Legislature, came forward to testify as sponsor of HB 17. He said he had a very brief presentation to make, but that it would take up the remaining minutes of the committee's meeting time and significantly limit discussion.

CHAIR COGHILL suggested not moving the bill today, but simply starting with the presentation.

REPRESENTATIVE WHITAKER attempted to begin the presentation, but found that equipment had been unplugged.

CHAIR COGHILL declared a brief at-ease at 9:47 a.m. The meeting was called back to order at 9:48.

Number 0416

REPRESENTATIVE WHITAKER gave an audio-visual presentation of HB 17. He narrated:

House Bill 17. This is what it does. It builds Alaska's future through infrastructure development and economic growth. We ask, of course, the question, "Why is HB 17 necessary, or a bill similar to HB 17?" and the reasons are very straightforward. Alaska's infrastructure and capital needs are significant and they are not being met and Alaska's economy is not growing. It is, in fact, shrinking. We have the dubious honor of having the fastest-shrinking economy amongst the 50 states.

Even though our state's constitution is very straightforward, Article 9, Section 16, requires an appropriation limit. It also requires a spending quota if you will for capital spending. Within ... this limit, at least one-third shall be reserved for capital projects and loan appropriations. In 1981, the people of the State of Alaska amended the Constitution with that amendment. In 1983, before it went into effect, an attorney general's opinion trumped the Alaska State Constitution. So while we have the mandate to spend for capital, we don't do it, and shame on us! We should be better than that, and that particular attorney general's opinion should be challenged. HB 17 begins to correct the situation. This is how it works.

Number 0559

REPRESENTATIVE WHITAKER continued:

At any time that we talk about the permanent fund, we've got to be very clear about what we're doing. HB 17 does not affect the inflation-proofing mechanism, as it currently exists. It does not affect the manner in which dividends are paid out, as it currently exists. It does not spend the corpus of the permanent fund nor does it spend the corpus of the reserve account.

Number 0593

What it does is this. It utilizes the earnings from the earnings reserve account. These, by the way, are Permanent Fund Corporation numbers, updated yesterday. So what we are talking about is utilizing \$423 million as the earnings of the earnings reserve account. And we divide that in half. Half for a capital projects fund, half as a supplement to the dividend. First thing, the capital projects fund: An additional \$211 million, FY 02, without leverage. You can read that as well as I can. That's a lot of money. You write the check and you take care of the state's needs, or, again you can read that as well as I can, and that's not just the request for FY 02.

Number 0668

That's the entire request for deferred maintenance and capital needs for the university. ... These are capital projects from around the state that have been requested. We simply do not have the funding necessary to meet these needs. Of particular interest are the last four projects on the list. There's enough money to pay for all the proposed improvements on the Parks Highway, the Richardson Highway, the Denali Highway, the Glenn Highway, and the Klondike Highway in addition to those above. And after all that, there ... [are] still significant amounts of money left.

Number 0741

REPRESENTATIVE WHITAKER continued:

Another way of looking at it: If we're going to leverage it, and certainly I'm not an expert on leveraging, but we do have those in the state who are, and so we can put some examples out. Putting \$55 million toward a federal ten-to-one match, obviously we can do the arithmetic and that's \$605 million. \$130 million toward a fifty-fifty match. You can do the arithmetic as well as I can.

Number 0770

And so add it all up, and I think it's safe to say that we can conservatively approach \$900 million for infrastructure development in FY 02 as a result of a piece of legislation such as HB 17. You can see it. That's the number. A lot of money, and we need it. Capital investment FY 02. That's half the program.

Number 0896

REPRESENTATIVE WHITAKER continued:

And now the other half of the program -- growing our economy and why it's necessary. As I mentioned earlier, over the last ten years, while the rest of the nation has significantly increased, our economy has significantly decreased. In fact we're one of two states that has decreased, Wyoming being the other. We have decreased 11 percent; Wyoming has decreased 1 percent.

[Audio: "Houston, we have a problem, Houston, we have a problem."]

Oh, my! And we do have a problem. If we were average, as compared to the other states, our growth rate would be the pink line. We're not. The bottom line is Alaska's gross state product. And if we look only at Alaska from 1990 through FY 02, you can see that is our growth chart. By providing for capital funding and a supplement to the dividend or a municipal dividend, we can grow Alaska's economy substantially.

Number 0888

That's what HB 17 does. So we have a choice. That growth curve or that growth curve. And more succinctly, that is the effect that HB 17 will have on Alaska's economy.

Number 0913

REPRESENTATIVE WHITAKER continued:

And now let's talk about the effect on the dividend. An extra \$211 million to pay out in dividends. And let's take a look at what has been paid out in the past. Last year, this year, projected 02, and a supplement of \$360 to every man, woman, and child in the state. Now let's be very clear about what happens to future dividends. Is there an effect? Of course there is. There is no free lunch, and I don't need to quote any more clichés. But certainly there's a cost, and this is what the cost is.

Number 0962

Putting it graphically as you can see, ... actually it's [in] FY 01 that we'll pay out. It is FY 02 that this bill takes effect. That's an odd sort of circumstances, but nonetheless, it is correct. You can see the supplement to the dividend paid out in FY 01 and you can see that the effect is minimal until FY 05, and then you begin to feel an effect on future dividends.

Number 0997

So there is no free lunch, and I want to be very clear on that. And if we continue it for seven years as a supplement -- by the way, I point that out because HB 17 is a one-year bill. It sunsets in FY 03. But if it were continued, if future legislatures made the determination that they wanted to continue a program of this nature, that would be the effect on future dividends.

Number 1026

REPRESENTATIVE WHITAKER continued:

You can see that by FY 11, there is still a gain to the dividend. We reach a point of diminishing return somewhere in the range of 15 to 16 years out. What we have in the meantime, though, is substantial economic growth and substantial infrastructure development.

Number 1046

OK, and we can do this with no effect to the permanent fund corpus. Obviously, we've all come through the ... September of '99 vote. We know the questions that are raised about the permanent fund and the corpus and all of that, and so we need [to] be very, very clear. There is no effect on the permanent fund corpus. It is zero. We show that graphically and the reason is ... very simple. We only utilize the earnings of the earnings reserve account. We do not touch the corpus of the permanent fund nor do we touch the corpus of the earnings reserve account. So HB 17: It adds \$900 million in capital appropriation. If we put an economic growth factor on that of 1.725, you can see that's a billion and a half dollars that our economy grows.

Number 1114

Then we utilize the permanent fund dividend supplement. You can see there's another half a billion of economic growth, so over \$2 billion of economic growth results from this bill. And let me say it again, it leaves the permanent fund corpus untouched.

Number 1131

REPRESENTATIVE WHITAKER continued:

But if you don't like that, roll it back and let's take a look at another option. By the way, this option is not in the bill. It would require an amendment. It takes just a second and I think we are going to make it in time, Mr. Chairman. How about this approach. The municipal dividend. Everything stays the same except the lower right hand corner. Rather than a supplement to the dividend, we provide a municipal dividend. And this is what it does around the state. I know you all caught that, so let's just look at five municipalities around the state: Anchorage would receive \$84 million, Fairbanks \$26 million, Kenai \$16 million, Mat-Su \$19 million, Juneau, \$10 million. Those are per capita bases.

Number 1186

So, again: Option 2. It still builds the infrastructure. We don't touch that portion of it, and it grows Alaska's economy. It still puts significant amounts of revenue into our economy, which is very, very important. We have a shrinking economy and we must stop that. And once again, it leaves the permanent fund corpus untouched.

Number 1210

So one more time, this is what it does. [Series of visuals] And [it] doesn't mess with the permanent fund. Two billion dollars of economic growth, and doesn't mess with the permanent fund. That's what it does.... That's HB 17.

Number 1253

CHAIR COGHILL commented that the presentation was very well done and explained the bill. He said he would bring up HB 17 at the committee's next scheduled meeting, following HB 200, which is going to be at the top of the list. [HB 17 was heard and held.]

Number 1296

## **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:00 a.m.