

ALASKA STATE LEGISLATURE  
**SENATE STATE AFFAIRS COMMITTEE**

May 5, 2001  
1:10 p.m.

**MEMBERS PRESENT**

Senator Gene Therriault, Chair  
Senator Randy Phillips, Vice Chair  
Senator Rick Halford  
Senator Bettye Davis

**MEMBERS ABSENT**

Senator Drue Pearce

**COMMITTEE CALENDAR**

SENATE BILL NO. 55

"An Act changing the name of the Alaska Pioneers' Home to the Alaska Pioneers' and Veterans' Home and of the Alaska Pioneers' Homes Advisory Board to the Alaska Pioneers' and Veterans' Home Advisory Board; relating to services for veterans in the home; relating to the advisory board for the home; making other amendments to the statutes relating to the home; making conforming amendments to other statutes; and providing for an effective date."

HEARD AND HELD

HOUSE BILL NO. 167

"An Act relating to license plates for Alaska National Guard personnel and for antique motor vehicles; relating to gold rush license plates; and providing for an effective date."

MOVED HB 167 OUT OF COMMITTEE

SENATE BILL NO. 87

"An Act providing special absentee ballots for voters in remote areas."

HEARD AND HELD

SENATE BILL NO. 159

"An Act relating to retention elections for judges of the court of appeals."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

SB 55 - See State Affairs minutes dated 2/8/01.

HB 167 - No previous action recorded.

SB 87 - No previous action recorded.

SB 159 - No previous action recorded.

**WITNESS REGISTER**

Jim Duncan  
Commissioner  
Department of Administration  
PO Box 110200  
Juneau, AK 99811-0200  
**POSITION STATEMENT:** Testified on SB 55

Ed Barber  
Pioneers of Alaska  
No address provided  
**POSITION STATEMENT:** Testified on SB 55

Gene Dau  
Juneau, AK  
**POSITION STATEMENT:** Testified on SB 55

Representative Dyson  
Alaska State Capitol, Room 104  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor of HB 167

Senator Lincoln  
Alaska State Capitol, Room 11  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor of SB 87

Sara Boario  
Staff to Senator Lincoln  
Alaska State Capitol, Room 11  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Testified on SB 87

Gail Fenumiai  
Election Program Specialist  
Division of Elections  
P.O. Box 110017  
Juneau, AK 99811-0017  
**POSITION STATEMENT:** Answered questions on SB 87

Senator Donley  
Alaska State Capitol, Room 506  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor of SB 159

Chris Christensen  
Deputy Administrative Director  
Alaska Court System  
820 W. 4th Ave  
Anchorage, AK 99501-2005

**POSITION STATEMENT:** Testified in opposition to SB 159

Bill Cotton  
No address provided

**POSITION STATEMENT:** Testified on SB 159

**ACTION NARRATIVE**

**TAPE 01-27, SIDE A**

Number 001

**CHAIRMAN GENE THERRIAULT** called the Senate State Affairs Committee meeting to order at 1:10 p.m. Present were Senators Davis, Phillips, Halford and Chairman Therriault.

The first order of business was SB 55.

#SB 55

**SB 55-PIONEERS' AND VETERANS' HOME/ADVISORY BD**

CHAIRMAN THERRIAULT said it was not his intent to move SB 55 but he would like to hear more information. Some pioneers who oppose the bill in its current form but think there is the possibility of working things out have contacted him. Earlier, when he asked for information on the regulation package it was still in outline form but he thought it might help allay some of the fears. Also, at the House State Affairs Committee meeting the contents of the letter to Mr. Leo Kaye from Tony Principi were read into the record and he wondered whether Commissioner Duncan had reviewed the letter or been in touch with the Veterans Administration (VA) and was able to explain some of the terminology in the letter. Specifically, the line that says, "The VA State Home per diem grant program provides federal payments to states for eligible veterans" is unclear as to whether the funding flows to the individual veteran or to the state. Next, the line stating, "We look forward to working closely with the state to help Alaska meet all federal grant requirements" left unanswered what those grant requirements are. Finally the mention of taking over one of the pioneer homes or a wing of a home is quite possibly causing some concern among Pioneers.

JIM DUNCAN, Commissioner of Administration, passed out copies of a letter he sent to the chairman of the Pioneers of Alaska

legislative committee in March 2001 and a letter about regulations he sent to Chairman Therriault in February.

The Pioneers do have specific concerns about the legislation and he now recommends three amendments to address those concerns.

- First, they didn't want the state pioneer home system to fall under federal control and regulation. That has never been the intention and to make this clear he recommends that legislative committees add an intent section that clearly states that it is the intention of the legislature that this remain a state owned and operated system located within the Department of Administration and it is not to fall under federal rules, regulations and requirements.
- The second recommendation is to delete the language that refers to cooperation with the federal government from the pioneer home statutes.
- The third recommendation stems from the concern about putting veteran's preference in regulation and the fear that it might result in a veterans' home and not a pioneer/veteran home. The regulation outlined seems clear and says the 21 percent preference will be of the fully funded beds so if all 600 beds were funded it would be 21 percent of 600 and if there are just 500 funded beds it would be 21 percent of 500. Preference would never be given to more than 21 percent of the funded beds. Because of the concerns, he recommends putting the regulation in statute, which would resolve the concern because then it would require legislative action to change it.

The bill drafters have been asked to look at the language again even though they believe the current language that provides for the 21 percent preference and spousal preference is language they would recommend putting into statute.

The name change to pioneer/veteran home is important because to fulfill the commitment to veterans they need to be recognized in name. The name change is also necessary from the Veterans Administration's viewpoint.

CHAIRMAN THERRIAULT asked what is entailed in the language, "meet all federal grant requirements."

COMMISSIONER DUNCAN responded that was in the letter to Mr. Kaye

from Department of Veterans Affairs' (VA) Secretary Principi. He interprets that as present VA policy such as the requirements that homes must meet so that the residents of those homes qualify for the federal VA benefits. In the discussion with Mr. Principi they talked about developing a model pioneer/veterans home system and obtaining a federal waiver of the typical requirements so veterans in the combined home could receive VA benefits. Currently there are 90 veterans in the pioneer homes in Alaska and none of them receive per diem veteran's benefits. These benefits would flow directly to the veteran who would use the money to help pay for their cost of care.

Secretary Principi was clearly interested in working on this model combined system because, if successful, it could be used throughout the country.

CHAIRMAN THERRIAULT asked whether, as a first step, the VA would make the change in their policy to allow veteran benefit payments to those 90 veterans currently in the pioneer homes.

COMMISSIONER DUNCAN said that would be a big step for the VA to make without the state taking some action to indicate a commitment to veterans. It has to be a hand-in-hand joint effort. Lacking the preference or name change it will be difficult for them to take a first step.

CHAIRMAN THERRIAULT asked if a name change would be sufficient to get the VA to change their policy so the veterans in the pioneer system could get the VA benefits.

COMMISSIONER DUNCAN could not give a definitive answer.

CHAIRMAN THERRIAULT commented that for some seniors, the name change is the most egregious part.

SENATOR PHILLIPS asked why there is such resistance from the World War II generation.

COMMISSIONER DUNCAN said there is no one specific reason. First, the pioneer home system has been in existence since 1913 and there is ownership that has built up and change is frequently difficult. Second, there has been some misinformation that this would mean that pioneers who have been on the list for years would be stepped over by veterans and they would not get into the home when desired. Also, there is concern that pioneer women would not be treated fairly. Last, there is concern that the homes would be under federal control and regulation.

SENATOR PHILLIPS said veterans complained to him.

COMMISSIONER DUNCAN agreed there are some veterans with reservations but there are a number of veterans' organizations that have expressed support.

SENATOR PHILLIPS commented that the average age in the pioneer home is 85 and most of them probably served in some capacity in World War II so there must be a difference of opinion among that generation.

COMMISSIONER DUNCAN said he thought the average age of occupancy is 87 and the waiting list is 83. He too is mystified at the resistance.

CHAIRMAN THERRIAULT announced that because of the shifting schedules, a number of individuals were not able to wait to teleconference but they faxed their testimony. Most identified themselves as pioneers who opposed the change.

He said he would like to continue to work through the interim with Commissioner Duncan, his department and the VA to work toward an acceptable piece of legislation. Getting a number of issues clarified with the VA would help with the discussion.

SENATOR DAVIS thought there should definitely be some work done with the VA. She has received letters and messages from veterans who are not in favor of the change. They have indicated they want something dedicated to them alone - not as a joint facility. If they could be assured they would be adequately cared for, the opposition might go away.

SENATOR PHILLIPS pointed out that Senator Davis' district abuts his and the complaints he received came from the area closest to her district so there are obviously concerns.

COMMISSIONER DUNCAN was anxious to work on the various concerns to the legislation during the interim. They will continue to work with the VA as well.

SENATOR DAVIS asked whether the two amendments Commissioner Duncan recommended were in printed form.

CHAIRMAN THERRIAULT said they were not formalized.

COMMISSIONER DUNCAN responded the first two are in a letter to Bob Huffman and the third recommendation is to incorporate the regulations into statute.

CHAIRMAN THERRIAULT added the current statutory language with regard to working with the federal government would be deleted.

SENATOR PHILLIPS asked for more information for the committee and the public on the 65 percent funding reference.

COMMISSIONER DUNCAN responded if a stand alone home is built, the federal government would provide 65 percent of the construction costs while the state would provide 35 percent.

SENATOR PHILLIPS thought that needs to be talked about and fleshed out during the interim.

CHAIRMAN THERRIAULT called for teleconference testimony.

ED BARBER is with the Pioneers of Alaska and lives in Anchorage. He encouraged the committee to include all parties when they work on this legislation in the interim. It's important to include the VA so they can make their position known to everyone. There are many questions that need to be answered. At least nine others wanted to testify but were not able to wait for the committee to meet.

He stressed the importance of advertising any meetings and adhering to whatever time schedule is set.

CHAIRMAN THERRIAULT thanked Mr. Barber for his comments and assured him that his staff would be contacting the individuals to assure them their faxed testimony is in the bill packet and to apologize for the disrupted schedule.

GENE DAU testified as a disabled veteran in support of SB 55. He asked Senator Stevens to give the bill a plug when he addressed the joint body and he did so. This is a win-win situation according to Senator Stevens and, as chairman of the appropriations committee, he is in a position to help. He urged action.

CHAIRMAN THERRIAULT announced SB 55 would be held in committee to be worked on in the interim.

#

#HB 167

**HB 167-MOTOR VEH.LIC.PLATES: NATL GUARD/ANTIQUE**

REPRESENTATIVE DYSON said a number of antique car enthusiasts came to him and asked him to help make it legal for them to put a year of manufacture plate on their car. The Division of Motor Vehicles has no objections to the change. It is subject to two requirements.

First, the plate must be legible and second, it must not duplicate an existing plate.

At the same time, there was a request to change the law so that those individuals with national guard plates wouldn't have to turn them in within 10 days following discharge from that service.

CHAIRMAN THERRIAULT asked whether the person who served in the national guard had the right to keep that plate forever or until the plate needed to be renewed.

REPRESENTATIVE DYSON responded they could keep the plate forever.

CHAIRMAN THERRIAULT called for questions. There were none.

There was no prepared CS and no amendments from committee members. There was a zero fiscal note.

He called for the pleasure of the committee.

SENATOR PHILLIPS moved HB 167 and zero fiscal note from committee. There was no objection.

#

#SB 87

**SB 87-SPECIAL ABSENTEE BALLOTS**

CHAIRMAN THERRIAULT commented he had assured Senator Lincoln they would get to a brief discussion of her bill.

SENATOR LINCOLN said her aide, Sara Boario, would explain the bill.

SARA BOARIO, staff to Senator Lincoln, explained SB 87 would extend the 60 day special absentee ballot to voters living in remote areas. Now only voters living, working or traveling outside the United States are eligible.

This legislation is a result of requests by the Coy and Bower families. They outlined the difficulties they faced in the last election. There are many people who live in Bush Alaska and outside of organized communities. Mail service is irregular and sometimes non-existent and the limited time frame of the regular absentee ballot makes it difficult to exercise their right to vote. The regular absentee ballots are sent out three weeks before an election and this is not enough time, particularly during the winter.

As Representative Coghill said when he introduced HB 109, voting is

the fundamental method citizens use to participate in our democracy. Therefore, improving the process for even a small number of individuals is imperative.

There is no fiscal impact associated with the bill.

SENATOR LINCOLN noted there were a number of teleconference testifiers who were available that morning but could not wait until the committee met in the afternoon.

SENATOR PHILLIPS asked for the definition of remote site.

GAIL FENUMIAI, Election Program Specialist with the Division of Elections, responded remote sites are those without reasonable access to polling stations.

CHAIRMAN THERRIAULT asked how many individuals would be affected if they gave voting some planning and thought. The 60 day special absentee ballot is available to those who are out of the country and there you're relying on another countries mail system. Although he is well aware of the importance of allowing individuals the opportunity to vote, people must take some responsibility to exercise that duty. He asked whether the division of elections is aware of a number of people who are precluded from voting due to the time constraints.

MS. FENUMIAI said these voters do take the necessary steps to apply for a regular by mail ballot but some of the remote areas do not have mail service. They must charter a plane to get their mail brought to them so in the wintertime the three week time frame passes quickly.

She did not have a quantifiable number of voters that are affected but they have received a number of comments from angry voters who did not get their ballots back in time for them to be counted.

MS. BOARIO added that Shelly Growden, election supervisor for region three, reported over 1,000 voters living in remote areas in the interior and Prince William Sound area that are classified as permanent absentee voting areas. Many of those voters live outside organized communities and have no mail service.

CHAIRMAN THERRIAULT asked for confirmation that the definition of remote is in statute.

MS. FENUMIAI thought it was in statute but did not recall seeing it in Title 15 but the term "reasonable access remote area" is used in other locations in statute.

CHAIRMAN THERRIAULT was concerned that it not become the division's responsibility to ensure each individual gets a ballot.

MS. FENUMIAI agreed and said the division would have to decide on a procedure for identifying these people.

CHAIRMAN THERRIAULT asked how the special 60 day absentee ballot works.

MS. FENUMIAI replied that for the primary the voter gets a blank ballot with a list of offices that are up for election in the district in which they reside and a list of candidates who have filed for office. The voter may then write in the name of a candidate. They are also sent the official ballot and if that one is voted, returned and received in time it is counted. If not, the special event ballot is counted instead. For the general election, the voter gets the same type of ballot but they have the option of either writing in the name of the candidate or writing in the party of their choice for each office. This is because the election results are not certified for the primary at that time and that voter's candidate of choice may not have advanced to the general election ballot.

CHAIRMAN THERRIAULT said he wants to know more about the definition of remote and how that would work. He also asked whether voting by fax was an in state option or available to just out of state voters.

MS. FENUMIAI assured him fax voting is available to voters both in and out of state.

Side B

CHAIRMAN THERRIAULT assured Senator Lincoln the discussion would continue and that he needed more information on how remote would be defined and the controls the division would institute.

SENATOR LINCOLN said huge numbers of voters would not be affected but people that do make every effort to vote should be accommodated.

CHAIRMAN THERRIAULT held the bill in committee.

#

#SB 159

**SB 159-APPEALS COURT JUDGES RETENTION**

SENATOR DONLEY described the bill as a Senate Judiciary Committee bill that would shorten the terms of office of the court of appeals from eight to four years. Pursuant to research that was performed after the bill was drafted, he suggested a committee substitute to change the four-year term to six years.

There are various systems for selection and retaining judges across the United States. The committee's research shows there are only eight pure merit states of which Alaska is one. Of those states, the average length of office is about 7.2 years for appellate courts so Alaska is above the average for the merit states.

Many other states, even those using a mix of the merit system, have terms that are less than Alaska's. In fact, the only states with longer terms than Alaska's are those that use the merit system and have the Senate confirm the appointments. Given that eight years is above the national average and that most other states elect the judges directly, it appears that Alaska has less judicial oversight and longer terms than most states that use the merit system.

He feels it would be better public policy to have a six year term rather than the four years the bill calls for. This is more in line with the national average, particularly since there is no direct election of judges, just the retention election option.

Number 2109

CHRIS CHRISTENSEN, Deputy Administrative Director of the Alaska Court System, testified SB 159 would negatively impact the criminal justice system in Alaska and thus they oppose the legislation.

Judges are selected on a rigorous merit based system in Alaska. The minutes of the Constitutional Convention reflect the long and careful time spent to put together a system for selecting and retaining judges. They wanted a system that provided for both independence and accountability and selected the Missouri plan as their guide. Judges are selected using the merit system and partisan politics are kept out of the selection and appointment process as much as possible. They then stand for retention on a regularly scheduled basis.

This has worked well and there is no history of official corruption in the Alaskan judiciary, unlike many states. If Alaskan attorneys are polled, they will say the quality of the bench today is better than it has ever been. There are many hard working and well respected attorneys who are committed to what they do.

He said he is perplexed to see legislation that affects the court

of appeals because it does not deal with controversial cases. It hears criminal appeals in a generally non-controversial manner and it applies the most liberal bill of rights in the country to the laws the legislature passes.

Judicial independence is the ability to judge a case and to interpret and apply the law as free as possible from external influences and pressures. That is what the court of appeal does now and SB 159 would effectively reduce the ability to judge a case free of external pressure simply because judges would have to face the voters at much shorter intervals. Shorter intervals make it more likely that political campaigns would be waged against judges because of single unpopular decisions. Longer terms would give voters a longer term perspective on a judge's job performance.

Although it is stated that this legislation is to bring the retention periods for Alaska's judges more in line with other states he respectfully disagrees with the conclusions drawn by Senator Donley because his data is out of date. Currently there are 39 states with an intermediate court of appeals and 18 of those use some variation of the merit selection and retention system. Of those 18, 10 have terms of 8 or more years, 8 have terms of less than 8 years. Therefore, Alaska's 8 year term is right in the middle. There are 21 states without a merit system for their court of appeals and 10 of those have terms of 8 years or longer and 11 have terms of less than 8 years. Again, Alaska is in the middle. If you add the totals for the 39 states you will see that 20 have terms of 8 years or longer and 19 have terms of less than 8 years. Alaska's terms are not longer than others they are right in the middle.

Next, he used averages as Senator Donley did in his memo. This proved problematic since there are 2 states that appoint judges until age 70. If you were to look at the current court of appeals and apply the age 70 standard, one would have a term of greater than 20 years and two would have terms of more than 25 years. He called those two "age 70" states 15 year terms because most of Alaska's judges serve 15 years. Of the merit selection states the average is 7.9 years and of the non-merit states the average is 7.8 years. This shows that Alaska is at the average.

It is argued that judges of the court of appeals in Alaska have less accountability than in most other states but they don't have less accountability than the four states with courts of appeal that use appointments without any retention process. In fact, he doesn't believe they have less accountability than judges in most of the 16 other states that use the merit selection system. They probably do have less accountability than in the 17 states that conduct

elections but, according to the framers of the constitution, that is good. Many of the framers came from states with contested judicial elections and were well aware of the pitfalls in that type of accountability.

Judges who are challenged in retention elections do have the ability to raise money and oppose the election but it's not a good idea to have a system where criminal court judges must raise money to defend themselves from challenges on a regular basis. Each litigant should have the confidence of knowing that their case will be heard on its merits and not on the basis of public or political pressure. The law commands allegiance only because it commands respect and it can only do that if the public believes their judges are neutral.

Reducing the term between retention elections would also discourage qualified applicants from seeking judicial positions.

In response to Senator Donley's recommendation that the term in the proposal be raised from four to six years he noted that every person appointed to the court of appeals faces the voters at the first general election, three years after appointment. The eight year retention term only starts after they have faced the voters that first time. This gives voters the chance to look at a judge right away and evaluate the job.

Currently supreme court judges have a 10 year retention term, superior court judges have six years, and the district court four years. Eight years for the court of appeals fits right in and that is why the legislature chose eight years in 1980 when it created the court of appeals. Six years would give it the same term as the superior court, which is a court with less responsibility and has to make fewer controversial decisions. To compromise and change the term to six years would have a very negative affect on the court of appeals.

SENATOR PHILLIPS asked when the court of appeals was established.

MR. CHRISTENSEN said he thought it was 1980.

CHAIRMAN THERRIAULT noted that Bill Cotton was online to testify and that a three page sheet from the Alaska Judicial Council was in committee packets.

BILL COTTON, Executive Director of the Alaska Judicial Council, testified that the council is a small agency in the judicial branch of government and separate from the court system. They are charged with investigating and screening judicial applicants and with

evaluating the performance of judges and making the evaluation information and retention recommendations available to the public.

The council opposes SB 159 for a number of reasons; first he wanted to refute the statement made by Senator Donley that Alaska has less oversight and public scrutiny of judges than most other states. This is simply not the case even in the states that have shorter terms. There is not another state that surveys every attorney in the state, mails a summary of the survey to every voter and puts the detail of the survey on the Internet.

The implication that Alaska Court of Appeals terms are longer than other states is not the case. Most states that have intermediate appellate courts have terms that are eight years or longer.

The council believes this would have a marginal discouraging effect on qualified applicants, particularly those attorneys with stable practices in the private sector.

By increasing the number of judges that are on the ballot for review the focus is taken off the individual judges and placed on the group. Last year there were 30 judges up for review which made it difficult to thoroughly evaluate each one and difficult for the voters to clearly understand each judge's record. Although the intent of the bill is to increase review, it may have the opposite effect.

Costs will be increased marginally if SB 159 passes. The Judicial Council filed a small fiscal note and there will probably be a small cost from the Division of Elections.

Most importantly, this upsets the balance setup by the framers of the constitution between judicial accountability and judicial independence. Judicial accountability is a critical element of the council's job but judicial independence is critical as well. It is one of the basic principles upon which our country was founded; judges are supposed to protect the rights of citizens regardless of who is displeased. "We want judges who are fair, fast, polite, smart but we want and need judges who decide cases on the law not who the parties are and not who is going to make campaign contributions and not what is temporarily popular." The different governmental branches have different purposes. The governor and legislature is elected to carry out a political agenda while judges are selected to decide cases on the law and the constitution. The delegates to the constitutional convention discussed the issue of selecting, evaluating and retaining judges at length and they voted overwhelmingly to not reduce the term of the only appellate court discussed which was the supreme court from ten to six years.

On the whole, the system is excellent and it is respected across the country and world. The council urges the balance not be upset with the proposal.

CHAIRMAN THERRIAULT asked Senator Donley whether he had a question about Mr. Cotton's statistics.

SENATOR DONLEY replied he would like to respond generally to the testimonies. First he would like copies of Mr. Christensen's research so he could compare the differences with his research. He disagreed with the last research they received from the Judicial Council. States that were listed as merit states had elected judges. There are few states that have a pure merit system like Alaska does. His research indicates that just seven states don't have either legislative confirmation or "some other lower level of judges being elected." It's important that there is greater accountability for the lower level judges because that affects what cases the higher level judges will see. Therefore, "to ignore the fact that you're electing the lower judges when you talk about the accountability of the upper judges, I think, is not logical and not fair."

He didn't agree with the argument that reducing length of the term would slow the election process because people wouldn't have time to review all the judge's records. He pointed out there are only three judges on the court of appeals.

He didn't agree that changing the length of the term for the court of appeals would upset the balance of the constitution because it was created by the legislature years after the constitution was written.

SENATOR DONLEY thought a vast number of Alaskans would agree with him that eight years is too long between elections for this type of officials. In fact, the polling numbers the legislative majority gathered shows the public agrees.

HB 159 does not abandon the merit system, "what's before this committee is going from eight to four or eight to six [years] or whatever option there is and I'm suggesting from eight to four, I'm not suggesting-or eight to six- I'm not suggesting the abandoning of the merit system here. But I do suggest that we are an extraordinarily generous and long terms of office compared to the lack, through the pure merit system states that are out there and not considering that all these many many the vast majority of states have some degree of elected judicial officials in their process."

SENATOR DONLEY disagreed with Mr. Christensen's suggestion that the court of appeals has been uncontroversial. He thought looking at the efforts of the current legislature with respect to evidence of rule 404(b) shows that this court of appeals frequently ignores the intent of the legislature and poses their own political view on the evidence rules. "I say that because, for many years, as judiciary chair, we attempted to simply bring Alaska into conformance with the meaning of evidence rule 404(b)." The effort was to have the language in Alaska be interpreted the same way the federal courts interpreted the language but the court of appeals has blocked that for many years.

CHAIRMAN THERRIAULT agreed with the assessments. He asked Senator Donley to look at Mr. Christensen's data and point out any flaws. Although he hasn't felt as much criticism of the court of appeals as Senator Donley, he is probably just unaware of where the problem lay in the situation just described.

SENATOR DONLEY gave as another example, the interpretation of the statute that requires the mandatory 99 year sentence for individuals who have committed multiple murders, torture murders, and of murder of a police officer or fireman in the line of duty. The court produced an opinion saying the person had to be notified at the time of sentencing that they might be subject to that sentence. That is very unusual in American jurisprudence because sentencing issues are usually separate than the charging issues. The Department of Law disagreed with this decision and is another example of their being controversial.

CHAIRMAN THERRIAULT commented that one of the issues that weighs on him personally is "trying to get good private sector attorneys interested in the judiciary. I think we've had a problem with that and part of it just might be that we've just had democratic governors and they appoint from the end of the spectrum that I would perhaps gravitate to the other end. Tony Knowles is termed out here so we might have a bite at the apple here."

With the three year review and then eight year review they are coming up for election twice in an 11 period of time. Three years is probably too short for people see what the judge is about but the original bill was just four years even though the recommendation is to change that to six years.

SENATOR DONLEY said he knows the legislation won't be moved that day and he suggested adopting a CS version that was at least six years so the debate over the increment could be over six years rather than four years.

CHAIRMAN THERRIAULT said he agreed with that. He moved an amendment to SB 159 to have a draft drawn up that will change "four years" to "six years" and that will be the document that is in committee for discussion purposes. He asked for objection.

SENATOR DAVIS said she had no objection but she would move the amendment for him since he is the chair.

CHAIRMAN THERRIAULT thanked Senator Davis. There were no objections to the amendment. The bill was held in committee.

#

The meeting was adjourned at 2:37 p.m.