

ALASKA LEGISLATURE COMMITTEES 1900-1900

3314

HJUD

HB

238

-

HB

241

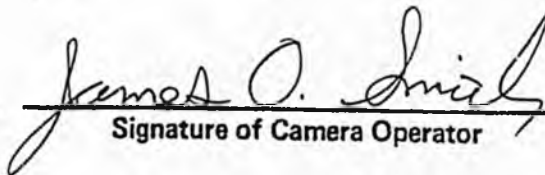
190

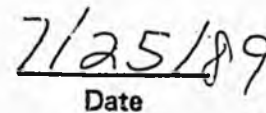


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Date

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STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

| | | |
|--------------|---------|---------|
| H. Judiciary | 4/10/85 | 1:30 pm |
| " " | 4/22/85 | 1:30 pm |
| " " | 4/26/85 | 1:30 pm |
| " " | 4/27/85 | 9 AM |

COMMITTEE REPORT
HOUSE

4/30

(7)

FURTHER: FINANCE

3/29/85

Date: _____

The Committee on JUDICIARY has had HB 238

"An Act relating to credit for service in the state's retirement systems for certain leave without pay; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 238 (copy) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Alaska State Legislature

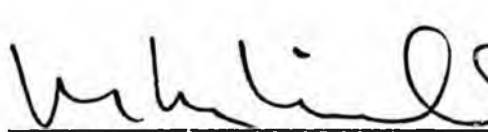


House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

HOUSE JUDICIARY COMMITTEE INTENT FOR CSHB 238

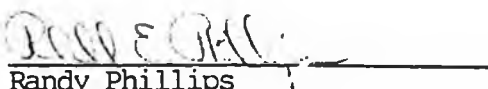
It is the intent of the Committee that, when a position providing vital government services to the public is temporarily vacated because of parental leave authorized under CSHB 238 (Judiciary), the supervisor should immediately fill the position with a temporary employee so that those services to the public are not interrupted.

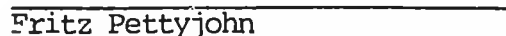

M. Mike Miller, Chairman


John Sund, Vice-Chairman


Don Cleveland


Max Gruenberg


Randy Phillips


Fritz Pettyjohn


Robin Taylor

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

| | |
|---|---|
| <u>REQUEST</u> Bill/Resolution No.: <u>CSHB 238 (JUD)</u> Title: <u>"An Act relating to credited service. . ."</u> Sponsor: <u>Rules</u> Requestor: _____ Date of Request: _____ | <u>FISCAL DETAIL</u> Agency Affected: <u>All State</u> BRU: <u>Retirement & Benefits</u> Components: <u>PERS, TRS, JRS</u> |
|---|---|

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| PERSONAL SERVICES | | | | | | |
| RTMNT & BNFTS | | 85.4 | 92.2 | 99.6 | 107.6 | 116.2 |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| TRS MATCH | | 45.7 | 49.4 | 53.3 | 57.6 | 62.2 |
| TOTAL OPERATING | -0- | 131.1 | 141.6 | 152.9 | 165.2 | 178.4 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-------|-------|-------|-------|-------|
| GENERAL FUND | | 123.6 | 133.5 | 144.2 | 155.7 | 168.2 |
| FEDERAL FUNDS | | 3.6 | 3.9 | 4.2 | 4.6 | 4.9 |
| OTHER | | 3.9 | 4.2 | 4.5 | 4.9 | 5.3 |
| TOTAL | -0- | 131.1 | 141.6 | 152.9 | 165.2 | 178.4 |

| POSITIONS: | -0- | -0- | -0- | -0- | -0- | -0- |
|------------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: J.K. Humphreys, Director Phone: 465-4470
 Division: Retirement & Benefits Date: 1/24/86
 Approved by Commissioner: Eleanor Andrews Date: 1/27/86
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CSHB 238 (JUDICIARY)
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

January 24, 1986

IV Analysis:

Passage of this bill will allow members of the Public Employees (PERS), Judicial (JRS) and Teachers' (TRS) Retirement Systems to claim and purchase service for periods of authorized Leave Without Pay which resulted from pregnancy, birth of a member's child, adoption or care of the child immediately following birth. The bill also establishes a sixteen week limit on the amount of Leave Without Pay which may be claimed.

To fund this bill, the state PERS contribution rate would be increased by .0133% in FY 87. The state PERS payroll is estimated to be \$590,176,728 in FY 87 and to increase by 8% each year thereafter.

The state TRS contribution rate must be increased by .01% for FY 87. The state TRS payroll is estimated to be \$68,569,578 in FY 87 and to increase by 8% each year thereafter. The TRS State Match contribution would increase by .01% in FY 87. The TRS State Match salary is estimated to be \$456,833,417 for FY 87 and to increase by 8% each year thereafter.

The State FY 87 cost of \$131.1 is calculated as follows:

The increase in State PERS contribution rate (.0133%) times the estimated FY 87 State PERS salary (\$590,176,728) equals;

\$78,500 00

The increase in State TRS contribution rate (.01%) times the estimated FY 87 State TRS salary (\$68,569,578) equals;

\$ 6,900.00

The increase in TRS State Match contribution rate (.01%) times the estimated FY 87 TRS State Match salary (\$456,833,417) equals;

\$45,700.00

Total cost \$131,100.00

We have also estimated that Political Subdivision and School Districts costs (TRS and PERS) would increase as follows:

| <u>FY 87</u> | <u>FY 88</u> | <u>FY 89</u> | <u>FY 90</u> | <u>FY 91</u> |
|--------------|--------------|--------------|--------------|--------------|
| \$102.7 | \$110.9 | \$119.8 | \$129.4 | \$139.7 |

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2

REQUEST

Bill/Resolution No.: CSHB 238 (Jud)
 Title: "An Act relating to credited service..."
 Sponsor: Rules
 Requestor: Miller
 Date of Request: 4/29/85

FISCAL DETAIL

Agency Affected: All State
 Program Category Affected: Labor Services
 BRU, Program or Subprogram(s) Affected: PERS. TRS

EXPENDITURES/REVENUES: (Thousands of Dollars)

| Operating | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|--------------------|-------|-------|-------|-------|-------|-------|
| 100 Personal Svcs | | | | | | |
| 100 Rtmnt & Bnfts | | 79.5 | 85.9 | 92.7 | 100.1 | 108.2 |
| 200 Travel | | | | | | |
| 300 Contractual | | | | | | |
| 400 Supplies | | | | | | |
| 500 Equipment | | | | | | |
| 600 Land & Struct | | | | | | |
| 700 Grants, Claims | | | | | | |
| 700 TRS Match | | 41.6 | 44.9 | 48.5 | 52.4 | 56.6 |
| TOTAL OPERATING | -0- | 121.1 | 130.8 | 141.2 | 152.5 | 164.8 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-------|-------|-------|-------|-------|
| GENERAL FUND | | 114.2 | 123.3 | 133.2 | 143.9 | 155.4 |
| FEDERAL FUNDS | | 3.3 | 3.6 | 4.8 | 4.2 | 4.5 |
| OTHER | | 3.6 | 3.9 | 4.2 | 4.4 | 4.9 |
| TOTAL | -0- | 121.1 | 130.8 | 141.2 | 152.5 | 164.8 |

POSITIONS: -0- -0- -0- -0- -0- -0-

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Prepared By: J.K. Humphreys, Director Phone: 465-4470
 Division: Retirement & Benefits Date: 4/29/85

Approved by Commissioner: Lisa Rudd Date: 5/7/85
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CSHB 238 (JUDICIARY)
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

April 29, 1985

IV Analysis:

Passage of this bill will allow members of the Public Employees (PERS), Judicial (JRS) and Teachers' (TRS) Retirement Systems to claim and purchase service for periods of authorized Leave Without Pay which resulted from pregnancy, birth of a member's child, adoption or care of the child immediately following birth. The bill also establishes a sixteen week limit on the amount of Leave Without Pay which may be claimed.

To fund this bill, the state PERS contribution rate would be increased by .0133% in FY 86. The state PERS payroll is estimated to be \$544,046,592 in FY 86 and to increase by 8% each year thereafter.

The state TRS contribution rate must be increased by .01% for FY 86. The state TRS payroll is estimated to be \$71,490,744 in FY 86 and to increase by 8% each year thereafter. The TRS State Match contribution would increase by .01% in FY 86. The TRS State Match salary is estimated to be \$416,297,654 for FY 86 and to increase by 8% each year thereafter.

The State FY 86 cost of \$121.1 is calculated as follows:

The increase in State PERS contribution rate (.0133%) times the estimated FY 86 State PERS salary (\$544,046,592.00) equals;
\$72,400.00

The increase in State TRS contribution rate (.01%) times the estimated FY 86 State TRS salary (\$71,490,744.00) equals;
\$ 7,100.00

The increase in TRS State Match contribution rate (.01%) times the estimated FY 86 TRS State Match salary (\$416,297,654) equals; \$41,600.00

Total cost \$121,100.00

We have also estimated that Political Subdivision and School Districts costs would increase as follows:

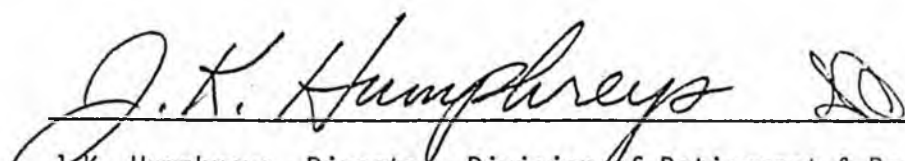
| <u>FY 86</u> | <u>FY 87</u> | <u>FY 88</u> | <u>FY 89</u> | <u>FY 90</u> |
|--------------|--------------|--------------|--------------|--------------|
| \$91.4 | \$98.7 | \$106.6 | \$115.1 | \$124.3 |

Position Paper

CS House Bill 238 (Judiciary)

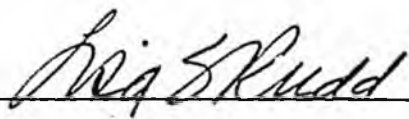
Passage of this bill would allow members of the Public Employees', Teachers' and Judicial Retirement Systems to claim and purchase up to 16 weeks of service for periods of Authorized Leave Without Pay which resulted from pregnancy, birth of a member's child, adoption or care of a child immediately following birth. The members availing themselves of this opportunity would have to pay the full actuarial cost.

The Department supports this legislation because it contributes to social good in Alaska by allowing members who are raising a family the opportunity to continue accruing service under the PERS.



J.K. Humphreys, Director, Division of Retirement & Benefits

5/2/84
Date



Lisa Rudd, Commissioner, Department of Administration

5/7/85
Date

AMENDMENTS IN THE HOUSE

BY GRUENBERG

FOR HB 238 - RELATING TO CREDIT FOR SERVICE IN THE STATE'S RETIREMENT
SYSTEMS FOR CERTAIN LEAVE WITHOUT PAY; EFD.

Page 1, line 21:

Delete "nine" and insert "sixteen"

Page 2, line 24:

Delete "nine" and insert "sixteen"

Page 3, line 23:

Delete "nine" and insert "sixteen"

A M E N D M E N T

Offered in the HOUSE JUDICIARY COMMITTEE

By Clocksin

TO: HB 238

Page 1, line 6, after "relating to", insert:

"personal leave for pregnancy and childbirth;"

Page 1, after line 25, insert a new paragraph to read:

"(3) birth of a child to a person living with the member;"

Renumber remaining paragraphs

Page 2, after line 28, insert a new paragraph to read:

"(3) birth of a child to a person living with the justice or judge;"

Renumber remaining paragraphs

Page 3, after line 14, insert a new bill section to read:

** Sec. 4. AS 39.20.225(b)(4) is amended to read:

(4) Pregnancy and childbirth or adoption is a medical reason for an [A FEMALE] officer or employee to take personal leave. An [A FEMALE] officer or employee, otherwise qualified for a leave of absence, is entitled to take a maximum of 16 [NINE] weeks leave immediately preceding and following childbirth or adoption. If the

officer's or employee's accrued personal leave is insufficient for this purpose, the officer or employee is entitled to take leave without pay for the balance of the 16-week [NINE-WEEK] period."

Renumber remaining bill sections

Page 3, after line 27, insert a new paragraph to read:

"(3) birth of a child to a person living with the employee;"

Renumber remaining paragraphs

Page 4, line 21:

Delete "this Act becomes law", and insert "secs. 1 - 6 of this Act take effect"

Page 4, line 26:

Delete "6" and insert "7"

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

14-13-2-3-8

cc

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the state's retirement systems. This bill amends statutes pertaining to the teachers', judicial, and public employees' retirement systems to allow credit for service for certain approved leave without pay.

The bill allows for credited service to be obtained for up to nine weeks of approved leave of absence without pay taken in connection with pregnancy, birth, or adoption of a child, and care of a child immediately after the birth or adoption of the child. Once an employee returns to work after such a leave of absence, the employee may obtain credited service by paying the full actuarial cost of providing benefits for the service claimed. Any unpaid indebtedness for the service claimed at the time of retirement will result in an actuarial reduction in benefits.

The bill requires the commissioner of administration to inform retirement system participants of the changes accomplished by this bill.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

CFC
507-22

Page 1 of 2

Revision Date: _____

Page 1 of 2

REQUEST
Bill/Resolution No.: HB 238
Title: "An Act Relating to
Credited Service..."
Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL
Agency Affected: All State Agencies
Program Category Affected: Elementary &
Secondary Education, Labor Services
BRU, Program or Subprogram(s) Affected:
PERS, JRS & TRS

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|--------------------|-------|-------|-------|-------|-------|-------|
| Operating | | | | | | |
| 100 Personal Svcs | | | | | | |
| 100 Ptmnt & Bnfts | | 44.8 | 48.4 | 52.3 | 56.3 | 60.9 |
| 200 Travel | | | | | | |
| 300 Contractual | | | | | | |
| 400 Supplies | | | | | | |
| 500 Equipment | | | | | | |
| 600 Land & Struct | | | | | | |
| 700 Grants, Claims | | | | | | |
| 700 TRS Match | | 23.3 | 25.2 | 27.2 | 29.4 | 31.7 |
| TOTAL OPERATING | -0- | 68.1 | 73.5 | 79.4 | 85.8 | 92.6 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|------|------|------|------|------|
| GENERAL FUND | | 64.2 | 69.3 | 74.9 | 80.9 | 87.3 |
| FEDERAL FUNDS | | 1.9 | 2.1 | 2.2 | 2.4 | 2.6 |
| OTHER | | 2.0 | 2.2 | 2.3 | 2.5 | 2.7 |
| TOTAL | -0- | 68.1 | 73.5 | 79.4 | 85.8 | 92.6 |

POSITIONS: -0- -0- -0- -0- -0- -0-

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Prepared By: J.K. Humphreys, Director Phone: 465-4470
Division: Retirement & Benefits Date: 2/21/85

Approved by Commissioner: Lisa Rudd Date: 2-22-85
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HB 238: Maternity Credit Bill
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

February 21, 1985

IV Analysis:

Passage of this bill will allow members of the Public Employees (PERS), Judicial (JRS) and Teachers' (TRS) Retirement Systems to claim and purchase service for periods of authorized Leave Without Pay which resulted from pregnancy, birth of a member's child, adoption or care of the child immediately following birth. The bill also establishes a nine week limit on the amount of Leave Without Pay which may be claimed.

To fund this bill, the state PERS contribution rate would be increased by .0075% in FY 86. The state PERS payroll is estimated to be \$544,046,592 in FY 86 and to increase by 8% each year thereafter.

The state TRS contribution rate must be increased by .0056% for FY 86. The state TRS payroll is estimated to be \$71,490,744 in FY 86 and to increase by 8% each year thereafter. The TRS State Match contribution would increase by .0056% in FY 86. The TRS State Match salary is estimated to be \$416,297,654 for FY 86 and to increase by 8% each year thereafter.

The State FY 86 cost of \$68.1 is calculated as follows:

The increase in State PERS contribution rate (.0075%) times the estimated FY 86 State PERS salary (\$544,046,592.00) equals;
\$40,800.00

The increase in State TRS contribution rate (.0056%) times the estimated FY 86 State TRS salary (\$71,490,744.00) equals;
\$ 4,000.00

The increase in TRS State Match contribution rate (.0056%) times the estimated FY 86 TRS State Match salary (\$416,297,654) equals; \$23,300.00

Total cost \$68,100.00

We have also estimated that Political Subdivision and School Districts costs would increase as follows:

| <u>FY 86</u> | <u>FY 87</u> | <u>FY 88</u> | <u>FY 89</u> | <u>FY 90</u> |
|--------------|--------------|--------------|--------------|--------------|
| \$51.4 | \$55.5 | \$60.0 | \$64.7 | \$69.9 |

Pediatrician pushes for family power

By GLENN COLLINS
The New York Times

BOSTON — Dr. T. Berry Brazelton was concerned. "There's something I started noticing in my practice over the last year or so and it really shook me up," said the Harvard University pediatrician before an utterly silent conference audience. "It's a phenomenon I've begun to be aware of among expectant mothers who know they'll have to be going back to work up to three months after the baby is born."

"There is a lack of passionate commitment to the pregnancy," he said. "They don't have the dreams and fears and fantasies normal to most expectant mothers. It's as if they are guarding themselves from the turmoil of attachment. As if they are grieving already for what might be lost."

He surveyed the audience of pediatricians, developmental psychologists, health-care professionals, lawyers, policy makers

and business leaders. "If it's true that this is happening, then we'd better do something about it real quick," he said.

What he would like to do, he said, was to help such expectant mothers to understand what their denial meant, and to work actively to create a national movement to provide four months' paid maternity leave for working women.

"Because," Brazelton said, "women have remarkable strengths in coping with the stresses of job and motherhood if we can just give them enough time with that baby."

He spoke as the host of a gathering of some of the nation's leading authorities on children, parents and families. They assembled to examine "Stress and Supports for Families in the 1980s" for three days recently at the Parker House, under the auspices of Harvard University Medical School and Children's Hospital Medical Center.

The experts considered the relationship

of families to work, to chronic illness, divorce and to the influence of American corporate culture on parenthood. Prevailing over it all was the benign presence of Brazelton, a sturdy, fatherly figure infrequently encountered wearing glasses and a half smile.

It was a collection that perhaps Brazelton could have arrayed: States Rep. George Miller was the California Democrat who heads the Select Committee on Children, Youth and Families. Betty Friedan was there, the psychologist Jerome Kagan of Harvard and David Eikind of Tufts University. James R. Utaski, president of Johnson Baby Products, spoke on corporate responsibility to families and endured sharp questioning about corporate care for child care.

"I'm here," Utaski said, "because it's an important event and because Be

See Page C-2, CON

Illustration by Deborah

Concerned pediatrician wants to increase family power

Continued from Page C-1

talented arm-twister."

Berry, as everyone calls him, is a bit more than that. Since 1969, when his book "Infants and Mothers" was published, parents have relied on Brazelton's nonjudgmental descriptions of children's development as an antidote to anxiety that their offspring

weren't creeping, crawling, talking or walking as fast as the Joneses' tots. Other books, like "Toddlers and Parents" in 1974, have followed.

Brazelton has been called "the new Dr. Spock," a designation that amuses him.

"New" is hardly the term to use for a man of 66," he jested. "Ben Spock is my col-

lective unconscious," he said of the man he has called his hero.

The Boston gathering, Brazelton said, was intended to extend the educational work he has fostered among pediatricians and other child-care professionals as chief of the Division of Child Development at Children's Hospital.

Of late, his educational influence has extended beyond not only the national community of parents but also the academic world, where, as an associate professor at Harvard Medical School, he has significantly influenced the training of pediatricians. On Feb. 2, 1983, the day the House Select Committee on Children, Youth and Families was created by Congress, Brazelton was the first witness to testify at the first hearing.

"Berry spoke about children and parents and his be-

lieve in the power of families," Miller said, "and the conservatives were absolutely enamored of what he was saying. And I thought right then in that one hearing we paid the rent on this committee."

"We don't need more programs for children, we need different programs," Brazelton commented — programs, he said, that embody a new view of the family.

He sees the family as a system, an organism in which parents and children reciprocally influence one another. Brazelton has worked hardest to change traditional attitudes of health-care professionals, "who see families in terms of the problems they present," he said, "and not in terms of the positive strengths they offer. Too many see parents as being incompetent."



Congressional Caucus for Women's Issues

FACT SHEET ON PARENTAL LEAVE

PARENTS IN THE WORKFORCE:

- * The ranks of women in the work force have increased 173% from 1947 to 1980.
- * 85% of working women are likely to become pregnant during their working lives. Over half of those women who work while pregnant are back at work within less than a year after childbirth.
- * The view that most mothers stay at home until their children begin school is no longer valid. Half the mothers of preschool-aged children, including 57% of the mothers of children aged three to five and 46% of the mothers of children under age three, were working in 1982.
- * Women are increasingly responsible for providing family income. More than six million families are supported by working female heads-of-household. 27% of working women have husbands who earn less than \$10,000; 51% have husbands earning less than \$15,000.

Due to the lack of employment policies to accommodate working parents, many individuals are forced to choose between their job security and parenting. Parenting is an important social function. Work place policies must adapt to the increasing number of parents in the workforce.

CURRENT POLICY:

The Pregnancy Discrimination Act passed in 1978 amends Title VII of the Civil Rights Act of 1964 to provide that discrimination on the basis of pregnancy is sex discrimination under the law. The law requires that pregnancy be treated like other short-term disabilities depending upon the employee's ability or inability to work.

HOWEVER, federal law neither requires employers to provide disability leave for employees nor addresses the infant child care aspect of the experience. Consequently, there is a substantial range in what employers provide:

- * Only about half of the 150 employers surveyed by Columbia University in 1980 provided disability insurance (leave with some wage-replacement) for their employees. There is little information available on the number of employers permitting unpaid job-protected leave for employees who are temporarily disabled.

In California, for example, when Lillian Garland returned to work eight weeks after childbirth by Caesarean section, her position had been filled, and she was unemployed.

- * One-third of employers surveyed provided no paid sick leave. Some employers permit no sick leave at all in the first year of work. In Montana, for example, Tamara Buley was dismissed after missing five days of work due to pregnancy-related illness.
- * Approximately one-third of women working at least 20 hours per week in 1977, were not permitted unpaid "maternity" leave with a guarantee of the same or similar job.
- * Only 9% of the companies surveyed provided any leave for fathers.

This complete inadequacy of disability and parenting policies seriously jeopardizes family economic security.

INTERNATIONAL PERSPECTIVE:

75 countries, including many developing countries and every industrialized country EXCEPT the United States, provide some period of job-protected "maternity" leave with some amount of wage replacement. Most countries provide a benefit equal to 100% of wages.

Sweden has the most liberal policy allowing 12 months leave, with fathers enjoying an equal entitlement. Many other countries are moving toward providing paternity benefits.

By contrast, American employees are not even guaranteed job protection in the event of a short-term disability or provided a job-protected leave to care for newborn or newly-adopted infants.

MATERNITY LEAVE:

The traditional concept of maternity leave consists of a period of leave from work to accommodate the woman's physical recuperation and to allow some time for infant child care.

This pairing of the physical aspect affecting only the woman with the child care aspect, does nothing to encourage men to participate in early child rearing and in fact, locks women into this role. Furthermore, this construct does not make any provision for male employees who are temporarily disabled.

In the past, the "maternity" concept led to problems of discrimination against women in the work force. By separating pregnancy out as a unique condition, all benchmarks of what is fair or reasonable go by the wayside. The needs of the work force tend to control women's fate in maintaining their job security.

Recently, a California maternity leave statute requiring employers to provide a minimum unpaid leave of four months to women having children, was struck down as discriminatory under Title VII and the Pregnancy Discrimination Act.

PROPOSED LEGISLATION:

Federal legislation is necessary to respond to the confusion in the states about maternity policies and to address the new realities of working parents. Legislation is now being developed by Rep. Howard Berman (D-CA) and the Congressional Caucus for Women's Issues to provide:

- * Minimum disability ^{leave} for all employees who are temporarily disabled.
- * Minimum parental leave for all employees upon the birth or adoption of a child.
- * Minimum paid sick leave for all employees and for illnesses of employees' dependents.

Under this policy, both men and women who are temporarily disabled will retain their job security for a minimum period of time. Both mothers and fathers will be able to take a minimum period of time from their jobs in order to participate in the early care of newborn or newly-adopted children. Finally, parents will be able to be with their children when they are ill without jeopardizing their employment status.

The United States has been left behind in adapting work place conditions and policies to the realities of modern family life. By providing basic employment security, this comprehensive legislation goes a long way toward meeting our obligation to the health and well-being of American children and families.

Sources:

U.S. Department of Commerce, Bureau of the Census, "American Women: Three Decades of Change," August 1983.

Kammerman, Maternity Policies and Working Women, Columbia University Press, 1983.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET - SUITE 742
ANCHORAGE, ALASKA 99503

April 18, 1985

Representative M. Mike Miller
Chair, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

The Alaska Women's Commission supports the amendment to HB 238 requested by Representative Clocksin which would change maternity leave to parental leave and increase the leave available from 9 weeks to 16 weeks.

Approximately one half of the workforce employed by the State of Alaska are women. Eighty percent are of childbearing age and it is estimated that 93 percent of these women will become pregnant sometime during their work career. Yet, little has been done to ensure the children of these women will receive the critical care necessary to reach their full emotional, physical and psychological potential during the first critical months of development. According to Dr. T. Berry Brazelton, a leading pediatrician in the country from Harvard Medical School, working women need to stay home at least the first four months of a baby's life. "The first three months with any new infant are bound to be a major adjustment. If the colicky period can be lived through, the parents can enjoy at least a month of reciprocity which cements an intense parent-infant relationship." Without the fourth month the attachment is not made. Only parents can provide the irrational love needed to stimulate the infant's developmental processes during this period. Dr. Brazelton testified in 1983 at a hearing by the House Select Committee on Children, Youth and Families. He advocates a national 16 week parental leave policy.

Extensive parental benefits are provided in over 80 nations either by the employer or by national insurance plans. In France, women are entitled to 90% of their earnings for a sixteen week period and guaranteed the same or a comparable job on their return. In Sweden, "parent insurance" allows either parent to leave work for up to nine months after the birth of a child, without loss of pay. In West Germany, women receive a seven-and-one-half month paid leave.

April 18, 1985
Page Two

The proposed amendment to HB 238 is in line with and in many ways more restrictive than leave without pay programs being offered by major institutions in Alaska.

The Anchorage School District offers up to a year of leave without pay to all employees covered in their bargaining agreement. Teachers who work nine months of the year are entitled, in addition to sick and annual leave, to partially paid emergency leave, partially paid sabbatical leave and fully paid military leave. In addition, a teacher having completed one year of service is entitled to one year of leave without pay for "personal reasons" which need only be accompanied by a statement of justification.

The federal government outlines a very flexible leave without pay policy for parental leave. It specifically authorizes "paternity" leave on an annual leave, and leave without pay basis. Our proposal is made on the same basis. The federal government has also instituted a six year experiment, through 1986, to institute a flexible workday schedule.

Chugach Electric Association provides eight weeks of paid leave to new fathers and to parents adopting a child. The law firm of Bogle and Gates is in the process of formulating a policy of 90 days paid paternity leave. We are proposing no paid leave to adopting parents or new fathers or mothers in excess of leave they have already accrued.

In addition, a brief review of major law firms in Anchorage found the following policies established:

Perkins, Cole, Stone, Olsen
& Williams

No established "maternity leave"
Women attorneys given 90 days
paid leave, followed by 6 months
leave without pay.

Lane, Powell, Moss & Miller

3 months leave with pay followed
undetermined amount of leave
without pay.

Bogle and Gates

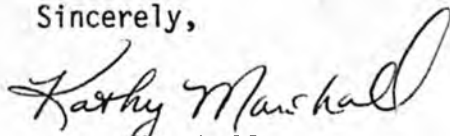
3 months paid maternity leave -
would grant 3 months paid
paternity, returning mother
given option of part time work.
Leave without pay policy
flexible, depending on
personal/firm needs.

April 18, 1985
Page Three

The Women's Commission believes that increasing parental leave without pay will strengthen families and provide a benefit to Alaska's children without costing the state additional money.

Please feel free to contact me if you have any questions about the Commission's position.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Marshall". The signature is fluid and elegant, with a large loop at the end of the word "Marshall".

Kathy Marshall
Executive Director

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 238 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to personal leave for pregnancy,
7 childbirth and adoption; credit for service in the
8 state's retirement systems for certain leave without
9 pay; and providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 14.20.345(b) is amended to read:

12 (b) A leave of absence is not an interruption of the continuous
13 service necessary to attain or retain retirement or tenure rights
14 according to AS 14.20.150, 14.20.155, or 14.20.160. However, the time
15 spent on leave of absence may not be counted in determining when a
16 teacher has sufficient service to enable the teacher to acquire [RE-
17 TIREMENT OR] tenure rights or, except as provided in AS 14.25.102,
18 retirement rights.

19 * Sec. 2. AS 14.25 is amended by adding a new section to read:

20 Sec. 14.25.102. CREDIT FOR SERVICE FOR LEAVE OF ABSENCE WITHOUT
21 PAY DUE TO PREGNANCY, BIRTH, ADOPTION, AND CERTAIN CHILD CARE. (a) A
22 member is entitled to credit for service for up to 16 weeks of leave
23 of absence without pay authorized by an employer if the reason for the
24 leave of absence is

- 25 (1) pregnancy of the member;
- 26 (2) birth of the child of the member;
- 27 (3) placement of a child with the member in connection with
28 the adoption of the child by the member; or
- 29 (4) care of the child immediately following the child's

1 birth or placement with the member.

2 (b) To obtain credit for service under this section, the member
3 must elect to do so and shall provide verification from the employer
4 for the approved leave of absence under (a) of this section.

5 (c) After eligibility for the leave of absence service credit is
6 established, the administrator shall determine the indebtedness. The
7 indebtedness is equal to the full actuarial cost of providing benefits
8 for the service claimed and shall be based on base salary and age at
9 the time the approved leave began. Interest as prescribed by regula-
10 tion accrues on the indebtedness from the date that the approved leave
11 of absence ended.

12 (d) An outstanding indebtedness existing at the time that the
13 member retires requires an actuarial adjustment to the benefits pay-
14 able based on the approved leave of absence.

15 (e) This section does not require an employer to approve a leave
16 of absence without pay for a period longer than that allowed by stat-
17 ute or regulation. This section does not prevent approval of leave of
18 absence without pay, for the reasons set out in (a) of this section,
19 under AS 14.20.345 if a district has a policy of approving leave
20 without pay for those reasons under AS 14.20.345 and if approval of
21 leave without pay under that section would be more advantageous to the
22 member.

23 * Sec. 3. AS 22.25 is amended by adding a new section to read:

24 Sec. 22.25.015. CREDIT FOR SERVICE FOR LEAVE OF ABSENCE WITHOUT
25 PAY DUE TO PREGNANCY, BIRTH, ADOPTION, AND CERTAIN CHILD CARE. (a) A
26 justice or judge is entitled to credit for service for up to 16 weeks
27 of authorized leave of absence without pay if the reason for the leave
28 of absence is

29 (1) pregnancy of the justice or judge;

1 (2) birth of the child of the justice or judge;

2 (3) placement of a child with the justice or judge in
3 connection with the adoption of the child by the justice or judge; or

4 (4) care of the child immediately following the child's
5 birth or placement with the justice or judge.

6 (b) To obtain credit for service under this section, the justice
7 or judge must elect to do so and shall provide verification from the
8 court administrator for the approved leave of absence under (a) of
9 this section.

10 (c) After eligibility for the leave of absence service credit is
11 established, an indebtedness shall be determined, equal to the full
12 actuarial costs of providing benefits for the service claimed. In-
13 debtedness shall be based on base salary and age at the time the ap-
14 proved leave began. Interest, as prescribed by regulation, accrues on
15 the indebtedness from the date that the approved leave of absence
16 ended.

17 * Sec. 4. AS 39.20.225(b)(4) is amended to read:

18 (4) Pregnancy and childbirth or adoption is a medical
19 reason for an [A FEMALE] officer or employee to take personal leave.
20 An [A FEMALE] officer or employee, otherwise qualified for a leave of
21 absence, is entitled to take a maximum of 16 [NINE] weeks leave imme-
22 diately preceding and following childbirth or adoption. If the offi-
23 cer's or employee's accrued personal leave is insufficient for this
24 purpose, the officer or employee is entitled to take leave without pay
25 for the balance of the 16-week [NINE-WEEK] period.

26 * Sec. 5. AS 39.35.330(b) is amended to read:

27 (b) Except as provided in AS 39.35.335, a [A] leave of absence
28 without pay that exceeds 10 working days in any calendar year or lay-
29 off status authorized by an employer will be considered as an

1 interruption of employment and no credited service will be granted.

2 * Sec. 6. AS 39.35 is amended by adding a new section to read:

3 Sec. 39.35.335. CREDIT FOR SERVICE FOR LEAVE OF ABSENCE WITHOUT
4 PAY DUE TO PREGNANCY, BIRTH, ADOPTION, AND CERTAIN CHILD CARE. (a)

5 An employee is entitled to credit for service for up to 16 weeks of
6 leave of absence without pay authorized by an employer if the reason
7 for the leave of absence is

8 (1) pregnancy of the employee;

9 (2) birth of the child of the employee;

10 (3) placement of a child with the employee in connection
11 with the adoption of the child by the employee; or

12 (4) care of the child immediately following the child's
13 birth or placement with the employee.

14 (b) To obtain credit for service under this section, the employ-
15 ee must elect to do so and shall provide verification from the employ-
16 er for the approved leave of absence under (a) of this section.

17 (c) After eligibility for the leave of absence service credit is
18 established, an indebtedness must be determined, equal to the full
19 actuarial cost of providing benefits for the service claimed. Indebt-
20 edness shall be based on the employee's age and on the actual compen-
21 sation during the 12 months before the approved leave of absence
22 began, or, if the employee did not work full time during the 12 months
23 before the approved leave began, on the annualized compensation.
24 Interest, as prescribed by regulation, accrues on the indebtedness
25 from the date that the approved leave of absence ended.

26 (d) Any outstanding indebtedness existing at the time that the
27 employee retires requires an actuarial adjustment to the benefits pay-
28 able based on the approved leave of absence.

29 (e) This section does not require an employer to approve a leave

1 of absence without pay for a period longer than that allowed by stat-
2 ute or regulation.

3 * Sec. 7. Within 90 days after the effective date of this section, the
4 Department of Administration shall publish notice of the provisions of this
5 Act in the regularly published newsletters of the division of retirement
6 and benefits and in newspapers of general distribution in each judicial
7 district of the state.

8 * Sec. 8. Section 7 of this Act takes effect immediately in accordance
9 with AS 01.10.070(c).


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Alaska Public
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

TO: Representative Mike Miller, Chairperson
House Judiciary Committee

FROM: Cherie Shelley 
Executive Director, APEA

SUBJECT: House Bill 238 - Credit for certain leave without pay

DATE: April 1, 1985

The Alaska Public Employees Association supports House Bill 238 allowing credit for service in the state's retirement systems for certain leave without pay. The credit would be authorized when the reason for the leave of absence is

1. pregnancy of the member;
2. birth of the child of the member;
3. placement of a child with the member in connection with the adoption of the child by the member; or
4. care of the child immediately following the child's birth or placement with the member.

The legislation would allow the member the opportunity to obtain credit for the time on leave without pay by establishing an indebtedness to the system for the full actuarial cost of providing benefits for the service claimed. The legislation provides employees with the opportunity to purchase the service credits.

This bill reduces the inherent discriminatory nature of the retirement systems in dealing with women during pregnancy and following birth or adoption of a child.

CS/kg

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

7/25/89
Date

H B

2 4 0

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Transportation 3/14/85 7 AM

House Judiciary 4/2/85 1:30 pm

" " 4/19/85 1:15 pm

Alaska State Legislature



House of Representatives

DISTRICT 27:

AKHIOK
CHIGNIK
CHIGNIK LAGOON
CHIGNIK LAKE
CHINIAK
IVANOF BAY
KARLUK
KODIAK
LARSEN BAY
OLD HARBOR
OUZINKIE
PERRYVILLE
PORT LIONS
WOMENS BAY

REPRESENTATIVE
DAVE THOMPSON

POUCH V
JUNEAU, ALASKA 99811
(907) 465-2487
(907) 465-2498

P.O. BOX 75
KODIAK, ALASKA 99815
(H)(907) 486-4899
(L)(907) 486-8116

April 30, 1985

TO: Rep. Mike Miller, Chairman
Rep. John Sund, Vice Chairman
Rep. Max Gruenberg
Rep. Robin Taylor
Rep. Don Clocksin
Rep. Fritz Pettyjohn
Rep. Randy Phillips

FR: Rep. Dave Thompson *D.T.*

RE: HB 240

HB 240, passing stopped school busses, addresses a problem that has received unanimous agreement about the need for a solution. My attempts to word a statute providing a remedy for treating drivers causing the problem has met with mixed opinion from the legal community. This opinion seems to ebb and flow with the tide.

I understand the concern with original wording of this bill. I am now requesting suggestions for language to restore that original intent (sec. d.; attached).

Please consider the extent and severity of this problem and give me your best thinking for a solution.

att/HB 240, sec. d

COMMITTEE REPORT
HOUSE

4/22
Ruler

(7)

FURTHER:

3/15/85

Date: _____

The Committee on JUDICIARY has had HB 240
"An Act relating to motor vehicles."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 240 (JUD) same title
 new title
- and recommends it do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

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MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

CHAIRMAN

TO: CSHB 240

Page 1, line 29, through Page 2, line 4, delete all material

Page 2, line 5, delete "(e)" and insert "(d)"

Page 2, after line 9, insert:

"(e) The owner of a vehicle or lessee of a leased vehicle driven in violation of this section is subject to a civil ^{fine} ~~penalty~~ to be determined by a court in an amount not to exceed \$300."

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB-240
Title: ...motor vehicles

FISCAL DETAIL

Agency Affected: Education
Program Category Affected: _____

Sponsor: Thompson, et al.
Requestor: House Transportation
Date of Request: 3-11-85

BRU, Program or Subprogram(s) Affected: Rural Transportation

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONNEL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 SUPPLIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 0 | 0 | 0 | 0 | 0 |

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| CAPITAL | | | | | | |
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| REVENUE | | | | | | |
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FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|---|---|---|---|---|
| GENERAL FUND | | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | | | | | | |
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| TOTAL | | | | | | |

POSITIONS:

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| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: Attach a separate page if necessary

This bill has no fiscal impact on this department.

Prepared By: Steve Hole Phone: 2800
Division: Commissioner's Office Date: 3-11-85
Approved by Commissioner: Harold Reynolds, Jr. Date: 3-11-85
Agency: Education

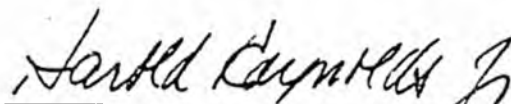
Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

7/1/84

POSITION PAPER OF THE DEPARTMENT OF EDUCATION

FOURTEENTH ALASKA LEGISLATURE
House Bill 240

The Department of Education supports this bill. Its provisions should result in safer conditions for passengers on and operators of school buses.



Harold Reynolds, Jr.
Commissioner

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 11, 1985

SUBJECT: Sectional Analysis of HB 240
TO: Representative David Thompson
FROM: George W. Edwards *GWE*
Legislative Counsel

This is in response to your request for a sectional analysis of HB 240 concerning overtaking and passing a school bus.

Section 1 AS 28.35 is amended by adding a new section. Section 28.35.145(a) requires that a driver of a vehicle that meets or overtakes a school bus stopped on a highway or vehicular way or area must stop at least 25 feet before reaching the school bus when the bus has red lights flashing. The driver must remain stopped until the bus proceeds, the red lights are extinguished, or the bus operator gives a signal to proceed.

Subsection (b) requires that the driver of a vehicle yield the right of way to a person crossing a highway or vehicular way or area to embark on or disembark from a school bus, regardless of whether the school bus has red lights flashing or whether the person crosses outside of a crosswalk.

Subsection (c) provides that the driver of a vehicle on a highway with separate roadways is not required to stop for a school bus on a different roadway or, when driving on a controlled access highway, for a school bus stopped in a loading zone if pedestrians are not permitted to cross the highway.

Subsection (d) provides that in a prosecution under (a) or (b) of this section the trier of fact may presume, subject to rebuttal by the accused, that the leasor of a leased vehicle or the owner of any other vehicle was the driver of the vehicle if other evidence identifies the vehicle as

Representative David Thompson
March 11, 1985
page 2

having been driven in violation of this section at the time
and place charged.

Subsection (e) provides that a person convicted under this
section is guilty of an infraction. An infraction carries a
maximum penalty of a \$300 fine.

GWE:csh
c3/038

RELATIVE TO SCHOOL BUS STOP ARM VIOLATIONS

WHEREAS, the safety of all Alaska school children who are transported to and from school is jeopardized by motorists who pass school buses displaying the red flashing stop lights while loading and unloading school children, and

WHEREAS, these violations occur in rural areas as well as in urbanized areas each school day in Alaska where an estimated 2,000 violations occur each school year with a negligible citation and conviction rate estimated to be less than 1%, and

WHEREAS, in the absence of identification and conviction of these motorists there exists no effective deterrent to the continuing lack of sensitivity to the safety of Alaska school children and is a discouragement to pupil transportation professionals in Alaska, and

WHEREAS, current reporting requirements set out in Alaska state law for stop arm violations have proven to be usually impossible to satisfy in the everyday work situation, and

WHEREAS, conviction of motorists who commit these violations and endanger the lives of Alaska school children is effectively stifled because of these onerous requirements,

NOW THEREFORE BE IT RESOLVED, that the Alaska School Bus Safety Committee urges the Alaska State Legislature to strengthen the current law to allow for citation and vigorous prosecution of the registered owner of the vehicle responsible for violating the law.

Alexander J. Nutbrown
Chairperson
Alaska School Bus Safety Committee

February 27, 1985
Date

Rule 303. Presumptions in General in Criminal Cases.**(a) Effect.**

(1) *Presumptions Directed Against an Accused.* In all criminal cases when not otherwise provided for by statute, by these rules or by judicial decision, a presumption directed against the accused imposes no burden of going forward with evidence to rebut or meet the presumption and does not shift to the accused the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. However, if the accused fails to offer evidence to rebut or meet the presumption, the court must instruct the jury that it may, but is not required to, infer the existence of the presumed fact from the proved fact, but no mention of the word "presumption" shall be made to the jury. If the accused offers evidence to rebut or meet the presumption, the court may instruct the jury that it may, but is not required to, infer the existence of the presumed fact from the proved fact, but no mention of the word "presumption" shall be made to the jury.

(2) *Presumptions Directed Against the Government.* In all criminal cases when not otherwise provided for by statute, by these rules, or by judicial decision, a presumption directed against the government shall be treated in the same manner as a presumption in a civil case under Rule 301.

(b) Prima Facie Evidence. A statute providing that a fact or group of facts is prima facie evidence of another fact establishes a presumption within the meaning of this rule.

(c) *Inconsistent Presumptions.* If two presumptions arise which conflict with each other, the court shall apply the presumption which is founded on the weightier considerations of policy and logic. If there is no such preponderance, both presumptions shall be disregarded. (Added by Supreme Court Order 364 effective August 1, 1979)

§ 28.35.135

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State, Sup. Ct.
33), 605 P.2d 16

ite, Sup. Ct. Op.
. 528 P.2d 1179

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§ 28.35.140

MOTOR VEHICLES

§ 28.35.155

Cross references. — For crime of
unsworn fabrication, see AS 11.56.110;
for penalties, see AS 12.55.035(b)(3) and
12.55.135(a).

Effect of amendments. — The 1980

amendment substituted "unsworn falsi-
fication" for "perjury" following "is guilty
of" near the middle of the second sentence
in subsection (a).

Sec. 28.35.140. Unlawful obstruction or blocking of traffic. A
person may not purposely obstruct or block traffic on any roadway by
any means. However, a service vehicle such as a bus, garbage truck,
tow truck or ambulance may make brief stops on a roadway, which
stops on the roadway are necessary in the performance of its services.
(§ 50-5-7 ACLA 1949; am § 1 ch 174 SLA 1970)

NOTES TO DECISIONS

This law pertains to roads of suffi-
cient width and condition to permit
vehicles to pass, without injury to their
tires or other parts, and without danger of
collision. *Vogler v. Greimann*, 12 Alaska
19, 78 F. Supp. 575 (D. Alaska 1948).

On a two lane highway, even a one
foot obstruction could easily cause a
following car to swerve into the opposite
lane to clear a parked vehicle. This would
interfere with the normal flow of traffic
and amount to a violation under this sec-
tion. *Beaumaster v. Crandall*, Sup. Ct. Op.
No. 1589 (File No. 2845), 576 P.2d 988
(1978).

This section is not an exclusive list of
service vehicles. *Beaumaster v.*
Crandall, Sup. Ct. Op. No. 1589 (File No.
2845), 576 P.2d 988 (1978).

A driver, while not operating a pro-
fessional service vehicle, may be
engaged in the same activity as a ser-
vice vehicle would have been. *Beaumaster*
v. Crandall, Sup. Ct. Op. No. 1589 (File
No. 2845), 576 P.2d 988 (1978).

Such as pulling over to aid occu-
pants of overturned car. — This section
describes service vehicles as buses, gar-
bage trucks, tow trucks or ambulances,
but a reasonable construction of the stat-
ute would hold that one who pulled his car
over to the side of the road in an emer-
gency situation in order to aid the occu-
pants of an overturned car, was acting in a
service capacity. *Beaumaster v. Crandall*,
Sup. Ct. Op. No. 1589 (File No. 2845), 576
P.2d 988 (1978).

A person who pulled over to the side of
the road in an emergency situation in
order to aid the occupants of an overturned
car, apparently parking as far over on the
right as he could given the snow conditions
and the presence of a ditch on the side of
the road, and who also turned his emer-
gency flasher lights on, was entitled to
make a brief stop on the roadway as neces-
sary in the performance of samaritan
efforts. *Beaumaster v. Crandall*, Sup. Ct.
Op. No. 1589 (File No. 2845), 576 P.2d 988
(1978).

Collateral references. — 7A Ann. Jur.
2d, Automobiles and Highway Traffic,
§ 277.

61A C.J.S., Motor Vehicles, § 684.

Stopping vehicle on traveled portion of
highway as affecting responsibility for col-
lision between vehicles, 131 ALR 562.

**Sec. 28.35.150. Unlawful to interfere with or destroy official traffic
control device or highway construction: action by state for damages.**
[Repealed, § 25 ch 144 SLA 1977.]

**Sec. 28.35.155. Operation of vehicle with certain tires
prohibited.** (a) It is unlawful to operate a motor vehicle with studded

Sec. 28.01.020. Short title. This chapter may be cited as the Alaska Uniform Traffic Laws Act. (§ 3 ch 241 SLA 1976)

Chapter 05. Administration.

Article

1. Powers and Duties of Department of Public Safety (§§ 28.05.011 — 28.05.071)
2. Vehicle Equipment Standards (§§ 28.05.081 — 28.05.099)
3. Subpoenas, Notices and Hearings (§§ 28.05.111 — 28.05.141)
4. Disposition of Certain Vehicle and Traffic Offenses (§ 28.05.151)

Article 1. Powers and Duties of Department of Public Safety.

| Section | Section |
|--|---|
| 11. Duty of commissioner to adopt regulations | 41. Commissioner to prescribe forms, examine applications, and administer oaths |
| 21. Commissioner to enter compacts and reciprocal agreements | 51. Suspended or revoked documents |
| 31. Department to publish statutes and regulations relating to vehicles, vehicle use and pedestrians | 61. Records of department and certified copies of records |
| | 71. Change of name or address |

Sec. 28.05.010. Powers and duties. [Repealed, § 6 ch 178 SLA 1978.]

Sec. 28.05.011. Duty of commissioner to adopt regulations. The commissioner shall, unless otherwise provided by statute, adopt regulations in compliance with the Administrative Procedure Act (AS 44.62) necessary to carry out the provisions of this title and other statutes the administration of which is vested in the department. The regulations shall include, but not be limited to:

(1) rules of the road relating to the driving, stopping, standing, parking and other conduct of vehicles, to pedestrians and to official traffic control devices;

(2) minimum equipment for vehicles, including, but not limited to, minimum standards of compliance to be met by manufacturers and vehicle sales and repairs businesses;

(3) inspection of vehicles, and the removal of vehicles from areas of public use when they are found to be in a defective or unsafe condition;

(4) registration, titling, transfer and abandonment of vehicles;

(5) licensing of drivers of vehicles;

(6) financial responsibility relating to vehicles;

(7) management of records of the department required for the administration of this title and regulations adopted under this title, including provisions for insuring the accuracy of information contained in automated and manual information retrieval systems;

(8) *[Repealed, § 3 ch 77 SLA 1982.]*

§ 28.05.011

§ 28.05.011

MOTOR VEHICLES

§ 28.05.011

- (9) definitions of words and phrases used in this title and in regulations adopted under this title unless otherwise provided by statute;
- (10) registration of motor vehicle, trailer, and semi-trailer dealers; and
- (11) certification and regulation of junk yards. (§ 6 ch 178 SLA 1978; am § 3 ch 77 SLA 1982)

Cross references. — For regulations adopted under this section, see generally 13 Alaska Admin. Code 02 — 40 and 70; for rules of road, see 13 AAC 02; for required equipment and inspection, see 13 AAC 04; for authority of Department of Transportation and Public Facilities to establish weight, size and load limitations, see AS 19.10.060; for present provisions of former paragraph (8) of this section, see AS 44.33.020(25).

Effect of amendments. — The 1982

amendment repealed paragraph (8), concerning operation of motor vehicle weighing stations.

Opinions of attorney general. — Statutes may be enforced on streets not within state highway system. The Department of Public Safety has the authority to enforce all traffic statutes and regulations upon dedicated or public subdivision streets, regardless of whether they are in the state highway system. 1965 Op. Att'y Gen., No. 10.

NOTES TO DECISIONS

Editor's notes. — Many of the cases cited below were decided under former AS 28.05.030.

Power of commissioner includes regulation of motorcycle construction and safety apparel. — The power of the commissioner of public safety to adopt regulations governing rules of the road has been interpreted as including the regulation of motorcycle construction and safety apparel insofar as such regulations are reasonable and do not violate constitutional rights of the individual. *Kingery v. Chapple*, Sup. Ct. Op. No. 858 (File No. 1554), 504 P.2d 831 (1972).

Wholesale frontal assault on traffic laws not intended. — Although the supreme court strongly presumes that most traffic regulations do in fact provide standards of reasonable behavior, it is conceivable that in highly unusual cases certain traffic laws may be so obscure, oblique or irrational that they could not be said as a matter of law to provide such a standard. In the event the courts of Alaska are faced with such arbitrary and unreasonable laws, they may provide that violations thereof merely indicate some evidence of negligence or no evidence at all. But it should be emphasized that the supreme court does not intend to signify a wholesale frontal assault on Alaska's wise and comprehensive traffic laws. *Ferrell v. Baxter*, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Certain class of individual to be protected from certain type of harm. — In promulgating traffic laws and regulations the legislature, sometimes expressly, but more often by implication, indicates a policy that a certain class of individual be protected from a certain type of harm. For example, in the case at bar the regulation requiring drivers to remain within their lanes was at least partly designed to protect oncoming motorists against head-on collisions. By enacting the regulation pursuant to statutory authority, the Department of Public Safety has implicitly indicated that no reasonable person would move from his lane before ascertaining it could be done safely. Therefore, before a plaintiff is entitled to an instruction defining the violation as negligence per se, he must first demonstrate that he is among the protected class and, second, that the injury was caused by a harm against which the law was designed to protect. *Ferrell v. Baxter*, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Restatement rules adopted. — The rules the supreme court adopts to be applied in this state in trials held after the date of this opinion are those set forth in the Restatement (Second) of Torts §§ 286, 288A, and 288B (1965). Trial courts should apply these rules whether the actor is alleged to have violated a traffic statute, regulation, or ordinance. Restatement (Second) of Torts § 286 (1965) provides: "The court may adopt as the standard of

conduct of a reasonable man the requirements of a legislative enactment or an administrative regulation whose purpose is found to be exclusively or in part (a) to protect a class of persons which includes the one whose interest is invaded, and (b) to protect the particular interest which is invaded, and (c) to protect that interest against the kind of harm which has resulted, and (d) to protect that interest against the particular hazard from which the harm results." Restatement (Second) of Torts § 288A (1965) provides: "(1) An excused violation of a legislative enactment or an administrative regulation is not negligence. (2) Unless the enactment or regulation is construed not to permit such excuse, its violation is excused when (a) the violation is reasonable because of the actor's incapacity; (b) he neither knows nor should know of the occasion for compliance; (c) he is unable after reasonable diligence or care to comply; (d) he is confronted by an emergency not due to his own misconduct; (e) compliance would involve a greater risk of harm to the actor or to others." Restatement (Second) of Torts § 288B (1965) provides: "(1) The unexcused violation of a legislative enactment or an administrative regulation which is adopted by the court as defining the standard of conduct of a reasonable man, is negligence in itself. (2) The unexcused violation of an enactment or regulation which is not so adopted may be relevant evidence bearing on the issue of negligent conduct." These rules are equitable. They are already widely followed. The previous Alaska cases, rightly construed, are all consistent with these rules. Wide changes in personal injury liability should not occur as a result of the adoption of these rules. These rules will greatly promote stability in the law, and will simplify and expedite the many personal injury cases in our trial courts. These rules provide that the law allegedly violated must be applicable to the situation. If the law is adopted by the court as providing a fair and just standard of reasonable behavior and the violation is not excused, the violation will be negligence per se. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971). But see Clabaugh v. Botcher, Sup. Ct. Op. No. 1235 (File No. 2000), 545 P.2d 172 (1976).

By adopting these rules the supreme court provides a basic method of determining extenuating circumstances which will excuse the violation. The list is not rigid. Comment a to § 288A of the Restatement states: "The list of situations in which a violation may be excused is not

intended to be exclusive. There may be other excuses." The rule will cover most situations. Other extenuating circumstances will have to depend upon the facts of each case. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

The fear that obscure or antiquated laws may be utilized to trap the unwary should prove groundless under the above rules. In the first place the court will be free under § 286 to refuse to adopt such a law as the standard of a reasonable man. However, the supreme court wishes to caution both bench and bar that it believes most traffic laws in this state do in fact represent reasonable behavioral standards. The supreme court does not intend that the inclusion of Section 288B(2) as part of the adopted rules signals a wholesale assault upon Alaska traffic laws. The purpose of adoption of that subsection is to provide an alternative in the rare instance in which, for one reason or another, the violated law cannot fairly be said to require reasonable behavior. Needless to say, in its review of such challenged laws the supreme court shall cast a strong presumption in favor of the legislative enactment or regulation. The supreme court expects the trial courts of this state to do the same. However, in the unlikely event the court does not adopt the statutory command as the standard of reasonable behavior, it may either permit the violation to be introduced as evidence relevant to the negligence issue — or it may exclude it altogether. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

The general rule to be applied in the majority of cases remains that all drivers are presumed to know the law. And if a reasonably prudent man would take precautions in addition to those statutorily required, the court may, of course, find defendant negligent for failing to do so. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

It is certainly fair to require all drivers, who must be tested on these traffic laws and regulations before they may obtain driver's licenses, to know and obey the rules of the road. In few areas is the ancient presumption of universal legal knowledge more fairly applied. It is both just and accurate to presume that all reasonable drivers know and obey the law, and to hold them civilly as well as criminally responsible for any unexcused violations thereof. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

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Statutes, regulations, and ordi-
nances comprising the rules of the
road represent the fundamental guide-
lines by which society transports people
and things in an orderly manner from
place to place. To abrogate these rules
would not only lead to legal chaos, it would
drastically impair the functioning of our
necessarily mobile society and economy.
Ferrell v. Baxter, Sup. Ct. Op. No. 688
(File No. 1041), 484 P.2d 250 (1971).

Traffic laws serve two purposes. —
Traffic laws, including statutes, regu-
lations, and local ordinances, serve two
purposes in this state. First, they provide
criminal penalties, often minor, for their
violation. Second, they set the standard of
a reasonable man and thereby require a
finding of negligence in a tort action if the
plaintiff can prove that the defendant
committed an unexcused violation. Ferrell
v. Baxter, Sup. Ct. Op. No. 688 (File No.
1041), 484 P.2d 250 (1971).

Traffic laws prescribe the legal duty
or standard of care owed by the driver
to the general public who may be injured
if such standard is not met. Ferrell v.
Baxter, Sup. Ct. Op. No. 688 (File No.
1041), 484 P.2d 250 (1971).

And a violation of a statute, regu-
lation, or ordinance is a breach of that
duty and, unless excused, results in a
prima facie showing that the defendant did
not act towards the plaintiff as would a
reasonably prudent driver. Ferrell v.
Baxter, Sup. Ct. Op. No. 688 (File No.
1041), 484 P.2d 250 (1971).

Tort consequences for a traffic viola-
tion. — See Ferrell v. Baxter, Sup. Ct. Op.
No. 688 (File No. 1041), 484 P.2d 250
(1971).

Civil consequences of violation of
traffic statute, regulation, or
ordinance. — See Ferrell v. Baxter, Sup.
Ct. Op. No. 688 (File No. 1041), 484 P.2d
250 (1971).

The violation-of-statute doctrine
assists plaintiff to establish a firm duty to
impose upon the defendant. Ferrell v.
Baxter, Sup. Ct. Op. No. 688 (File No.
1041), 484 P.2d 250 (1971).

For an examination of the theoretical
underpinnings of the doctrine of statu-
te-based negligence and comparison of
the differing views of the various jurisdic-
tions, see Ferrell v. Baxter, Sup. Ct. Op.
No. 688 (File No. 1041), 484 P.2d 250
(1971).

Doctrine of *res ipsa loquitur*. — See
Ferrell v. Baxter, Sup. Ct. Op. No. 688
(File No. 1041), 484 P.2d 250 (1971).

Res ipsa loquitur procedurally assists
the plaintiff in his proof in certain incom-
plete factual settings. Ferrell v. Baxter,
Sup. Ct. Op. No. 688 (File No. 1041), 484
P.2d 250 (1971).

A violation of a traffic law is negli-
gence per se. Ferrell v. Baxter, Sup. Ct.
Op. No. 688 (File No. 1041), 484 P.2d 250
(1971). But see Claubaugh v. Bottcher,
Sup. Ct. Op. No. 1235 (File No. 2481), 545
P.2d 172 (1976).

The violation of either an applicable
traffic statute or regulation which has
been adopted by the court as a standard of
reasonable behavior is negligence per se.
Ferrell v. Baxter, Sup. Ct. Op. No. 688
(File No. 1041), 484 P.2d 250 (1971). But
see Claubaugh v. Bottcher, Sup. Ct. Op.
No. 1235 (File No. 2481), 545 P.2d 172
(1976).

A violation of a statewide admin-
istrative traffic regulation adopted
pursuant to statutory authority must be
equated with a violation of a traffic statute
itself. Ferrell v. Baxter, Sup. Ct. Op. No.
688 (File No. 1041), 484 P.2d 250 (1971).
But see Claubaugh v. Bottcher, Sup. Ct.
Op. No. 1235 (File No. 2481), 545 P.2d 172
(1976).

Difference between negligence per
se and mere evidence of negligence. —
Assuming causation is shown, if a plaintiff
proves that a defendant violated a traffic
law prescribing a standard of reasonable
behavior, and the defendant produces
nothing to the contrary, plaintiff's case is
then sufficiently strong to warrant a judg-
ment in his favor. However, if the law is
not held to establish a standard of reason-
able behavior and its violation is further
held merely to constitute evidence of negli-
gence which may, but need not, be con-
sidered determinative by the trier of fact,
the judge need not render a verdict for the
plaintiff. Ferrell v. Baxter, Sup. Ct. Op.
No. 688 (File No. 1041), 484 P.2d 250
(1971).

Judgment for plaintiff in absence of
defense. — Unless the defendant offers
evidence of some defense, judgment for the
plaintiff will be required in those jurisdic-
tions in which a traffic violation is negli-
gence in itself. Ferrell v. Baxter, Sup. Ct.
Op. No. 688 (File No. 1041), 484 P.2d 250
(1971).

Prima facie case satisfies burden of
proof. — When the plaintiff establishes a
prima facie case, that is enough to satisfy
the burden of proof when the evidence is
not in conflict. Ferrell v. Baxter, Sup. Ct.
Op. No. 688 (File No. 1041), 484 P.2d 250
(1971).

Certain traffic violations may be excused. *Ferrell v. Baxter*, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

One such excuse can be that the violation was caused by outside forces, either man-made or natural, over which the actor had no control. *Ferrell v. Baxter*, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Contributory negligence. — Once a traffic violation has been proved, the defendant can offer any one of several defenses. For example, the contributory negligence of the plaintiff will be such a defense. *Ferrell v. Baxter*, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Violation excused under § 288A(2)(c) of Restatement. — If a trial court holds that a statute sets forth the standard of reasonable behavior and admits evidence of its violation, the court still may, in appropriate cases, permit the defendant to introduce evidence that although he did in fact violate the law, its meaning was so obscure or unreasonable that he acted

with all due care in attempting to obey it. In this case his violation could be excused under § 288A(2)(c) of the Restatement. *Ferrell v. Baxter*, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Construction of 13 AAC 02.485(a). — Study of 13 AAC 02.485(a), which provides that "a driver of a vehicle may not back the vehicle unless the movement can be made with safety and without interfering with the traffic," and this section, under which this regulation was promulgated, reveals no reason why the regulation should be construed to prohibit an emergency excuse. *Wilson v. Sibert*, Sup. Ct. Op. No. 1151 (File No. 2165), 535 P.2d 1034 (1975).

For application of rules and regulations governing roads and highways to military base in absence of federal statute, see *Hundley v. United States*, 15 Alaska 551, 131 F. Supp. 655 (D. Alaska 1955).

Cited in *Anderson v. Municipality of Anchorage*, Ct. App. Op. No. 89 (File No. 5318), 645 P.2d 205 (1982).

Collateral references. — Constitutionality of legislative delegation of powers to prescribe or vary regulations concerning motor vehicles used on highways, 87 ALR 546.

Power to limit weight of vehicle or load thereon with respect to use of highways, 26 ALR 747, 75 ALR2d 376.

Sec. 28.05.020. Authority of highway commissioner. [Repealed, § 6 ch 178 SLA 1978.]

Sec. 28.05.021. Commissioner to enter compacts and reciprocal agreements. The commissioner may, under terms and conditions best calculated to promote the interests of the state, enter into a compact or agreement with an authorized representative of another jurisdiction in a matter relating to driver licensing, vehicle registration, or other activity authorized under this title. A compact or agreement affecting state finances or driving privileges must be approved by adoption of a concurrent resolution approved by a majority vote of each house of the legislature before it becomes effective. (§ 6 ch 178 SLA 1978)

Secs. 28.05.025, 28.05.030. Authority of Department of Commerce and public safety commissioner [Repealed, § 6 ch 178 SLA 1978.]

Sec. 28.05.031. Department to publish statutes and regulations relating to vehicles, vehicle use and pedestrians. (a) The department shall publish current state statutes and regulations

13 AAC 02.260. OVERTAKING AND PASSING SCHOOL BUS. (a) The driver of a vehicle meeting or overtaking a school bus stopped on a highway must stop before reaching the school bus when there is in operation on the school bus flashing red lights as provided in 13 AAC 04.097. The driver may not proceed until the school bus resumes motion, he is signaled by the school bus driver to proceed, or the flashing red lights are no longer illuminated.

(b) Repealed 6/28/79.

(c) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway, or when upon a controlled-access highway and the school bus is stopped off the roadway in a loading zone which is part of, or adjacent to, the controlled-access highway and where pedestrians are not permitted to cross the roadway.

(d) When a school bus is stopped on a roadway, whether or not there are in operation flashing red lights as required in 13 AAC 04.097, the driver of a vehicle shall yield the right-of-way to children crossing a roadway to embark on or disembark from the school bus, whether or not the children are crossing within a marked crosswalk, or crossing the roadway upon which the bus is located. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

13 AAC 02.265. STOP WHEN TRAFFIC MAY BE OBSTRUCTED. No driver may enter an intersection or crosswalk, or drive onto a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is driving without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding a traffic-control signal indication to proceed. (Eff. 6/28/79, Reg. 70)

Authority: AS 28.05.011

**ARTICLE 7.
SPEED RESTRICTIONS**

| | |
|----------------|--|
| Section | |
| 275. | Basic rule and maximum limits |
| 280. | Alteration of limits by state and municipalities |
| 285. | (Repealed) |
| 290. | (Repealed) |
| 295. | Minimum speed regulation |
| 300. | (Repealed) |
| 305. | (Repealed) |
| 310. | (Repealed) |
| 315. | (Repealed) |
| 320. | (Repealed) |
| 325. | Special speed limitations |
| 330. | Racing on highways |

13 AAC 02.275. BASIC RULE AND MAXIMUM LIMITS. (a) No person may drive a vehicle at a speed greater than is reasonable and prudent considering the traffic, roadway, and weather conditions.

(b) Except when a special hazard exists that requires a lower speed for compliance with (a) of this section, the limits specified in this subsection are the maximum lawful speeds throughout the state, and no person may drive a vehicle at a speed in excess of these maximum limits, unless otherwise posted:

- (1) 15 miles per hour in an alley;
 - (2) 20 miles per hour in a business district;
 - (3) 25 miles per hour in a residential district;
- or
- (4) 55 miles per hour on any other roadway.

(c) Repealed 6/28/79.

(d) Repealed 6/28/79.

(e) The maximum speed limits set forth in (b) of this section may be altered as authorized in sec. 280 of this chapter. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

yellow. The lights authorized by this section must be visible from a distance of not less than 500 feet in normal sunlight.

(g) A tow car must be equipped with a flashing yellow warning light visible at 500 feet in normal sunlight to the front, rear and both sides. The tow car must illuminate the yellow warning light during preparation at the location from which a disabled vehicle is to be towed, and the yellow warning light must be illuminated when the tow car is towing a vehicle at a speed slower than the normal flow of traffic, during the hours of darkness when the towed vehicle does not have taillights illuminated to the rear, or when the taillights, stop lights or turn signals on the tow car are obscured by the towed vehicle. The flashing warning light may not be illuminated except as provided in this section.

(h) A vehicle used for the purpose of mail or other delivery along a highway must illuminate the lights required by this section at least 100 feet, but not more than 500 feet, before making a stop as required in the official performance of the duties of the driver of the vehicle. Display of the lights must continue for as long as the conditions specified in (d) of this section exist. The lights must be visible to the front and rear of the vehicle at a distance of 500 feet in normal sunlight. Further, a mail delivery vehicle must clearly display to the front and to the rear of the vehicle, the words "U.S. MAIL" in letters at least eight inches high on a distinctively contrasting background; other vehicles used in making deliveries along a highway must display the words "DELIVERY VEHICLE" in a like manner.

(i) The lights specified in this section may not be turned on when a vehicle is

(1) parked lawfully in an urban district;

(2) stopped lawfully to avoid conflict with other traffic or to comply with the directions of a police officer, a fireman or an authorized flagman or an official traffic-control device; or

(3) otherwise stopped or driven when there do not exist the conditions specified in (c) of this section. (Eff. 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

13 AAC 04.097. SPECIAL SCHOOL BUS LIGHTING EQUIPMENT. (a) A school bus must, in addition to other equipment and distinctive markings required by this chapter, be equipped with signal lights mounted as high and as widely spaced laterally as practicable, which must display to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level. The lights must be visible at 500 feet in normal sunlight. The alternately flashing red lights must be illuminated by the driver of the school bus when, but only when, the bus is stopped for the purpose of receiving or discharging school children, except that the lights may not be illuminated in

(1) a designated school bus loading or unloading area where the bus is entirely off the roadway and a child being received into or discharged from the bus is not required to cross the roadway; or

(2) an intersection or other place where traffic is controlled by a traffic-control signal or by a police officer.

(b) A school bus must be equipped with yellow signal lights mounted near each of the four red lights required in (a) of this section and at the same level but closer to the vertical centerline of the bus. These lights must display two alternately flashing yellow lights visible to the front and rear of the bus for a distance of at least 500 feet in normal sunlight. The yellow flashing lights must be illuminated by the school bus driver at least 100 feet, but not more than 500 feet, before every stop at which the alternately flashing red lights are illuminated, at which time the alternately flashing yellow lights authorized by this section must be turned off.

(c) Every school bus must have indicator lights readily visible to the driver of the bus, which automatically indicate to the driver of the bus when any of the alternately flashing lights authorized by this section are illuminated. (Eff. 6/28/79, Reg. 70)

Authority: AS 28.05.011

Editor's Note: This section is based partially on the former 13 AAC 04.090(b) and 150(c)-(e).



LICENSEE

March 18, 1985

Representative M. Mike Miller
Alaska State Legislature
Pouch V (MS3100)
Juneau, Alaska 99811

Dear Mr. Miller:

I have just reviewed a copy of House Bill No. 240 relating to motor vehicles. We at Avis strongly support the intent of the bill, but equally strongly object to subparagraph (d), lines 29, 1-4: "it is prima facie evidence that the leasor of a leased vehicle or the owner of another vehicle was the driver of the vehicle if other competent evidence identified the vehicle as having been driven in violation of this section at the time and place charged."

To assign responsibility to a lessor for the actions of the driver of a leased or rented vehicle is entirely inappropriate and unreasonable. The negligence of the driver of a leased or rental vehicle can under no circumstances I can envisage be imputed to the lessor. Indeed, if there is negligence or responsibility other than the driver's, it appears to me it is the state agency that issued the driver's license in the first place.

I urge that this be corrected before this bill is acted upon. Thank you for your help.

Sincerely,

A handwritten signature in cursive script that reads "Jack B. Hayes".

J. B. Hayes, Vice President
and General Manager

:cm

Original sponsors: Thompson, Cato
and Sund

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 240 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to overtaking and passing school
7 buses."

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

9 * Section 1. AS 28.35 is amended by adding a new section to read:

10 Sec. 28.35.145. OVERTAKING AND PASSING SCHOOL BUS. (a) The
11 driver of a vehicle that meets or overtakes a school bus stopped on a
12 highway or vehicular way or area shall stop not less than 25 feet from
13 the school bus before reaching it when there are in operation on the
14 school bus flashing red lights as required by regulation. The driver
15 may not proceed until the school bus proceeds and the flashing lights
16 are no longer illuminated.

17 (b) When a school bus is stopped on a highway or vehicular way
18 or area, whether or not there are in operation on the school bus
19 flashing red lights as required by regulation, the driver of a vehicle
20 shall yield the right-of-way to a person crossing a highway, vehicular
21 way, or area to embark on or disembark from the school bus, whether or
22 not the person is crossing within a marked crosswalk.

23 (c) The driver of a vehicle on a highway with separate roadways
24 is not required to stop when meeting or passing a school bus that is
25 on a different roadway or, if upon a controlled access highway, when a
26 school bus is stopped off the highway in a loading zone that is at
27 of, or adjacent to, the controlled access highway, and pedestrians are
28 not permitted to cross the highway.

29 (d) A person charged under this section is required to enter a

1 court appearance. A person convicted under this section is guilty of
2 an infraction and, in addition to other penalties as provided by law,
3 is subject to a mandatory assessment of six demerit points under
4 AS 28.15.22, - 28.15.261.
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Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

April 2, 1985

Representative Mike Miller
Chair, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

I am writing to express a minor technical concern with CSHB 240, an act relating to motor vehicles, which is presently before the House Judiciary Committee.

This act would create a new vehicle and traffic offense for overtaking and passing a school bus. Section (e) of the proposed bill provides that a person charged under this section is required to enter a court appearance.

Under AS 28.05.151 (copy attached), the legislature has authorized the state supreme court to determine by rule or order those vehicle and traffic offenses that are amenable to disposition without court appearance, and to establish a schedule of bail forfeiture amounts which permit a person to avoid a court appearance by pleading guilty and mailing in the amount. The proposed language of this bill limits the otherwise broad discretion delegated to the supreme court.

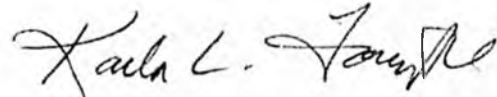
My concern with this language is that it may be difficult for the persons responsible for compiling the bail forfeiture schedule to keep track of each exception the legislature creates. One alternative might be to delete this sentence from the bill, and to provide a letter of legislative intent that this offense not be listed on the bail forfeiture schedule. This approach was followed by the legislature in authorizing adoption of a fish and game bail forfeiture schedule.

Another option would be to amend AS 28.05.151 as follows: "Except as otherwise provided by law, the state supreme court shall determine by rule or order those vehicle and traffic

offenses that are amenable to disposition without court appearance...".

Thank you for the opportunity to comment on this legislation. If I can provide further information about this concern, please let me know.

Sincerely,



Karla L. Forsythe
General Counsel

KLF:smh

cc: Arthur H. Snowden, II
Representative Thompson
Representative Taylor
Representative Cato
Representative Sund

KODIAK ISLAND BOROUGH
RESOLUTION NO. 85-38-R

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY SUPPORTING COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 240 CONCERNING OVERTAKING AND PASSING SCHOOL BUSES.

WHEREAS, Committee Substitute for House Bill No. 240 has been introduced which increases the regulations on passing school buses and stiffens the penalties for violations of this law, and

WHEREAS, school bus passing has been a serious problem in the Kodiak Island Borough during the current school year, and

WHEREAS, the State Troopers and City Police cannot be everywhere at once which means a greater deterrence must be placed in this law to encourage citizens to abide within the law, and

WHEREAS, the school children must be protected while loading and unloading on school buses.

NOW, THEREFORE, BE IT RESOLVED that the Kodiak Island Borough Assembly strongly supports Committee Substitute for House Bill No. 240 and urges that it be passed and signed into law, and

BE IT FURTHER RESOLVED that copies of this resolution be sent to the following individuals:

The Honorable Bill Sheffield, Governor of Alaska
The Honorable M. Mike Miller, Chairman House Judiciary Committee
The Honorable Fred F. Zharoff, Senator District N
The Honorable David W. Thompson, Representative District 27

PASSED AND APPROVED this 4th day of April, 1985.

KODIAK ISLAND BOROUGH

By Thomas H. Peterson
Borough Mayor

ATTEST:

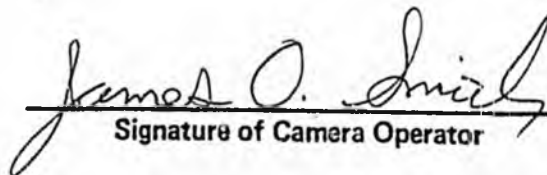
By Shirley Miller, CMC
Borough Clerk

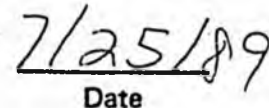


RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

7/25/89
Date

H B

2 4 1

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

| | | |
|-----------------|---------|---------|
| House Judiciary | 3/22/85 | 1:30 pm |
| " " | 3/26/85 | 1:30 pm |

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 25, 1985

SUBJECT: Expenditure of program receipts and interest earned on University of Alaska investments (CSHB 241 (Judiciary))

TO: Representative M. Mike Miller
Chairman, House Judiciary Committee

FROM: Keith B. Levy ^{KBL-}
Legislative Counsel

You have requested a redraft of CSHB 241 (Judiciary) to resolve the constitutional problems raised in a memorandum dated March 25, 1985. In that memorandum I indicated that sections 1 and 5 of the bill may be in violation of the dedicated funds provision the State Constitution (Article IX, section 7). Enclosed you will find a draft which resolves the problem.

The concern expressed in the memorandum of March 25 is that sections 1 and 5 of CSHB 241 (Judiciary) appear to allow the university to expend program receipts and income earned on investments of the university without a legislative authorization. In the enclosed draft, language has been added to section 1 to make it clear that university receipts may be spent only "in accordance with the Executive Budget Act (AS 37.07)." Language has also been added to section 5 of the bill to make it clear that interest income may be deposited in the working capital reserve fund only if "the legislature has made a general appropriation of federal or other program receipts that exceeds the amounts appropriated specifically." The effect of both of these provisions is to require that funds held by the university be appropriated before they may be spent. Accordingly, the constitution is not violated because there is no dedication of funds.

If I may be of further assistance, please feel free to contact me.

KBL:lmb
L4/061

Enclosure

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 25, 1985

SUBJECT: Dedication of program receipts and interest earned on University of Alaska investments (CSHB 241 (Judiciary))

TO: Representative M. Mike Miller
Chairman, House Judiciary Committee

FROM: Keith B. Levy ^{KB}
Legislative Counsel

You have asked whether a provision in CSHB 241 (Judiciary) prohibiting the University from investing in certain entities that do business with the Republic of South Africa violates the Foreign Commerce clause of the Constitution of the United States. The Foreign Commerce clause, Article I, section 8, clause 3, of the Federal Constitution provides that the United States Congress has the power to regulate commerce with foreign nations. This has been interpreted to be an exclusive power, meaning that the states may not regulate or put an unreasonable burden on foreign commerce. The provision in CSHB 241 (Judiciary) does not present a problem with respect to the Foreign Commerce clause because it does not restrict or regulate foreign commerce. It merely represents a policy decision by the state not to invest in business that supports the South African economy. Accordingly, the Foreign Commerce clause does not present a problem with respect to CSHB 241 (Judiciary).

The bill may, however, be in violation of the State Constitution. Section 1 of the bill allows the University of Alaska to "receive and spend" university receipts," presumably without an appropriation. Section 5 of the bill allows interest earned on University investments to be deposited directly into the University of Alaska working capital reserve fund without an appropriation from the legislature. These provisions may be in violation of the

prohibition against dedicated funds in Article IX, section 7 of the Constitution of the State of Alaska.

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article [the Alaska Permanent Fund] or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Thus, the State Constitution prohibits the dedication of certain state revenues to any special purpose except for three specific exceptions: the Alaska Permanent Fund, participation in federal programs, and funds grandfathered in at the time the constitution was adopted. It seems clear that the provisions in the bill requiring the dedication of interest income and allowing expenditure of program receipts do not fall into any of the exceptions expressly provided for in the dedicated funds clause.

Two questions are presented by the bill with respect to the dedicated funds clause. First, do interest income and program receipts constitute a "state tax or license" within the meaning of Article IX, section 7 of the State Constitution such that the dedicated funds clause applies at all? Second, does the expenditure of program receipts or placing interest income into the University of Alaska working capital reserve fund so that these funds may be used without an appropriation by the legislature amount to a dedication to a special purpose?

In a recent decision, the Supreme Court of Alaska had occasion to consider whether certain mandatory tax assessments to be paid directly to private aquaculture associations amounted to a "state tax or license" that would invoke the dedicated funds clause. State v. Alex, 646 P.2d 203 (Alaska 1982). Concluding that the assessment did come within the ambit of the dedicated funds provision, the court cited 1975 Alaska Op. Atty. Gen. No. 9 with approval:

. . . it is our conclusion that the dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever is limited by the state Constitution to those existing when the

Constitution was ratified or required for participation in federal programs. (Emphasis added.)

Alex, supra, at 210. This language indicates that the Supreme Court takes a very broad view of the kinds of revenue that amount to a state tax or license within the meaning of the dedicated funds provision. Program receipts seem to clearly fall within the ambit of the dedicated funds provision under the Alex decision. Interest income placed in a revolving fund is probably also subject to the provision, although it is of a slightly different character.

The Attorney General has released an opinion providing a thorough discussion of the dedicated funds clause. 1982 Alaska Op. Atty. Gen. (November 30). That opinion specifically discusses the applicability of the dedicated funds clause to interest income that is returned to a revolving fund. The opinion acknowledges that an argument could be made that placing interest generated by a fund back into the fund without an appropriation by the legislature does not violate the purpose of the dedicated funds clause. However, the Attorney General reached the following conclusion:

A difficulty that arises from the view that the dedicated funds prohibition is not applicable to interest or investment income on separate funds is that it permits steadily increasingly amounts of money to be received and used by state departments and agencies without legislative control through the annual budget process. This is precisely the problem posed by the dedication of revenue sources which the drafters [of the State Constitution] sought to avoid. For this reason, while we are not certain about the likely outcome, we doubt that a blanket exception for derivative income would be approved by the courts.

1982 Alaska Op. Atty. Gen., at 16 (November 30). Thus, in light of the significant amounts of interest generated by various state funds and the broad view of the dedicated funds clause taken by the Supreme Court, the dedication of interest income to the University of Alaska working capital reserve fund is at least open to constitutional attack.

Moreover, the bill may present an even greater constitutional problem than that discussed in the Attorney General's opinion. This is because the Attorney General's opinion

Representative M. Mike Miller
March 25, 1985
Page 4

considered only the dedication of the interest earned from a particular fund to that fund itself. Section 5 of the bill differs, however, in that it would dedicate the interest earned on all investments made by the University of Alaska to the working capital reserve fund. Thus, the relationship between the fund and the interest income which the Attorney General considered significant is lacking.

In conclusion, while the applicability of the dedicated funds clause to interest income remains undecided, there are strong indications that such a dedication of funds may be unconstitutional. The dedication of program receipts is almost certainly unconstitutional. This problem could be avoided by including a provision in the annual budget bill appropriating all program receipts and interest income earned on funds held by the University of Alaska to the working capital reserve fund. This would not guarantee that the money would be appropriated to the fund in future years, but it would provide that money to the university on an annual basis and thereby circumvent the constitutional problem.

KBL:ojb
J13/022

Amendment

To: HB 241

By: Clocksin

On p. 2, line 18, after "surplus"
insert

"except that no funds may be invested
in corporations or other business
firms that do business in or with
the Republic of South Africa until the
Board of Regents determines that the
oppression of its black citizens by the
Republic of South Africa has ended."

AMENDMENT

TO: HB 241

Offered in the House
Judiciary Committee
By: Gruenberg

Page 2, line 20, between "the excess may be expended" and "in",
insert "only".

AMENDMENT

TO: HB 241

Offered in the House
Judiciary Committee
By: Gruenberg

Page 3, line 25, between "Administration" and "by" insert, "and the legislature".



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill clarifying and codifying fiscal procedures for the University of Alaska.

This bill will settle three university fiscal issues:

- 1) administration of university receipts;
- 2) university authority to invest money and spend the interest earned on it; and
- 3) reallocation of state appropriations to the university.

1. Administration of university receipts:

Because it is a public, higher-education corporation established under the state constitution, the University of Alaska has several unique sources of revenue. Unlike the heads of other state agencies, members of the Board of Regents are trustees; they administer university money and property, and, while serving in that capacity, are accountable for all university receipts.

The university receives money from a variety of sources. In addition to state general fund appropriations, the university generates income from student tuition and fees; auxiliary enterprises; gifts, grants, and contracts; federal educational and research projects; sales and rentals of university educational properties; sales, rentals, and services of educational activities; and recovery of indirect costs of university activities.

Section 1 of the bill clarifies the Board of Regents' ability to receive and spend these sources of income. Section 2 requires the university president to establish procedures for receipt, expenditure, and reporting of university

receipts. Section 5 defines "university receipts." Section 8 allows the university to carry forward unexpended balances of these university receipts.

2. Investment of university money:

Unlike other state agencies, the university maintains a separate treasury, drawing cash from the state treasury in monthly installments. The university deposits money in interest-bearing accounts pending payment of payrolls and other obligations. While the university has received annual budget authority to receive and spend the interest earned, the attorney general has opined that the university has no statutory authority to do so.

The university and my administration agreed to clarify this statutory authority, using four fundamental principles:

- 1) the university should be encouraged to prudently manage its resources;
- 2) university cash balances should not sit idle, but should be temporarily deposited in interest-bearing accounts;
- 3) the university should be strictly accountable for money entrusted to it; and
- 4) there should be clear statutory rules for university investment.

Section 3 of the bill authorizes the university to invest money it receives, regardless of the source. Section 4 of the bill requires the university to invest certain surplus money, and restricts that investment to the same instruments provided for state general fund surplus under AS 37.10.070. If appropriated by the legislature, or approved under the revised program procedures of AS 37.07.080(h), the university may spend earnings from these investments.

Last year the legislature attempted to appropriate prior years' interest income to the University of Alaska working capital reserve fund (AS 14.40.296). I vetoed that appropriation because the statutory authority for both the receipt of interest income and its deposit to the working capital reserve fund were unclear. Amendments to the working capital reserve fund contained in sec. 6 of this bill would take care of last year's problem.

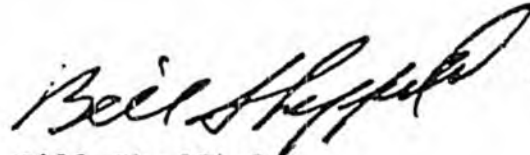
3. Reallocation of state appropriations:

AS 37.07.080(e) establishes procedures for the division of budget review, in the Office of the Governor, to reallocate

money authorized by legislative appropriations. In past years, the legislature has authorized the Office of the Governor to establish procedures for reallocations within university appropriations. Section 7 of this bill gives the division of budget review and the Board of Regents the authority to establish procedures for reallocation within appropriations. Transfers between appropriations would continue to require authorization by law.

The University of Alaska is working closely with my administration on budget and financial matters. This bill settles several issues that have damaged university-state relations in past years. Therefore, I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: AB 241
 Title: "An Act relating to the fiscal procedures ..."
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: 2/22/85

pg 1 of 2

FISCAL DETAIL

Agency Affected: University of Alaska
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | 0 | | | | |
| 200 TRAVEL | | 0 | | | | |
| 300 CONTRACTUAL | | 0 | | | | |
| 400 SUPPLIES | | 0 | | | | |
| 500 EQUIPMENT | | 0 | | | | |
| 600 LAND & STRUCTURES | | 0 | | | | |
| 700 GRANTS, CLAIMS | | 0 | | | | |
| 800 MISCELLANEOUS | | 0 | | | | |
| TOTAL OPERATING | | 0 | | | | |

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|----------------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|----------------|--|--|--|--|--|--|

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|----------------|--|---|--|--|--|--|
| REVENUE | | 0 | | | | |
|----------------|--|---|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|---|--|--|--|--|
| GENERAL FUND | | 0 | | | | |
| FEDERAL FUNDS | | 0 | | | | |
| OTHER | | 0 | | | | |
| TOTAL | | 0 | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|-----|--|--|--|--|
| FULL-TIME | | N/A | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: Attach a separate page if necessary See Attached

Prepared By: Sherman Carter, Executive Vice President Phone: 474-7593
 Division: University of Alaska Date: _____

Approved by Commissioner: Sherman Carter Date: 2/21/85
 Agency: _____

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

STATEMENT OF FISCAL IMPACT

PS 282

Agency Comments

No additional funding will be required as a result of this legislation. This bill codifies present investment and operating procedures and provides additional flexibility in fiscal planning which will allow the University of Alaska to better cope with adverse financial conditions during periods of revenue instability.

It will permit increased efficiency; and, by providing full disclosure will not decrease the governor's or legislature's control over the university. The Board of Regents endorsed this legislation as indicated in the following resolution: "The Board of Regents reaffirms its endorsement of the legislation to clarify fiscal procedures of the University of Alaska and urges adoption of a bill to do this to be introduced by the governor."

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 241 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fiscal procedures of the Univer-
7 sity of Alaska; and providing for an effective date."

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

9 * Section 1. AS 14.40.170(b) is amended to read:

10 (b) The Board of Regents may

11 (1) adopt reasonable rules, orders, and plans with reason-
12 able penalties for the good government of the university and for the
13 regulation of the Board of Regents;

14 (2) determine and regulate the course of instruction in the
15 university with the advice of the president;

16 (3) set student tuition and fees;

17 (4) receive and spend university receipts in accordance
18 with the Executive Budget Act (AS 37.07).

19 * Sec. 2. AS 14.40.210 is amended to read:

20 Sec. 14.40.210. POWERS OF PRESIDENT OF THE UNIVERSITY. The
21 president of the University of Alaska may

22 (1) give general direction to the work of the University of
23 Alaska in all its departments subject to the approval of the Board of
24 Regents;[.]

25 (2) appoint the deans, heads of departments, professors,
26 assistants, instructors, tutors, and other officers of the University
27 of Alaska to the positions established by the Board of Regents;

28 (3) establish procedures for receipt, expenditure, and
29 fiscal year reporting of university receipts.

1 * Sec. 3. AS 14.40.250 is amended to read:

2 Sec. 14.40.250. REGENTS TO ACT AS TRUSTEES AND ADMINISTER MONEY
3 OR PROPERTY [FROM SOURCES OTHER THAN LEGISLATURE OR FEDERAL APPROPRIA-
4 TION]. The Board of Regents may receive, manage, and invest money or
5 other real, personal, or mixed property [IN ANY MANNER RECEIVED FROM
6 SOURCES OTHER THAN THE STATE LEGISLATURE OR FEDERAL APPROPRIATION] for
7 the purpose of the University of Alaska, its improvement or adornment,
8 or the aid or advantage of students or faculty, and, in general, may
9 act as trustee on behalf of the University of Alaska for any of these
10 purposes. The [HOWEVER, THE] regents shall make a written report to
11 the legislature, in accordance with AS 14.40.190, as to the adminis-
12 tration and disposition of money [FUNDS] received under this section.

13 * Sec. 4. AS 14.40 is amended by adding a new section to read:

14 Sec. 14.40.255. INVESTMENT OF SURPLUS MONEY. If the Board of
15 Regents determines that there is a surplus of money, received in the
16 form of state and federal appropriations, above the amount sufficient
17 to meet current and projected cash expenditure needs of the universi-
18 ty, the surplus must be invested in the same instruments set out in
19 AS 37.10.070 approved for investment of state treasury surplus, except
20 that funds may not be invested in a corporation or other business firm
21 that does business in or with the Republic of South Africa until the
22 Board of Regents determines that oppression of its black citizens by
23 the Republic of South Africa has ended. If interest income earned on
24 investments made under this section exceeds appropriations derived
25 from that source, the excess may be expended only in accordance with
26 the procedures set out in AS 37.07.080(h).

27 * Sec. 5. AS 14.40.296(a) is amended to read:

28 (a) There is established in the treasury of the University of
29 Alaska the University of Alaska working capital reserve fund. The

1 fund consists of money appropriated by the legislature. If the
2 legislature has made a general appropriation of federal or other
3 program receipts that exceeds the amounts appropriated specifically,
4 the university may deposit interest income earned from investments
5 authorized by AS 14.40.255 in the fund in accordance with the
6 procedures set out in AS 37.07.080(h). The working capital reserve
7 fund is established for the purpose of providing nonlapsing current
8 working capital for the University of Alaska and is not available for
9 appropriation by the Board of Regents.

10 * Sec. 6. AS 14.40 is amended by adding a new section to read:

11 Sec. 14.40.325. REALLOCATION OF STATE APPROPRIATIONS. Notwith-
12 standing the provisions of AS 37.07.080(e), each appropriation to the
13 University of Alaska is subject to reallocation by the university
14 administration under procedures established by the Board of Regents
15 and the division of budget review in the Office of the Governor.
16 Transfers may not be made between appropriations except as provided in
17 an Act making transfers between appropriations.

18 * Sec. 7. AS 14.40 is amended by adding a new section to read:

19 Sec. 14.40.490. DEFINITION FOR AS 14.40.120 - 14.40.490. For
20 purposes of AS 14.40.120 - 14.40.490, "university receipts" includes

- 21 (1) student fees, including tuition;
22 (2) receipts from university auxiliary services;
23 (3) recovery of indirect costs of university activities;
24 (4) sales and rentals of university property;
25 (5) federal receipts;
26 (6) gifts, grants, and contracts;
27 (7) sales, rentals, and services of educational activities.

28 * Sec. 8. AS 37.25.010 is amended by adding a new subsection to read:

29 (c) The unexpended balance of an appropriation of university

1 receipts existing on June 30 of a year is automatically reappropriated
2 for the fiscal year beginning on the succeeding July 1 if the unex-
3 pended balance is reported to the Department of Administration and the
4 legislative budget and audit committee September 30 of the
5 succeeding fiscal year. In this subsection "university receipts" has
6 the meaning given in AS 14.40.490.

7 * Sec. 9. This Act takes effect immediately in accordance with AS 01.-
8 10.070(c).
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House Bill 241 (Judiciary) "An Act relating to fiscal procedures of the University of Alaska; and providing for an effective date."

SECTIONAL ANALYSIS

Section 1. Powers of the Board of Regents

- Clarifies the authority to set student tuition and fees.
- Allows the Board of Regents to receive and spend university receipts in accordance with the Executive Budget Act.

Section 2. Powers of the University President

- Allows the President to establish procedures for receipt, expenditure, and fiscal year reporting of university receipts.

Section 3. Regents to Act as Trustees

- Allows the Regents to invest funds received from the state.

Background: The Board has been investing such funds with legislative approval to spend the income each year, but the Attorney General questioned whether the Board can legally do so. This section makes it clear the Board may invest these funds.

Section 4. Investment of Surplus Money

- Provides for the methods by which the Regents can invest funds.
- Allows the Board to invest cash balances in excess of daily operational needs, but limits the investments to those allowed to the Department of Revenue for general fund surpluses.
- Prohibits the University from investing in businesses which do business with either the Republic of South Africa or the U.S.S.R. until oppression of citizens ends in these countries.
- Prohibits the Board from expending income from its investments unless (1) the interest income is appropriated by the legislature or (2) the expenditure is submitted to the Legislative Budget and Audit Committee as a revised program.

Background: The University invests its cash balances in certificates of deposit in Alaska banks, savings and loans, and credit unions; bank repo agreements; and fully-collateralized loans issued by Alaska financial institutions. No cash balances are currently invested in any businesses of any nature.

Section 5. Working Capital Reserve Fund

-Allows income from university investments to be deposited in the University's working capital reserve fund if the deposit is submitted to the Legislative Budget and Audit Committee as a revised program.

Section 6. Reallocation of State Appropriations

-Allows reallocation of University funds within state appropriations in accordance with procedures established by the Board of Regents and the Office of Management and Budget.

Background: This language is usually contained in one of the front sections of the annual budget bill. No transfers between appropriations are allowed. The University may transfer within appropriations in the same manner as state agencies.

Section 7. Definitions

-Defines "university receipts" to include most sources of university income other than state general funds. These include student fees (including tuition); receipts from university auxiliary services (food service, bookstore, student housing); recovery of indirect costs of university activities (primarily overhead on federal research projects); sales and rentals of university property (rentals of university buildings, sales of gravel from university campuses, etc.); federal receipts; gifts, grants and contracts (from private sources, state agencies, etc.); sales, rentals and services of educational activities (sales of materials produced by university classes or research activities, sales of computer time to state agencies, intercollegiate athletics receipts, etc.)

Section 8. Unexpended balances

-Carries forward unexpended balances of "university receipts" to follow... fiscal year.

Background: Unexpended balances of program receipts received by state agencies revert to the general fund at the end of the fiscal year. The majority of states allow universities to carry forward balances of non-state funds. The university believes allowance of this carryforward in Alaska will encourage managers to trim spending to save money for future years when budgets will be tighter.



Anchorage Community College Student Association

2801 PROVIDENCE DRIVE, ANCHORAGE, ALASKA 99508-4670
CAMPUS CENTER ROOM 225, 786-1205 or 786-1220

ANCHORAGE COMMUNITY COLLEGE STUDENT ASSOCIATION

Resolution: 85-27
By: Chris A. Tolladay
Donna Farren

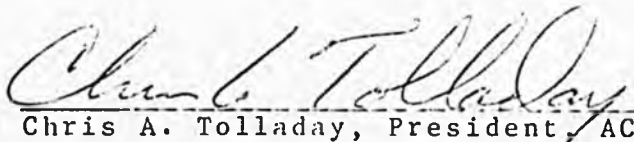
WHEREAS the ACCSA Assembly has approved Resolution 85-19
in support of HB 241, and

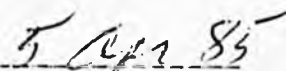
WHEREAS the House Judiciary Committee has offered a
committee substitute to HB 241, and

WHEREAS the overall intent of CSHB 241 is deemed to be in
the best interest of the University of Alaska and its students,
be it therefore

RESOLVED that this resolution be adopted as an official
and formal expression of support of CSHB 241 (Judiciary). Be
it further

RESOLVED that this resolution be forwarded to the Governors
office, the House Judiciary Committee, the Anchorage legislative
delegation, the student regent, the University of Alaska Legis-
lative Liaison, the Alaska Commission on Postsecondary Education,
the Statewide Student Information Network, and other student
government groups in the State of Alaska.


Chris A. Tolladay, President, ACCSA


Date Approved