

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10429 HOUSE STATE AFFAIRS

249

HB

170

Committees:

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Economic Development,
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Military & Veteran Affairs

Alaska State Legislature



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Representative Beverly Masek

Sponsor Statement for HB 170

20 Year Retirement Provision for Fish & Game Employees

Alaska's Department of Fish and Game is experiencing an unprecedented problem relating to the recruitment and retention of qualified professionals. Due to competing interests and the State's inability to adjust pay scales upward sufficiently to offset those other interests, Alaska is experiencing a drain on experienced personnel.

Although it is but a minor step, returning our professional staff within the Department of Fish and Game to the twenty year retirement system, Alaska may be able to attract talented new professionals into the department. Even with a twenty year retirement system, the State will continue to face difficulties in recruiting and retaining qualified staff due to the large disparity in salaries offered elsewhere.

It is my hope that introduction of HB 170 will initiate a much needed discussion on what role the legislature believes our natural resource managers should play in maintaining those assets that are the economic mainstay of the State. We simply cannot ignore the fact that maintenance budgets and stagnating salaries will put us in a position where the best managers will go elsewhere.

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CS FOR HOUSE BILL NO. 170()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MASEK

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to retirement contributions and benefits under the public employees'
2 retirement system of certain employees of the Department of Fish and Game."

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

4 * Section 1. AS 39.35.160(a) is amended to read:

5 (a) Beginning January 1, 1987, each peace officer or fire fighter shall
6 contribute to the system an amount equal to seven and one-half percent of the peace
7 officer's or fire fighter's compensation. Beginning January 1, 2002, each
8 professional fish and game employee shall contribute to the system an amount
9 equal to seven and one-half percent of the fish and game employee's
10 compensation. Except as provided in (d) of this section, beginning January 1, 1987,
11 each other employee shall contribute to the system an amount equal to six and three-
12 quarters percent of the employee's compensation. The contributions shall be deducted
13 by the employer at the end of each payroll period. The contributions shall be deducted
14 from employee compensation before computation of applicable federal taxes, and the

1 contributions shall be treated as employer contributions under 26 U.S.C. 414(h)(2).

2 * Sec. 2. AS 39.35.370(a) is amended to read:

3 (a) Subject to AS 39.35.450, a terminated employee is eligible for a normal
4 retirement benefit

5 (1) at age 60 with at least five years credited service;

6 (2) with at least 20 years of credited service as a peace officer, [OR]
7 fire fighter, or professional fish and game employee; or

8 (3) with at least 30 years of credited service for all other employees.

9 * Sec. 3. AS 39.35.370(c) is amended to read:

10 (c) The monthly amount of a retirement benefit for a peace officer, [OR] fire
11 fighter, or professional fish and game employee is two percent of the average
12 monthly compensation times the years of credited service through 10 years, plus two
13 and one-half percent of the average monthly compensation times the years of service
14 over 10 years. For all other employees it is

15 (1) two percent of the average monthly compensation times all years of
16 service before July 1, 1986, and for years of service through a total of 10 years; plus

17 (2) two and one-quarter percent of the average monthly compensation
18 times all years of service after June 30, 1986, over 10 years of total service through 20
19 years; plus

20 (3) two and one-half percent of the average monthly compensation
21 times all years of service after June 30, 1986, over 20 years of total service.

22 * Sec. 4. AS 39.35.370(f) is amended to read:

23 (f) A member who is vested in the system as a peace officer, [OR] fire fighter,
24 or professional fish and game employee at the time the member incurs a permanent
25 disability of at least 33 1/3 per cent under workers' compensation and who (1)
26 undergoes retraining because of the disability; and (2) is subsequently employed with
27 the state or other employer in a position other than peace officer, [OR] fire fighter, or
28 professional fish and game employee is eligible for a normal retirement benefit as a
29 peace officer, [OR] fire fighter, or professional fish and game employee under (a)
30 and (c) of this section upon completing 20 years of credited service.

31 * Sec. 5. AS 39.35.527 is amended to read:

1 Sec. 39.35.527. Election to terminate coverage as a peace officer, [OR] fire
2 fighter, or professional fish and game employee. (a) Any active member may elect
3 to irrevocably relinquish hazardous duty [PEACE OFFICER OR FIRE FIGHTER]
4 status with the system and to retain all credited service as if it had been acquired as a
5 member other than a peace officer, [OR] fire fighter, or professional fish and game
6 employee.

7 (b) In order to relinquish hazardous duty [PEACE OFFICER OR FIRE
8 FIGHTER] status with the system, a person must be an active member and must file a
9 written request with the administrator by July 1, 1984, for active members who are
10 peace officers or fire fighters or within six months after employment as a peace
11 officer or fire fighter, or by July 1, 2002, or within six months after employment as
12 a professional fish and game employee for active members who are professional
13 fish and game employees, whichever occurs later. No person has more than one
14 opportunity to exercise this option.

15 (c) As soon as possible after the relinquishment, the administrator shall refund
16 to a person who relinquishes hazardous duty [PEACE OFFICER OR FIRE
17 FIGHTER] status under this section a refund equal to the amount by which the
18 balance of the person's accumulated mandatory contributions plus interest exceeds the
19 balance which would exist if all service credit had been acquired as a member other
20 than a peace officer, [OR] fire fighter, or professional fish and game employee.

21 (d) A written request to relinquish hazardous duty [PEACE OFFICER OR
22 FIRE FIGHTER] status is irrevocable upon filing with the administrator.

23 (e) In this section, "hazardous duty status" means status as a peace
24 officer, fire fighter, or professional fish and game employee under this system.

25 * Sec. 6. AS 39.35.680 is amended by adding a new paragraph to read:

26 (41) "professional fish and game employee" means a permanent full-
27 time employee, including a permanent seasonal employee, of the Department of Fish
28 and Game who is employed as a wildlife biologist, fisheries biologist, or fish and
29 game technician.

30 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new
31 section to read:

1 TRANSITION. (a) An employee who was employed before January 1, 2002, but on
2 or after June 23, 1983, in a position that meets the definition of "professional fish and game
3 employee" enacted in sec. 6 of this Act may convert the credited service for that position
4 during that time to credited service as a professional fish and game employee as enacted by
5 this Act by claiming the service as professional fish and game employee service before the
6 member is appointed to retirement. When the member claims this credited service as
7 professional fish and game employee service, an indebtedness of the member to the system
8 shall be established. The indebtedness is equal to (1) the contributions to the system that the
9 employee would have made if the service had counted as professional fish and game
10 employee service, less (2) the contributions to the system that the employee actually made.
11 Interest, as prescribed by regulation, accrues on this indebtedness, as required by regulation.
12 Any outstanding indebtedness that exists at the time a person is appointed to retirement will
13 require an actuarial adjustment to the benefits payable based upon the service claimed under
14 this subsection.

15 (b) In this section, "professional fish and game employee service" means service that
16 is eligible for enhanced retirement benefits as established in this Act.

LEGAL SERVICES

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MEMORANDUM

April 19, 1999

SUBJECT: Authority of Airport Security Officers to Enforce Traffic Laws Off Airport Grounds (Work Order No. 21-LS0880)

TO: Representative John Coghill, Jr.
Attn: Rynniewa Moss

FROM: Gerald P. Luckhaupt *GL*
Legislative Counsel

You have asked if an airport security officer has the authority to enforce state traffic laws off airport grounds.¹

AS 28.35.225 provides:

Sec. 28.35.225. Enforcement. All law enforcement officers in this state and employees of the Department of Public Safety designated by that department's commissioner shall enforce this title and regulations adopted under this title. The state troopers shall advise and instruct all other law enforcement officers in the state concerning the requirements of this title and regulations adopted under this title.

In *State v. Burke*, 714 P.2d 374 (Alaska Ct. App. 1986) the Alaska Court of Appeals interpreted this statute to authorize a Kodiak city police officer to stop a vehicle operator who had committed a violation of Title 28 or regulations adopted under that title in the officer's presence, even though [the officer] had no reason to believe that [the vehicle operator] had violated either state law or a Kodiak ordinance while inside the City of Kodiak." *Burke*, *supra*, at 377.

The court further said:

¹This question arises from an incident in Fairbanks where an airport security officer cited a woman for failure to stop at a stop sign located outside of the airport property boundaries. In your memorandum to our office you stated you had received conflicting answers to this question from the Department of Public Safety (an airport security officer does not have such authority) and from a representative of the Alaska Peace Officers Association who is an airport security officer in Anchorage (airport security officers do have such authority).

At common law, municipal and county officers generally had no power to make warrantless arrests outside the territorial limits of the political entity which appointed them to their office. See *People v. Murino*, 80 Ill. App. 3d 657, 400 N.E.2d 491, 494, 36 Ill. Dec. 71 (Ill. App. 1980). An exception has been recognized by courts, and given effect by statute in many jurisdictions, for actions taken by an officer in fresh pursuit of a person who has committed an offense within the territorial limits. As the magistrate noted, this exception is not applicable to the stop and arrest of Burke. However, the state argues that AS 28.35.225 abrogates the common law in this area.

The term 'law enforcement officer' is not defined in Title 28. The state argues that the context in which the term is used in AS 28.35.225 clearly indicates that it has a broad scope, encompassing police officers employed by municipalities and other local governmental units.

We agree that any member of the police force of an incorporated city or borough is a 'law enforcement officer' for purposes of AS 28.35.225.

The state further argues that AS 28.35.225 authorizes all 'law enforcement officers' to stop any vehicle whose driver has committed a statewide traffic offense in the officer's presence, regardless not only of whether the offense was committed within the territorial limits of the jurisdiction which employed the officer, but also of whether the vehicle is in the territorial limits at the time the officer decides to make the stop. The statute is clearly a grant of authority. The state argued below that in the absence of any territorial limitations on the face of the statute, this grant of authority must be given its broadest scope. The state also argued that the absence of a 'fresh pursuit' statute in Alaska supports its position: if the statute is read as the state suggests, there is no need for a 'fresh pursuit' statute. Conversely, if the legislature had intended the statute to have a more narrow application, a 'fresh pursuit' statute **would** have been necessary.

Burke, supra, at 376 - 377. The court then concluded the state's interpretation of AS 28.35.225 was correct.

In *Clark v. State*, 738 P.2d 772 (Alaska Ct. App. 1987) the Alaska Court of Appeals addressed the specific question of whether an airport security officer is a "law enforcement officer" for purposes of AS 28.35.225.

In *Burke* we concluded that, by this statute, the legislature intended to confer on all law enforcement officers the authority to enforce violations of Title 28, and regulations promulgated under Title 28, throughout the state if the violation occurred in the officer's presence. Thus, a law enforcement officer is authorized to enforce Title 28 beyond the territorial limits of the jurisdiction which employed the officer. 714 P.2d at 376-77. The instant case

Representative John Coghill, Jr.
April 19, 1999
Page 3

raises the question of whether an airport police officer is a law enforcement officer for purposes of AS 28.35.225.

In *Burke* we relied on AS 01.10.050(6) which defines 'peace officer' as 'any officer of the state troopers, members of the police force of any incorporated city or borough, United States marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace.' 714 P.2d at 376. The term 'police officer' is defined in AS 18.65.290(3) as:

'a full-time employee of the state or a local police department with the authority to arrest and issue citations; detain a person taken into custody until that person can be arraigned before a judge or magistrate; conduct investigations of violations and enforce criminal laws, regulations and traffic laws; search with or without a warrant persons, dwellings, and other forms of property for evidence of a crime; carry a concealed weapon; and take other action consistent with exercise of these enumerated powers when necessary to maintain the public peace.'

These definitions are helpful in defining 'law enforcement officer' as used in AS 28.35.225. If anything, the term 'law enforcement officer' is broader than 'peace officer' or 'police officer.' It does not appear to be contested that airport police officers have general police powers on airport property. Airport police officers therefore appear to be law enforcement officers within the definition of AS 28.35.225. We accordingly conclude that an airport police officer is a law enforcement officer who has the authority to enforce the provisions of Title 28 throughout the state. We find that Judge Zimmerman did not err in concluding that [the airport security officer] had authority to stop Clark.

Clark, supra, at 773 - 774.

I have enclosed copies of these decisions for your review. If you have any questions, please contact me at your convenience.

GPL:jdr:glc
99-226.jdr

Enclosures

714 P.2d 374 STATE V. BURKE (Ct. App. 1986)

STATE OF ALASKA, Petitioner,
vs.
WARREN BURKE, Respondent

No. 583
COURT OF APPEALS OF ALASKA
714 P.2d 374
February 14, 1986

Petition for Review from the District Court of the State of Alaska, Third Judicial District, Kodiak,
Dennis L. Nelson, Magistrate.

COUNSEL

Michael S. McLaughlin, Assistant Attorney General, Office of Special Prosecutions and Appeals,
Anchorage, and Harold M. Brown, Attorney General, Juneau, for Petitioner.
Michael J. Wail, Assistant Public Defender, Kodiak, and Dana Fabe, Public Defender, Anchorage, for
Respondent.

JUDGES

Before: Singleton, Judge.
Bryner, Chief Judge, dissenting.
AUTHOR: SINGLETON

OPINION

SINGLETON, Judge.

On December 3, 1984, Warren Burke was arrested for driving while intoxicated (DWI), AS
28.35.030, by Kodiak Police Officer Barry R. Paris. Burke moved to suppress all evidence seized
as a result of his arrest. Magistrate Dennis L. Nelson granted the motion, and the state petitioned
for review of the magistrate's order. We granted the petition, and we now reverse.

Burke and the state entered into the following stipulation regarding the facts surrounding
Burke's arrest for purposes of the motion:

1. Approximately 04:06 hours on December 3, 1984, Kodiak City Police Officer Barry
R. Paris was sitting patrol alongside the roadway on West Rezanof Drive within the city
limits of Kodiak;
2. Officer Paris has no special grant of authority from any other state, federal or
municipal agency expanding his police powers beyond those conferred upon him under
State and/or municipal laws and ordinances;

3. While sitting patrol Officer Paris observed a 1978 Ford pickup go by southbound. He pulled behind the vehicle to follow it;

4. Outside city limits Officer Paris observed the truck fishtail on the icy pavement and weave across the centerline and fogline several times; in the area of the Buskin Beach State Park he checked his speedometer and estimated the Ford's speed at approximately 70 m.p.h.;

5. Officer Paris activated his overhead lights in the area of the Buskin River Bridge and effected a traffic stop on the vehicle in the area of the airport;

6. The driver of the Ford pickup was the defendant who was subsequently given field sobriety tests by Officer Paris and ultimately arrested for Driving while intoxicated;

7. No traffic violations occurred within the Kodiak municipal limits; any weaving, sliding or speeding occurred outside the territorial boundaries of the City of Kodiak;

8. The defendant was stopped for speeding and erratic driving.

Burke was taken to the Kodiak police station following the arrest. A breath test administered there yielded a result of .127.

In his motion, Burke argued that Paris had no authority, either as a police officer or as a private citizen, to make the arrest. The state argued that in Alaska all law enforcement officers are authorized to make arrests for violations of Title 28, and that, alternatively, Paris' arrest of Burke could also be viewed as a lawful citizen's arrest.

Magistrate Nelson adopted the stipulation of the parties, in its entirety, as his findings of fact. His conclusions of law were as follows:

1. The court has jurisdiction over the parties and the subject matter herein.
2. The "fresh pursuit" doctrine is not applicable to this case.
3. Corporal Paris had no authority as a City of Kodiak Police Officer to stop or arrest the defendant for an offense occurring outside the city limits.

4. Corporal Paris stopped the defendant under "color of office" and, therefore, under the facts of this case, any evidence gathered by Corporal Paris subsequent to the stop should be suppressed as such activity is in violation of the defendant's constitutional rights, even though Corporal Paris may have been acting as a private citizen. U.S. Const. amend. IV; Alaska Const. art. I, § 14.

5. A private person does not have legal authority to stop or arrest a defendant for speeding and erratic driving because speeding and erratic driving are not crimes by definition. AS 28.50.050(e)(d)[sic]. **Schachter v. State**, 338 So. 2d 269 (Fla. Dist. Ct. App. 1976).

6. All evidence gathered by the prosecution subsequent to the stopping of the defendant's vehicle should be suppressed.

In its petition, the state renews its arguments. Burke relies on the memoranda filed in district court and his response to the petition filed in this court. See Alaska R. App. P. 217(f). We are persuaded that the magistrate erred in concluding that Paris had no authority as a police officer to stop Burke's vehicle outside the Kodiak city limits.

At common law, municipal and county officers generally had no power to make warrantless arrests outside the territorial limits of the political entity which appointed them to their office. See **People v. Marino**, 80 Ill. App. 3d 657, 400 N.E.2d 491, 494, 36 Ill. Dec. 71 (Ill. App. 1980). An exception has been recognized by courts, and given effect by statute in many jurisdictions, for actions taken by an officer in fresh pursuit of a person who has committed an offense within the territorial limits. As the magistrate noted, this exception is not applicable to the stop and arrest of Burke. However, the state argues that AS 28.35.225 abrogates the common law in this area.¹ That statute provides:

Enforcement. All law enforcement officers in this state and employees of the department designated by the commissioner shall enforce this title and regulations adopted under this title. The state troopers shall advise and instruct all other law enforcement officers in the state concerning the requirements of this title and regulations adopted under this title.

The term "law enforcement officer" is not defined in Title 28. The state argues that the context in which the term is used in AS 28.35.225 clearly indicates that it has a broad scope, encompassing police officers employed by municipalities and other local governmental units. The state directs our attention to AS 01.10.060(6), which defines the similar term "peace officer" as

any officer of the state troopers, members of the police force of any incorporated city or borough, United States marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace.

We agree that any member of the police force of an incorporated city or borough is a "law enforcement officer" for purposes of AS 28.35.225.

The state further argues that AS 28.35.225 authorizes all "law enforcement officers" to stop any vehicle whose driver has committed a statewide traffic offense in the officer's presence, regardless not only of whether the offense was committed within the territorial limits of the jurisdiction which employed the officer, but also of whether the vehicle is in the territorial limits at the time the officer decides to make the stop. The statute is clearly a grant of authority. The state argued below that in the absence of any territorial limitations on the face of the statute, this grant of authority must be given its broadest scope. The state also argued that the absence of a "fresh pursuit" statute in Alaska supports its position: if the statute is read as the state suggests, there is no need for a "fresh pursuit" statute. Conversely, if the legislature had intended the statute to have a more narrow application, a "fresh pursuit" statute **would** have been necessary.

We have not found guidance in the legislative history of AS 28.35.225 as to the legislature's intent on this question. Burke has offered us little authority for his position, beyond reiterating the general rule that police officers in this situation do not have authority, **qua** police officers, to make a stop. See, e.g., **State v. MacDonald**, 260 N.W.2d 626 (S.D. 1977) (validating officer's action as citizen's arrest for felony committed in his presence); **Molan v. State**, 614 P.2d 79 (Okla. Crim. App. 1980) (to the same effect). **But see State v. Wallace**, 50 Ohio App. 2d 78, 361 N.E.2d 516 (Ohio App. 1976) (refusing to interpret a similar statute to authorize an extraterritorial arrest). In the absence of evidence that the legislature intended the contrary, we agree with the state that the statute should be given a common sense reading. See **Belarde v. Anchorage**, 634 P.2d 567, 568-69 (Alaska App. 1981). Since Burke committed at least one violation of Title 28 or regulations adopted under that title² in Paris' presence, we hold that Paris was authorized by state law to stop Burke, even though Paris had no reason to believe that Burke had violated either state law or a Kodiak ordinance while inside the City of Kodiak.

Once it is determined that the stop was lawful, there can be no doubt that the arrest of Burke was also lawful. Burke did not argue below that, when the arrest was made, Paris did not have probable cause to believe that Burke had been driving while intoxicated. Alaska Statute 12.25.030 authorizes peace officers to make arrests without warrants for crimes committed in their presence. Burke clearly committed the offense of DWI in Paris' presence. See **Ford v. State**, 699 P.2d 889 (Alaska App. 1985). Moreover, AS 12.25.033 authorizes peace officers to make warrantless arrests when they have probable cause to believe a person has committed DWI, whether the offense was committed in the officer's presence or not.

Since neither the stop nor the arrest of Burke was unlawful, the magistrate erred in suppressing all evidence seized as a result of the stop and arrest. His decision is REVERSED.

DISSENT

BRYNER, Chief Judge, dissenting.

I would affirm the decision of the magistrate. The majority's reading of AS 28.35.225 is problematical. The obvious purpose of the statute seems to be to confer upon local law enforcement officers the authority to arrest for and otherwise enforce against state traffic violations that occur within the territorial limits of their local governmental subdivisions. In my view, the meaning of this statute is reasonably clear on its face and does not require interpretation. See *Anchorage v. Lloyd*, 679 P.2d 486 (Alaska App. 1984).

The interpretation of AS 28.35.225 adopted by the majority of the court departs from the established traditions of the common law and from the sound authority of decisional law. See, e.g., *People v. Marino*, 80 Ill. App. 3d 657, 400 N.E.2d 491, 36 Ill. Dec. 71 (Ill. App. 1980); *Schachter v. State*, 338 So.2d 269 (Fla. App. 1976); *State v. McDonald*, 260 N.W.2d 626 (S.D. 1977); *Molan v. State*, 614 P.2d 79 (Okla. Crim. App. 1980). Absent a clear and unequivocal statutory grant of authority permitting local law enforcement officers to patrol and arrest extraterritorially, I do not believe expansion of the common law rule to be justified. I therefore dissent.

OPINION FOOTNOTES

1 Alaska Statute 01.10.010 provides that the common law is "the rule of decision in this state" except where it is inconsistent with the state or federal constitution or a law passed by the legislature.

2 Burke was stopped for speeding and erratic driving. The speeding was clearly an infraction. See 13 Alaska Admin. Code § 02.275(a) and (b)(4), adopted pursuant to AS 28.05.011(1); AS 28.40.050(c) (violation of a regulation adopted under Title 28 is an infraction); see also *Ferrell v. Baxter*, 484 P.2d 250, 257 (Alaska 1971) (violation of a Statewide administrative traffic regulation adopted pursuant to statutory authority must be equated with a violation of a traffic statute itself). Burke's conduct, as observed by Paris, probably also amounted to negligent driving, another infraction. See AS 28.35.045. While the magistrate was correct that these were not "crimes," see AS 28.40.050(d), they were violations of Title 28.

738 P.2d 772 CLARK V. STATE (Ct. App. 1987)

**James W. Clark, Appellant,
vs.
State of Alaska, Appellee**

No. 716, File No. A-1840
COURT OF APPEALS OF ALASKA
738 P.2d 772
June 26, 1987

Appeal from the District Court of the State of Alaska, Fourth Judicial District, Fairbanks, Christopher E. Zimmerman, Judge.

COUNSEL

William A. Davies, and Dana Fabe, for appellant.
Alan J. Hooper, Harry L. Davis, and Grace Berg Schaible, for appellee.

JUDGES

Bryner, Chief Judge, Coats and Singleton, Judges.
AUTHOR: COATS

OPINION

COATS, Judge.

Fairbanks Airport Police Officer David Atkins arrested James Clark for driving while intoxicated (DWI). AS 28.35.030. The arrest occurred beyond the airport's boundaries. An Intoximeter test indicated that Clark's blood contained .130 percent alcohol. Clark moved to suppress all evidence of the traffic stop, arrest, and Intoximeter results. District Court Judge Christopher E. Zimmerman denied the motion. Clark pled no contest and preserved his right to appeal based on **Cooksey v. State**, 524 P.2d 1251 (Alaska 1974) and **Oveson v. Anchorage**, 574 P.2d 801 (Alaska 1978). On appeal, Clark argues that the airport security police do not have authority to make stops and arrests for state traffic offenses committed outside the airport's territorial limits. He also maintains that there was no reasonable suspicion to effect the traffic stop underlying his arrest. We find no error and affirm Clark's conviction.

At approximately 4:30 a.m., on July 10, 1986, Officer Atkins was proceeding eastbound on Airport Way in a marked patrol vehicle, approaching University Avenue. He was outside the airport jurisdiction on a personal errand. Atkins observed Clark's vehicle slide twelve to fifteen feet to a stop on the loose gravel at the intersection. Clark's vehicle then turned and proceeded at twenty-five miles per hour in a forty-five mile per hour zone. Atkins believed that Clark had observed the patrol car, and had reacted abnormally by slamming on the brakes, causing his car to slide to a stop. Atkins reasoned that the early morning hour, the slide, and the slow driving indicated an intoxicated driver. Atkins pulled Clark over and subsequently arrested him.

Judge Zimmerman denied Clark's motions to suppress. He found that Atkins was a certified police officer but that Atkins was outside his normal patrol when he observed Clark. However, the judge held that under **State v. Burke**, 714 P.2d 374 (Alaska App. 1986), an airport police officer has jurisdiction to enforce traffic laws outside of the airport. The court also concluded that Atkins had articulated a reasonable basis for his suspicion, justifying the traffic stop.

Alaska Statute 28.35.225 provides:

All law enforcement officers in this state and employees of the department designated by the commissioner shall enforce this title and regulations adopted under this title. The state troopers shall advise and instruct all other law enforcement officers in the state concerning the requirements of this title and regulations adopted under this title.

In **Burke** we concluded that, by this statute, the legislature intended to confer on all law enforcement officers the authority to enforce violations of Title 28, and regulations promulgated under Title 28, throughout the state if the violation occurred in the officer's presence. Thus, a law enforcement officer is authorized to enforce Title 28 beyond the territorial limits of the jurisdiction which employed the officer. 714 P.2d at 376-77. The instant case raises the question of whether an airport police officer is a law enforcement officer for purposes of AS 28.35.225.

In **Burke** we relied on AS 01.10.060(6) which defines "peace officer" as "any officer of the state troopers, members of the police force of any incorporated city or borough, United States marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace." 714 P.2d at 376. The term "police officer" is defined in AS 18.65.290(3) as:

a full-time employee of the state or a local police department with the authority to arrest and issue citations; detain a person taken into custody until that person can be arraigned before a judge or magistrate; conduct investigations of violations and enforce criminal laws, regulations and traffic laws; search with or without a warrant persons, dwellings, and other forms of property for evidence of a crime; carry a concealed weapon; and take other action consistent with exercise of these enumerated powers when necessary to maintain the public peace.

These definitions are helpful in defining "law enforcement officer" as used in AS 28.35.225. If anything, the term "law enforcement officer" is broader than "peace officer" or "police officer." It does not appear to be contested that airport police officers have general police powers on airport property.¹ Airport police officers therefore appear to be law enforcement officers within the definition of AS 28.35.225. We accordingly conclude that an airport police officer is a law enforcement officer who has the authority to enforce the provisions of Title 28 throughout the state. We find that Judge Zimmerman did not err in concluding that Atkins had authority to stop Clark.

Clark also argues that Judge Zimmerman erred in finding that Atkins had sufficient information to form a reasonable suspicion that Clark was DWI. See **State v. Moran**, 667 P.2d 734 (Alaska App. 1983). Given Atkins' testimony concerning the hour of the night and his observations of Clark's erratic driving, we conclude that Judge Zimmerman was not clearly

erroneous in finding that there was sufficient information for Atkins to form a reasonable suspicion that Clark was DWI. **Chilton v. State**, 611 P.2d 53, 55 (Alaska 1980).

The conviction is **AFFIRMED**.

CONCURRENCE

BRYNER, Chief Judge, concurring.

Although I continue to adhere to the views I expressed in **State v. Burke**, 714 P.2d 374 (Alaska App. 1986) (Bryner, C.J., dissenting), I accept that decision as **stare decisis** and therefore concur in the court's decision of the present case.

OPINION FOOTNOTES

1 AS 02.15.230 provides in pertinent part:

Police Powers Vested. (a) The commissioner and those officers and employees of the department who the commissioner may designate have **general police powers** in aid of the enforcement of this chapter, and the regulations and orders issued under it and all other laws of the state relating to aeronautics. [Emphasis added.]

AS 02.15.060 provides in pertinent part: "The department may . . . **protect and police airports** and air navigation facilities within the state." (Emphasis added).



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs Committee
committee name

Committee on HB 170, dated April 17th, 2001
bill # / subject

I am in favor of passage of House Bill No. 170, "An act relating to granting certain employees of the Department of Fish and Game status as peace officers under the public employees' retirement system."

I am a badge carrying, commissioned peace officer for the Department of Fish and Game, Division of Wildlife Conservation. I was given my authority by the Commissioner of the Department of Fish and Game in accordance with Alaska Statutes Title 16, Chapter 5, Section 140, which states: Enforcement authority: The following persons are peace officers of the state and they shall enforce this title...

I work under what are quite often the most dangerous of circumstances such as low-level helicopter and fixed wing aircraft flights while observing or capturing wildlife. I work every day around potentially dangerous wildlife including nuisance, wounded or injured bears, moose and other wildlife. I often find myself operating snowmachines, boats and other equipment under adverse conditions far from any medical facility. I deal with the public, hunters and non-hunters alike, on a daily basis, not always under the best of circumstances and often at their residence or otherwise far from any immediate support.

I work cooperatively with other law enforcement agency personnel, both federal and state, on a daily basis. I respond to calls (often on weekends and evenings) from Alaska State Trooper dispatch regarding wildlife-related problems. I've had to deal with inebriated stressed out people carrying firearms in the middle of the night when bears were trying to kill their livestock or break into their homes. I am authorized to issue fish and game code citations. Yet I understand that, for the purposes of our retirement plan, I'm not a peace officer and my job is not considered dangerous. My situation is not unique within the department. In the interest of fairness and further equity I would respectfully ask that you lend your support to the passage of HB 170. Thank you.

Larry L. Lewis
 P.O. Box 403

Kasilof AK 99610
 262-1370 home - 262-9368 work



Alaska State Legislature

Please enter into the record my testimony to the Hose State Affairs
committee name

Committee on HB 170 (Peace Officer Status) dated April 19, 8:00A.M.
bill # / subject for F/G employees

From what I understand, Fish and Game employees face a similar statistical risk for death and injury related to "on-the-job" assignments. Many F/G employees have enforcement training and do issue citations to violators and face many of the same pressures as other peace officers. To be fair and consistent in compensation for employees facing similar risks and challenges, I favor treating F/G employees with comparable compensation as peace officers.

Signed: Rob MacFarland
Testifier

Musef
Representing (optional)

P.O. Box 932 Kasilof, AK 99610
Address

260-7697
Phone number



Alaska State Legislature

Please enter into the record my testimony to the House STATE AFFAIRS Committee
committee name

Committee on HB 170 dated 4-18-01
bill # / subject

Please support this House Bill. Jobs of equal duty should be treated equally.

It is difficult to attract & maintain high level professionals w/a 30 yr. retirement plan.

The burnout factor is much greater with a 30 year retirement plan. There is many "STATE OF AK" jobs available at this time, but there is a lack of interest due to the 30 year plan. Please support this plan.

Signed: Jerry Bondfield
Testifier

Self
Representing (optional)

PO Box 603, Sterling, AK 99672
Address

907-262-1329
Phone number

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 170
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to PERS contributions and BRU: Centralized Administrative Services
benefits for certain Fish and Game employees..." Component: Retirement and Benefits
 Sponsor: Representative Masek
 Requester: House State Affairs Component Number: 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 170 requires that positions be certified by the Commissioner of Fish and Game and approved by the Commissioner of Administration to require significant amounts of field work or travel or hazardous working conditions to qualify for peace officer status. If so certified, the retirement status of some current and future Fish and Game employees will change from 30 and out to 20 and out. The bill also grants retroactive peace officer service credit for such employees back to the date they were hired into these positions. Under the bill, to convert such service, the employee is required to pay the difference between the 6.75% the employee paid as a PERS "Other" member and the 7.5% required of Police/Fire members. All other costs will be paid by the State of Alaska through an increased in the Public Employees' Retirement System employer rate.

Prepared by: Guy Bell, Director Phone 465- 471
 Division Retirement and Benefits Date/Time April 18, 2001
 Approved by: Jim Duncan, Commissioner Date April 18, 2001
 Agency Department of Administration

For distribution information, call the Governor's Legislative Office

EX 1

11/6/90

BALLOT MEASURE NO. 1

Budget Reserve Constitutional Amendment [HCS CSSSSJR 5 (Fin) am H]

BALLOT LANGUAGE

This proposal would create the "Budget Reserve Fund" in the state treasury. Money the state receives from mineral revenue lawsuits or administrative actions would be deposited in the Fund, and invested at competitive rates. The Fund could be used when money available for appropriation in the year is less than the year before, but only to make up the shortfall. The legislature could only appropriate from the Fund for other purposes with a 3/4 vote. At the end of each year, the Fund would have to be paid back from money left in the treasury's general fund.

Should this constitutional amendment be adopted?

Yes No

VOTES CAST BY MEMBERS OF THE 16TH ALASKA LEGISLATURE ON FINAL PASSAGE

House: Yeas	38	Senate: Yeas	15
Nays	2	Nays	5

LEGISLATIVE AFFAIRS AGENCY SUMMARY

This measure will amend the state constitution by creating the budget reserve fund. Money from certain mineral revenue sources received by the state from an administrative proceeding or litigation is placed in the fund. Income of the fund is kept in the fund.

Appropriations may be made from the fund if money available for a fiscal year is less than the amount appropriated for the prior year. When this occurs the amount that may be taken from the fund is limited. Only the money needed to make up the difference may be appropriated.

Money may also be appropriated from the reserve fund by special vote of the legislature. Three-fourths of the members of each house must approve. The amount that may be taken is unlimited when this vote is obtained.

Money that is appropriated from the reserve fund must be repaid. Surplus general fund money must be deposited in the reserve fund at the end of each year until the reserve fund is repaid.

FULL TEXT OF PROPOSED LAW

*Section 1. Article IX, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 17: BUDGET RESERVE FUND. (a) There is

established as a separate fund in the State treasury the budget reserve fund. Except for money deposited into the permanent fund under Section 15 of this article, all money received by the State after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund. Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund. Income of the fund shall be retained in the fund. Section 7 of this article does not apply to deposits made to the fund under this subsection. Money may be appropriated from the fund only as authorized under (b) or (c) of this section.

(b) If the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund. However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year.

(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.

*Section 2. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

STATEMENT IN SUPPORT

- Cut the budget.
- Reduce state spending.
- Get state spending under control.

Each year these battle cries are raised by Alaskans. While elected officials say they listen and promise to do a!! they can, the simple fact is the Legislature's record shows it consistently spends most or all of the money available in the treasury. Alaska is confronted with an impending fiscal crisis of staggering proportions as a result of an inevitable "gap" between general fund revenues and current state spending levels. Present levels

BALLOT MEASURE NO. 1

of state general fund expenditure simply cannot be sustained over the long term.

Ballot Measure Number 1 is the first step Alaskans can take to *effectively* control state spending.

The measure creates the Budget Reserve Fund in the Constitution. Revenues from mineral or oil and gas legal settlements and administrative proceedings will be deposited into the Budget Reserve. The Legislature will be able to spend money from the Budget Reserve only if:

- revenues are less than the amount appropriated the previous year, in which case money could be appropriated from the Budget Reserve in an amount not to exceed the shortfall; or
- three-fourths of the members of both the House and Senate vote to spend money from the Budget Reserve for a public purpose, such as a disaster.

The Legislature will be required to repay any money it appropriates from the Budget Reserve. If the next year revenues are insufficient the Legislature cannot afford to replenish the Budget Reserve, the "debt" will carry forward until it is repaid.

Legal settlements involving mineral or oil and gas revenues received after July 1, 1990, will be deposited into the Budget Reserve. As an example, if voters approve this ballot measure, \$216 million of the amount the state received in September from ARCO's settlement of royalty litigation will be deposited into this Budget Reserve. Should voters not approve this measure, these funds will be available to the legislature to spend next year.

Approval of Ballot Measure Number 1 is the first step toward a long-term spending plan. With Alaska's revenues subject to the whims of the world oil market, trying to take steps which will provide some stability in Alaska's spending is especially difficult. If approved, the Budget Reserve Fund will help hold down spending by removing from the table the oil and gas revenue "windfalls" that result from pending litigation and tax disputes. At the very least, this ballot measure will establish a savings account that can help minimize the effects of a "boom" one year, and a "bust" the next.

While other major budget decisions will be necessary to close the future's fiscal gap, this Ballot Measure is a major step toward a long-term spending plan for the state. It is a step we urge Alaskans to support.

If approved by the voters, the Budget Reserve Fund will be a significant help in managing the transition to sustainable spending.

Senator Jan. Faiks
Representative Kay Brown
Representative Randy Phillips

STATEMENT IN OPPOSITION

In sharp contrast to what its proponents have been telling us, the proposed budget reserve fund

- will *not* save any windfalls,
- does *not* require a $\frac{3}{4}$ vote to gain access to it,

- *endorses* the legislature's bloated \$3 billion budget
- will result in *slower growth* of the Permanent Fund, and
- will *reduce the amount* of future PFD checks.

Your vote *against* Ballot Measure #1 will send a signal to the legislature that you do not approve of their excessive spending, and that you want the windfalls deposited into the Permanent Fund.

The most significant danger of this proposal is that it will establish a budget floor at \$3 billion, and allow it to increase every year. Under paragraph (b) of the proposed constitutional change, a simple majority in the legislature could "borrow" funds from the reserve, to make up any shortfall in revenues, *up to the amount appropriated in the previous year*. This year the legislature spent more than \$3 billion. Some of that was vetoed by the governor, but it is expected the legislature will restore the funding and add supplemental appropriations in January. In other words, *the total amount appropriated for FY 91 has not yet been determined*. A "yes" vote on this ballot measure amounts to rubber-stamping a blank check of at least \$3 billion!

How would the budget continue to increase? Legislative leaders can easily get a $\frac{3}{4}$ vote out of their members by dangling capital project plums in front of them.

The appeal of this ballot measure is to save the "windfalls" of oil tax settlements, variously estimated at between \$2 billion and \$5 billion. This can easily be spent in three years.

Constitutionally, 25% of our oil income is dedicated to the Permanent Fund. And under state law, an additional 25% of income from certain leases is put into the Permanent Fund. In other words, as much as 50% of the windfalls should be deposited in the Permanent Fund, by law. The language in this constitutional amendment is unclear regarding the second 25%, and could be interpreted by big-spending legislators to rationalize putting only the constitutionally-dedicated 25% into the Permanent Fund, and leaving 75% for them to spend.

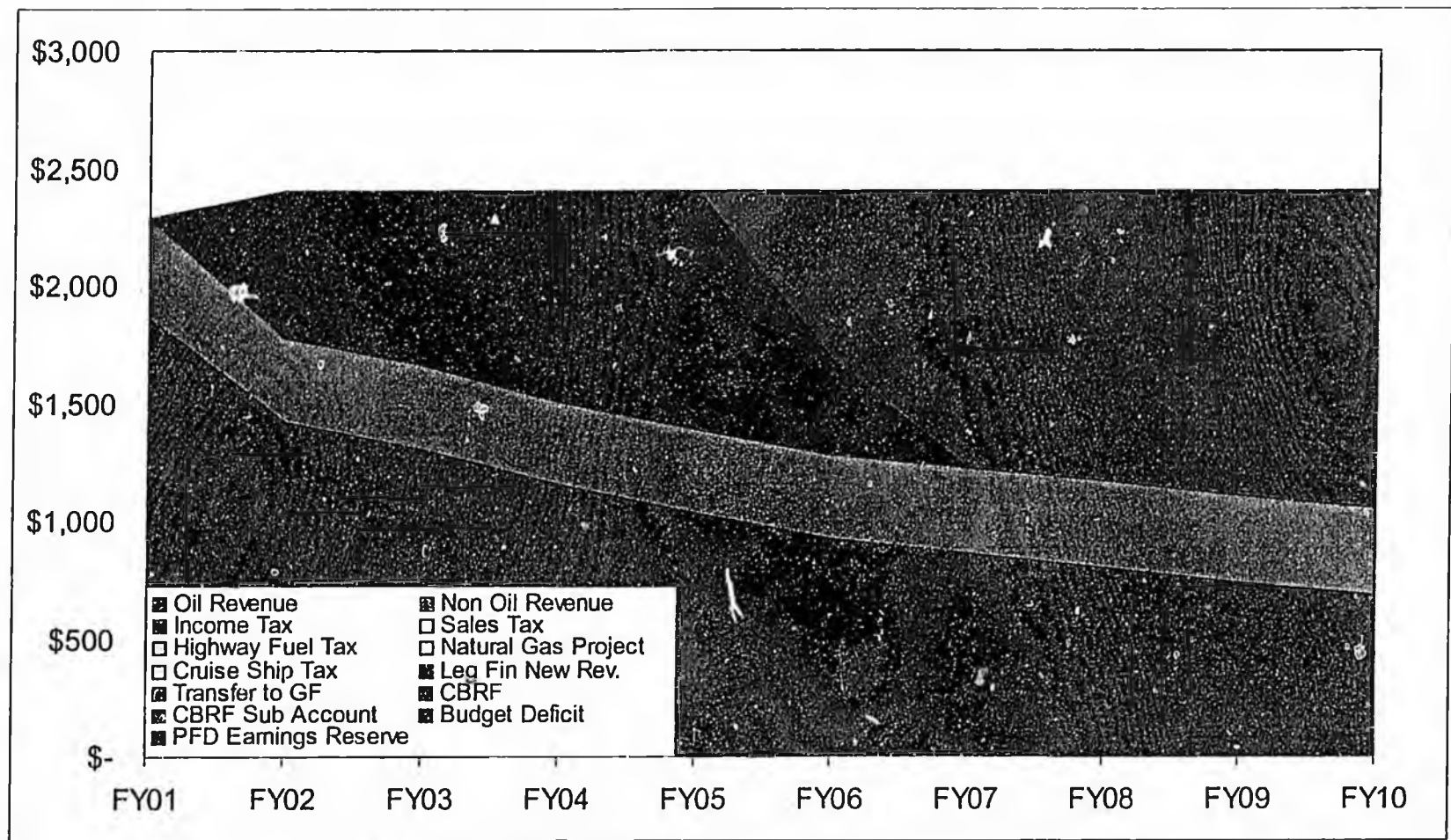
It would be better to save all of these anticipated windfalls, by putting 100% into the Permanent Fund. There, these funds will help the Permanent Fund produce greater annual income, for use as Permanent Fund Dividends to all Alaskans, or to fund necessary functions of state government. In the Permanent Fund, the windfalls would definitely be saved, and would not be accessible by big spenders in the legislature.

If you are one of the 65% of Alaskans who in opinion polls consistently ask the legislature to cut the budget, or if you believe the windfalls should *truly* be saved, you owe it to yourself not to be taken in by the proponents of Ballot Measure #1. Vote NO on the budget reserve amendment.

Representative Terry Martin

Ex 2

State Revenue Sources



NOTES TO THE FINANCIAL STATEMENTS

Note 1

The composition of the amount owed to the CBRF is as follows:

Long-term Portion	
Chapter 14, SLA 1994, section 7	\$ 1,006,038,474
Chapter 14, SLA 1994, section 8	49,608,135
Chapter 14, SLA 1994, section 9	368,581,990
Chapter 3, FSSLA 1994, section 39(c)	22,417,986
Chapter 3, FSSLA 1994, section 40	68,738,958
Chapter 3, FSSLA 1994, section 22(a)	11,250,000
Chapter 6, FSSLA 1994, section 1	130,300,000
Article IX, section 17(d) Alaska Constitution (FY 95)	(95,506,853)
Chapter 94, SLA 1995, section 43(a)	95,506,853
Chapter 94, SLA 1995, miscellaneous operating appropriations	16,672,928
Chapter 94, SLA 1995, section 43(b)	284,873,567
Article IX, section 17(d) Alaska Constitution (FY 96)	(74,352,026)
Chapter 5, FSSLA 1996, section 1 (a)	74,352,026
Article IX, section 17(d) Alaska Constitution (FY 97)	(166,019,445)
Chapter 98, SLA 1997, section 35(a)	166,019,445
Chapter 98, SLA 1997, page 47, line 3	529,258
Chapter 98, SLA 1997, section 35(b)	423,319,190
Article IX, section 17(d) Alaska Constitution (FY 98)	(89,264,067)
Chapter 139, SLA 1998, section 42(a)	89,264,067
Chapter 2, SLA 1999, section 16(c)	460,000
Chapter 27, SLA 1999, Y2K appropriations	7,930,475
Chapter 2, FSSLA 1999, section 21(a)	1,042,014,840
Article IX, section 17(d) Alaska Constitution (FY 99)	(94,632,453)
Chapter 84, SLA 1999, section 35(a)	94,632,453
Chapter 2, FSSLA 1999, section 21(b)	295,898,497
Chapter 8, SLA 2000, section 8(a)	3,227,666
Chapter 75, SLA 2000, section 1(b)	100,000,000
Article IX, section 17(d) Alaska Constitution (FY 00)	(111,438,606)
Total Long-term Portion	3,720,423,158
Short-term portion	
Article IX, section 17(d) Alaska Constitution (FY 00)	111,438,806
Excess drawn, chapter 2, FSSLA 1999, section 21(b)	4,101,603
Total Due to the CBRF	\$ 3,835,963,467

The amounts appropriated in chapter 14, SLA 1994, sections 7 and 8 are equal to the amounts appropriated from the general fund to the CBRF to comply with court orders. In FY 91 through FY 94, the State deposited revenue into the general fund that several parties contended should have been deposited into the CBRF. The Alaska Superior Court and Supreme Court agreed that these moneys should have been deposited in the CBRF and the State was ordered to restore the CBRF, including interest earnings, retroactive to July 1, 1990. Chapter 14, SLA 1994, was enacted into law to comply with the courts' orders and sections 2, 3, and 4 of the law appropriated \$1,006,038,474, plus \$49,608,135 in interest which would have been earned on the money after June 30, 1990, from the general fund to the CBRF effective April 15, 1994.

Chapter 14, SLA 1994, section 9, chapter 3, FSSLA 1994, section 39(c), chapter 94, SLA 1995, section 43(b), chapter 98, SLA 1997, section 35(b), and chapter 2, FSSLA 1999, section 21(a) and (b) appropriated additional amounts from the CBRF to the general fund to fund any shortfalls between State revenue and general fund appropriations for fiscal years 1994, 1995, 1996, 1998, 1999, and 2000 respectively.

Chapter 3, FSSLA 1994, section 40, appropriated an amount to cover the share of the State's actual expenditures for oil and gas litigation from July 1, 1990, through February 15, 1994, that is attributable to the CBRF. The appropriation in section 22(a) of chapter 3 was to cover costs related to legal proceedings and audit activity involving oil and gas revenue due or paid to the State or State title to oil and gas land, for the fiscal year ending June 30, 1995.

EX 4

II. ALASKA'S FISCAL OPTIONS

Sources of Government Revenue and the Alaska Economy

The Constitutional Budget Reserve Fund — like the Permanent Fund dividend program — has become a major component of the state's economy. The budget reserve fund contributed almost \$4 billion to Alaska's economic base during the 1990s, and was especially important during the low oil prices of FY 1999 when it added more to the state's total personal income than even the dividend program.

And just as you would weaken the economy if you removed or reduced the annual dividend program, you will cause the same problems if no suitable replacement is found before the CBRF runs out of money.

Alaska's economic base depends on "new" money circulating throughout the economy — money from outside that comes in, increases purchasing power, and moves around. New money that comes into the state generates additional income when it is spent, either by businesses or by workers. It can start out as wages or it can begin as payments for goods that then works its way into personal income as it's paid out as wages.

The important thing about the economic base is that the money comes from outside the state, brought into Alaska to pay for goods and services. It could be money from oil, tourism, seafood or timber sales; military or federal civilian payroll; or oil taxes and royalties paid to the state. A dollar paid to the state in oil taxes or a dollar earned by the state from oil royalties could move around the same as a dollar paid in wages by an oil company. The state treasury is simply a stopover before the tax dollar goes out as public employee wages, as a construction contract, an office supply order or other purchase.

Eventually, most every dollar brought into Alaska will find its way back out of state to purchase goods, raw materials or services. The number of times the money circulates through the state's economy before it leaves is called the multiplier effect.

Presenting the problem is easy. Finding the solution is the hard part.

Assuming Alaska wants to maintain — if not grow — its economic base, it has to find at least some new money to fill the gap the CBRF eventually will leave behind. The options of taxes, cutting the budget or using some of the Permanent Fund dividend cash would not bring any new money to the economic base, although any of the three certainly would be the fastest to implement and easiest to control.

In looking around for sources of new money, there are some options — although they are harder to quantify and not necessarily within Alaska's control.

We could bring new money into the state through new oil discoveries and higher recovery rates at existing oil wells; development of a natural gas project; building a stronger market for seafood sales; attracting more visitors to spend more money in Alaska — anything to bring a dollar from outside into the hands of a business or worker inside Alaska.

Another option is to increase the multiplier effect for the money already here. The more that dollar bounces around the state, the more it benefits Alaskans. It's sort of like a pinball game. The more cushions and bumpers the ball touches, the higher the score. But once that ball falls through the flippers and down the chute, it's gone forever.

The more goods and services that are available in Alaska, the better our medical services, the more competitive our businesses become, the longer a dollar will stay in our economy before slipping through to an out-of-state provider.

In looking at the state's economic base and the new money that builds that base, we see that here, too, the CBRF is similar to the Permanent Fund dividend program. The dividend program is new money because the cash for the annual checks comes mostly from earnings on investments outside Alaska. It's not simply recirculating money already here. The same is true for the CBRF.

The money in that account came from taxes and royalties paid by oil companies — new money to Alaska, not money already in the pockets of Alaskans or the cash registers of local businesses. As the state uses the CBRF to pay for wages, goods and services, the money is added to Alaska's personal income total.

The point is that when oil prices were at their lowest in Fiscal 1999, the CBRF supplied about one-eighth of the state's total economic base. The \$1.1 billion drawn out of the CBRF that year went to wages, goods and services purchased in Alaska. That money then moved through the economy, measured by the multiplier effect. Based on 1995 research by the University of Alaska's Institute for Social and Economic Research, the multiplier effect magnified the CBRF's Fiscal 1999 contribution to Alaska's economic base to \$2 billion — about 12 percent of the state's overall personal income that year.

Although oil prices have recovered, the outlook is for the heavy drain on the CBRF to resume in another year. This report forecasts that the CBRF payment to support the activities of state government — and to help fund Alaska's economic base — will average more than \$910 million a year from FY 2003-2006. That figure represents the CBRF's contribution before the multiplier effect.

The need for the money will not end in Fiscal 2006, but the money will. Even assuming oil prices remain above historic levels for several more years, the Department of Revenue forecasts the CBRF will hit empty in December 2005. The loss of the budget reserve fund will mean a major reduction in the cash flowing through Alaska's economy, which means the economic base, and the economy itself, will shrink.

If Alaska wants to protect its economic base it will need to find another source or sources of new money. That will not be easy. The three options most often mentioned all have the same drawback: They would simply alter the flow of money already in Alaska, doing nothing to fill the hole.

Broad-based taxes, such as a sales tax or a personal income tax, would mostly take money already moving through the economy and redirect it toward government services. Yes, we could add a little new money to Alaska's economic base by collecting sales taxes from visitors or income taxes from out-of-state workers, but both taxes from outside sources combined would likely fall short of even 10 percent of the \$910 million a year average draw from the CBRF.

Reducing the Permanent Fund dividend presents the same problem. Much of that money already is being added to Alaska's economic base. Shifting it from the dividend program to the state treasury to pay for teachers wages or road maintenance contracts or child care assistance would not add to the economic base and would not replace the gaping hole left by the empty CBRF.

It's the same problem with cutting the budget. If you reduce government support for public services to make up for the loss of \$910 million a year in CBRF money, the lower spending on goods and services would weaken the state's economic base.

None of these proposals would replace the contribution of the CBRF to Alaska's economic base. Selecting among these proposals — or a combination — would only determine which Alaskans bear the major burden of the economic retrenchment.

One less-painful option for bringing new money into Alaska's economic base is the annual earnings reserve of the Permanent Fund. That's the money left over from each year's investment earnings after dividends are paid and after money is added back to the fund to protect it from inflation. That amount is likely to average around \$250 million a year and could be directed toward filling part of the gap left behind by the CBRF. Because that money is not currently part of the state's economic base — it isn't being used for goods or services — it would be new money to Alaska.

Another hope is that a North Slope natural gas project could get under way in the next couple of years, generating public revenue of \$200 million to \$400 million a year or more in new money for the economic base by 2007. A gas project also would bring additional new money into the state to pay for wages, goods and services in the gas fields and transportation system. New oil discoveries also could produce additional pockets of new money to help cushion the loss of the CBRF.

One more option for bringing new money into the state is to increase taxes on the oil and gas industry. But that carries the risk of driving new investment to other areas worldwide if the industry believes Alaska is extracting too high a price. To fill the entire budget gap of \$910 million a year from increased oil and gas taxes alone would require almost tripling the state's three primary oil and gas taxes.

There just isn't any easy or painless answer to replacing the CBRF. Still, we need to talk about an eventual answer. And while we look at the options, Alaskans need to think of the budget reserve fund not just as a funding source for government but as a key part of the state's economic base. We need to think about how to replace that source of money without just moving funds between Alaska's limited pockets. If that's all we're thinking about, the economic reality that hits us when the CBRF is gone will be painful.

For more information on Alaska's economic base and the multiplier effect:

"What Makes the Alaska Economy Tick," by the Institute of Social and Economic Research at the University of Alaska, Anchorage; December 1991.

"Structural Analysis of the Alaska Economy," by the Institute of Social and Economic Research at the University of Alaska, Anchorage; January 1994.

"Structural Analysis of the Alaska Economy: A Perspective from 1997," by the Institute of Social and Economic Research at the University of Alaska, Anchorage; August 1997.

"A Long-Term Economic Development Strategy for Alaska," by the Alaska Science & Technology Foundation; April 2000.

EX 5
Alaska Heritage Fund

Earnings Rate 8.5%	Inflation Rate 3.25%
-----------------------	-------------------------

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Beginning Balance				\$ 2,282.2	\$ 2,407.4	\$ 2,540.4	\$ 2,681.9	\$ 2,832.3	\$ 2,992.5
Earnings				\$ 199.3	\$ 210.3	\$ 221.9	\$ 234.4	\$ 247.6	\$ 261.5
Oil & Gas Tax Dispute Resolutions				\$ 40.0	\$ 40.0	\$ 40.0	\$ 40.0	\$ 40.0	\$ 40.0
* Withdrawals @ 5%				\$ (114.1)	\$ (117.2)	\$ (120.5)	\$ (123.9)	\$ (127.4)	\$ (134.5)
Ending Balance	<u>\$ 3,112.8</u>	<u>\$ 2,810.0</u>	<u>\$ 2,282.2</u>	<u>\$ 2,407.4</u>	<u>\$ 2,540.4</u>	<u>\$ 2,681.9</u>	<u>\$ 2,832.3</u>	<u>\$ 2,992.5</u>	<u>\$ 3,159.4</u>

Oil Price **	\$30.17	\$24.28	\$22.06	\$21.06	\$20.38	\$17.25	\$17.25	\$17.25	\$17.25
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	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Beginning Balance	\$ 3,159.4	\$ 3,333.2	\$ 3,514.3	\$ 3,702.7	\$ 3,898.7	\$ 4,102.7	\$ 4,314.9	\$ 4,535.7	\$ 4,765.5
Earnings	\$ 275.9	\$ 291.0	\$ 306.7	\$ 323.1	\$ 340.1	\$ 357.7	\$ 376.2	\$ 395.3	\$ 415.2
Oil & Gas Tax Dispute Resolutions	\$ 40.0	\$ 40.0	\$ 40.0	\$ 40.0	\$ 40.0	\$ 40.0	\$ 40.0	\$ 40.0	\$ 40.0
* Withdrawals @ 5%	\$ (142.1)	\$ (150.0)	\$ (158.3)	\$ (167.0)	\$ (176.1)	\$ (185.5)	\$ (195.3)	\$ (205.5)	\$ (216.2)
Ending Balance	<u>\$ 3,333.2</u>	<u>\$ 3,514.3</u>	<u>\$ 3,702.7</u>	<u>\$ 3,898.7</u>	<u>\$ 4,102.7</u>	<u>\$ 4,314.9</u>	<u>\$ 4,535.7</u>	<u>\$ 4,765.5</u>	<u>\$ 5,004.5</u>

* Withdrawals are computed in FY04 by the previous fiscal years' ending balance multiplied by 5%. In FY05, withdrawals are computed by average ending balance of the two previous fiscal years multiplied by 5%, etc.

** Official DOR Fall Forecast

EX 6

What is POMV?

Percent Of Market Value = Payout of Fund Income

5% x \$2.2 Billion = \$114 Million (2004)

5% x \$2.9 Billion = \$134 Million (2009)

5% x \$3.8 Billion = \$176 Million (2014)

AKHF Total return – Payout = Inflation proofing

8.25% - 5% = 3.25%

Benefits of POMV

1. Preserves the funds purchasing power
2. Maximizes distributions over the long term
3. Minimizes fluctuations in annual payments

POLICIES AND PROCEDURES APPLICABLE
TO THE TREASURY DIVISION,
DEPARTMENT OF REVENUE,
STATE OF ALASKA

.....

APPENDIX Y

MEMORANDUM

STATE OF ALASKA
Department of Revenue

To: File

Date: December 29, 2000

Telephone: 465-2301

From: Wilson L. Condon
Commissioner

Subject: Decision and Justification for Asset
Allocation for the Constitutional
Budget Reserve Fund

The Constitutional Budget Reserve Fund (CBRF or Fund) is a very important financial asset of the state. By adopting a constitutional amendment (Article IX, Section 17 of the Alaska State Constitution) the voters of Alaska established the Fund in 1990. The state must deposit all money received as a result of administrative proceedings or litigation on (1) mineral lease payments or (2) taxes on mineral income into the Fund. The legislature can appropriate money from the Fund with a three-quarters vote of both houses or, under some restricted circumstances, with a simple majority.

This memorandum records two changes in investment policy. The first is a result of a legislative directive to invest some of the CBRF money more aggressively, in the hope of reaping some higher return from the riskier capital markets. The second is a change resulting from a modification in internal investment methodology in an attempt to dampen some of the volatility caused by the ever-changing nature of the CBRF.

A significant change that affects the CBRF investment policy occurred in 2000 when the 21st Legislature created a special "subaccount" in the CBRF in order to "yield higher returns than might be feasible to obtain with other money in the budget reserve fund." The legislature directed that "In establishing or modifying the investment policy for the subaccount in the constitutional budget reserve fund, the commissioner of revenue shall assume that those funds will not be needed for at least five years." The legislature funded this subaccount with \$400 million. Creation of this subaccount required creation of a new investment policy for the \$400 million.

**POLICIES AND PROCEDURES APPLICABLE
TO THE TREASURY DIVISION,
DEPARTMENT OF REVENUE,
STATE OF ALASKA**

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At the same time, the Department will effect a subtle change in its investment policy for the main account. In the ten years that the Fund has been in existence, the Department has not been able to maintain a consistent investment policy in part because the balance, purpose, and intended use of the fund, and consequent investment time frame, have changed over time. In the recent past, the Department would consider the asset allocation of that portion of the CBRF needed to fill the State reserve policy separately from the remainder, if any. The Department would develop two separate investment policies, which it would then blend to create one policy for the Fund. This process lead to frequent changes in the CBRF investment policy based on changes in assumptions or circumstances that had a material effect on the amounts of the CBRF not needed to meet the State's reserve policy. As explained below, although the Department will still calculate the amount needed for the two-year reserve, it will no longer develop, and then blend, a separate investment policy for the reserve and the remainder. This should allow for a more consistent match of investment objectives.

This is the fifth major change in the investment policy for the CBRF over the past 24 months. The Department expects that as a result of the change it is making in how the policy is derived, changes in the future will be more evolutionary in nature and more likely than not caused by changes in the capital markets assumption the Department receives each year. The table below shows the investment policies that have been in place for the entire CBRF over the past several years.

Table 1

	7/97 - 7/98	Change No. 1 7/98 - 12/98	Change No. 2 12/98 - 8/99	Change No. 3 8/99	Change No. 4 4/00
Equity Pool	19%	9%	0%	0%	0%
Broad Market Fixed Income Investment Pool	49%	33%	44%	0%	10%
Intermediate-term Fixed Income Investment Pool	31%	47%	30%	85%	75%
Short-term Fixed Income Investment Pool	1%	11%	26%	15%	15%

POLICIES AND PROCEDURES APPLICABLE
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Many of these changes were caused by the unexpected decline in oil prices from late 1997 through early 1999. This price decline and the consequent revenue shortfall required substantially larger than expected draws from the CBBF. This in turn reduced the CBRF balance substantially and shortened the CBRF's average investment time horizon from almost five years to less than two years. The average time horizon of the fund increased slightly in the spring of 2000.

Three developments gave rise to the need to change investment policy for the CBRF on July 1, 2000. First was the creation of the "subaccount" by the Legislature. Second was a decision by the Department to create only one investment policy for the main account of the CBRF rather than continue with its past practice of developing several individual policies for various segments of the CBRF and the combining them. Finally, continued high oil prices extended the expected life of the fund. Based on these developments the Department created the following separate investment policies for the main account and the subaccount of the CBRF.

Main Account of the CBRF

Updated through late November Treasury estimates that the balance of the main account of the CBRF balance will be \$2,678,000,000 on June 30, 2001. The same account balance was \$2,334,200,000 on July 1, 2000.

For the main account of the CBRF, Treasury considers the State's current two-year reserve requirement, General Fund cash flow borrowing needs, money in excess of that which might be needed within two years and the investment policy of the GeFONSI. At this time, although it appears the state will need most of the money from the CBRF to implement its Reserves Policy (Appendix X)¹ and to meet its cash flow needs, the current high oil prices and the balance in the CBRF support a somewhat more aggressive policy for the money in the main account of the CBRF than has been the case in recent years.

¹ This memorandum is the latest in a series of similar memoranda dated September 26, 1997, July 15, 1998, December 28, 1998 and August 10, 1999.

POLICIES AND PROCEDURES APPLICABLE
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Based on current spending and revenue projections, Treasury estimates that \$2,100,000,000 in the CBRF should be allocated to the reserve to cover the next two years' anticipated and unanticipated budget shortfalls, and that \$300,000,000 should be allocated to meet cash flow needs. As explained in Appendix X, to calculate the amount of reserve necessary, Treasury used an average estimated or implied standard deviation of oil prices, \$3.83/barrel, over the relevant period to estimate the amount of money needed to cover a 90th percentile oil price decline. This results in a reserve large enough to meet anticipated expenditures even if oil prices fell, except for a 10% probability that the reserve would not be sufficient. Treasury's estimate of money required for reserve reflects both the state's current fiscal position and the possibility of a material decline in oil prices estimated using market measures of price volatility for oil. The estimated CBRF balance on June 30, 2001 exceeded the state's short-term reserve needs and cash flow requirements by \$278 million.

The investment policy for the main account, however, remains conservative. Treasury has a moderate to moderately high risk tolerance. Treasury has a limited liquidity requirement for the Fund. The primary factor limiting the risk tolerance for the main account of the CBRF is the relatively short time horizon. The state may need a significant amount of this money within one year. The Department of Revenue estimates that the balance of the main account of the Fund will be exhausted by July of 2005. Treasury has concluded that the best way to meet the objectives for the main account of the CBRF while maximizing returns is to invest 10% in the Short-term Fixed Income Investment Pool, 65% in the Intermediate-term Fixed Income Investment Pool and 25% in the Broad-Market Fixed Income Investment Pool.

The recommended policy has the following characteristics:

Expected Return	5.82%
Risk	3.95%
Probability of Negative Return	7.05%

POLICIES AND PROCEDURES APPLICABLE
TO THE TREASURY DIVISION,
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The Subaccount of the CBRF

The subaccount of the CBRF was created by the legislature with the express intent of investing the subaccount more aggressively in an attempt to "yield higher returns than might be feasible to obtain with other money in the budget reserve fund" AS37.10.430(c). In giving this instruction the legislature provide statutory authority for the commissioner to have a clearly different risk tolerance when investing this money. Specifically the legislature provided that "In establishing or modifying the investment policy for the subaccount in the constitutional budget reserve fund, the commissioner of revenue shall assume that those funds will not be needed for at least five years." AS 37.10.430(c). The Department has publicly maintained and believes that time horizon is a major determinant of risk tolerance. In developing the investment policy for the CBRF over the years the possibility that the State could exhaust the Fund in just a few years has led to a more conservative investment policy than would otherwise have been the case. The legislature explicitly removed this constraint from the Commissioner when developing investment policy for the subaccount.

The legislature did not establish how much higher the expected rate of return might be or exactly how much risk could or should be accepted in the investment policy for the subaccount. The Department was left to consider these questions in light of how it and other fiduciaries would address the questions for a long-term endowment like fund. The most common approach to development of investment policies for endowments and other long-term funds is to look at historically achievable real or inflation adjusted returns for various asset classes and overall portfolios. Using this information, adjusted for current conditions and future expectation, fiduciaries can judge the likelihood of achieving various levels of returns and what the risk of the investment policies might be.

Most fiduciaries are comfortable with investment policies that target 5 percent real returns over time. As an example the State Retirement Systems have a current target of 5.15 percent. The Permanent fund has traditionally targeted something close to 5 percent. Both of these funds are clearly long-term funds. The majority of endowment or other long-term investment funds have

POLICIES AND PROCEDURES APPLICABLE
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investment policies that are likely to produce real or inflation-adjusted returns in the 4 to 6 percent range.

In evaluating the investment policy for the subaccount, the critical question becomes, is the fund significantly different from a typical endowment? Based on the legislative instruction the Department has concluded that it is not at this time different enough in any relevant way from a typical fund to justify either a more aggressive or more conservative investment policy than a typical fund. Treasury has concluded and I concur that a 5 percent real expected rate of return should be the target of the investment policy of the subaccount. Treasury has further concluded that the best way to meet the objectives for the subaccount of the CBRF while controlling risk is to invest 41% in the Domestic Equity Investment Pool, 17% in the International Equity Investment Pool and 42% in the Broad-Market Fixed Income Investment Pool.

The recommended policy has the following characteristics:

Expected Return	8.25%
Risk	10.56%
Probability of Negative Return	21.74%
Real rate of Return	5.00%

EX 8

Post-It* Fax Note	7671	Date	1/29/01	# of pages	12
To	Dave D'Amato		From	T. Davernant	
Compt.	Rep. Crawford		Co.	Treasury	
Phone #	0		Phone #	465-3751	
Fax #	465-4565		Fax #		

Constitutional Budget Reserve Fund - Investment Policy Statement

1. Overview

The state must deposit in a Constitutional Budget Reserve Fund (CBRF) all money received by the state after July 1, 1990 as a consequence of the resolution of disputes about the amount of mineral lease bonuses, royalties or taxes.

The Legislature may appropriate funds from the CBRF to fund the operations of state government only under certain conditions. If, at any time, the amount of funds from other sources available to the Alaska Legislature for appropriation is less than the amount appropriated to fund state government for the previous fiscal year, then the Legislature may appropriate from the CBRF on a simple majority vote. When the amount of funds from other sources exceeds the amount appropriated for the previous fiscal year, the Legislature may appropriate from the Fund for any public purpose with a three-fourths vote of the members of each house.

The Alaska state constitutional provision governing the operation of the CBRF requires the state's general fund to repay the money that has been appropriated from the CBRF if and when there is a surplus in the general fund at the end of any fiscal year. The general fund does not pay interest on the money it has "borrowed" from the CBRF.

Treasury's investment policies for the CBRF have changed over the years as balance and the expected uses of the CBRF have changed. A significant change occurred this year when the 21st Legislature created a special subaccount in the CBRF in order to "yield higher returns than might be feasible to obtain with other money in the budget reserve fund." The legislature directed that "In establishing or modifying the investment policy for the subaccount in the constitutional budget reserve fund, the commissioner of revenue shall assume that those funds will not be needed for at least five years. Income earned on money in the subaccount shall be retained in the subaccount by the department." AS 37.10.430(c).

Treasury, according to the constitution, credits to the CBRF the amount earned by the investment of the money in the CBRF. That is, the main account of the CBRF retains its investment earnings and the subaccount of the CBRF retains its investment earnings.

Appendix V contains the constitutional and statutory provisions applicable to the CBRF.

2. History

- November 1990. Voters of Alaska adopt an amendment to the Alaska State Constitution creating the CBRF. Article IX, 17 - See Appendix V.
- 1992-1994. Litigation over meaning of key terms in the constitutional provision.
- 1994. Legislature attempts to define "administrative proceedings involving taxes" and "money available for appropriation." 1 Ch. 5 SLA 1994. AS 37.10.410-420.
- April 1994. Alaska Supreme Court decision in *Hickel v. Halford* 872 P.2d 171 defining scope of "dispute" and "administrative proceedings."
- May 1994. Alaska Supreme Court decision in *Hickel v. Cowper* 874 P.2d 922 defining meaning of "amount available for appropriation."
- 1996. Legislature modifies definition of "administrative proceedings involving taxes." 5 Ch. 108 SLA 1996. See Appendix V.
- 1996. Legislature grants commissioner discretion to transfer management of all or a portion of CBRF to Alaska Permanent Fund Corporation. 1 Ch. 41 SLA 1996. AS 37.10.430. See Appendix V.
- 1997. Commissioner of Revenue decides to manage and invest all of CBRF through the Treasury Division, and Commissioner adopts Reserves Policy for the state.
- 1997. Commissioner adopts investment policy for CBRF based on three separate purposes of CBRF:
 - Fund to implement the state's Reserves Policy to cover anticipated and unanticipated shortfalls in the next two fiscal years' budgets;
 - Fund to provide a transition to a long-term fiscal plan; and
 - Fund to act as long-term reserve account to cover unanticipated budget shortfalls well into the future.
- June 1997. Legislature appropriates money from the CBRF for the first time from the CBRF to pay for CBRF equity investment management fees.
- July 1998. Because of anticipated heavy use of CBRF in short to medium term to balance state budgets, Commissioner modifies investment policy and eliminates consideration of using a portion of the CBRF to act as long-term reserve account.
- December 1998. Treasury reviews the Department of Revenue's Fall oil revenue forecast and the Office of Management and Budget's updated expenditure forecast. Treasury determines that the CBRF will be exhausted within five years to meet revenue shortfalls. Commissioner modifies investment policies and eliminates all equity investments.
- July 1999-September 1999. Treasury recommends and Commissioner accepts an investment policy recognizing a two-year investment horizon for the entire balance of the CBRF. Very large draws on CBRF to balance FY 98 and FY 99 budgets, together with a projected \$600 million to \$1.0 billion draw to balance FY 00 budget, reduces the anticipated time horizon for the balance of fund.

Commissioner concludes this change is appropriate no matter how the public votes in the September 14, 1999 special election relating to the state's long-range finances. Similarly, the Commissioner concludes that the higher oil prices experienced in the late spring and summer of 1999 should not alter this proposed policy.

- April 2000. Treasury recommends and Commissioner accepts an investment policy that recognizes a balance in the CBRF in excess of the state's two year reserve requirement and the state's cash flow needs. Higher than anticipated oil prices and a significant settlement increased the balance of the CBRF enough to cause the change in the investment policy
- July 2000. A significant change in the legislation relating to the fund caused Treasury to recommend significant changes to the investment policy of the fund. Treasury recommended and the commissioner accepted an investment policy that recognized a distinction for the newly created subaccount of the fund, the likely life of the fund, and the role of the balance of the fund in filling the reserve requirements of the State. (Related decision document in Appendix Y.) (Earlier versions of these decision documents are maintained in permanent files in Treasury's Asset Accounting Section. Revised documents relating to those policy decisions may be found in Appendices W and X.)

3. Facts and Figures

Fund Cash Flow History by Fiscal Year

Alaska's Public Finances Constitutional Budget Reserve Fund, Main Account (\$millions)

	Settlement Contributions ^(a)	Investment Income ^(b)	Net Loans to General Fund	Balance Available to Loan GF at Year End ^(c)
FY 91	291	6	-	297
FY 92	247	19	-	563
FY 93	914	57	(849)	685
FY 94 ^(d)	437	61	(569)	614
FY 95	1,543	122	(285)	1,994
FY 96	586	111	(173)	2,518
FY 97	570	167	(83)	3,172
FY 98	343	369	(325)	3,559
FY 99	56	114	(1,101)	2,628
FY 00	448	115	^(e) (357)	^(f) 2,734
FY 01 (Proj.)	100	128	117	^(g) 2,679
FY 02 (Proj.)	45	133	(515)	2,342
FY 03 (Proj.)	45	107	(717)	1,777
Total	5,625	1509	(\$4,857)	

Data sources:

- (a) Department of Revenue, Income and Excise Audit Division, Mineral Payments Report (ties in total through FY99).
- (b) Derived (by formula).
- (c) State of Alaska Comprehensive Annual Financial Report (ending balance less the outstanding receivable from the state's general fund).
- (d) Although the table above is based on cash flows, it does not reflect the timing of the \$1,006,038,474 legislative appropriation (Ch 14, SLA 1994) resulting from an Alaska Supreme Court order to restore the CBRF for certain settlement payments deposited to the state's general fund from FY 1990-1994.
- (e) FY00 includes draw to finalize FY99 budget (42mm).
- (f) Reflects \$100 million transfer to Power Cost Equalization Endowment Fund.
- (g) Reflects \$400 million transfer to CBRF subaccount on July 1, 2000.

Alaska's Public Finances
Constitutional Budget Reserve Fund, Subaccount
(\$millions)

	Settlement Contributions ^(a)	Investment Income ^(b)	Net Loans to General Fund	Balance Available to Loan GF at Year End ^(c)
FY 00	0	0	0	0
FY 01 (Proj.)	400	34	0	434
FY 02 (Proj.)	0	37	0	471
FY 03 (Proj.)	0	40	0	511
Total	400	111	0	

4. Investment Policy

For the main account of the CBRF (excluding the subaccount that has a five-year time horizon), Treasury recognizes the State's current two-year reserve requirement. General Fund cash flow borrowing needs, money in excess of that which might be needed within two years and the Investment policy of the GcFONSI. At this time, the current high oil prices and the balance in the CBRF support a somewhat more aggressive policy for the money in the main account of the CBRF than had been the case in recent years.

Treasury would invest the main account of the CBRF with the following in mind:

Risk Tolerance	Moderately high. Fund should not be needed for several years.
Investment Objectives	Moderately high exposure of principal to loss in return for higher expected longer-term returns. Limited current income requirement. Moderate inflation protection needed. Moderate liquidity requirement.
Time Horizon	Intermediate.

Effective July 1, 2000, Treasury's investment policy for the main account of the CBRF would be:

- 25% Board Market Fixed Income Investment Pool
- 65% Intermediate-term Fixed Income Investment Pool
- 10% Short-term Fixed Income Investment Pool

Treasury's performance benchmark for the main account of the CBRF is:

- 25% Lehman Brothers Aggregate Bond Index
- 65% Merrill Lynch 1-5 year Government Index
- 10% Three-month U.S. Treasury Bill

Treasury would invest the subaccount of the CBRF with the following in mind:

- | | |
|-----------------------|---|
| Risk Tolerance | High. The legislature has expressly provided guidance by instructing the Commissioner to use at least a five year time horizon in establishing an investment policy for the subaccount. |
| Investment Objectives | High exposure of principal to loss in return for higher expected longer term returns.
Limited current income requirement.
Inflation protection needed.
Moderate liquidity requirement. |
| Time Horizon | Long. |

Effective July 1, 2000, Treasury's investment policy for the subaccount of the CBRF would be:

- 42% Board Market Fixed Income Investment Pool
- 41% Domestic Equity Investment Pool
- 17% International Equity Investment Pool

Treasury's performance benchmark for the main account of the CBRF is:

- 42% Lehman Brothers Aggregate Bond Index
- 41% Russell 3000 Stock Index
- 17% Morgan Stanley Capital International Europe, Australia, and Far East Stock Index

5. Control and Reporting Requirements

On or before March 15 each year, AS 37.10.430 requires Treasury to prepare a report to the Legislature comparing beginning and ending balances in the CBRF for the immediately preceding calendar year together with comparative nominal, real and realized returns for the CBRF, the Permanent Fund and the

general fund. The State Comptroller in the Treasury Division is responsible for compiling this information and preparing and distributing the required report.

The Alaska Legislature made AS 37.10.071 directly applicable to the CBRF. Accordingly, the Commissioner, through the State Comptroller, maintains accounting records for the Fund in accordance with generally accepted accounting principles (as would be required by AS 37.10.071(a)(8)) and engages an independent certified public accountant to perform an annual audit of the financial condition of the Fund and the pertinent investment transactions (as would be required by AS 37.10.071(a)(9)).

Version Control

Revision Date	Effective Date	Summary of Changes	Find it in Version
8/19/99	9/1/99	CBRF - elimination of Transition Fund and Long-term Reserve Fund, modification to investment policy of Two-year Shortfall Fund including asset allocation.	1.2
3/7/00	4/1/00	Treasury updates 2000 capital market assumptions and changes asset allocation policy accordingly. Target policy was 15% Short-term Fixed Income Investment Pool, 85% Intermediate-term Fixed Income Investment Pool.	1.3
4/7/00	4/10/00	Treasury revises asset allocation after receiving a \$416.3 million settlement from an oil tax dispute in early April 2000. Asset allocation was 25% Short-term Investment Pool, 75% Intermediate-term Investment Pool.	1.4
1/29/01	7/1/00	Treasury revises asset allocation when the 21st Legislature creates a special \$400 million "subaccount" in the CBRF effective July 1, 2000 and establishes a new \$100 million Power Cost Equalization Endowment Fund.	1.7

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HJR 14
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: Constitutional Amendment: _____ BRU: Revenue Operations
 Alaska Heritage Fund _____ Component: Treasury
 Sponsor: Representative Crawford _____
 Requester: House State Affairs Committee _____ Component Number: 121

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual			1,075.0	1,109.9	1,146.0	1,183.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	1,075.0	1,109.9	1,146.0	1,183.3

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
CBRF			(125.0)	(125.0)	(125.0)	(125.0)
Other Alaska Heritage Fund	0.0	0.0	1,200.0	1,234.9	1,271.0	1,308.3
TOTAL	0.0	0.0	1,075.0	1,109.9	1,146.0	1,183.3

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached page

Prepared by: Betty Martin, Comptroller Phone 465-2352
 Division: Treasury Division Date/Time 04/13/2001 4 p.m.
 Approved by: Larry Persily, Deputy Commissioner Date 04/16/2001
 Agency: Department of Revenue

Department of Revenue Fiscal Note and Bill Analysis – April 16, 2001
HJR 14

Fiscal Note Assumptions:

- Starting balance in the fund is \$2.5 billion as of July 1, 2003, and assuming a 3.25% annual growth rate in the fund balance (average rate of inflation).
- Asset allocation of 30% fixed-income, 50% domestic equity, and 20% international equity.
- Custody, accounting, audit and overhead = 1 basis point on total assets (0.01%).
- Fixed-income investment management fee = 1 basis point (0.01%) of assets invested in fixed-income securities.
- Domestic equity management fee = approximately 1 basis point (0.01%) of assets invested in domestic equities.
- International equity investment management fee = approximately 15 basis points (0.15%) of assets invested in international equities.
- Assume the CBRF will go away on July 1, 2003.
- Assuming the CBRF goes away at the end of Fiscal 2003, the \$125.0 appropriated each year for CBRF management fees would be applied to the new Alaska Heritage Fund. The fiscal note shows that \$125.0 applied toward the cost of the Heritage Fund starting in Fiscal 2004, reducing the appropriation that would be necessary for management fees for the new fund.
- No increase is included for higher fees due to increased assets from additional contributions into the fund.

Bill Analysis of Investment Sections.

This constitutional amendment would change the Constitutional Budget Reserve from a fund that could be fully appropriated by the legislature into a fund that allows only 5 percent per year to be appropriated. Although the resolution does not specify an investment objective, we presume that the resolution intends to have the new fund managed as a perpetual endowment.

When managing a perpetual endowment, the money in the endowment must be invested in a manner that will, over time, provide enough return to provide for both the annual pay-out and to protect against inflation. Here, Section 1 of the resolution requires that the fund be managed in accordance with a legal list of acceptable investments for the fund. The Treasury Division does not recommend this approach to

managing an endowment fund's investments. A list can, in some cases, have the unintended consequence of increasing risk or limiting returns in the short-term.

A better approach would be to constrain the discretion of the fiduciary investing the fund by directing that the Treasury Division invest the fund in a manner that is expected to earn a return large enough to meet the two objectives of the fund: To pay out 5 percent of the value of the fund, and to increase the value of the fund at a rate sufficient to protect against inflation. This "real rate of return" investment policy would allow Treasury to invest in a manner that provides the best prospective returns at any level of risk and the lowest prospective risk for any level of inflation-adjusted returns.

Section 4 of the resolution would adopt the prudent investor rule as part of the constitution, but only for the Alaska Heritage Fund. Under this section, the constitution would require the prudent investor rule for the Heritage Fund but not for the other investments of the state, such as the Permanent Fund or the General Fund. Of course, the prudent investor rule applies to these investments by statute, as it does to the existing Constitutional Budget Fund.

The prudent investor rule is subject to legislative and judicial interpretation. Alaska's existing statutory prudent investor rule is very strict: "the fiduciary of a state fund shall apply the prudent investor rule and exercise the fiduciary duty in the sole financial best interest of the fund entrusted to the fiduciary." AS 37.10.071(c). California, on the other hand, has interpreted its prudent investor rule to allow investments that would not meet the Alaska standard. Alaska's existing strong statutory prudent investor rule should not be trumped by a weaker constitutional standard.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HJR14
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
Title: Constitutional Amendment relating to the BRU: Elective Operations
budget reserve fund and Alaska heritage fund Component: Elections
Sponsor: Representative Crawford
Requester: House State Affairs Committee Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	1.5	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	1.5	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15 58. If this measure requires the printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenumiai Phone 465-3935
Division: Division of Elections Date/Time 04/17/2001 9:47AM
Approved by: Lieutenant Governor Fran Ulmer Date 04/17/2001
Agency: Office of the Lieutenant Governor

For distribution information, call the Governor's Legislative Office

22-LS0681\c
Cramer
4/9/01

CS FOR HOUSE BILL NO. 170()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MASEK

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to retirement contributions and benefits under the public employees'
2 retirement system of certain employees of the Department of Fish and Game."

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

4 * Section 1. AS 39.35.160(a) is amended to read:

5 (a) Beginning January 1, 1987, each peace officer or fire fighter shall
6 contribute to the system an amount equal to seven and one-half percent of the peace
7 officer's or fire fighter's compensation. Beginning January 1, 2002, each
8 professional fish and game employee shall contribute to the system an amount
9 equal to seven and one-half percent of the fish and game employee's
10 compensation. Except as provided in (d) of this section, beginning January 1, 1987,
11 each other employee shall contribute to the system an amount equal to six and three-
12 quarters percent of the employee's compensation. The contributions shall be deducted
13 by the employer at the end of each payroll period. The contributions shall be deducted
14 from employee compensation before computation of applicable federal taxes, and the

1 contributions shall be treated as employer contributions under 26 U.S.C. 414(h)(2).

2 * Sec. 2. AS 39.35.370(a) is amended to read:

3 (a) Subject to AS 39.35.450, a terminated employee is eligible for a normal
4 retirement benefit

5 (1) at age 60 with at least five years credited service;

6 (2) with at least 20 years of credited service as a peace officer, [OR]
7 fire fighter, or professional fish and game employee; or

8 (3) with at least 30 years of credited service for all other employees.

9 * Sec. 3. AS 39.35.370(c) is amended to read:

10 (c) The monthly amount of a retirement benefit for a peace officer, [OR] fire
11 fighter, or professional fish and game employee is two percent of the average
12 monthly compensation times the years of credited service through 10 years, plus two
13 and one-half percent of the average monthly compensation times the years of service
14 over 10 years. For all other employees it is

15 (1) two percent of the average monthly compensation times all years of
16 service before July 1, 1986, and for years of service through a total of 10 years; plus

17 (2) two and one-quarter percent of the average monthly compensation
18 times all years of service after June 30, 1986, over 10 years of total service through 20
19 years; plus

20 (3) two and one-half percent of the average monthly compensation
21 times all years of service after June 30, 1986, over 20 years of total service.

22 * Sec. 4. AS 39.35.370(f) is amended to read:

23 (f) A member who is vested in the system as a peace officer, [OR] fire fighter,
24 or professional fish and game employee at the time the member incurs a permanent
25 disability of at least 33 1/3 per cent under workers' compensation and who (1)
26 undergoes retraining because of the disability; and (2) is subsequently employed with
27 the state or other employer in a position other than peace officer, [OR] fire fighter, or
28 professional fish and game employee is eligible for a normal retirement benefit as a
29 peace officer, [OR] fire fighter, or professional fish and game employee under (a)
30 and (c) of this section upon completing 20 years of credited service.

31 * Sec. 5. AS 39.35.527 is amended to read:

1 **Sec. 39.35.527. Election to terminate coverage as a peace officer, [OR] fire**
2 **fighter, or professional fish and game employee.** (a) Any active member may elect
3 to irrevocably relinquish hazardous duty [PEACE OFFICER OR FIRE FIGHTER]
4 status with the system and to retain all credited service as if it had been acquired as a
5 member other than a peace officer, [OR] fire fighter, or professional fish and game
6 employee.

7 (b) In order to relinquish hazardous duty [PEACE OFFICER OR FIRE
8 FIGHTER] status with the system, a person must be an active member and must file a
9 written request with the administrator by July 1, 1984, for active members who are
10 peace officers or fire fighters or within six months after employment as a peace
11 officer or fire fighter, or by July 1, 2002, or within six months after employment as
12 a professional fish and game employee for active members who are professional
13 fish and game employees, whichever occurs later. No person has more than one
14 opportunity to exercise this option.

15 (c) As soon as possible after the relinquishment, the administrator shall refund
16 to a person who relinquishes hazardous duty [PEACE OFFICER OR FIRE
17 FIGHTER] status under this section a refund equal to the amount by which the
18 balance of the person's accumulated mandatory contributions plus interest exceeds the
19 balance which would exist if all service credit had been acquired as a member other
20 than a peace officer, [OR] fire fighter, or professional fish and game employee.

21 (d) A written request to relinquish hazardous duty [PEACE OFFICER OR
22 FIRE FIGHTER] status is irrevocable upon filing with the administrator.

23 (e) In this section, "hazardous duty status" means status as a peace
24 officer, fire fighter, or professional fish and game employee under this system.

25 * **Sec. 6.** AS 39.35.680 is amended by adding a new paragraph to read:

26 (41) "professional fish and game employee" means a permanent full-
27 time employee, including a permanent seasonal employee, of the Department of Fish
28 and Game who is employed as a wildlife biologist, fisheries biologist, or fish and
29 game technician.

30 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new
31 section to read:

1 TRANSITION. (a) An employee who was employed before January 1, 2002, but on
2 or after June 23, 1983, in a position that meets the definition of "professional fish and game
3 employee" enacted in sec. 6 of this Act may convert the credited service for that position
4 during that time to credited service as a professional fish and game employee as enacted by
5 this Act by claiming the service as professional fish and game employee service before the
6 member is appointed to retirement. When the member claims this credited service as
7 professional fish and game employee service, an indebtedness of the member to the system
8 shall be established. The indebtedness is equal to (1) the contributions to the system that the
9 employee would have made if the service had counted as professional fish and game
10 employee service, less (2) the contributions to the system that the employee actually made.
11 Interest, as prescribed by regulation, accrues on this indebtedness, as required by regulation.
12 Any outstanding indebtedness that exists at the time a person is appointed to retirement will
13 require an actuarial adjustment to the benefits payable based upon the service claimed under
14 this subsection.

15 (b) In this section, "professional fish and game employee service" means service that
16 is eligible for enhanced retirement benefits as established in this Act.

HOUSE BILL NO. 170

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MASEK, Kerttula

Introduced: 3/9/01

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to granting certain employees of the Department of Fish and Game
2 status as peace officers under the public employees' retirement system."

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

4 * **Section 1.** AS 39.35 is amended by adding a new section to article 5 to read:

5 **Sec. 39.35.365. Peace officer status for qualified employees of the**
6 **Department of Fish and Game.** (a) Service as an employee of the Department of
7 Fish and Game on or after July 1, 2001, is considered service as a peace officer under
8 this chapter if the employee is a permanent full-time employee, including a permanent
9 seasonal employee, of the Department of Fish and Game and the employee fills a
10 position that has been certified by the commissioner of fish and game and approved by
11 the commissioner of administration as having duties that require a significant amount
12 of field work, travel, or exposure to hazardous working conditions.

13 (b) An employee who was employed before July 1, 2001, but on or after
14 June 23, 1983, in a position that would be eligible for certification under (a) of this

1 section except for the requirement that the service be performed on or after July 1,
2 2001, may convert the credited service for that position during that time to credited
3 service as a peace officer by claiming the service as peace officer service before the
4 member is appointed to retirement. When the member claims this credited service as
5 peace officer service, an indebtedness of the member to the system shall be
6 established. The indebtedness is equal to (1) the contributions to the system that the
7 employee would have made if the service had counted as peace officer service, less (2)
8 the contributions to the system that the employee actually made. Interest, as
9 prescribed by regulation, accrues on this indebtedness, as required by regulation. Any
10 outstanding indebtedness that exists at the time a person is appointed to retirement will
11 require an actuarial adjustment to the benefits payable based upon the service claimed
12 under this subsection.

13 (c) In this section,

14 (1) "a significant amount" means at least five percent of an individual's
15 working time;

16 (2) "exposure to hazardous working conditions" means actively
17 engaged in fish and game conservation or protection work that involves a
18 demonstrated high risk of serious bodily injury or death, and includes

19 (A) conducting aerial surveys in small aircraft;

20 (B) working on vessels on the open sea;

21 (C) traveling in small skiffs over open water or in remote
22 locations; and

23 (D) conducting stream surveys or other work where contact
24 with dangerous wild animals is likely;

25 (3) "field work" means working outside of a permanent structure and
26 does not include working within or in proximity to a permanent residential
27 community;

28 (4) "travel" means going to and from a place of duty as a passenger or
29 operator in a plane, bus, train, automobile, boat, or any other form of mechanized
30 transportation; it does not include travel primarily for the purpose of going from one
31 established city, village, or community to another.

4
1 * Sec. 2. AS 39.35.680(28) is amended to read:

2 (28) "peace officer" or "fire fighter" means an employee occupying a
3 position as a peace officer, chief of police, correctional officer, correctional
4 superintendent, fire fighter, fire chief, qualified employee of the Department of Fish
5 and Game, or probation officer;

6 * Sec. 3. AS 39.35.680 is amended by adding a new paragraph to read:

7 (41) "qualified employee of the Department of Fish and Game" means
8 an employee of that department who meets the qualifications for peace officer status
9 set out in AS 39.35.365.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 170
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to PERS contributions and BRU: Centralized Administrative Services
benefits for certain Fish and Game employees..." Component: Retirement and Benefits
 Sponsor: Representative Masek
 Requester: House State Affairs Component Number: 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 HB 170 requires that positions be certified by the Commissioner of Fish and Game and approved by the Commissioner of Administration to require significant amounts of field work or travel or hazardous working conditions to qualify for peace officer status. If so certified, the retirement status of some current and future Fish and Game employees will change from 30 and out to 20 and out. The bill also grants retroactive peace officer service credit for such employees back to the date they were hired into these positions. Under the bill, to convert such service, the employee is required to pay the difference between the 6.75% the employee paid as a PERS "Other" member and the 7.5% required of Police/Fire members. All other costs will be paid by the State of Alaska through an increased in the Public Employees' Retirement System employer rate.

Prepared by: Guy Bell, Director Phone 465-4471
 Division: Retirement and Benefits Date/Time April 18, 2001
 Approved by: Jim Duncan, Commissioner Date April 18, 2001
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

Alaska State Legislature



Committees:

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Co-Chair

Transportation
Vice Chair

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Military & Veteran Affairs

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Wasilla, AK 99654
(907) 376-2679
Fax: 373-4745

During Session: (Jan.-May)
State Capitol
Juneau, AK 99801-1182
(907) 465-2679
Fax: 465-4822
1-800-505-2678

Representative Beverly Masek

Sponsor Statement for HB 170

20 Year Retirement Provision for Fish & Game Employees

Alaska's Department of Fish and Game is experiencing an unprecedented problem relating to the recruitment and retention of qualified professionals. Due to competing interests and the State's inability to adjust pay scales upward sufficiently to offset those other interests, Alaska is experiencing a drain on experienced personnel.

Although it is but a minor step, returning our professional staff within the Department of Fish and Game to the twenty year retirement system, Alaska may be able to attract talented new professionals into the department. Even with a twenty year retirement system, the State will continue to face difficulties in recruiting and retaining qualified staff due to the large disparity in salaries offered elsewhere.

It is my hope that introduction of HB 170 will initiate a much needed discussion on what role the legislature believes our natural resource managers should play in maintaining those assets that are the economic mainstay of the State. We simply cannot ignore the fact that maintenance budgets and stagnating salaries will put us in a position where the best managers will go elsewhere.

~~25/07~~
Guy Bell,

Could you give us an estimated fiscal
impact of a retirement provision
that calls for 20 years work

and 5 year "buy out" or 25 years
work only for field-related jobs.

i.e. field biologists & technicians.

Ryanieva

25 yr. retirement.

- 20 yr. to work + 5 year "buy" out.
- only for "field-related jobs"
- to biologists, etc.



Alaska State Legislature

Please enter into the record my testimony to the Hose State Affairs
committee name

Committee on HB 170 (Peace Officer Status) dated April 19, 8:00A.M.
bill # / subject for fish employees

From what I understand; fish and Game employees face a similar statistical risk for death and injury related to "on-the-job" assignments. Many fish employees have enforcement training and do issue citations to violators and face many of the same pressures as other peace officers. To be fair and consistent in compensation for employees facing similar risks and challenges, I favor treating fish employees with comparable compensation as peace officers.

Signed: Rob Masserini
Testifier

Myself
Representing (optional)

P.O. Box 932, Kisilof, AK 99610
Address

260-7697
Phone number



Alaska State Legislature

Please enter into the record my testimony to the House STATE AFFAIRS Committee
committee name

Committee on HB 170, dated 4-18-01
bill # / subject

Please support this House Bill. Jobs of equal duty should be treated equally.

It is difficult to attract & maintain high level professionals w/a 30 yr. retirement plan.

The buyout factor is much greater with a 30 year retirement plan. There is many "STATE OF AK" jobs available at this time, but there is a lack of interest due to the 30 year plan. Please support this plan.

Signed: *Jay Bonfield*
Testifier

Self
Representing (optional)

PO Box 603, Sterling, Ak 99672
Address

907-262-1329
Phone number

ALASKA STATE HOUSE OF REPRESENTATIVES

Session

Interim Address:
119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907)-456-5081
Fax# (907)-456-8245



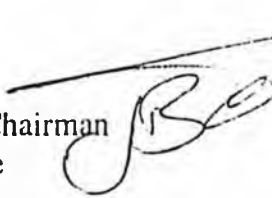
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 102

HOUSE STATE AFFAIRS COMMITTEE Representative John Coghill, Chairman

MEMORANDUM

Date: April 17, 2001

To: Suzi Lowell, Chief Clerk

From: Representative John Coghill, Chairman
House State Affairs Committee 

Re: House State Affairs Committee Schedule

Schedule for House State Affairs Committee:

Thursday, April 19th at 8:00 a.m. Room 102

HB 192 Bristol Bay Salmon Classic
HB 189 Repeal Term Limits/Term Limits Pledges
HB 170 Benefits for Fish & Game Employees
HJR 14 Const. Am: Alaska Heritage Fund

BILLS PREVIOUSLY SCHEDULED OR HEARD

April 21st at 10:00 a.m. Room 102

HB 87 Alaska Veteran's Advisory Council
HB 88 Pioneers and Veterans Home/Advisory Board

BILLS PREVIOUSLY SCHEDULED OR HEARD

April 24th at 10:00 a.m. Room 102

HB 53 Seismic Hazards Safety Commission



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs Committee
committee name

Committee on H B 170, dated April 17th, 2001
bill # / subject

I am in favor of passage of House Bill No. 170, "An act relating to granting certain employees of the Department of Fish and Game status as peace officers under the public employees' retirement system."

I am a badge carrying, commissioned peace officer for the Department of Fish and Game, Division of Wildlife Conservation. I was given my authority by the Commissioner of the Department of Fish and Game in accordance with Alaska Statutes Title 16, Chapter 5, Section 140, which states: Enforcement authority: The following persons are peace officers of the state and they shall enforce this title...

I work under what are quite often the most dangerous of circumstances such as low-level helicopter and fixed wing aircraft flights while observing or capturing wildlife. I work every day around potentially dangerous wildlife including nuisance, wounded or injured bears, moose and other wildlife. I often find myself operating snowmachines, boats and other equipment under adverse conditions far from any medical facility. I deal with the public, hunters and non-hunters alike, on a daily basis, not always under the best of circumstances and often at their residence or otherwise far from any immediate support.

I work cooperatively with other law enforcement agency personnel, both federal and state, on a daily basis. I respond to calls (often on weekends and evenings) from Alaska State Trooper dispatch regarding wildlife-related problems. I've had to deal with inebriated stressed out people carrying firearms in the middle of the night when bears were trying to kill their livestock or break into their homes. I am authorized to issue fish and game code citations. Yet I understand that, for the purposes of our retirement plan, I'm not a peace officer and my job is not considered dangerous. My situation is not unique within the department. In the interest of fairness and further equity I would respectfully ask that you lend your support to the passage of H B 170. Thank you.

Larry L. Lewis
 P.O. Box 403
 Kaslof AK 99610
 262-1370 home - 262-9368 work

SITE: FAIRBANKS LIO

COMMITTEE: H State Affairs

DATE: April 19, 2001

SUBJECT OF MEETING:

HB 170 - PERS Peace Officer
Status for F & G Employees

UPDATE #: 4



PLEASE SIGN IN

PLEASE PRINT:

NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?
Y or N**

NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y or N
Matt Evenson			Yes - HB 170
Tim Viavant			Yes - HB 170
Don Young	<i>Deputized</i>		Yes - HB 170
Robert Hunter			Yes - HB 170
Mike Doxey			Yes - HB 170
Harry Reynolds			Yes - HB 170
Jesse VanderZanden			Yes - HB 170
Doreen Parker-McNeill	<i>Wildlife biologist - supervises 3 to 4 technicians</i>		Yes - HB 170

SITE: ANCHORAGE LIO

COMMITTEE:

House State Affairs

DATE: 4-19-2001

SUBJECT OF MEETING:

HB192/HB189/HB170/HJR14

UPDATE #:



PLEASE SIGN IN

PLEASE PRINT:

NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?**

Y or N

NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y or N
✓ John Hilsinger			Y - HB 170

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 170
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to PERS contributions and BRU: Centralized Administrative Services
benefits for certain Fish and Game employees..." Component: Retirement and Benefits
 Sponsor: Representative Masek
 Requester: House State Affairs Component Number: 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 170 requires that positions be certified by the Commissioner of Fish and Game and approved by the Commissioner of Administration to require significant amounts of field work or travel or hazardous working conditions to qualify for peace officer status. If so certified, the retirement status of some current and future Fish and Game employees will change from 30 and out to 20 and out. The bill also grants retroactive peace officer service credit for such employees back to the date they were hired into these positions. Under the bill, to convert such service, the employee is required to pay the difference between the 6.75% the employee paid as a PERS "Other" member and the 7.5% required of Police/Fire members. All other costs will be paid by the State of Alaska through an increased in the Public Employees' Retirement System employer rate.

Prepared by: Guy Bell, Director Phone 465-4471
 Division: Retirement and Benefits Date/Time April 18, 2001
 Approved by: Jim Duncan, Commissioner Date April 18, 2001
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 170
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to PERS contributions and BRU: Centralized Administrative Services
benefits for certain Fish and Game employees..." Component: Retirement and Benefits
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Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 170 requires that positions be certified by the Commissioner of Fish and Game and approved by the Commissioner of Administration to require significant amounts of field work or travel or hazardous working conditions to qualify for peace officer status. If so certified, the retirement status of some current and future Fish and Game employees will change from 30 and out to 20 and out. The bill also grants retroactive peace officer service credit for such employees back to the date they were hired into these positions. Under the bill, to convert such service, the employee is required to pay the difference between the 6.75% the employee paid as a PERS "Other" member and the 7.5% required of Police/Fire members. All other costs will be paid by the State of Alaska through an increased in the Public Employees' Retirement System employer rate.

Prepared by: Guy Bell, Director Phone 465-4471
 Division: Retirement and Benefits Date/Time April 18, 2001
 Approved by: Jim Duncan, Commissioner Date April 18, 2001
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

Alaska State Legislature



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Fax: 373-4745

During Session: (Jan.-May)
State Capitol
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Fax: 465-4822
1-800-505-2678

Committees:

Resources
Co-Chair

Transportation
Vice Chair

Economic Development,
Trade & Tourism

Military & Veteran Affairs

Representative Beverly Masek

Sponsor Statement for HB 170

20 Year Retirement Provision for Fish & Game Employees

Alaska's Department of Fish and Game is experiencing an unprecedented problem relating to the recruitment and retention of qualified professionals. Due to competing interests and the State's inability to adjust pay scales upward sufficiently to offset those other interests, Alaska is experiencing a drain on experienced personnel.

Although it is but a minor step, returning our professional staff within the Department of Fish and Game to the twenty year retirement system, Alaska may be able to attract talented new professionals into the department. Even with a twenty year retirement system, the State will continue to face difficulties in recruiting and retaining qualified staff due to the large disparity in salaries offered elsewhere.

It is my hope that introduction of HB 170 will initiate a much needed discussion on what role the legislature believes our natural resource managers should play in maintaining those assets that are the economic mainstay of the State. We simply cannot ignore the fact that maintenance budgets and stagnating salaries will put us in a position where the best managers will go elsewhere.

Bill History/Action Display



BILL: HB 202

SHORT TITLE: PEACE OFFICER PERS BENEFITS FOR RANGERS

BILL VERSION:

SPONSOR(S): REPRESENTATIVE(S)HARRIS, Kerttula

CURRENT STATUS: (H) STA
THEN FIN

STATUS DATE: 03/22/01

TITLE: "An Act granting park rangers status as peace officers under the public employees' retirement system; and providing for an effective date."

 Full Text

No Fiscal Notes Available

 Committee Action with Bill History

Jrn-Date	Jrn-Page	Action
03/22/01	<u>0688</u>	(H) READ THE FIRST TIME - REFERRALS
03/22/01	<u>0688</u>	(H) STA, FIN
03/22/01	<u>0688</u>	(H) REFERRED TO STATE AFFAIRS
04/10/01	<u>0940</u>	(H) COSPONSOR(S): KERTTULA

Similar Subject Match or Exact Subject Match
PARKS & RECREATION
PUBLIC EMPLOYEES
RETIREMENT

Bill Root:

Display Bill Root

BASIS HAS BEEN RE-PROGRAMMED THIS YEAR

TO REPORT PROBLEMS WITH BASIS INQUIRY[Return to Basis Main Menu \(22 Legislature\)](#)[Return to Legislature Home Page](#)

I would like to voice my support for House Bill 170. I currently work for the Alaska Department of Fish and Game and know that there is a lack of new biologists that are willing to work for the Department. The work requires long hours, time away from family and hazardous tasks such as flying aerial surveys. Biologists are choosing to work for other agencies that have better pay, better funding and less demanding tasks. Alaska has been recognized for the excellent job it has done in managing it's fisheries. The Marine Stewardship Council has certified Alaskan salmon fisheries as wild and sustainable. For this management to continue Alaska needs to be able to recruit quality biologists. The option of a 20 year retirement would be an incentive unmatched by other agencies and might off set the subsidized housing, 25% tax free COLA, and other benefits that currently allow other agencies to recruit the cream of the biologist crop. Please support this bill.

Tim Sands

PO Box 1011
DILLINGHAM, AK
99576

PHONE: 907-842-4624

Post-It® Fax Note	7871	Date	4-19-01	# of pages	1
To	House State Affairs	From	DIG LIO		
Co./Dept.	Written Testimon	Co.			
Phone #	on HB 170	Phone #	907-842-5319		
Fax #	907-465-3258	Fax #	907-842-5105		



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
 committee name
 committee on HB 170, 20 year retirement dated 4-20-2001
 bill/subject

I believe House Bill 170 is a positive step for the state and for ADF&G. This bill would greatly improve moral, prevent burnout of state biologists, and save the state money in the long run. ADF&G has the highest on the job mortality rate of any state agency in Alaska. High risk is involved with many of our normal job duties: small airplane work, exposure to severe weather and wild animals, small boat work, and large vessel work. I have personally been in a small aircraft that had to make an emergency landing on the Red Dog Mine road near Kivilina when the engine quit. I was enroot to Kotzebue after conducting surveys in the village of Noatak as a ADF&G biologist. Had there not been a road to land on, the outcome of this landing could have been injury or death. I have heard of numerous other near misses from other ADF&G employees. In recent years, many state biologists have left ADF&G to work for the federal government where pay is higher, and the stress and risks are lower. As a biologist who is currently under the 30 year retirement plan, I can't imagine working another 20+ years longer without some burnout. I enjoy my job and take pride in doing it - but not for 20+ more years with the same risks and not much incentives. I support HB170 and hope you will also.

Signed: Elisabeth Brennan Elisabeth Brennan
 Testifier

Representing (Optional)
PO Box 11023

Address
Name, AK 907-443-5470
 phone

KODIAK LIO FAX 486-5264



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
committee name

committee on HB 170, dated 4/19/2001
bill/subject

I SUPPORT HOUSE BILL 170 BECAUSE I BELIEVE THAT
IT IS AN ESSENTIAL STEP IN MAINTAINING ADF&G'S
DWINDLING QUALIFIED STAFF AND WILL HELP
ATTRACT NEW EMPLOYEES.

WITH FISH AND GAME SALARIES LOSING GROUND AGAINST RISING
INFLATION, AND REDUCED BUDGETS PLACING ADDITIONAL PRESSURE
ON CURRENT AND FUTURE EMPLOYEES, THE NUMBER OF PEOPLE
WILLING TO WORK 30 YEARS (ESPECIALLY IN LIGHT OF HIGHER
PAID POSITIONS ELSEWHERE) IS MINIMAL.

I BELIEVE ADOPTION OF HB 170 WILL HELP TO COUNTERACT
THE ATTRITION THAT IS CURRENTLY TAKING PLACE,

Signed: MARK S. WITBORN
Testifier

SIRP
Representing (Optional)

11542 KALSW DR
Address

KODIAK, AK 99615 PHONE 487-4927



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
committee name

committee on HR 170, dated 4/19/2001
bill/subject

I will be retiring at the end of the month. In 23 years as an Alaska Dept. of Fish and Game biologist my ~~work~~ life was part on the line in about 10 incidences (diving, exposure to dangerous chemicals etc). I spent 2 years at sea. Many of the boats I was on eventually sank. Fortunately, after I was on them. People that fly, dive or spend time at sea or ~~in the water~~ regardless of dept. should be given the opportunity to have earlier retirement.

Signed: Forest Blair
Testifier Biologist

Representing (Optional)

Address 10783 Birch Circle, Kodiak...



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
committee name

committee on HB 170, dated 4/19/2001
bill/subject

Dear Legislators:

I am strongly in favor of HB 170, which would return qualified Fish and Game staff to 20 year retirement. I believe that 20 year retirement will provide a very powerful incentive for employees to remain 20 years and without 20 year retirement many employees will leave Fish and Game.

Fish and Game positions, described in this bill, are extremely dangerous, disruptive to personal life and stressful. Many of Fish and Game employees risk their life flying in fixed wing aircraft at low altitudes and in poor weather. Remote field camps are inherently dangerous.

Fish and Game staff are exposed to many stressful situations from BAF meetings to public interactions. Please support this bill. Sincerely,

Signed:

Testifier

Steven G. Honnola
STEVEN G. HONNOLA

Representing (Optional)

PO Box 157 Kodiak AK 99615

Address

(907) 486-2963



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
committee name
committee on HB 170, dated 4/19/2001
bill/subject

I am Tim Blackburn. I am under the 20 year retirement system and have 21 years in. At I am 58. Had I ~~been~~ been hired under the 30 year system I would not be eligible for retirement until I was 64.

The 20 year retirement system has been crucial in my ability to achieve a measure of security in my life. I have tremendous loyalty to the department for what they have provided me. I will never hesitate to offer help to the department.

Reinstating 20 year retirement would be very valuable to the people of Alaska.

Signed: Tim Blackburn Tim Blackburn
Testifier

Self
Representing (Optional)

1811 Simeonoff St. Kodiak 99615
Address

907-486-3033 home -1863 work



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
committee name

committee on HR 170, dated 4/19/2001
bill/subject

I have worked in the Department of Fish & Game for 20 years. I am covered under the 20-year retirement plan.

I favor allowing 20-year employees to opt in the 20-year retirement plan.

As a long 20 Supervisor - I am currently experiencing a shortage of mid-level fishery managers and the situation is not improving.

Twenty year retirement will help attract new recruits to fishery management positions.

Current employees in the 20-year plan are reluctant to move into higher level positions within the Department because of the full-time fishery management duties on employees personal time.

Signed: Wayne Donaldson (Wayne DONALDSON)
Testifier

Representing (Optional)
Box 3812 Kodiak, AK.
Address
907-486-8882



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
committee name

committee on HB 170, dated 4/19/2001
bill/subject

To support HB 170 and would like the committee to support the bill 170. The reasons are many but I will state a couple of reasons. Right now, Fish & Game is having trouble attracting & retaining biologists. There are more fatalities for Fish & Game personnel than any other State Dept. including troopers. We work in a remote environment around bear, in low altitude flight. We fixed wing aircraft & conduct research surveys on birds working in similar weather conditions as fishermen.

I would appreciate your committee's approval.
Thanks.

Signature:

Steve Schrof

Steve Schrof

Testifier

Representing (Optional)

Box 1614 Kodiak

Address

486-1927 home



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
committee name

committee on HB 170, dated 4/19/2001
bill/subject

I support HB 170.
Currently, Fish and Game is having trouble retaining qualified biologists. Fish and Game personnel work in remote areas, fly at low altitudes, and have more fatalities than any other Department.

Signed: Margaret M. Wachen
Testifier

self
Representing (Optional)

211 Mission Rd. Kodiak
Address

phone #



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House State Affairs Comm.
Committee Name
Committee on HB 170 Dated _____
Bill / Subject

I support re-instatement of 20 year retirement for ADF&G biologists & technicians. In past years, the 20 year program was offered due to hazardous duty. In some cases, that situation is still applicable. In addition, the current discrepancy in pay between state & federal wildlife fisheries biologists makes it difficult to attract the top quality people for vacancies within ADF&G. Re-instatement of the 20 year retirement would provide an added benefit to attract new staff.

SIGNED:

Randall L. Zarwke

Testifier

Self

Representing

219 Slater Drive, Fairbanks, AK 99701, (907) 452-6857

Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House State Affairs Comm.
Committee on HB 170 Committee Name Dated 20 April 2001
Bill / Subject

I strongly support this bill to re-instate 20-year retirement for Fish & Game staff. I am a wild life biologist at ADF&G, hired under the 20-year system. When I received my graduate degree in Wildlife Management at UAF in 1979, I was forewarned of the dangers of my chosen profession. At graduation, I was the first recipient of the Spence Linderman Memorial Award, named in honor of a young ADF&G wild life biologist who died when his plane crashed during a mountain goat survey on the Kenai. Since then, another friend from those college days at UAF, Randy Kaycym, died in a plane crash during a moose survey near Bethel. Many of my friends and colleagues have had close calls - or near-fatal accidents. Because of this high risk, I believe ADF&G biologists and technicians deserve 20-year retirement.

SIGNED:

John M. Wright
Testifier

JOHN M. WRIGHT
Representing

1991 St Bernard Dr. FAIRBANKS 99709 / 479-0194
Address / Phone Number