

**ALASKA LEGISLATURE**

**1972**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000**

HB 199, Section 16.

SBS Change to 3.065% Employer Contribution for new employees.

Assumptions

Personal Services is 65% General Fund

Turnover: 5% first five years; 4% years 6 to 16; 3% thereafter.

Fiscal Year	Total ER Contributions if Status Quo	Total Turnover	Total Savings	General Fund Savings
00	\$ 40,417.9	5.0%	\$ 505.2	\$ 328.4
01	\$ 40,417.9	10.0%	\$ 1,515.7	\$ 985.2
02	\$ 40,417.9	15.0%	\$ 2,526.1	\$ 1,642.0
03	\$ 40,417.9	20.0%	\$ 3,536.6	\$ 2,298.8
04	\$ 40,417.9	25.0%	\$ 4,547.0	\$ 2,955.6
05	\$ 40,417.9	29.0%	\$ 5,456.4	\$ 3,546.7
06	\$ 40,417.9	33.0%	\$ 6,264.8	\$ 4,072.1
07	\$ 40,417.9	37.0%	\$ 7,073.1	\$ 4,597.5
08	\$ 40,417.9	41.0%	\$ 7,881.5	\$ 5,123.0
09	\$ 40,417.9	45.0%	\$ 8,689.8	\$ 5,648.4
10	\$ 40,417.9	49.0%	\$ 9,498.2	\$ 6,173.8
11	\$ 40,417.9	53.0%	\$ 10,306.6	\$ 6,699.3
12	\$ 40,417.9	57.0%	\$ 11,114.9	\$ 7,224.7
13	\$ 40,417.9	61.0%	\$ 11,923.3	\$ 7,750.1
14	\$ 40,417.9	65.0%	\$ 12,731.6	\$ 8,275.6
15	\$ 40,417.9	68.0%	\$ 13,439.0	\$ 8,735.3
16	\$ 40,417.9	71.0%	\$ 14,045.2	\$ 9,129.4
17	\$ 40,417.9	74.0%	\$ 14,651.5	\$ 9,523.5
18	\$ 40,417.9	77.0%	\$ 15,257.8	\$ 9,917.5
19	\$ 40,417.9	80.0%	\$ 15,864.0	\$ 10,311.6
20	\$ 40,417.9	83.0%	\$ 16,470.3	\$ 10,705.7
21	\$ 40,417.9	86.0%	\$ 17,076.6	\$ 11,099.8
22	\$ 40,417.9	89.0%	\$ 17,682.8	\$ 11,493.8
23	\$ 40,417.9	92.0%	\$ 18,289.1	\$ 11,887.9
24	\$ 40,417.9	95.0%	\$ 18,895.4	\$ 12,282.0
25	\$ 40,417.9	98.0%	\$ 19,501.6	\$ 12,676.1

Projected Savings if SBS Maximum Wage Base is set at \$68,400

	Social Security Maximum Wages Taxable	Change from Prior Year	# of Employees > or = to Social Security Maximum	Subtotal Savings	# of Employees Between \$68,400 and Social Security Maximum	Subtotal Savings	Total Savings	GF Savings	
1989	48,000								
1990	51,300	6.88%							
1991	53,400	4.09%							
1992	55,500	3.93%							
1993	57,600	3.78%							
1994	60,600	5.21%							
1995	61,200	0.99%							
1996	62,700	2.45%							
1997	65,400	4.31%							
1998	68,400	4.59%							
1999	72,600	6.14%	784	201.8		40.8	242.7	157.7	FY 00
Average annual change:		4.24%							
2000	75,676	4.24%	784	349.7	323	72.1	421.8	274.2	FY 01
2001	78,885	4.24%	784	503.9	330	106.0	609.9	396.4	FY 02
2002	82,229	4.24%	784	664.6	336	142.6	807.2	524.7	FY 03
2003	85,716	4.24%	784	832.2	343	182.1	1,014.3	659.3	FY 04
2004	89,350	4.24%	784	1,006.8	350	224.7	1,231.6	800.5	FY 05
2005	93,139	4.24%	784	1,188.9	357	270.7	1,459.6	948.7	FY 06
2006	97,088	4.24%	784	1,378.7	364	320.2	1,698.9	1,104.3	FY 07
Assumptions									
2% Growth Rate in number of employees earning over \$68,400 annually and that their average salary is between									
Social Security maximum wage and \$68,400.									
Social Security Maximum Taxable Wage grows at 10 year average of 4.24%.									
Number of people earning the Social Security maximum wage stays constant.									

FISCAL NOTE CSHB 199(STA)  
ATTACHMENT A  
GEOGRAPHIC PAY DIFFERENTIALS

There are 316 employees in the executive branch partially exempt service (PX) or classified service not in a bargaining unit (EE) whose geographic pay differential will be affected by Sec. 11 and 18 of this bill. The geographic pay differential for 222 employees will go up on the effective date. The geographic pay differential of 139 employees will go down. Some of the changes in each direction are only fractions of a percent.

Costs of employees going to higher geographic pay differentials will be due immediately. Savings from employees going to lower geographic pay differentials will result from turnover.

Assumptions:

- Part-time (hourly) employees work half time.
- Emergency Guards work 10% of full time.

The annual cost of employees going to higher geographic pay differentials is \$93.5 thousand. First year savings from employees going to lower geographic pay differentials (due to turnover) is \$37.1 thousand. Second year savings is \$108.1. Savings increase to Net costs and savings are:

	FY '00	FY '01	FY '02	FY '03	FY '04	FY '05
Costs	\$ 93.5	\$ 93.5	\$ 93.5	\$ 93.5	\$ 93.5	\$ 93.5
Savings	-\$ 37.1	-\$ 108.1	-\$ 169.9	-\$ 222.4	-\$ 268.7	-\$ 312.0
Total	\$ 56.4	-\$ 14.6	-\$ 76.4	-\$ 128.9	-\$ 175.2	-\$ 218.5

Governor Knowles remains committed to providing the same changes to geographic pay differentials to employees in the exempt service of the executive branch as is provided to employees in the partially exempt service by statute. Governor Knowles is committed to making the changes in Sec. 11 of CSHB 199(SA) by Administrative Order. The Administrative Order would cover 29 employees, 12 in locations going to a higher geographic pay differential, and 17 in locations going to a lower geographic pay differential. The costs and savings from these employees, using the same method as above, will be:

	FY '00	FY '01	FY '02	FY '03	FY '04	FY '05
Costs	\$ 43.4	\$ 43.4	\$ 43.4	\$ 43.4	\$ 43.4	\$ 43.4
Savings	-\$ 4.4	-\$ 12.8	-\$ 20.2	-\$ 26.4	-\$ 31.9	-\$ 37.1
Total	\$ 39.0	\$ 30.6	\$ 23.2	\$ 17.0	\$ 11.5	\$ 6.3

These totals are included in the totals on the Fiscal Note.

SUBJECT: \_\_\_\_\_  
DATE: \_\_\_\_\_

	YEA	NAY
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR WILKEN		
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:	_____	_____

SUBJECT: \_\_\_\_\_  
DATE: \_\_\_\_\_

	YEA	NAY
SENATOR WILKEN		
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:	_____	_____

SUBJECT: amend #1 HB 199  
DATE: 5/18/99

	YEA	NAY
SENATOR LEMAN		✓
SENATOR WILKEN		✓
SENATOR ADAMS		✓
SENATOR P. KELLY		absent
SENATOR L. GREEN		✓
SENATOR PHILLIPS		✓
SENATOR DONLEY	✓	
SENATOR TORGERSON		✓
SENATOR PARNELL		✓
TOTAL:	_____	_____

1 7

SUBJECT: \_\_\_\_\_  
DATE: \_\_\_\_\_

	YEA	NAY
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR WILKEN		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:	_____	_____

**HB**

**2000**

**HFIN**

**FILE**

REPRESENTATIVE  
**GENE THERRIAULT**  
Co-Chair  
(907) 465-4797  
Fax: (907) 465-3884

INTERIM ADDRESS  
119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
Fax: (907) 488-4271

**Alaska State Legislature**  
**House Finance Committee**



State Capitol, Juneau, Alaska 99801-1182

REPRESENTATIVE  
**ELDON MULDER**  
Co-Chair  
(907) 465-2647  
Fax: (907) 465-3518

INTERIM ADDRESS  
716 W. 4th Ave., Suite 310  
Anchorage, Alaska 99501  
(907) 269-0265  
Fax: (907) 269-0264

## **Sponsor Statement**

### **Committee Substitute for House Bill 200**

#### **Repeals State Mandated Senior Citizen/Disabled Veteran Property Tax Exemption**

The Senior Citizen/Disabled Veteran Property Tax Exemption Program is a classic unfunded mandate on local governments.

This tax exemption was last fully funded in 1985. Since 1985 the funding has dwindled from 100% down to 0% the past 3 years. It is not funded in the FY 00 budget proposal. The budget the House passed limits state financial assistance to local communities as a partial response to the billion dollar deficit the state faces. We believe the state should remove mandates it is not able to fully fund.

House Bill 200 does not directly affect the property tax exemption. HB 200 makes the senior citizen property tax exemption a permissive, rather than mandatory, program for local governments. It turns over to each local government the decision whether or not to tax property owned by disabled veterans or seniors. This allows local communities to develop their own priorities and funding obligations, providing maximum local choice.

The Committee Substitute corrects an unintended change that would be caused by making the exemption optional. The CS provides that any property made exempt pursuant to AS29.45.050 would not be counted toward the property tax base in calculating funding for education. This change is necessary so as to prevent added cost to a municipality that chooses to continue the exemption.

## Senior Citizen/Disabled Veteran Property Tax Exemption

### Program History

YEAR	TOTAL NUMBER OF APPLICATIONS	AMOUNT OF TAXES EXEMPTED	AMOUNT OF STATE FUNDING	STATE FUNDING PERCENTAGE
1985	5,418	4,005,075	4,005,075	100.0%
1986	6,061	4,977,451	3,958,567	79.5%
1987	6,569	6,325,763	2,770,300	43.8%
1988	7,118	6,753,663	2,622,969	38.8%
1989	7,900	7,454,557	2,519,344	33.8%
1990	8,557	8,627,081	2,543,469	29.5%
1991	9,246	9,585,192	2,557,900	26.7%
1992	9,986	11,293,150	2,838,800	25.1%
1993	10,719	13,669,469	2,838,800	20.8%
1994	11,594	14,843,296	1,551,766	10.5%
1995	12,199	16,894,296	1,163,800	6.9%
1996	12,919	18,636,513	1,163,800	6.2%
1997	13,698	20,366,257	0	0.0%
1998	14,643	22,317,994	0	0.0%
1999	15,143	24,649,743	0	0.0%
2000	15,900	27,114,717	0	0.0%

# **Task Force on Governmental Roles**

## **Final Report**

by

**Brad Pierce, Task Force Staff**

July 10, 1992

This document was produced jointly by the Governor's Office of Management and Budget and the Alaska Municipal League.



that refuse to pay for local police services or prosecute criminals. Title 29 should be changed to allow the assemblies of unified municipalities and home rule boroughs to establish service areas for police protection, notwithstanding charter restrictions. Contract jails are a state responsibility. A working group of state and local officials should be established to determine reasonable costs for contract jail facilities.

### **Transportation**

State transportation policy must address both revenue and responsibility issues. Some form of shared fuel taxes would be the preferred funding alternative for local takeover of maintenance responsibilities on state roads. The working group process, advocated in the State Transportation Plan, offers a reasonable alternative for sorting through the myriad of localized issues on an individual road and maintenance district basis. Each municipality should enter into a contract with DOT/PF to ensure that state roads are brought up to standard before assuming maintenance responsibilities.

### **Senior Citizen / Disabled Veteran Property Tax Exemption**

The Senior Citizen / Disabled Veteran Property Tax Exemption is a classic example of a seriously underfunded state mandate on municipalities that should either be changed into a direct state rebate program or made a local option.

### **Municipal Assistance and Revenue Sharing**

The legislature should consider combining the Revenue Sharing and Municipal Assistance Programs into a single distribution formula that rewards municipalities for local revenue generation and compensates them for population increases.

### **State Tax Policies**

The Task Force examined two statewide tax alternatives, a personal income tax and general sales tax, without making recommendations on either. It also studied the relative tax burden of households in Alaska compared to the national average. Members felt that the information collected was important enough to publish in the Final Report (see Section VI and Appendices 1 and 2) for review by future work groups and task forces involved in fiscal policy development or weighing various revenue alternatives.



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)586-1325, Fax (907)-463-5480

April 19, 1999

Representative Andrew Halcro, Co-chair  
Representative John Harris, Co-chair  
House Community and Regional Affairs Committee  
State Capitol  
Juneau, AK 99801

Dear Chairs Halcro and Harris:

On behalf of the members of the Alaska Municipal League and Alaska Conference of Mayors, we are writing to support passage of HB 200, exemptions for municipal property taxes for certain primary residences (senior citizens and disabled veterans). We would like to see changes to the bill to:

- ensure that municipalities are not penalized under the school funding formula, and;
- give the communities the broadest possible discretion to work with seniors, veterans, and the public to design a program that meets the needs of individual communities including needs based exemptions, capping exemption amounts, or tax deferral, etc.

In 1973, the program to exempt senior citizens from local property taxes was enacted by the Alaska Legislature. AS 29.45.030(e) requires municipalities to exempt from local property tax, "real property owned and occupied as the primary residence and permanent place of abode by (1) resident 65 years or older; (2) disabled veteran; or (3) resident at least 60 years old who is a widow or widower of a person qualified" for such an exemption, up to an assessed value of \$150,000. The program also required the state to reimburse municipalities for tax revenues lost to their communities because of the exemption.

Although the exemption is mandated by state law, full funding for the exemption has not been provided by the state since 1985, which has meant that all other municipal taxpayers have been forced to bear an additional tax burden. The state zeroed out reimbursement for the program in 1996, and now costs municipal taxpayers nearly \$25 million in 1999. The cost of this program is increasing at \$2-3 million per year and has increased 400 percent since 1990.

Over the years, the League has supported changes to the program in order to give local taxpayers an option on how it is managed. Our first choice is that the state fully fund its exemptions by reimbursing municipalities. In light of current budget considerations, however, we understand that may not be possible.

4-19-1999 1:33PM

FROM VFW. DEPT. OF ALASKA 9072786720

P. 1

*SENATE BILL 151*

Please do not support House Bill 200. I think it is completely unfair to try and balance the budget deficit on the backs of disabled veterans and elderly people.

*SB 151*

House Bill 200 is a disgrace to individuals who have given so much for the freedom of this country. Their earning power is already diminished due to their disability and now you will penalize them more if House Bill 200 passes.

*SB 151*

House Bill 200 needs to be deep sixed immediately. This would cause undue hardship to disabled veterans and elderly residences of this great state and cause many of them to have to relocate.

*SB 151*

I request that you do not support House Bill 200. If passed, this bill would be devastating to our handicapped veterans and other elderly people.

*John W. Minnick*

*STATE COMM. DEK  
VETERANS OF FOREIGN WARS  
PO Box 870455  
WASILLA AK 99687*

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)586-1325, Fax (907)-463-5480

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Representative John Harris, Co-chair  
House Community and Regional Affairs Committee  
State Capitol  
Juneau, AK 99801

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Although the exemption is mandated by state law, full funding for the exemption has not been provided by the state since 1985, which has meant that all other municipal taxpayers have been forced to bear an additional tax burden. The state zeroed out reimbursement for the program in 1996, and now costs municipal taxpayers nearly \$25 million in 1999. The cost of this program is increasing at \$2-3 million per year and has increased 400 percent since 1990.

Over the years, the League has supported changes to the program in order to give local taxpayers an option on how it is managed. Our first choice is that the state fully fund its exemptions by reimbursing municipalities. In light of current budget considerations, however, we understand that may not be possible.

Our understanding is that HB 200 eliminates the requirement for municipalities to exempt senior citizens and disabled veterans and makes it an optional program with a vote of the people. At this time, we know of no community that plans to eliminate the program entirely, because seniors have come to rely on the exemption. Municipalities could change the program to try and slow the growth by:

- Reducing the exemption amount. In the past, we have proposed reducing the exemption to \$75,000, which would protect seniors who need it most and still offer a substantial discount to others, or
- Make it a needs-based program, or
- Defer the taxes until the property is sold or some other future date, or
- Some combination of the above

None of the above changes would reduce the present cost of the program to taxpayers, but only slow the growth in future years. HB 200 should be part of a long-range fiscal plan to control costs, but is of no help in saving money next year. While we support decisions on tax exemptions to be made at the local level, we must stress that we are unaware of any community that plans to eliminate the exemption.

We again stress that HB 200, in fairness to seniors and disabled veterans, will not realistically recapture substantial revenues from seniors and disabled veterans next year. Also, for those municipalities with a tax cap, this bill will not increase revenues but will spread the tax burden among more tax payers. In addition, this will not make up for cuts to state revenue sharing programs. If you have any questions, please call 586-1325.

Sincerely,



Kevin C. Ritchie  
Executive Director

cc: AML Board of Directors

4-19-1999 1:33PM

FROM VFW DEPT. OF ALASKA 9072786700

P. 1

*SENATE BILL 151*

Please do not support House Bill 200. I think it is completely unfair to try and balance the budget deficit on the backs of disabled veterans and elderly people.

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House Bill 200 needs to be deep sixed immediately. This would cause undue hardship to disabled veterans and elderly residences of this great state and cause many of them to have to relocate.

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I request that you do not support House Bill 200. If passed, this bill would be devastating to our handicapped veterans and other elderly people.

*John W. Munnich*

STATE COMMANDER  
VETERANS OF FOREIGN WARS  
P O Box 870455  
WASILLA AK 99687



# Alaska State Legislature

Please enter into the record my testimony to the House Revenue Committee  
 CS HB committee name  
 committee on House Bill No 200, dated 4/20/1999  
 bill/subject

Concerning TAX exemptions on  
 My Home in WASILLA AREA

I am protesting the real estate  
 taxing of my home. As a pioneer I  
 am now qualified as tax exempt at  
 this time

Signed: Barbara A Juhl  
 Testifier

Representing (Optional)

Address 3851 Hebride Wayella 99654

Phone No. 373-2635



# Alaska State Legislature

Please enter into the record my testimony to the HOUSE FINANCE COMMITTEE  
committee name  
committee on CS #B House Bill #200, dated 4/26/95  
bill/subject

Concerning tax exemptions on senior citizens homes in the Palmer/Wasilla area, I am protesting the real estate taxing of senior citizens homes that are qualified as tax exempt at this time.

Signed: \_\_\_\_\_

*Marion Kennedy*

Testifier

Representing (Optional)

*3550 Tamar Rd Wasilla, AK 99654*

Address

*373-4710*

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the HOUSE FINANCE COMMITTEE  
 committee name  
 committee on CS #B House Bill #200, dated 4/26/99  
 bill/subject

Concerning tax exemptions on my home in the Wasilla/Palmer area,  
 I am protesting the real estate taxing of my home. As a pioneer  
 of Alaska since July 1957, I am now qualified  
 as tax exempt at this time.

Signed: Mary Jo S. Stangor  
 Testifier

Representing (Optional)  
3550 TAMAR Rd WASILLA AK 99654  
 Address  
907-376-5778  
 Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the HOUSE FINANCE COMMITTEE  
 committee name  
 committee on CS #B House Bill #200, dated 4/26/99  
 bill/subject

Concerning tax exemptions on my home in the Wasilla/Palmer area,  
 I am protesting the real estate taxing of my home. As a pioneer  
 of Alaska since July 1957, I am now qualified  
 as tax exempt at this time.

Signed: Walter J. Champagne  
 Testifier

Representing (Optional)  
3550 TAMAR Rd. WASILLA AK 99654  
 Address  
907-376-5778  
 Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the HOUSE FINANCE COMMITTEE  
committee name  
committee on CS #B House Bill #200, dated 4-26-99  
bill/subject

Concerning tax exemptions on senior citizens homes in the Palmer/Wasilla area, I am protesting the real estate taxing of senior citizens homes that are qualified as tax exempt at this time.

Signed: \_\_\_\_\_

Testifier

Representing (Optional)

PO Box 871314 Wasilla Alaska 99687  
Address

376 3545

Phone No.

## Denakkanaaga, Inc.

409 4<sup>th</sup> Avenue  
Fairbanks, Alaska 99701  
Phone (907) 456-5827  
FAX (907) 452-6641

### Public Opinion Message

Regarding: HB 200

(Senior Property Tax Exemption Bill)

Denakkanaaga is a Non-Profit 501 (3) (c) organization established by and for Alaska Native Elders of the TCC/Doyon region, (42 villages of the Interior).

We are greatly concerned regarding the HB 200 initiative to end the Senior Property Tax Exemption. This bill allows local governments the option of discontinuing this service. By doing so would only create a greater hardship for Fairbanks Seniors. Many Interior Elders have been forced to relocate from the rural communities, where they have lived most of their lives, due to the high cost of living. Now you are talking about taking away an appreciated and valuable TAX EXEMPTION that allows the elders some respite from the additional expenses of every day life. Even though Fairbanks is less expensive than rural communities, every break the elders get is of benefit to us all.

Elders have purchased homes in Fairbanks because the cost of living is lower than in the rural communities. Removing the benefit of this TAX EXEMPTION, would only place the elders back in a position of financial hardship and at risk of not having the quality of life otherwise realized with this valuable savings on their yearly property tax.

If such a bill should pass in the Capital without any long range planning, we all know who will suffer the most, people with very limited resources and who count on every break the system gives them to achieve some sort of equitable life compared to others who have high paying jobs or adequate retirement with maximum benefits. This bill only adds to the disparity between groups. Lets stop punishing older Alaskan's by these last minute attempts to balance a budget.

**HB**

**201**

**HFIN**

**FILE**

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: April 22, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/22/99

The FINANCE Committee considered:

HB 201

HOUSE BILL NO. 201

OVERTIME COMPENSATION COMPUTATION

"An Act relating to the computation of overtime; and providing for an effective date."

recommends it be replaced with the following committee substitute CSHB 201 (Fin)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) DOB 4/22/99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Gene Therriault</u> Therriault			X	
<u>Bob Mulder</u> Mulder	✓			
<u>Don Bunde</u> Bunde		✓		
<u>Eric Kohring</u> Kohring	X			
<u>Don Quistman</u> Quistman	X			
<u>John Davies</u> Davies				X
<u>Ben Grussendorf</u> Grussendorf			X	
<u>Carl P. Moses</u> Moses	X			
<u>Gary Davis</u> Gary Davis	X			
<u>Bill Williams</u> Williams			X	
<u>Bob Foster</u> Foster	X			

CHAIR'S SIGNATURE

Gene Therriault Bob Mulder

# FISCAL NOTE

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

**BILL NO.** HB 201

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: Overtime Compensation  
 Computation: \_\_\_\_\_  
 Sponsor: (H) L&C  
 Requester: (H) L&C

Department Affected: Labor  
 BRU: Labor Standards & Safety  
 Component: Wage and Hour  
 COMPONENT SERIAL NO. 345

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

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

OPERATING	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>						
<b>CHANGE IN REVENUE</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>FUND SOURCE #</b>						

**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY99) impact: \$ None

**ANALYSIS:** (Attach a separate page if necessary)

This bill codifies longstanding state policy and practice regarding how daily hours worked are counted when computing weekly overtime.

Prepared by: Ale W. Dwyer, Director *[Signature]* Phone: 485-4855  
 Division: Labor Standards & Safety Date/Time: 4/19/99 8:08 AM  
 Approved by Commissioner: Ed Flanagan, Commissioner *[Signature]*  
 Agency: Department of Labor Date: 4/19/99

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# ALASKA STATE LEGISLATURE

## HOUSE LABOR AND COMMERCE COMMITTEE

Representative Norman Rokeberg, Chairman  
Representative Andrew Halcro, Vice-Chairman  
Representative John Harris  
Representative Lisa Murkowski  
Representative Jerry Sanders  
Representative Tom Brice  
Representative Sharon Cisma



State Capitol  
Juneau, AK 99801-1182  
Telephone: (907) 465-4954  
Fax: (907) 465-2040

### SPONSOR STATEMENT HOUSE BILL 201

An Act relating to the computation of overtime; and providing for an effective date.

House Bill 201 would clarify a recent court decision that rules that overtime hours are to be calculated differently than they have historically been under AS 23.10.060(b).

The court's decision is contrary to the interpretation always used by Alaska's Department of Labor and to the understanding of Alaska's employers. The court's decision has ignored the historical application by Labor and all employers in the State.

The best way to bring the problem to the forefront is to give an example of what will happen under the court's decision:

Assume Employee worked the following schedule for a total of 43 hours:

Monday	11 hours	Thursday	8 hours
Tuesday	8 hours	Friday	8 hours
Wednesday	8 hours		

As to Monday, everyone agrees that Employee is entitled to 3 hours of overtime. The issue is as to Friday. Under the Department's interpretation and the interpretation of employers, no overtime would be due as to Friday since Employee worked 43 hours during the week and has already been paid for 3 hours overtime. *Under the Court's ruling, Employee would receive overtime for 3 hours on Friday because in computing the 40 hours under the statute, one must include the 3 overtime hours worked on Monday. Consequently, Employee received 6 hours of overtime pay for the week even though he/she only worked 43 hours.*

HB 201 would clarify that the Employee above would only receive pay for the 3 hours of overtime worked. This would statutorily clarify the law and its interpretation for all involved, including the courts.

We urge your support of this legislation.

# ALASKA STATE LEGISLATURE

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State Capitol  
Juneau, AK 99801-1182  
Telephone: (907) 465-4954  
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### SECTIONAL ANALYSIS HOUSE BILL 201

An Act relating to the computation of overtime; and providing for an effective date

- Section 1:** Legislative Findings. Discusses the historical interpretation of AS 23.10.060(b) regarding overtime compensation and indicates that due to some court decisions the Legislature finds it necessary to eliminate any doubt about how the law is to be construed.
- Section 2:** Amends AS 23.10.060(b) to make it clear that overtime compensation will be paid if an employee works in excess of eight hours a day or in excess of 40 hours a week without regard to hours that are worked in excess of eight hours a day.
- Section 3:** Act is retroactive to May 4, 1959.
- Section 4:** Effective date: Immediate



I. Factual Background

Hallam was employed as a seasonal employee with Holland America Line as a bus driver during the 1994 summer tour season. His hourly salary was \$8.00. The last week of Hallam's employment was August 15-20, 1994. During this time he worked 41.25 hours and was paid overtime for 5.5 of those hours. Each of the overtime hours paid was for hours worked over 8 hours a day. Hallam was not paid overtime wages for his last day of employment even though the cumulative total of hours surpassed the 40-hour workweek. Hallam was paid as follows:

Date	Regular Hours	Overtime Hours	Total Hours
8/15/94	8.0	0	8.0
8/16/94	8.0	1.5	9.5
8/17/94	8.0	1.0	9.0
8/18/94	0	0	0
8/19/94	8.0	3.0	11.0
8/20/94	4.25	0	4.25
TOTALS	36.25	5.5	41.75

Hallam's last day of employment was August 20, 1994. He was paid, via automatic bank deposit. Holland America contends that the funds were paid August 28, 1994 and Hallam argues that the funds were not available to him until September 1, 1994. In any event, it was not paid within the statutorily mandated three days.

## II. Class Certification

On July 16, 1997 Hallam filed a motion to certify class. Judge Carpeneti denied this on October 21, 1997 because Hallam, acting *pro se* could not adequately represent the interests of the class. The case was then transferred to district court because Hallam's individual claims could not meet the jurisdictional requirements of Superior Court. A motion to reconsider was filed by Hallam and it was denied. Subsequently, Hallam has requested "conditional class certification" pending finding counsel to represent the class.

As indicated in Carpeneti's opinion denying class certification, the Supreme Court of Alaska has held that a *pro se* plaintiff cannot represent a class under Civil Rule 23(a).<sup>1</sup> While Hallam may adequately represent his own interests *pro se* he cannot adequately represent the interests of others without an attorney. Carpeneti rejected Hallam's argument that AS 23.10.110(b) permitted *pro se* representation of a class. "It merely provides that a class action may be brought for violation of the wage and hour laws, and that an aggrieved plaintiff may be the class representative."<sup>2</sup> Carpeneti further explained his rejection of this argument in his order denying reconsideration.<sup>3</sup>

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<sup>1</sup> *Hertz v. Cleary*, 835 P.2d 438, 442, n.3 (Alaska 1992).

<sup>2</sup> Carpeneti Order Denying Class Certification, 10/21/97.

<sup>3</sup> Order dated 11/18/97.

There is no rule providing for "conditional" class certification. Hallam has had sufficient opportunity to obtain counsel to represent the interests of the potential class and has failed to do so. The order denying class certification is AFFIRMED.

### III. Motion for Leave to Amend Complaint

The last day to file motions to amend pleadings was March 4, 1997. On March 4, 1997 Hallam filed an amended complaint without the required accompanying motion. On March 14, 1997 Holland America filed a notice with the Superior Court advising the Court that it had received Hallam's amended complaint but would not answer until the proper Motion for Leave to Amend was filed. On April 25, 1997 Hallam filed a Motion for Leave to Amend, which was a one-sentence request to amend. The Superior Court denied this motion on June 10, 1997. Judge Carpeneti denied the motion because he found that these claims were not substantially related to the overtime claims asserted in the original complaint. The court found that the claims were time-barred because they do not relate back. On June 23 Hallam filed a motion for reconsideration, which was denied by Judge Carpeneti on July 1, 1997.

The amended complaint would have added four claims: liability for requiring plaintiffs to purchase uniforms, liability for interference with future employment and business opportunities, libel

and slander, and failure to pay Hallam his "tips." Hallam argues that he did not know that he was supposed to file a motion with his amended complaint. Even though he did not file the accompanying motion for leave to amend until a month and a half after he filed the amended complaint, the motion was considered by the court. The motion was denied for substantive reasons, not for lack of timeliness.

The standard of review is abuse of discretion.<sup>4</sup> Judge Carpeneti found that the new claims "have little relationship to the claims now before the court." Judge Carpeneti found that the new claims do not relate back (so that granting the motion would require the defendant to defend claims upon which the statute of limitations had run), and that the defendant would be prejudiced by granting the motion. The claims before the court are claims of overtime pay, incentive pay, and failure to pay within three days. While the new claims relate generally to Hallam's employment, they are substantively different requiring new discovery and evidence.

The court must assess whether the nonmoving party will be prejudiced. Prejudice can result from the opposing party "being put to an added expense, a more burdensome and lengthy trial, or if the issues being raised in the amendment are remote from the scope of

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<sup>4</sup> Bauman v. Day, 942 P.2d 1130, 1132 (Alaska 1997) (citing Betz v. Chena Hot Springs Group, 742 P.2d 1346, 1348 (Alaska 1987)).

the original case."<sup>5</sup> It is not an abuse of discretion to find that the issues raised in the amended complaint are remote from the original scope of the complaint, that additional expenses would be incurred by Holland America for discovery, or that the trial would become considerably more lengthy and burdensome. The order denying the motion for leave to amend is AFFIRMED.

#### IV. First, Second & Fourth Claims for Relief

The first and second claims allege that the defendant failed to pay overtime to plaintiff in accordance to the Alaska Wage & Hour Act. The fourth claim alleges that defendant failed to pay overtime in accordance to the employment contract. The relevant contractual clause states:

I agree, by signing this contract, to work for Westours for the basic wage of \$8.00 an hour. This wage is for straight time for the first eight (8) hours of each day, the first forty (40) hours of each week. I understand that my assignments may result in my working more or less than eight (8) hours per day or forty (40) hours per week. I will only be paid for actual hours worked. For any hours in excess of eight (8) hours in a day or forty (40) hours in a week, overtime compensation will be paid at 1.5 times the basic rate which will be \$12.00 an hour.

A motion for partial summary judgment of the first, second, and fourth claims for relief was first filed April 7, 1997. That motion was originally denied but reconsideration was granted. Before the motion was decided, District Court took over jurisdiction of the

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<sup>5</sup> Rutledge v. Alyeska Pipeline Service Co., 727 P.2d 1050, 1054 (Alaska 1986) (quoting

case. On December 19, 1997 Judge Froelich granted the motion for partial summary judgment and dismissed the first, second, and fourth claims for relief. A Motion for Reconsideration filed by Hallam was denied March 23, 1998.

**A. Statute of Limitations**

AS 09.10.070(3) provides for a 2-year statute of limitations "upon a liability created by statute." Hallam was terminated on August 20, 1994. Under AS 23.05.140(b) Holland America had until August 24, 1994, three working days after employment ended to pay him his due compensation. If Holland America failed to do so, it became liable upon the statute, and Hallam would have two years, until August 24, 1996 to bring suit upon wages due. It was not until 3 days after the last date of employment that the employer's duty arises to pay all wages and other compensation for services due.<sup>6</sup> Hallam's suit is not barred by the statute of limitations.

**B. "Pyramiding" Overtime Calculations**

Hallam argues that he is entitled to all hours worked over 8 hours a day at overtime and all hours worked over forty hours a week (an additional 1.25 hours). The Department of Labor wrote a letter that Holland America submitted as Exhibit G to Appellee's Brief. It

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Estate of Thompson v. Mercedes-Benz, 514 P.2d 1269, 1271 (Alaska 1973).

<sup>6</sup> See Dayhoff v. Temsco Helicopters, 772 P.2d 1085, 1087 (Alaska 1989) (holding statute of limitation for AS 23.05.140(b) does not start to run until violation occurs 3 days after termination) and Reed v. Municipality of Anchorage, 741 P.2d 1181, 1185 (Alaska 1987) (holding that employee's claims for unpaid overtime wages does not start to run until 3

states:

The daily overtime is straightforward. Any hours in excess of eight in a single workday are overtime. Weekly overtime is similar; an employee may work up to 40 straight-time hours in the workweek before any overtime is due.

The Department of Labor has interpreted the overtime requirements of the Alaska Wage & Hour act to mean that forty straight-time hours must accrue before the obligation of paying all additional hours at an overtime wage. The Department of Labor excludes all hours worked over eight hours in a day towards the forty hour requirement. This is the standard method for calculating overtime by the Department of Labor. An employer such as Holland America, who calculates overtime in this manner, is doing so in good faith.

Hallam argues that both regular and overtime hours should be included in the forty hours for the purposes of calculating overtime. AS 23.10.060(b) states:

If an employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid.

Holland America's employment contract states:

This wage for straight time is for the first eight hours of each day, the first forty hours of each week.... For any hours in excess of eight hours in a day or forty hours in a week, overtime compensation will be paid....

---

days following the termination, when the employer's duty arises).

Hallam argues that the current method used should be struck down because the statute clearly and unambiguously requires the payment of overtime wages for all hours worked over eight in a day and forty in a workweek.

The applicable standard under which this court should review the Department of Labor's interpretation of AS 23.10.060 is the independent judgment standard.<sup>7</sup> While it appears that Holland America calculated overtime wages in accordance with the methods and procedures currently used by the Department of Labor, the clear and unambiguous language of the statute indicates that all hours are to be included in determining the forty-hour workweek. There is no exemption excluding hours worked over eight in a day towards the cumulative workweek total. Summary Judgment is REVERSED AND REMANDED. The District Court is instructed to enter an order in favor of Hallam in the amount of \$21.00 in gross earnings for 1.25 hours of overtime worked in excess of 40 hours a week plus interest at the statutory rate.

#### V. Third and Fifth Claims for Relief

Plaintiff's third claim for relief alleges liability for failure to pay plaintiff within three days of termination of his employment. The fifth claim for relief alleges liability for failing to pay incentive compensation as agreed in the contract. The

District Court entered summary judgment in favor of Holland America on August 3, 1998. Hallam moved for reconsideration and the District Court declined to address the motion.

**A. Failure to Pay within 3 Days of Termination from Employment**

Hallam's original complaint was based on his last paycheck received in 1994 at the close of the regular tourist season. His last day of employment was August 20, 1994 and therefore he argues he should have been paid by August 23, 1994. Hallam signed paperwork indicating he wanted automatic deposit to his bank account. The parties dispute whether the automatic deposit was made August 28, 1994 (as Holland America argues) or September 1, 1994 (as Hallam argues). Either way, there is no genuine issue of material fact as to whether Holland America was timely, they were not.<sup>8</sup> In the worst case scenario, Holland America was six work days late in the automatic deposit.

A violation of AS 23.05.140(d)<sup>9</sup> does not require a penalty. The award of a penalty under this section is within the sound

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<sup>8</sup> See *Tesoro Alaska Petro. v. Kenai Pipe Line*, 746 P.2d 896 (Alaska 1987).

<sup>9</sup> Hallam now argues that his incentive bonus payment was due within three days of termination in spite of a contractual provision that it was to be paid by October 31, 1994. This argument is without merit. In addition, Hallam argues that his "last payment" for the purposes of this statute was not received until April 1997. This occurred after an audit of his employment records revealed some errors in calculations. Holland America issued a check including the "double-the wage" per statute in the amount of \$80.16. The only appropriate inquiry is Hallam's last regular paycheck received approximately nine business days after his termination.

<sup>9</sup> AS 23.05.140(d) states: "...the employer may be required to pay the employee a penalty in the amount of the employee's regular wage, salary, or other compensation from the time of demand to the time of payment, or for 90 working days, whichever is the lesser amount."

discretion of the trial court.<sup>10</sup> Holland America argues that the record supports a finding that the District Court was not clearly erroneous in the exercise of its discretion not to impose a penalty and that the District Court did not abuse its discretion in declining to impose a penalty. Holland America argued that it did not intentionally deprive Hallam of his pay and that following the normal course of automatic deposits, it was deposited. While Holland America does not explain why they do not issue an automatic deposit upon termination of employment within three days, Judge Carpeneti's decision not to impose a penalty is not an abuse of discretion. The summary judgment for the third claim for relief is AFFIRMED.

**B. Failure to Pay Incentive Pay as Contracted**

As part of his compensation package, the contract provides for an "incentive program." It states:

**III. INCENTIVE PROGRAM**

I may be entitled to incentive compensation based on a percentage of my Base Wages, as follows:

1. Accidents/Damage- Up to four percent (4.0%) of my base wages for safety. To qualify for this incentive compensation:
  - (a) I must have no preventable accidents during the period of my employment, as determined by the Westours Safety Department; and
  - (b) no damage can have occurred to equipment and/or properties owned by Westours while under my control due to negligence or any other act determined preventable

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<sup>11</sup> Klondike Indus. Corp. v. Gibson, 741 P.2ds 1161 (Alaska 1987).

by the Safety Department...

2. Job Performance- Up to three percent (3.0%) of my base wages for job performance. I understand that this award will be paid if have no infractions or written warnings in my file relating to performance at the end of my employment. Each performance related (non-accident) infraction during my employment will result in one and a half (1.5) percentage point deduction (i.e. two infractions would eliminate my Job Performance incentive compensation), and each written warning will result in a deduction of one half (.5) percentage point.
3. Customer Service- Up to five percent (5.0%) of my base wages for customer service based on customer ratings of my tours as evidenced by comment cards actually received by Westours Seattle office. Incentive compensation, if any, under this paragraph is computed by taking the arithmetic average of the ratings for safety, courtesy, narration, and grooming on all comment cards... and per the following schedule:

Percentage of base Wages	Average Rating
5%	3.95 or better
4%	3.90-3.94
3%	3.85-3.89
2%	3.80-3.84
1%	3.70-3.79
0%	below 3.70

Holland America argues that the plain and unambiguous language of the contract indicates that the incentive pay is "discretionary." Holland America argues that the word "may" is discretionary in the interpretation of contracts, as opposed to "shall" that is mandatory. Holland America did pay Hallam a bonus, but Hallam contests the amount of the bonus. Holland America argues in its original motion for summary judgment: "The agreement plainly states that the payment of any bonus is discretionary and, if a bonus is

paid, the payment of that bonus follows a schedule set out in the contract."

Holland America elected to pay a bonus to Hallam and therefore obligates itself to follow the contract provisions. It appears that Holland America correctly calculated the bonus for no accidents as he received the full bonus possible. Holland America appears to have correctly calculated the "customer service" bonus as that is set forth in a schedule. Holland America has provided the basis for those calculations and they appear to be valid. The only questionable calculations are in the area for "job performance." Hallam received no bonus in this area. Hallam had one infraction and one written warning. The contract clause specifies deductions for these occurrences.

Each performance related (non-accident) infraction during my employment will result in a 1.5 percentage point deduction... and each written warning will result in a deduction of .5 percentage point.

Since Hallam received one of each, his contractual 3% bonus should have been reduced to 1%. Holland America determined that although Hallam was "eligible" for a 1% bonus for job performance, the Division Manager used his discretion not to award one (Affidavit of Chuck Acker, April 20, 1998).<sup>11</sup> Holland America's argument that

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<sup>11</sup> "It appears that, in the estimation of the Division Manager, the infraction was significant enough that he determined Mr. Hallam would not receive the remaining discretionary 1%." Affidavit of Chuck Acker.

the Division Manager used his discretion not to award the "eligible" one-percent bonus conflicts with its earlier argument that once the bonus is given, it must adhere to the contract provisions.

Based on the mandatory language of the contract terms, the incentive pay is conditional upon certain performance, but is not discretionary if the performance is made. If an employee meets the performance aspects of the contract, Holland America is under a contractual obligation to pay the full bonus that one is eligible for. Hallam is entitled to the remaining 1% bonus in the amount of \$68.53. The summary judgment for the fifth claim for relief is REVERSED AND REMANDED. The District Court is instructed to enter judgment in the amount of \$68.53 plus the statutory interest rate.

#### VI. Attorney Fees & Costs Awarded

Upon disposition of all claims, the District Court indicated that attorney fees and costs would be awarded upon motion by the defendants. This order was entered on August 3, 1998. On August 14, 1998, Holland America filed the motion for attorney fees and costs. They moved for attorney fees in the amount of \$32,220 and costs in the amount of \$2,797.17. Hallam opposed the motion arguing that it was untimely. The court's final order was entered on August 3, 1998 and distributed by courtbox the same date. The motion was filed August 14, 1998. As Rule 82 states:

"The motion must be filed within 10 days after the date shown in the clerk's certificate of distribution on the judgment.... Failure to move for attorney's fees within 10 days, or such additional time as the court may allow, shall be construed as a waiver..."

It is within the court's discretion to allow for a one-day late motion. The court will not reverse the attorney fees and costs award based on timeliness.

The court entered judgment requiring Hallam to pay \$2,797.17 in costs and \$6,444 in attorney fees. Hallam argues that Grimes v. Kinney Shoe Corp, 938 P.2d 997 (Alaska 1997) provides that Rules 79 and 82 do not apply to wage and hour cases. Hallam's argument fails. Holland America points out that Grimes interpreted the old AS 23.10.110(c). That statute was amended in part to specifically allow costs and attorneys fees to defendants. Awards of attorney fees are reviewed on an abuse of discretion standard. There was no abuse in discretion in awarding 20% of actual attorney fees in this case pursuant to the Rules of Civil Procedure.

Finally, the court now addresses whether the reversal of summary judgment on the issues of calculation of overtime wages or payment of incentive pay pursuant to contract, changes the prevailing party for the purposes of the award of attorney fees and costs. Hallam's claims for relief as granted above total \$89.53 plus interest. When the court questioned Hallam about the prospect

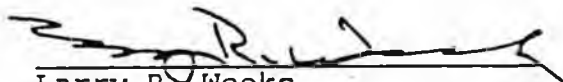
of settling his individual claims, Hallam stressed to the court that he felt that settling his individual claims would leave other members of the potential class without recourse. In so doing, the court understands Hallam's main goal in the vigorous pursuit of this action was to benefit an entire class of workers. However, as discussed above, Hallam's class certification has been denied and that denial has been affirmed. "A litigant who successfully defeats a claim of great liability may be the prevailing party, even though the other side is successful in receiving an affirmative recovery."<sup>12</sup> Holland America was successful in defeating Hallam's class certification, which was a potentially large liability for them. Holland America is the prevailing party for the purposes of attorney fees and costs. The award of attorney fees and costs is AFFIRMED.

VII. CONCLUSION

This case is REMANDED to District Court for a finding and judgment consistent with this order.


IT IS SO ORDERED.

Dated April 7, 1999.

  
Larry R. Weeks  
Superior Court Judge

<sup>12</sup> Alaska Placer Co. v. Lee, 553 P.2 54, 63 (Alaska 1976).

I certify that on the 29<sup>th</sup> day of April 1999, I served the above order to Stuart Hallam (by U.S. Mail) and Robert Blasco (by courtbox).

  
Tracy Ver Velde  
Secretary to Judge Weeks



**NFIB Alaska**

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**National Federation of Independent Business**

**Statement of Support**

**of HB 201**

**Computation of Overtime**

**April 22, 1999**

On April 7<sup>th</sup>, 1999 Judge Larry Weeks made a Superior Court ruling that will significantly increase the cost of doing business in the State of Alaska.

Here is an example of how this might impact a small business that employs 8 people, 5 days a week, 10 hours a day at a rate of \$10 per hour. Under the recent court ruling, not only would the employees receive two hours a day of overtime at a rate of \$15 per hour, they would also receive an additional 10 hours of overtime at \$15 per hour for the hours worked over 40 hours.

Under the traditional interpretation of the wage and hour laws, each employee would receive 40 hours of regular time pay and 10 hours of overtime for a total of \$550 per week. The additional 10 hours of overtime required by the recent court decision would cost the employer another \$150 per week, per employee. Multiply this by the 8 employees and the cost is \$1,200 per week or \$4,800 per month! In this example, the employer would have a 27% increase in their cost of labor. Few small businesses have the ability to survive with this type of increase in labor cost.

HB 201 fixes this problem and returns us to the long-standing interpretation of the overtime law.

NFIB/Alaska urges support for HB 201

Submitted by Thyes Shaub on behalf of NFIB/Alaska.

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**National Federation of Independent Business**

217 Second Street, Suite 206 • Juneau, AK 99801 • 907-463-5128 • Fax 907-463-5128



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APR 12 1999

Donnerison, Monagle & Eastaugh P.C.  
Juneau, Alaska

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FIRST JUDICIAL DISTRICT AT JUNEAU

STUART HALLAM,  
Plaintiff,  
vs.  
HOLLAND AMERICA LINE, INC.,  
d/b/a WESTOURS MOTOR  
COACHES, INC.,  
Defendant.

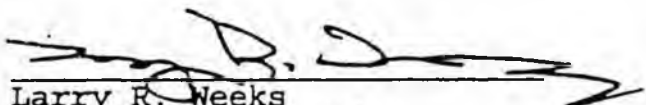
CLERK OF COURT  
FIRST JUDICIAL DISTRICT  
AT JUNEAU  
4:00 pm 4/9/99  
BY: mm

Case No. 1JU-96-1734 CI

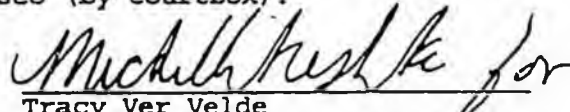
MEMORANDUM AND ORDER

This case has been heard on appeal before the court. Contemporaneous with this order is a decision on the merits of the appeal, in which the Defendant has been determined to be the prevailing party. Pursuant to Appellate Rule 508(e), attorney fees in the amount of \$500 are awarded to the Defendant, to be paid by the Plaintiff.

Dated April 9, 1999.

  
Larry R. Weeks  
Superior Court Judge

I certify that on the 9<sup>th</sup> day of April 1999, I served the above order to Stuart Hallam (by U.S. Mail) and Robert Blasco (by courtbox).

  
Tracy Ver Velde  
Secretary to Judge Weeks

Alaska Laundry Inc.  
1114 Glacier Ave.  
Juneau, Alaska 99801

Representative Norm Rokeberg  
Alaska State Legislature

April 22, 1999

Re: HB201

Dear Representative Rokeberg,

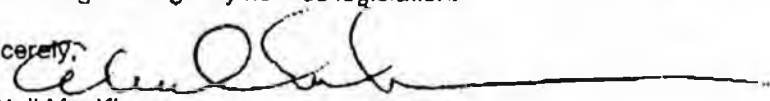
The recent decision by Judge Larry Weeks regarding calculation and payment of overtime will be a hardship on our company. Depending upon individual work schedules and overtime situations this decision will add significantly to our labor cost with no offsetting increase in efficiency.

From my understanding of the decision it appears that we will have to pay for overtime on a significant amount of regular time. This decision will also effect the State and Local government's hourly employees as well as the calculations that determine the pay of salaried employees. This decision will bring a whole new approach to all employee pay with consequences and costs that few can foresee.

Beyond the increase in costs there is the calculation burden imposed by this decision. We have invested in computerized systems to record and calculate the time for all hourly employees saving a significant amount of time for our company. Our programs will not support this kind of calculation without extensive and expensive reprogramming. Now every time card must be recalculated manually to the dictates of the Weeks decision effectively making our investment in this technology wasted.

HB 201 solves the problems created by the Weeks decision and I thank you for introducing this urgently needed legislation.

Sincerely,

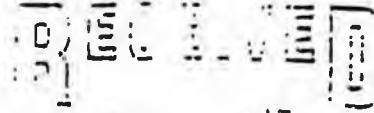
  
E. Neil MacKinnon  
President

DEPARTMENT OF LABOR

WAGE AND HOUR ADMINISTRATION  
LABOR STANDARDS & SAFETY DIVISION

3301 Eagle Street, Suite 301  
P.O. Box 107021  
Anchorage, Alaska 99510-7021  
Phone: (907) 269-4800  
Fax: (907) 269-4818

April 25, 1997  
Dictated: 4/24/97



WHOL #120

Mr. Robert Blasco  
Robertson, Monagle & Eastaugh  
801 W. 10th, Suite 300  
Juneau, AK 99801

FROM: Director of Division  
TO: Mr. Blasco

Dear Mr. Blasco:

You have asked for clarification of the overtime requirements of the Alaska Wage and Hour Act. As you know, the Act requires that overtime be paid for hours of work that exceed eight in a single day or 40 in a week. A question has arisen as to how those overtime hours are counted.

The daily overtime is straightforward. Any hours in excess of eight in a single workday are overtime. Weekly overtime is similar; an employee may work up to 40 straight-time hours in the workweek before any overtime is due.

There has been some confusion as to how to count the hours when both daily and weekly overtime is worked in the same workweek. Overtime hours are only counted once. If an employee works, for example, ten hours in one day, a daily audit would show that the employee has two hours of overtime coming.

If in that week the employee worked the 10-hour day and four 8-hour days, the employee would have worked 42 hours total. Auditing on a weekly basis, the worker should be paid 40 hours of straight-time and two hours of overtime. If the employer has paid the two hours of overtime for the daily occurrence, they would also have paid the employee correctly under the weekly standard.

I hope this information is helpful. If you have any further questions, do not hesitate to contact our office.

Sincerely,

J. R. (Randy) Carr  
Chief  
Labor Standards

JRC:cah  
blasco

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

STUART HALLAM, Individually	)
and as class representative,	)
	)
Plaintiff,	)
	)
v.	)
	)
HOLLAND AMERICA LINE, INC.	)
d/b/a WESTOURS MOTOR COACHES	)
INC.,	)
Defendant.	)

Case No. 1JU-96-1734 Civil

AFFIDAVIT OF TOM CASHEN

I, Tom Cashen, being first duly sworn, state as follows:

1. I am the Commissioner of the Department of Labor for the State of Alaska. I have served as the Commissioner for three years.
2. I have 29 years experience in the field of labor relations, including negotiating labor agreements, drafting legislation, and drafting regulations.
3. It is my understanding that the plaintiff in this case claims he is entitled to overtime in accordance with what is commonly referred to as "pyramiding" of overtime. "Pyramiding" means that the claimant wants to count his overtime hours twice--once if he works in excess of 8 hours in one day and a second time if his hours for the week exceed 40 hours.

**ROBERTSON, MONAGLE & EASTAUGH, P.C.**  
 GOLDBELT PLACE, SUITE 300  
 801 WEST 10TH STREET  
 P.O. BOX 21211, JUNEAU, ALASKA 99802  
 PHONE: (907) 586-3340

ROBERTSON, MONAGLE & EASTAUGH, P.C.  
GOLDBELT PLACE, SUITE 300  
301 WEST 10TH STREET  
P.O. BOX 21211, JUNEAU, ALASKA 99802  
PHONE: (907) 586-3340


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4. I have read the letter of Randy Carr, which is attached to this affidavit as Exhibit A. Mr. Carr's letter accurately expresses the interpretation of AS 23.10.060 (b) followed by the Department of Labor with respect to overtime claims. This has been the consistent interpretation as long as I have been Commissioner and, in my experience, since the enactment of the legislation.

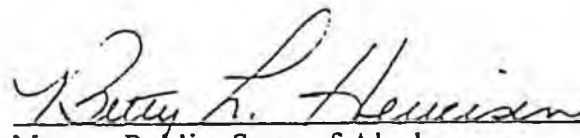
5. I have not reviewed the actual hours worked or claimed by this plaintiff. It is my understanding that the plaintiff did not submit a wage and hour claim to the Department of Labor. If he had submitted a claim for overtime, and the overtime claimed was calculated based on "pyramiding", the Department of Labor would have disallowed the claim.

FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 26<sup>th</sup> day of February, 1998.

  
\_\_\_\_\_  
TOM CASHEN

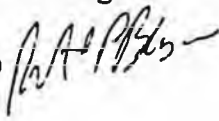
SUBSCRIBED AND SWORN TO before me this 26<sup>th</sup> day of February, 1998.

  
\_\_\_\_\_  
Notary Public, State of Alaska  
My commission expires: 2/12/99

ROBERTSON, MONAGLE & EASTAUGH  
801 West 10<sup>th</sup> Street, Suite 300  
P.O. Box 21211  
Juneau, Alaska 99802

Phone: (907) 586-3340 Fax: (907) 586-6818  
E-mail Address: [rpblasco@aol.com](mailto:rpblasco@aol.com)

M E M O R A N D U M

TO: Representative Rokeberg  
FROM: Robert P. Blasco   
DATE: April 14, 1999  
SUBJECT: PROPOSED LEGISLATION CLARIFYING AS 23.10.060(b)

The Alaska Superior Court, Judge Weeks, recently ruled that overtime hours are to be counted twice for purposes of compensation under the existing AS 23.10.060(b). The pertinent pages of that decision are attached. This double compensation for overtime is known as "pyramiding."

The decision of the court is contrary to how the Department of Labor has always interpreted AS 23.10.060(b). Attached are an affidavit of former Commissioner of Labor Tom Cashen and a letter of Randy Carr. The reason the statute should be clarified is because the Court's decision specifically disregarded the historical interpretation and application by the Department of Labor and, consequently, by all employers in the state—including the State of Alaska.

Unless clarified, the potential impact on employers, including the State of Alaska, is tremendous. Here is an example of what happens under the Court's decision:

Assume Employee worked the following schedule for a total of 43 hours:

Monday	11 hours	Thursday	8 hours
Tuesday	8 hours	Friday	8 hours
Wednesday	8 hours		

As to Monday, everyone agrees that Employee is entitled to 3 hours of overtime. The issue is as to Friday. Under the Department's interpretation and the interpretation of employers, no overtime would be due as to Friday since Employee worked 43 hours during the week and has already been paid for 3 hours overtime. Under the Court's

Representative Rokeberg  
April 14, 1999  
Page No. 2

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ruling, Employee would receive overtime for 3 hours on Friday because, in computing the 40 hours under the statute, one must include the 3 overtime hours worked on Monday. Consequently, Employee received 6 hours of overtime pay for the week even though he/she only worked 43 hours.

We propose the attached legislation simply as clarification. The attached legislation is consistent with the interpretation and policy of the Department of Labor, is consistent with how employers have applied the law, and is fair to the employees because they are fully compensated with overtime for actual hours worked.

Please do not hesitate to call me with any questions of if there is any other information I can provide.

RPB/yd

**HB**

**203**

**HFIN**

**FILE**

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: April 29, 1999

FURTHER REFERRALS:

Date of Committee Action: 2/4/00

The FINANCE Committee considered:

2d SSHB 203

2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 203

AGRICULTURE LOANS

"An Act relating to loans from the agricultural revolving loan fund; and providing for an effective date."

recommends it be replaced with the following committee substitute CS 2d SSHB 203  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

(Fin)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) DNR

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Herrmann</i>			X	
<i>Edon W. Field</i>	X			
<i>Earl Beards</i>			✓	
<i>Alan Austin</i>			✓	
<i>John N. ...</i>	X			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	X			
<i>[Signature]</i>	✓			

CHAIR'S SIGNATURE

*Gene Herrmann* *Edon W. Field*

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. CS 2nd SS HB203(FIN)**

Revision Date/Tim 04-Feb-00

Dept Affected: Natural Resources

Title: Agriculture Loans

BRU: Agricultural Revolving Loan Program Admin.

Component: Agricultural Revolving Loan Program Admin.

Sponsor: Rep. HARRIS

Requestor: (H) FIN

Component No. 2235

Expenditures/Revenues (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1021)	(22.1)	(29.8)	(37.0)	(43.6)	(49.4)	0.0
---------------------------	--------	--------	--------	--------	--------	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: \$ none

**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)

Based on loans issued in FY99, each percent decline in the interest rate of the Agricultural Revolving Loan Fund loans will result in a corresponding decline in interest revenue that averages approximately \$20.0 annually over a five-year period. The revenue projections above reflect an estimated 2% reduction in interest.

Under Sec. 03.10.050 (e), the department has the authority to establish credits for persons who have a loan from the Agricultural Revolving Loan Fund and maintain good financial standing. The credits may be applied against no more than 2 percentage points a year of the interest due on Agricultural Revolving Loan Fund loans. (If a loan to a good borrower was at an interest rate of 5 percent, a 2 percent credit would set the annual interest rate for the year at 3 percent).

Prepared by: Robert Wells *[Signature]* Phone: (907)745-7200  
 Division: Division of Agriculture Date: 04-Feb-00  
 Approved by Commissioner: John Shively *[Signature]* Date: 02-04-2000  
 Agency: Natural Resources

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Interest increase and (losses) for various changes in the interest rate:					
RATE	FY2001	FY2002	FY2003	FY2004	FY2005
10%	22,078.32	29,819.24	37,016.28	43,594.98	49,383.04
9%	11,039.16	14,909.62	18,508.14	21,797.49	24,691.52
8%	0.00	0.00	0.00	0.00	0.00
7%	(11,039.16)	(14,909.62)	(18,508.14)	(21,797.49)	(24,691.52)
6%	(22,078.32)	(29,819.24)	(37,016.28)	(43,594.98)	(49,383.04)
5%	(33,117.48)	(44,728.86)	(55,524.42)	(65,392.47)	(74,074.56)
4%	(44,156.64)	(59,638.48)	(74,032.56)	(87,189.96)	(98,766.08)
3%	(55,195.80)	(74,548.10)	(92,540.70)	(108,987.45)	(123,457.60)

PLEASE NOTE: These projections are based on FY99 actuals and reflect estimated increases and decreases in interest revenues.

2-1-2000

*INSP*

*conceptual*

Amendment

*2*

*adopted*

*called in 4:00*

Offered in House Finance

BY REPRESENTATIVE JOHN DAVIES

To: CS for 2<sup>nd</sup> SSHB 203 (FIN)

1. Page 3~~7~~, line 14,
2. After "loans"
3. Insert "under terms set by the Agricultural Revolving Loan Fund and"

*Board*  
*^*

Adopted -

**CS FOR 2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 203(FIN)**

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

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES HARRIS, James**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to loans from the agricultural revolving loan fund; and  
2 providing for an effective date."

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

4 \* **Section 1.** AS 03.10.030(a) is amended to read:

5 (a) The farm development, chattel, or irrigation loan made under this chapter

6 (1) may not exceed a term of 30 years, except that a chattel loan may  
7 not exceed a term of seven years;

8 (2) may not, when added to the outstanding balance of other loans  
9 made under this chapter, exceed a total outstanding balance of \$1,000,000;

10 (3) shall be secured by a real estate or chattel mortgage of any priority,  
11 except that the portion of a loan that exceeds \$500,000, when added to prior  
12 indebtedness that is secured by the same property, must be secured by a first mortgage;

13 (4) shall bear interest at a fixed rate comparable to that charged by  
14 other agricultural [THAT MAY NOT BE LESS THAN EIGHT PERCENT OR

1 MORE THAN THE COMMERCIAL RATE, UNLESS THE COMMERCIAL RATE  
2 IS EIGHT PERCENT OR LESS; IN THIS PARAGRAPH, "COMMERCIAL RATE"  
3 MEANS THE PREVAILING RATE OF INTEREST AT PRIVATE] lending  
4 institutions in the state for loans similar to those referred to in this subsection.

5 \* Sec. 2. AS 03.10.030(c) is amended to read:

6 (c) A short term loan, to be amortized within one year, not to exceed \$350,000  
7 to any one borrower, may be made for operating purposes, except that a loan made  
8 under this subsection may not exceed \$200,000 unless the loan is made to a borrower  
9 in a farm disaster area declared under AS 03.10.058. The loan shall bear interest at  
10 a fixed rate comparable to that charged by other agricultural lending institutions  
11 in the state for loans similar to those referred to in this subsection. An applicant  
12 for a short term loan may be required to purchase insurance through the Federal Crop  
13 Insurance Act (7 U.S.C. 1501 - 1520) as a condition of the loan. The term of a loan  
14 made under this subsection may be extended for up to three years by the agricultural  
15 revolving loan fund board, in the discretion of the board, upon application by the  
16 borrower.

17 \* Sec. 3. AS 03.10.030(f) is amended to read:

18 (f) A farm product processing loan may not exceed \$250,000. A mortgage  
19 that secures a farm product processing loan may be of any priority if the total  
20 indebtedness on the real estate, including the secured farm product processing loan,  
21 does not exceed \$250,000. A farm product processing loan that, if made, would raise  
22 the existing indebtedness on the real estate securing the loan above \$250,000, or a  
23 farm product processing loan on real estate that has a prior indebtedness of \$250,000  
24 or more, may be made only if all prior mortgagees agree to subordinate their  
25 mortgages to that of the state for the amount of the farm product processing loan that  
26 exceeds the \$250,000 indebtedness limit on the real estate. A farm product processing  
27 loan may not exceed a term of 30 years or bear interest at a rate that is less than a  
28 fixed rate comparable to that charged by other agricultural lending institutions  
29 in the state for similar loans [EIGHT PERCENT A YEAR] and shall be secured by  
30 a real estate or chattel mortgage or both.

31 \* Sec. 4. AS 03.10.030(g) is amended to read:

- 1 (g) A loan for clearing land may not  
 2 (1) exceed \$250,000;  
 3 (2) bear interest at a rate that is less than a fixed rate comparable to  
 4 that charged by other agricultural lending institutions in the state for similar  
 5 loans [EIGHT PERCENT];  
 6 (3) have a term in excess of 20 years; or  
 7 (4) be made for clearing land other than land that has been classified  
 8 by the United States Department of Agriculture, Soil Conservation Service, under the  
 9 Land Capability Classification System as having agricultural potential for the  
 10 production of annual crops or [,] hay, or for pasture.

11 \* Sec. 5. AS 03.10.033(a) is amended to read:

12 (a) To increase the return to the state, the Agricultural Revolving Loan Fund  
 13 Board may restructure loans (1) in existence on January 1, 1987, made by the board  
 14 or by the Alaska Agricultural Action Council based upon guidelines approved by the  
 15 board; (2) of a borrower in an area that has been declared a farm disaster area  
 16 under AS 03.10.058; or (3) of a borrower who has experienced an agricultural  
 17 disaster based upon regulations adopted by the department. Notwithstanding any  
 18 other provision of law that relates to loan terms, the [THE] restructuring may only  
 19 include reduction of interest to a fixed rate not less than five percent a year [TO  
 20 RATES BELOW THOSE SPECIFIED BY AS 03.10.030], an extension of the term  
 21 of the loan, and an improvement to the security interest of the state. It may not reduce  
 22 the amount of principal and interest owed before the loan is restructured.

23 \* Sec. 6. AS 03.10.050(a) is amended to read:

24 (a) The commissioner shall administer the agricultural revolving loan fund  
 25 in conjunction with the Agricultural Revolving Loan Fund Board. A [NO] loan [IN  
 26 EXCESS OF \$25,000] may not be made by the commissioner without the approval of  
 27 a majority of the board, except that emergency loans based upon regulations  
 28 adopted by the department and not to exceed \$50,000 may be made upon the  
 29 approval, by majority vote, of a committee composed of the director of  
 30 agriculture, a board member selected by the board to serve on the committee,  
 31 and the chair of the board or the chair's designee.

1

\* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

1-LS0871M-  
Cook  
1/21/00

Replaced  
adopted 2/1/00

**CS FOR 2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 203( )**

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

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES HARRIS, James**

**A BILL**

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13 (4) shall bear interest at a rate comparable to that charged by other  
14 agricultural [THAT MAY NOT BE LESS THAN <sup>5</sup>EIGHT] PERCENT OR MORE

1 THAN THE COMMERCIAL RATE, UNLESS THE COMMERCIAL RATE IS  
 2 EIGHT PERCENT OR LESS; IN THIS PARAGRAPH, "COMMERCIAL RATE"  
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 16 rate comparable to that charged by other agricultural lending institutions in the  
 17 state for similar loans [EIGHT]PERCENT A YEAR] and shall be secured by a real  
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20 (g) A loan for clearing land may not

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 23 charged by other agricultural lending institutions in the state for similar loans  
 24 [EIGHT PERCENT];

25 [5] (3) have a term in excess of 20 years; or

26 (4) be made for clearing land other than land that has been classified  
 27 by the United States Department of Agriculture, Soil Conservation Service, under the  
 28 Land Capability Classification System as having agricultural potential for the  
 29 production of annual crops or [,] hay, or for pasture.

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4 under AS 03.10.058; or (3) of a borrower who has experienced an agricultural  
5 disaster based upon guidelines approved by the board. The restructuring may only  
6 include reduction of interest to a rate not less than five percent a year [TO RATES  
7 BELOW THOSE SPECIFIED BY AS 03.10.030], an extension of the term of the loan,  
8 and an improvement to the security interest of the state. It may not reduce the amount  
9 of principal and interest owed before the loan is restructured.

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13 EXCESS OF \$25,000] may not be made by the commissioner without the approval of  
14 a majority of the board, except that emergency loans not to exceed \$50,000 may be  
15 made upon the approval, by majority vote, of a committee composed of the  
16 director of agriculture, a board member selected by the board to serve on the  
17 committee, and the chair of the board or the chair's designee.

18 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOT

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. SSHB203**

Revision Date: 31-Jan-00 Dept Affected: Natural Resources  
 Title: An Act relating to loans from the agriculture BRU: Agricultural Revolving Loan Program Admin  
revolving loan fund and to contracts for the sale of state ... Component: Agricultural Revolving Loan Program Admin  
 Sponsor: Rep. Harris  
 Requestor: (H)RES Component Serial No. #2235

Expenditures/Revenues (Inflation not included unless otherwise noted below)

(Thousands of Dollars)

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES (1021)</b>	<b>(24.5)</b>	<b>(126.0)</b>	<b>(244.9)</b>	<b>(382.4)</b>	<b>(535.3)</b>	<b>(707.3)</b>
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY00) cost: \$ none

**POSITIONS**

POSITIONS	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
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)

An interest rate reduction from 8% to 5%, and farm disaster changes would reduce revenue to ARLF. See attached information for detail on difference between 8% and 5%.

Prepared by: Robert Wells, Director Phone: 907-745-7200  
 Division: Agriculture Date: 31-Jan-00  
 Approved by Commissioner: John Shively Date: 1-31-2000  
 Agency: Natural Resources

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**Agricultural Revolving Loan Fund  
Cash Flow Projection  
July 1, 1998**

	Actuals	Estimates						
	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Beginning Cash Balance	\$6,304,655	\$6,421,719	\$5,664,321	\$4,362,149	\$3,525,677	\$2,792,406	\$2,031,887	\$1,286,356
<b>Cash Inflows:</b>								
Principal & interest payments - Note 1	2,817,903	2,452,487	2,502,912	2,746,855	2,803,411	2,807,092	2,828,973	2,822,068
Leases	94,552	69,212	46,651	44,749	12,025	9,345	9,345	9,345
Late payment penalties - Note 2	7,054	14,224	14,517	15,932	16,260	16,281	16,408	16,368
Settlements on defaulted loans - Note 3		24,638	1,100	1,100	0	0	0	0
Trsfr from original Mntl Health Fund - Note 7	76,459							
Sale of Assets, Misc - Note 4	628,236	819,147	448,048	315,293	376,683	334,350	316,783	316,783
<b>Cash Outflows:</b>								
New loans - Note 5								
Current year disbursements	(1,618,950)	(1,800,000)	(1,980,000)	(1,980,000)	(1,980,000)	(1,980,000)	(1,980,000)	(1,980,000)
Disbursements on prior year loans	(42,794)	(280,703)	(200,000)	(220,000)	(220,000)	(220,000)	(220,000)	(220,000)
ARLF Operating expenses - Note 6	(418,947)	(638,600)	(638,600)	(613,600)	(594,850)	(580,788)	(570,241)	(562,330)
Division expenditures paid by ARLF - Note 6	(912,840)	(1,146,800)	(1,146,800)	(1,146,800)	(1,146,800)	(1,146,800)	(1,146,800)	(1,146,800)
CIP expenditures - Note 8	(218,236)	(250,000)	(350,000)					
Pymts on prior year encumbrances - Note 9	(265,374)	(21,003)						
<b>Ending Cash Balance</b>	<b>\$6,421,719</b>	<b>\$5,664,321</b>	<b>\$4,362,149</b>	<b>\$3,525,677</b>	<b>\$2,792,406</b>	<b>\$2,031,887</b>	<b>\$1,286,356</b>	<b>\$541,789</b>

Note 1 - Principal & interest payments based on 8% interest rate for loans issued from FY99 through FY05, less 4% bad debt allowance.

Note 2 - Late payment penalties represents FY93-FY98 historical assessment rate of 0.58% of total payments.

Note 3 - Conservative estimate of expected recovery from accounts assigned to the Attorney General's office for collection.

Note 4 - Estimates provided by Div. of Ag. Assume 20% sold for cash; 80% financed (10% cash down; finance bal @ 8%, 20yrs.)

Planned sales: FY99-12 parcels; FY00-9 parcels; FY01-1 parcel; FY02-1 parcel; FY03-1 parcel

Starling FY99, sell 2 Pt. MacKenzie parcels each year for \$200,000 each (10% down, balance at 8% for 20 years)

Note 5 - Loans are assumed to be disbursed 90% in the current fiscal year and 10% in the subsequent fiscal year. Estimates provided by Division of Agriculture.

**Allocated as follows:**

C-loans = 10% of total loans per year, amortized over 5 years

F-loans = 29% of total loans per year, amortized over 14 years

P-loans = 3% of total loans per year, amortized over 10 years

S-loans = 58% of total loans per year, amortized over 1 year

Note 6 - Annual expenditure estimates - same as FY99 budget per Division of Agriculture, except gradual decrease in asset management costs as assets are sold.

Note 7 - Lease revenues on original Mental Health lands held in trust pending final resolution of all appeals in FY98.

Note 8 - 1998: Mt. McKinley Meat Plant renovations; 1999: Land disposal (\$100,000) and Mt. McKinley Meat Plant roof (\$150,000); 2000: Land Disposal (\$150,000) and Mt. McKinley Meat Plant upgrades (\$200,000)

Note 9 - 1998: property taxes '92-'98(\$127,317); Mt. McKinley Meat Plant renovations (\$87,044); seed potato project (\$32,570)  
1999: seed potato project (\$21,003)

**Agricultural Revolving Loan Fund  
Cash Flow Projection  
July 1, 1998**

Assuming 8% for FY99 loans, 5% on all subsequent loans, refinance all existing Delta loans at 5% eff 7/1/99

	Actuals	Estimates						
	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Beginning Cash Balance	\$6,304,655	\$6,421,719	\$5,664,321	\$4,337,611	\$3,399,651	\$2,547,485	\$1,649,458	\$751,069
<b>Cash Inflows:</b>								
Principal & Interest payments - Note 1	2,817,903	2,452,487	2,478,516	2,658,749	2,700,112	2,690,237	2,698,171	2,672,190
Leases	94,552	69,212	46,651	44,749	12,025	9,345	9,345	9,345
Late payment penalties - Note 2	7,054	14,224	14,375	15,421	15,661	15,603	15,649	15,499
Settlements on defaulted loans - Note 3		24,638	1,100	1,100	0	0	0	0
Trsfr from original Mntl Health Fund - Note 7	76,459							
Sale of Assets, Misc - Note 4	628,236	819,147	448,048	302,421	361,687	314,375	295,486	295,486
<b>Cash Outflows:</b>								
New loans - Note 5								
Current year disbursements	(1,618,950)	(1,800,000)	(1,980,000)	(1,980,000)	(1,980,000)	(1,980,000)	(1,980,000)	(1,980,000)
Disbursements on prior year loans	(42,794)	(280,703)	(200,000)	(220,000)	(220,000)	(220,000)	(220,000)	(220,000)
ARLF Operating expenses - Note 6	(448,947)	(638,600)	(638,600)	(613,600)	(594,850)	(580,788)	(570,241)	(562,330)
Division expenditures paid by ARLF - Note 6	(912,840)	(1,146,800)	(1,146,800)	(1,146,800)	(1,146,800)	(1,146,800)	(1,146,800)	(1,146,800)
CIP expenditures - Note 8	(218,236)	(250,000)	(350,000)					
Pymts on prior year encumbrances - Note 9	(265,374)	(21,003)						
<b>Ending Cash Balance</b>	<b>\$6,421,719</b>	<b>\$5,664,321</b>	<b>\$4,337,611</b>	<b>\$3,399,651</b>	<b>\$2,547,485</b>	<b>\$1,649,458</b>	<b>\$751,069</b>	<b>(\$165,542)</b>

Note 1 - Principal & Interest payments based on 8% interest rate for loans approved in FY99, then 5% for loans issued from FY00 through FY05, less 4% bad debt allowance.

Note 2 - Late payment penalties represents FY93-FY98 historical assessment rate of 0.58% of total payments.

Note 3 - Conservative estimate of expected recovery from accounts assigned to the Attorney General's office for collection.

Note 4 - Estimates provided by Div. of Ag. Assume 20% sold for cash; 80% financed (10% cash down; finance bal @ 5%, 20yrs.)

Planned sales: FY99-12 parcels; FY00-9 parcels; FY01-1 parcel; FY02-1 parcel; FY03-1 parcel

Note 5 - Loans are assumed to be disbursed 90% in the current fiscal year and 10% in the subsequent fiscal year. Estimates provided by Division of Agriculture.

**Allocated as follows:**

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Note 9 - 1998: property taxes '92-'98(\$127,317); Mt. McKinley Meat Plant renovations (\$87,044); seed potato project (\$32,570)  
1999: seed potato project (\$21,003)



# Alaska State Legislature

REPRESENTATIVE JOHN HARRIS

District 35 - Valdez, Cordova, Whittier, Glennallen, Delta Junction, Tatitlek, Kenny Lake, Paxson, Gakona, Chenega Bay

## MEMORANDUM

January 25, 2000

To: Representative Gene Therriault, co-chair  
Representative Eldon Mulder, co-chair  
House Committee on Finance

From: Representative John Harris

Subject: HB 203 – Relating to the agricultural revolving loan fund

Thank you for considering HB 203 for scheduling before the Finance committee. The bill would make beneficial changes to the ARLF to make it more competitive, useful and, I hope, self-sustaining into the future.

Over the interim, my staff and I have received input on the bill from many members of the agricultural community, so I would ask that the committee consider the following changes:

- 1) On page 1, line 13 (et al) change the interest rate from 5 percent to a rate "comparable to that charged by other agricultural lending institutions in the state..."

This will put the ARLF on the same footing relative to interest charged as the Farm Service Agency (FSA) and Alaska Rural Rehabilitation Corp (ARRC).

- 2) On page 2, line 29 delete the requirement that an area be declared a farm disaster area for 3 out of 5 preceding years to allow loan restructuring. New suggested language would allow board to set guidelines to allow restructuring for individual farmers who have experienced an agricultural disaster.

This change would give the ARLF greater flexibility to restructure loans based on the situations individual farmers find themselves in, thus increasing the likelihood that the loan will be repaid. This provision enhances the revolving function of the ARLF.

- 3) On page 3, line 16 delete "an employee of the board who is a loan officer" and replace it with "a board member".

Reps. Mulder and Therriault

January 25, 2000

Page 2

This change redefines the composition of the loan committee to replace a loan officer with a board member, since the loan application would have been previously processed by the loan officer. It would be more prudent to have the loan committee comprised of officers at a policy making level.

- 4) Change the effective date to immediately.

This change will give the ARLF board the authority to begin restructuring distressed farm loans right away, rather than waiting for a specific date or for 90 days after the Governor signs the bill.

Thank you again for your consideration of HB 203. If you have questions about the changes requested or any other aspect of HB 203, please contact me or Pete Fellman in my office.

**HB**

**204**

HFIN

FILE

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: March 8, 2000

FURTHER REFERRALS:

Date of Committee Action: 3/17/00

The FINANCE Committee considered:

HB 204

HOUSE BILL NO. 204

ELK FARMING

"An Act relating to elk farming."

recommends it be replaced with the following committee substitute CS HB 204 (RES)  the same title  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) DNR

fiscal note(s) F + G

zero fiscal note(s)

zero fiscal note(s) DEC

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Gene Theriault</u> THERIAULT	X			
<u>Bob Bunde</u> BUNDE			✓	
<u>Jim Austerman</u> AUSTERMAN	X			
<u>John Davies</u> DAVIES			X	
<u>Ben Grussendorf</u> GRUSSENDORF			X	
<u>Walter Moses</u> MOSES			X	
<u>Felix Davis</u> DAVIS	X			
<u>Phil Phillips</u> PHILLIPS	✓			
<u>RTD</u> FOSTER	X			

CHAIR'S SIGNATURE Gene Theriault  
Theriault

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. CSHB204(RES)

Revision Date: 16-Mar-00 Dept Affected: Natural Resources  
 Title: An Act relating to elk farming. ERU: Agricultural Development  
 Component: Agricultural Development  
 Sponsor: Rep. Harris  
 Requestor: (H)RES Component Serial No. #455

Expenditures/Revenues (Inflation not included unless otherwise noted below) (Thousands of Dollars)

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES	1.0	1.0	1.0	1.0	1.0	1.0
TRAVEL	0.5	0.5	0.5	0.5	0.5	0.5
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>

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

CHANGE IN REVENUES (fund code)						
--------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	1.5	1.5	1.5	1.5	1.5	1.5
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>

Estimate of any current year (FY00) cost: \$ none

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

Nine elk farms have permits currently. Travel for inspections would be incorporated into other staff functions to minimize costs. Modest growth is expected in permit issuance.

\$1,500.00 in FY2001 (receipts from license fees) should cover the additional inspection costs.

Prepared by: Robert Wells *[Signature]* Phone: 745-7200  
 Division: Agriculture *[Signature]* Date: 16-Mar-00  
 Approved by Commissioner: John Shively *[Signature]* Date: \_\_\_\_\_  
 Agency: Natural Resources *[Signature]*

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# FISCAL NOTE

Bill Version: CSHB 204 (RES)

(H) Publish Date: 3/8/00

## STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) \_\_\_\_\_  
Title Elk Farming

Dept. Affected Fish and Game

BRU Wildlife Conservation

Component Wildlife Conservation

Sponsor Rep. Harris

Requester House Resources

Component No. 473

### Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>(1.3)</b>	<b>(1.3)</b>	<b>(1.3)</b>	<b>(1.3)</b>	<b>(1.3)</b>	<b>(1.3)</b>
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### FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)	(1.3)	(1.3)	(1.3)	(1.3)	(1.3)	(1.3)
<b>TOTAL</b>	<b>(1.3)</b>	<b>(1.3)</b>	<b>(1.3)</b>	<b>(1.3)</b>	<b>(1.3)</b>	<b>(1.3)</b>

Estimate of any current year (FY2000) cost: \_\_\_\_\_

### POSITIONS

Full-time						
Part-time						
Temporary						

### ANALYSIS: (Attach a separate page if necessary)

The department currently sells 5 biennial elk farming licenses annually and deposits the money in the Fish and Game fund. If HB 204 becomes law, this funding will no longer be available to the department. For the purposes of this bill analysis, we assume no general funds will be appropriated to compensate for the revenue lost to the fish and game fund.

Note: Although the department will no longer issue elk farming licenses or inspect elk farms, these functions were performed incidentally by staff whose primary duties involved other functions. Those staff will continue to perform their primary duties and there will be no reduction in expenditures. This is reflected in the fiscal note by no identification of reduction in department expenses.

Prepared by: Phil Koehl

Phone 465-6198

Division Wildlife Conservation

Date/Time 3/3/00 4:59 PM

Approved by Commissioner: Frank Rue

Date 03/03/2000

Agency Department of Fish and Game

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# FISCAL NOTE

No: 1

Version: CSHB 204 (RES)

(H) Publish Date: 3/3/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Environmental Conservation  
 Title Elk Farming BRU Environmental Health  
 Component Food Safety and Sanitation  
 Sponsor Harns  
 Requester House Resources Component No. 2343

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 0.0

**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 bill has no fiscal impact on the Department.

Prepared by: Janice Adair, Director Phone 269-7644  
 Division Environmental Health Date/Time 3/3/00 11:41 AM  
 Approved by Commissioner [Signature] Date \_\_\_\_\_  
 Agency Department of Environmental Conservation

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ALASKA STATE LEGISLATURE  
REPRESENTATIVE JOHN HARRIS  
STATE CAPITOL 110, JUNEAU, ALASKA 99801-1182 (907) 465-4859

### Sponsor Statement

#### HB 204

"An Act relating to elk farming."

There is great potential for farming elk in Alaska, and more ranchers would get involved in this endeavor if regulation of elk farming can be transferred to the division of agriculture from ADF&G.

Currently, ADF&G regulates elk as a game animal, and the department's adaptation of game management regimes to domesticated, privately-owned elk creates unnecessary burdens and roadblocks for elk farmers.

HB 204 seeks to remedy this problem by transferring the oversight responsibilities for domestic elk breeding and farming from ADF&G to the division of agriculture. This will lower the risk of health problems and animal escape concerns, as well as enhance the opportunities for commercial success.

This change makes sense in that elk are currently allowed to be raised and bred as domestic stock for commercial purposes under fish and game statutes. The division of agriculture has the authority and mission to administer domestic animal programs, while ADF&G's authority is limited to public wildlife management. In fact, the responsibilities for ADF&G to license and approve fencing plans for elk farms lack regulatory authority. Licensing is administered under provisions intended for game mammals, while fencing standards are not administered under any existing regulation. The division of agriculture, on the other hand, has authority in both of these areas, and would continue to refer changes in such policies to ADF&G for its review and comment.

Alaska's climate and location are ideal for the propagation of elk, which produce a lean, mild meat for which there is a growing demand on world markets. The statutory changes proposed in HB 204 would help to enable the elk farming business to grow to its potential in Alaska.

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

500 S. ALASKA STREET  
PALMER, ALASKA 99645

(907) 745-3236

## DIVISION OF ENVIRONMENTAL HEALTH ANIMAL INDUSTRIES

FAX (907) 745-8125

<http://www.state.ak.us/dec>

February 9, 2000

Mr. Bill Ward  
PO Box 1087  
Delta Junction, AK 99737

Dear Mr. Ward:

I have reviewed HB# 204 and have no problem with it's content. Currently, three state agencies are involved with elk farming. This bill will leave the animal health regulations in DEC and move all other functions to DNR. Excluding Kodiak Island, all existing elk farms are on the road systems and inspections of new and existing facilities could be accomplished concurrently with other agricultural inspections.

Sincerely,



Bert Gore  
State Veterinarian

BG/da(EH\eh-a\ah-dairy\corres\hward28001a)

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

### DIVISION OF WILDLIFE CONSERVATION

TONY KNOWLES, GOVERNOR

P.O. BOX 25526  
JUNEAU, ALASKA 99802-5526  
PHONE: (907) 485-4103  
FAX: (907) 465-6142

February 9, 2000

The Honorable John Harris  
Alaska State Legislature  
State Capitol, Room 110  
Juneau, AK 99801-1182

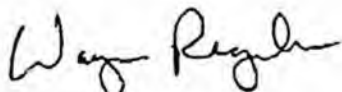
Dear Representative Harris:

Pete Fellman recently provided us with a copy of the proposed committee substitute for HB 204, which incorporated language we proposed regarding inspections of elk farming facilities.

Thank you for amending your bill to address our concerns. The Division of Wildlife Conservation is comfortable supporting the elk farming bill (CSHB 204 (RES)) as currently written.

Please let me know, if I can provide further assistance with this matter.

Sincerely,



Wayne Regelin  
Director

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR


## DEPARTMENT OF FISH AND GAME

### DIVISION OF WILDLIFE CONSERVATION

P.O. BOX 25526  
JUNEAU, AK 99602-5526  
PHONE: (907) 465-4190  
FAX: (907) 465-6142

#### MEMORANDUM

TO: Pete Fellman  
Legislative Assistant  
Office of Rep. Harris

FROM: Wayne Regelin   
Director

DATE: January 26, 2000

SUBJECT: Elk Farming (HB 204)

---

Thanks for faxing the current copy of Representative Harris' legislation on elk farming.

Because of our department's responsibility for protecting wildlife populations from potential problems that could result from interactions with livestock, our primary concern with this bill is that the requirement for "facilities for maintaining elk under positive control" be adequate and enforced.

Years ago, the regulation of fur farms was transferred from our department to DNR. In the mid-1980s, however, due to a lack of financial resources, the commissioner instructed the state veterinarian to stop inspecting and permitting fur farms. We don't question DNR's competence or resolution to comply with all the provisions of HB 204. We are concerned, however, that circumstances might force that agency to give up its responsibilities to periodically inspect elk farm fencing for the same reasons they no longer inspect or permit fur farms.

To help prevent such an occurrence, we suggest the following amendment to Representative Harris' bill. On page 2, line 6, after the word "amended" add the following sentence: "Before an elk farming license may be issued or renewed, a representative of the department will physically inspect the elk farming facilities of the applicant to ensure that they are in good repair and meet or exceed the fencing standards established by the commissioner for maintaining elk under positive control." We believe that this amendment will force inspections by prohibiting permit renewals without them. Because the Department of Fish and Game has area offices throughout the state, we would be happy to cooperate with the DNR and act as that agency's representative for inspecting facilities whenever DNR staff are unable to visit a facility in person.

If this amendment is added, the department will feel comfortable supporting HB 204.

Please give me a call, if you want to discuss this matter.