

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 13, 2014
9:01 a.m.

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Cathy Giessel, Vice Chair
Senator John Coghill

MEMBERS ABSENT

Senator Bert Stedman
Senator Bill Wielechowski

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

State Board of Parole

Lonzo Henderson

- CONFIRMATION ADVANCED

SENATE BILL NO. 116

"An Act relating to service of citations; amending Rule 3(f), Alaska Rules of Minor Offense Procedure; repealing Rule 3(g), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- MOVED CSSB 116(STA) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 26

Recognizing June 14, 2014, as the 60th anniversary of the first recital of the United States Pledge of Allegiance with the words "under God."

- MOVED SJR 26 OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 17

Urging the United States Department of State to consider the priorities of the state while it holds the position of chair of the Arctic Council; requesting that the United States Department of State work in partnership with state officials to appoint a chair of the Arctic Council; and supporting the strategic

recommendations of the January 30, 2014, preliminary report of the Alaska Arctic Policy Commission.

- BILL HEARING POSTPONED

PREVIOUS COMMITTEE ACTION

BILL: SB 116

SHORT TITLE: SERVICE OF CITATIONS

SPONSOR(s): SENATOR(s) EGAN

01/22/14	(S)	PREFILE RELEASED 1/17/14
01/22/14	(S)	READ THE FIRST TIME - REFERRALS
01/22/14	(S)	STA
03/13/14	(S)	STA AT 9:00 AM BUTROVICH 205

BILL: SJR 26

SHORT TITLE: PLEDGE OF ALLEGIANCE

SPONSOR(s): SENATOR(s) COGHILL

02/21/14	(S)	READ THE FIRST TIME - REFERRALS
02/21/14	(S)	STA
03/13/14	(S)	STA AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

LONZO HENDERSON, Appointee
Alaska Board of Parole
Alaska Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: Addressed his reappointment to the Alaska Board of Parole.

SENATOR DENNIS EGAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 116.

JESSE KIEHL, Staff
Senator Egan
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided an overview of SB 116.

SCOTT BLOOM, City Attorney
City of Kenai
Kenai, Alaska

POSITION STATEMENT: Supports SB 116.

MATT MUSSLEWHITE, Director
Animal Control and Protection
Juneau, Alaska

POSITION STATEMENT: Supports SB 116.

RYNNIEVA MOSS, Staff
Senator Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided an overview of SJR 26.

ACTION NARRATIVE

[9:01:37 AM](#)

CHAIR FRED DYSON called the Senate State Affairs Standing Committee meeting to order at 9:01 a.m. Present at the call to order were Senators Giessel, Coghill, and Chair Dyson.

CONFIRMATION HEARINGS **State Board of Parole**

[9:02:24 AM](#)

CHAIR DYSON welcomed Mr. Henderson and asked if his designation to the Alaska Board of Parole (ABP) is a reappointment.

[9:02:52 AM](#)

LONZO HENDERSON, Appointee, State Board of Parole, Alaska Department of Corrections, Anchorage, Alaska, answered that he is seeking reappointment to ABP.

CHAIR DYSON asked Mr. Henderson to explain what ABP does, their mission, and how he will approach his appointment.

MR. HENDERSON replied the ABP has authority under Title 33, which gives ABP the authority by the governing body in Juneau. ABP has releasing authority for individuals who have been sentenced by the courts to a period of incarceration. He explained that ABP will consider parole for individuals who have served a portion of their term, unless courts have deemed an individual as inappropriate for parole consideration. ABP takes a look at an individual's application in conjunction with staff recommendations from the institutional probation offices and other treatment providers. ABP considers what the person has done in the institution to make themselves more valuable for

rehabilitation and reentry into a society. He noted that the courts' sentencing criteria uses isolation, deterrence, and reaffirmation of societal norms. He pointed out that ABP's role addresses the reaffirmation of societal norms where people have completed programs, are doing well, and have a release plan that is conducive to rehabilitation to reentry into society.

[9:04:45 AM](#)

CHAIR DYSON asked to address ABP's role in evaluating the potential risk to public safety from recidivism.

MR. HENDERSON answered that ABP uses various evaluation assessments to ensure that needs are addressed in order for an individual to be a productive member of society.

[9:06:34 AM](#)

CHAIR DYSON asked about an individual's rights being restored where the process is based upon a recommendation from ABP and the Governor's approval.

MR. HENDERSON replied that Chair Dyson may be referring to the clemency process which is different from the parole process. He noted that the Governor's Office is working on reinstating the clemency process for individuals to have privileges reinstated for certain positions.

[9:10:44 AM](#)

CHAIR DYSON asked how much time ABP requires from Mr. Henderson.

MR. HENDERSON answered that his responsibility is part-time and his commitment is approximately 150 to 180 days per year.

CHAIR DYSON asked if Mr. Henderson would like to summarize.

MR. HENDERSON revealed that during his tenure as chairman, ABP has been working with a consultant to update the board's policies and regulations in conjunction with the Governor's initiative. He informed the committee that ABP has developed a mission statement that focuses on preparing offenders for success. He asserted that ABP is enhancing and improving the parole process.

[9:13:31 AM](#)

CHAIR DYSON asked if there was an objection. He announced that no objection was noted and read a statement as follows:

In accordance with Article 3, Section 25 of the Alaska Constitution, AS 39.05.080, the State Affairs Committee reviewed the following and recommended the appointment be forwarded to the Joint Session for reappointment to the State Board of Parole, Lonzo Henderson. This does not reflect the intent of any of the members to vote for or against the confirmation of the individual during further sessions.

[9:14:07 AM](#)

CHAIR DYSON announced that the committee will stand at ease.

SB 116-SERVICE OF CITATIONS

[9:14:43 AM](#)

CHAIR DYSON called the committee back to order. He announced the consideration of SB 116. He said the committee will accept as a working document, committee substitute (CS) for SB 116, labeled 28-LS0826\C.

[9:15:14 AM](#)

SENATOR EGAN, sponsor of SB 116, Alaska State Legislature, Juneau, Alaska, explained that the bill corrects an unintended consequence of a good bill passed in 2010. He specified that in March 2013, the courts implemented the law and it stopped, for example, law enforcement from leaving a ticket under the windshield wiper of a car. To keep enforcing local laws, many municipalities went to simple violations for just a minor offense and that has its own problems and it wasn't available to state law enforcement at all. He said SB 116 lets law enforcement go back to where it was this time last year where a parking ticket can go under a car's windshield wiper.

[9:16:46 AM](#)

JESSE KIEHL, Staff, Senator Egan, Alaska State Legislature, Juneau, Alaska, said the 2013 court rule that was adopted in April had the effect of stopping the court system from processing any citation that an officer did not personally serve. He explained that "personally serve" was defined to mean face-to-face on the person charged with the offence. He noted that the bill that passed in 2010 was meant to address moving violations, minor consuming, and more serious law infractions. He said municipalities that had chosen not to make things like parking tickets civil violations, ultimately had to do so in order to keep enforcing their local laws for minor incidents and infractions.

MR. KIEHL explained that civil citations meant fighting citations through the municipality rather than the Alaska Court System. He added that a second significant disadvantage with a civil citation is the added cost for a municipality and law enforcement in order to execute a judgment. He clarified that SB 116 does not force any municipality to change their choice to make their violations civil.

[9:19:44 AM](#)

He addressed the new changes in the CS as follows:

On page 2, line 7, it simply corrects what I believe is a typographical error in existing law that required both a peace officer and someone else authorized by law, code enforcement officer, animal officer, to issue the citations; this would say either or whoever wrote the citation must follow the rules. Page 2, lines 7-8, this new subsection defines the limits on a citation that can be either left on personal property or served according to the civil rules. The change in the CS would limit that to offenses that are punishable by a fine of \$500 or less.

MR. KIEHL said the bill's sponsor felt that infractions with higher penalties required more due process than a normal ticket where the citation could be mailed or left on personal property. He added that in the CS on page 2, line 10, the citation would have to be left in a conspicuous place. He specified that infractions that might carry imprisonment must be served face-to-face. He added that minor consuming and moving violations also require citations to be served face-to-face.

[9:23:02 AM](#)

SENATOR COGHILL asked to clarify that the court rule was made after the statute was passed under personally-served.

MR. KIEHL answered yes. He specified that the 2010 bill dealt with a uniform statewide process for citations that required citations be personally served. He explained that the Alaska Court System in implementing the law in 2013 made clear that personally-served meant serving citations face-to-face.

[9:24:12 AM](#)

SCOTT BLOOM, City Attorney, City of Kenai, Kenai, Alaska, stated that Kenai supported SB 116 as amended and explained the issues

for the city by not being able to leave parking citations as follows:

1. Public Safety: people ignored parking restrictions.
2. Strain on Municipal Resources: police officers were forced to track down drivers, boot vehicles, or have vehicles towed.
3. Higher Parking Costs: Kenai would have to add personnel to administrate parking.

CHAIR DYSON noted his appreciation for Senator Egan in bringing the bill forward to solve the unintended problem.

[9:27:19 AM](#)

MATT MUSSLEWHITE, Director, Animal Control and Protection (ACP), Juneau, Alaska, stated his support for SB 116. He said since the implementation of the personal service requirement in April 2013, ACP has experienced a 48 percent reduction in the issuance of minor offense citations; this requirement has also generated a considerable increase in man-hours required per case. He noted that an officer may need to visit a residence five or six times in order to personally serve a \$25 citation.

He said the implementation of the personal service rule has also had a much larger consequence than just increased effort and loss of citation revenue. Mandatory court appearance citations that ACP issues for dangerous dog owners may go unissued simply because the owner refuses to answer their door. He remarked that it is hard to tell a dog attack victim that he cannot enforce the laws without the violator's cooperation.

He summarized that the ability to leave a citation on the door of a residence or by certified mail for a minor offense allows his officers to devote more time and resources to investigate more serious issues of animal cruelty, abuse, and neglect. He set forth that SB 116 will provide law enforcement with the tools to do their job efficiently and urged support for the legislation.

[9:28:59 AM](#)

SENATOR GIESSEL moved from committee CS for SB 116, labeled 28-LS0826\C, with zero fiscal note and individual recommendations.

[9:29:15 AM](#)

CHAIR DYSON announced that without objection, CSSB 116(STA) has moved from the Senate State Affairs Standing Committee.

[9:29:21 AM](#)

CHAIR DYSON announced that the committee will stand at ease.

SJR 26-PLEDGE OF ALLEGIANCE

[9:30:12 AM](#)

CHAIR DYSON called the committee back to order and announced the consideration of SJR 26.

[9:30:22 AM](#)

RYNNIEVA MOSS, Staff, Senator Coghill, Alaska State Legislature, Juneau, Alaska, informed the committee that SJR 26 is a resolution recognizing June 14, 2014 as the 60th anniversary of the first recital of the United States Pledge of Allegiance (USPA) with the words "under God." She continued to provide an overview of SJR 26 as follows:

In the last year, 39 other states have passed resolutions recognizing February 4, 2014 as the 60th anniversary of the introduction of House Joint Resolution 243, which is the resolution that was signed by President Eisenhower and included "under God" in the USPA.

It is true that the original pledge was written by a minister in 1892 and the pledge was an allegiance to "my Flag" and it was his hope that it would be used by all nations to recognize their countries. But in 1923, the words "The Flag of the United States" was added to the pledge to make it more personal to people, pledging allegiance to the United States and that change was made at the National Flag Conference under the leadership of the American Legion and the Daughters of the American Revolution. It was not until 1954 that Congress incorporated what was viewed as the missing-link to the USPA and this missing-link was recognized by Homer Ferguson when he heard a sermon in church that quoted the Gettysburg Address when Lincoln referred to a nation under God, so he introduced SJR 26 and it was passed and signed by President Eisenhower on June 14 in 1954, so this would be the 60th anniversary of the signing and right after the signing the group recited the USPA using the words "under God."

What I wanted to point out was that the USPA is not a mundane verse that we recite, because we learned it in school and we recited it every day in school. To me the USPA reminds that we live in a country that does not persecute us because we do pledge to preserve a God given inherent right in this country and people fought for that right. It reminds me that we are a government of fifty individual states who are united as a nation of free people. It reminds us that this flag, Old Glory, has been carried through battle fields and that blood has been shed of millions of people to protect the freedom that we have to speak our minds and to disagree with each other without the threat of retaliation. It reminds us that people from all over the world come to this country at great risk to live the American dream. When I stand in the gallery in the Senate Chambers and recite the USPA with a room full of citizens and Senators, what I hear is a group of Americans united, indivisible, and preserving this Republic and the God given rights our Forefathers strived to preserve. This resolution is yet one reminder that we are Americans united as one nation, under God.

[9:35:13 AM](#)

MS. MOSS noted handing out a transcription to the committee members from a Red Skelton performance where he had explained the USPA, addressed the use of "under God," and noted his regret should "under God" ever be eliminated from the USPA. She revealed that the Massachusetts Supreme Court is reviewing a case that was argued in September 2013 that challenges the use of the words "under God." She summarized that SJR 26 is Senator Coghill's way of bringing to light just how important the USPA is and recognizing its significance.

SENATOR COGHILL said the anniversary for the USPA came to his attention prior to the February 10 date and added that many states have noted February 10 as the date to commemorate, but USPA was first recited on June 14.

He read Section 3 from the Alaska Statehood Act as follows:

The Constitution of the State of Alaska shall always be Republican in form and shall not be repugnant to the Constitution of the United States and the principals of the Declaration of Independence.

He set forth that the USPA is a reminder that the United States is a republic. He remarked that many children struggle with the difference between a republic and a democracy. He set forth that USPA is a constant reminder of the Republic. He noted that the Declaration of Independence is also based on the principals that all men are created equal, but they are endowed by their creator with certain unalienable rights. He added that at the very end of the Declaration of Independence, the Founding Fathers pledged their lives and their sacred honor, but with reliance with divine providence.

9:38:09 AM

He called attention to a famous United States judge, Learned Hand, and pointed out that he had been quoted more often than any other lower-court judge. He read from one of Mr. Hand's speeches as follows:

What do we mean when we say that we first seek liberty? I often wonder whether we do not rest our hopes too much upon constitutions, upon laws, and courts. Believe me these are false hopes, liberty lies in the hearts of men and women, when it dies there, no constitution law or court can save it, no constitution law or court can you do much to help it, while it lies there it needs no constitution law or court to save it. And what is this liberty which must lie in the hearts of men and women? It is not the ruthless, the unbridled will; it is not the freedom to do as one likes. That is the denial of liberty and leads straight to its overthrow. A society which men recognize no check upon their freedom soon becomes a society where freedom is the possession of only a savage few, as we have learned to our sorrow.

SENATOR COGHILL explained that Mr. Hand goes on in his speech that liberty really resides in the recognition that the U.S. is a nation of faith. He continued to quote from Mr. Hand's speech as follows:

The spirit of liberty is the spirit which weighs their interests alongside its own without bias. The spirit of liberty remembers that not even a sparrow falls to earth unheeded; the spirit of liberty is the spirit of him who, near two thousand years ago, taught mankind that lesson it has never learned, but has never quite forgotten.

He pointed out that Judge Learned Hand just wanted to remind us of the history of those who have thought deeply and long about the nation's heritage. He said USPA is a constant reminder that makes us reach back and, at times, remind ourselves on a daily basis. He set forth that SJR 26 will be one way for Alaskans to commemorate the USPA.

9:40:28 AM

SENATOR GIESSEL moved to report from committee SJR 26 labeled 28-LS1268\N with zero fiscal note and individual recommendations.

9:40:41 AM

CHAIR DYSON announced that without objection, SJR 26 passes out of the Senate State Affairs Standing Committee.

9:41:02 AM

There being no further business to come before the committee, Chair Dyson adjourned the Senate State Affairs Standing Committee hearing at 9:41 a.m.