

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

March 26, 2015

9:01 a.m.

**MEMBERS PRESENT**

Senator Bill Stoltze, Chair  
Senator John Coghill, Vice Chair  
Senator Charlie Huggins  
Senator Lesil McGuire  
Senator Bill Wielechowski

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 35(STA)

"An Act establishing March 27 as Great Alaska Good Friday Earthquake Remembrance Day."

- MOVED CSHB 35(STA) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 15

Making application to the United States Congress to call a convention of the states to propose a countermand amendment to the Constitution of the United States as provided under art. V, Constitution of the United States; and urging the legislatures of the other 49 states to make the same application.

- MOVED SJR 15 OUT OF COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 4

Relating to the duties of delegates selected by the legislature to attend a convention of the states called under art. V, Constitution of the United States, to consider a countermand amendment to the Constitution of the United States; establishing as a joint committee of the legislature the Delegate Credential Committee and relating to the duties of the committee; providing for an oath for delegates and alternates to a countermand amendment convention; providing for a chair and assistant chair of the state's countermand amendment delegation; providing for the duties of the chair and assistant chair; providing instructions for the selection of a convention president; and

providing specific language for the countermand amendment on which the state's convention delegates are authorized by the legislature to vote to approve.

- MOVED SCR 4 OUT OF COMMITTEE

SENATE BILL NO. 22

"An Act relating to the collection costs for the municipal motor vehicle registration tax; and providing for an effective date."

- MOVED SB 22 OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 93(STA)

"An Act relating to the duties of probation officers; and relating to conditions of parole."

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 3

Proposing amendments to the Constitution of the State of Alaska to increase the number of members on the judicial council; relating to the initial terms of new members appointed to the judicial council; and relating to the confirmation of members of the judicial council.

- MOVED SJR 3 OUT OF COMMITTEE ON 3/24/15

**PREVIOUS COMMITTEE ACTION**

BILL: HB 35

SHORT TITLE: MARCH 27: GREAT ALASKA EARTHQUAKE DAY

SPONSOR(S): REPRESENTATIVE(S) MILLETT

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	STA
02/05/15	(H)	STA AT 8:00 AM CAPITOL 106
02/05/15	(H)	Moved CSHB 35(STA) Out of Committee
02/05/15	(H)	MINUTE(STA)
02/06/15	(H)	STA RPT CS(STA) NT 6DP
02/06/15	(H)	DP: TALERICO, STUTES, KELLER, GRUENBERG, KREISS-TOMKINS, LYNN
02/20/15	(H)	TRANSMITTED TO (S)
02/20/15	(H)	VERSION: CSHB 35(STA)
02/23/15	(S)	READ THE FIRST TIME - REFERRALS
02/23/15	(S)	STA
03/24/15	(S)	STA AT 8:30 AM BUTROVICH 205

03/24/15 (S) Scheduled but Not Heard  
03/26/15 (S) STA AT 9:00 AM BUTROVICH 205

BILL: SJR 15

SHORT TITLE: CALL FOR US COUNTERMAND CONVENTION

SPONSOR(s): SENATOR(s) STOLTZE

02/13/15 (S) READ THE FIRST TIME - REFERRALS  
02/13/15 (S) STA, JUD  
03/17/15 (S) STA AT 9:00 AM BUTROVICH 205  
03/17/15 (S) Heard & Held  
03/17/15 (S) MINUTE(STA)  
03/19/15 (S) STA AT 9:00 AM BUTROVICH 205  
03/19/15 (S) Heard & Held  
03/19/15 (S) MINUTE(STA)  
03/26/15 (S) STA AT 9:00 AM BUTROVICH 205

BILL: SCR 4

SHORT TITLE: US COUNTERMAND CONVENTION DELEGATES

SPONSOR(s): SENATOR(s) STOLTZE

02/13/15 (S) READ THE FIRST TIME - REFERRALS  
02/13/15 (S) STA, JUD, FIN  
03/17/15 (S) STA AT 9:00 AM BUTROVICH 205  
03/17/15 (S) Heard & Held  
03/17/15 (S) MINUTE(STA)  
03/19/15 (S) STA AT 9:00 AM BUTROVICH 205  
03/19/15 (S) Heard & Held  
03/19/15 (S) MINUTE(STA)  
03/26/15 (S) STA AT 9:00 AM BUTROVICH 205

BILL: SB 22

SHORT TITLE: MOTOR VEHICLE REG. TAX: COLLECTION COSTS

SPONSOR(s): SENATOR(s) GIESSEL

01/21/15 (S) READ THE FIRST TIME - REFERRALS  
01/21/15 (S) CRA, STA, FIN  
02/10/15 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)  
02/10/15 (S) Heard & Held  
02/10/15 (S) MINUTE(CRA)  
03/17/15 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)  
03/17/15 (S) Moved SB 22 Out of Committee  
03/17/15 (S) MINUTE(CRA)  
03/18/15 (S) CRA RPT 1DP 3NR  
03/18/15 (S) DP: EGAN  
03/18/15 (S) NR: BISHOP, MACKINNON, STEDMAN  
03/24/15 (S) STA AT 8:30 AM BUTROVICH 205

03/24/15 (S) Scheduled but Not Heard  
03/26/15 (S) STA AT 9:00 AM BUTROVICH 205

BILL: HB 93

SHORT TITLE: PROBATION AND PAROLE: WORK, TRAVEL ACCOM.

SPONSOR(s): REPRESENTATIVE(s) TILTON

01/30/15 (H) READ THE FIRST TIME - REFERRALS  
01/30/15 (H) STA  
02/17/15 (H) STA AT 8:00 AM CAPITOL 106  
02/17/15 (H) Moved CSHB 93(STA) Out of Committee  
02/17/15 (H) MINUTE(STA)  
02/19/15 (H) STA AT 8:00 AM CAPITOL 106  
02/19/15 (H) Moved CSHB 93(STA) Out of Committee  
02/19/15 (H) MINUTE(STA)  
02/20/15 (H) STA RPT CS(STA) 5DP  
02/20/15 (H) DP: TALERICO, STUTES, KELLER, KREISS-  
TOMKINS, LYNN  
02/27/15 (H) TRANSMITTED TO (S)  
02/27/15 (H) VERSION: CSHB 93(STA)  
03/02/15 (S) READ THE FIRST TIME - REFERRALS  
03/02/15 (S) STA, JUD  
03/26/15 (S) STA AT 9:00 AM BUTROVICH 205

**WITNESS REGISTER**

JEFF TURNER, Staff  
Representative Charisse Millet  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided an overview of HB 35.

STEVE S. MASTERMAN, Director  
Division of Geological & Geophysical Surveys  
Alaska Department of Resources  
Fairbanks, Alaska

**POSITION STATEMENT:** Supports HB35.

CHUCK VOLANTI, representing himself  
Olympia, Washington

**POSITION STATEMENT:** Supports HB 35.

MIKE COONS, National Director  
Citizen Initiatives  
Palmer, Alaska

**POSITION STATEMENT:** Supports SJR 15.

FORREST WOLFE, Staff  
Senator Cathy Giessel  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided an overview of SB 22.

AMY ERICKSON, Director  
Division of Motor Vehicles  
Alaska Department of Administration  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding SB 22.

DANIEL MOORE, City Treasurer  
Municipality of Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** Supports SB 22.

REPRESENTATIVE CATHY TILTON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 93.

CARRIE BELDEN, Director  
Probation & Parole  
Alaska Department of Corrections  
Anchorage, Alaska

**POSITION STATEMENT:** Supports HB 93.

SHERRIE DAIGLE, Special Assistant to Commissioner Taylor  
Alaska Department of Corrections  
Juneau, Alaska

**POSITION STATEMENT:** Addressed questions regarding HB 93.

#### **ACTION NARRATIVE**

[9:01:11 AM](#)

**CHAIR BILL STOLTZE** called the Senate State Affairs Standing Committee meeting to order at 9:01 a.m. Present at the call to order were Senators Coghill, Huggins, and Chair Stoltze.

#### **HB 35-MARCH 27: GREAT ALASKA EARTHQUAKE DAY**

[9:01:39 AM](#)

**CHAIR STOLTZE** announced the consideration of HB 35. [CSHB 35(STA) was before the committee.]

[9:01:48 AM](#)

JEFF TURNER, Staff, Representative Charisse Millet, Alaska State Legislature, Juneau, Alaska, introduced HB 35 reading from the following sponsor statement:

On March 27, 1964, Southcentral Alaska was torn apart as many of you know by a 9.2 magnitude earthquake; it devastated 50,000 square miles of Southcentral Alaska, leveled entire communities, and triggered massive tsunamis that brought even more devastation to coastal areas.

What HB 35 does is recognize a great disaster and how it brought out the best of all Alaskans by establishing March 27 as Great Alaska Good Friday Earthquake Remembrance Day. The purpose of the bill is not to highlight the quake necessarily, but to honor the thousands of Alaskans who put the needs of others before their own needs: first responders, medical personnel, the Alaska Army and Air National Guard, the U.S. Core of Engineers, government employees, even ham radio operators were joined by everyday Alaskans to conduct search and rescue operations, provide medical care, food, shelter, and the restoration of vital infrastructure and services; it was their selfless determination that saved unknown numbers of lives and rebuilt Southcentral communities before the return of winter.

The 1964 earthquake was also a watershed moment in the fields of geology, earth science, and more; it was a big part of what led to the creation of the Federal Emergency Management Agency, also known as FEMA, in 1979.

This legislation means communities and civic groups can hold ceremonies around the state to mark a day that changed state history and it also directs the Governor to issue an annual proclamation commemorating Great Alaska Good Friday Earthquake Remembrance Day and to fly the state flag at half-mast; it also reminds Alaskans about the importance of building and designing safer structures, which a couple of our invited testifiers can speak to today. Representative Millet respectively asks for the committee's support for the legislation.

[9:04:35 AM](#)

STEVE S. MASTERMAN, Director, Division of Geological & Geophysical Surveys, Alaska Department of Resources, Fairbanks, Alaska, announced that the division supports HB 35. He said the Division of Geological & Geophysical Surveys feels it is important to remember those people who gave their lives in the Great Alaska Earthquake disaster. He added that having a day on the calendar to remind people of the significance and danger of earthquakes in Alaska was important as well. He noted that the Remembrance Day calls attention to a need to build infrastructures and buildings that withstand the potential effects of a future earthquake as well as designing and planning Alaska communities to be resilient to earthquakes and tsunamis.

[9:06:04 AM](#)

CHUCK VOLANTI, representing himself, Olympia, Washington, recalled the events on the day of the earthquake in 1964 when on duty for the Alaska National Guard in Anchorage. He noted that as devastating and ravaging as the earthquake and tsunamis were, the cornerstone remains the people of Alaska and how they rallied together without hesitation. He said first-responders from all walks of life came together and formed the largest humanitarian relief contingent in state history. He summarized that what Alaskans of today enjoy is because they stand on the shoulders of those giants of the past; their selfless sacrifice paid honor to the future and now it is up to Alaskans to pay honor to those of the past.

[9:06:43 AM](#)

SENATOR MCGUIRE joined the committee meeting.

[9:09:26 AM](#)

CHAIR STOLTZE thanked Mr. Volanti for his diligence and efforts in helping memorize the event.

[9:10:17 AM](#)

CHAIR STOLTZE closed public testimony.

[9:10:35 AM](#)

SENATOR MCGUIRE moved to report the CS for HB 35 from committee with individual recommendations and attached fiscal note.

[9:10:49 AM](#)

CHAIR STOLTZE announced that hearing no objection, CSHB 35(STA) moved out of committee.

**SJR 15-CALL FOR US COUNTERMAND CONVENTION**

[9:11:20 AM](#)

CHAIR STOLTZE announced the consideration of SJR 15. [This was the third hearing.]

[9:12:03 AM](#)

SENATOR WIELECHOWSKI joined the committee meeting.

[9:12:09 AM](#)

MIKE COONS, National Director, Citizen Initiatives, Palmer, Alaska, explained that in 1787, the first 13 state legislatures created the federal government to serve the needs of the states and left for future legislatures with the sovereign authority to modify the conduct of the government when it encroaches on states' and citizens' rights. He said state legislatures are the most powerful and important government bodies in America; they are the final arbiters in all constitutional matters. He summarized that the "framers" left for future generations of legislators the sovereign authority to protect the U.S. Constitution through Article V and not throw it away based on poor constitutional analysis by anti-Article V groups.

[9:15:16 AM](#)

CHAIR STOLTZE closed public testimony.

[9:15:24 AM](#)

SENATOR COGHILL moved to report SJR 15 from committee with individual recommendations with attached zero fiscal note.

[9:15:36 AM](#)

CHAIR STOLTZE announced that hearing no objection, SJR 15 moved out of the Senate State Affairs Standing Committee.

[9:15:48 AM](#)

At ease

**SCR 4-US COUNTERMAND CONVENTION DELEGATES**

[9:16:05 AM](#)

CHAIR STOLTZE announced the consideration of SCR 4. [This was the third hearing.]

[9:16:20 AM](#)

SENATOR COGHILL specified that SCR 4 deals with the state's delegation to attend a convention of the states.

He moved to report SCR 4 from committee with individual recommendations and the attached zero fiscal note.

[9:16:33 AM](#)

CHAIR STOLTZE announced that hearing no objection, SCR 4 moved out of the Senate State Affairs Standing Committee.

[9:16:47 AM](#)

At ease

**SB 22-MOTOR VEHICLE REG. TAX: COLLECTION COSTS**

[9:17:24 AM](#)

CHAIR STOLTZE announced the consideration of SB 22.

[9:17:43 AM](#)

FORREST WOLFE, Staff, Senator Cathy Giessel, Alaska State Legislature, Juneau, Alaska, read the following sponsor statement:

Since the inception of the Motor Vehicle Registration Tax system (MVRT) in 1993, the cost to the state of collecting these taxes for municipalities have been reduced considerably or the rate they take off the top has not. The MVRT program was created not as a revenue sharing program, but was intended in a sense to piggy-back on the activities the state was already conducting in order to produce revenues for municipalities; with this understanding in mind, the state should only be collecting the added cost it incurs from operating the program, not sharing in the added revenues with which the municipalities receive from their citizens.

SB 22 proposes to reduce the amount the state collects from 8 percent to 5.5 percent in order to more accurately reflect the amount of work and resources the state provides to municipalities for performing this service; this does not impose any new costs or fees on the state or citizens, it simply reallocates more of the collected funds to the cities themselves. By allowing local governments to keep more of their taxes, this revenue is kept closer to the citizens it was intended to serve and therefore serves the people better. With revenue sharing posed to be reduced in these difficult fiscal times, allowing the

municipalities to retain more of their own revenues makes sense.

9:19:27 AM

CHAIR STOLTZE asked if MVRT was the municipalities' only "bite at the apple" for some revenues.

MR. WOLFE answered that he was not sure.

9:20:05 AM

AMY ERICKSON, Director, Division of Motor Vehicles, Anchorage, Alaska, introduced herself and offered to answer questions.

CHAIR STOLTZE pointed out that SB 22 has a fiscal impact for the state. He noted that the Division of Motor Vehicles (DMV) faces deficits as well as the state. He asked if Ms. Erickson had comments or concerns on SB 22.

MS. ERICKSON answered that SB 22 would not affect DMV's operations, but the bill would affect the state's general fund. She asserted that whether the state could afford to forgo approximately \$500,000 a year was a question for the Legislature. She explained that the MVRT was established in 1978 and amended in 1993 to increase the amount the state retained. She specified that the state's retention began at 5 percent and raised to 8 percent in 1993.

SENATOR WIELECHOWSKI asked for an explanation as to how the registration tax works for the municipalities. He asked to confirm that the bill would result in more money going to the municipalities.

MR. WOLFE explained that the state collect's their registration fee as well as fees for 16 other municipalities.

9:22:41 AM

SENATOR WIELECHOWSKI asked if the bill lowers the registration fee.

MR. WOLFE answered no. He specified that fees will not be lowered, but rather the amount the state returns to the municipalities. He said currently the state charges municipalities 8 percent as an administrative fee. He specified that the bill lowers the fee to municipalities to 5.5 percent. He detailed that the reduction will be more in line with DMV's actual administrative costs.

SENATOR WIELECHOWSKI asked to clarify that state receives 8 percent for managing the municipalities' license registration taxes.

MR. WOLFE answered that the bill applies to vehicle registration taxes, not license registration.

9:24:20 AM

SENATOR WIELECHOWSKI asked how the municipalities get their money.

MR. WOLFE answered that the state had separate agreements with each municipality. He detailed that vehicle registration fees were collected for each municipality, less the state's 8 percent fee.

SENATOR WIELECHOWSKI asked Ms. Erickson for an explanation as to how the registration fees go to the municipalities and how the bill increases money to the municipalities.

9:26:01 AM

MS. ERICKSON specified as follows:

For example, in the Municipality of Anchorage, my vehicle is 8 years old and the MVRT applied by the Municipality of Anchorage is \$70, so I pay my \$100 registration fee for the state and the \$70 fee that goes to the municipality; of that \$70, 8 percent is retained by the state and the rest is refunded to the community. Of the 17 communities, they each have their own established motor vehicle tax, so it would range from \$16, for example, to \$70 for Anchorage and Mat-Su.

CHAIR STOLTZE summarized that the bill does not change the fees, the change is directed at the percentage for the transacted cost for being the tax collector.

SENATOR WIELECHOWSKI asked if the municipalities were doing additional work for the registration fees. He opined that the state seems to be doing the bulk of the work and the municipalities are completely not involved.

MS. ERICKSON answered true. She explained that the state administers the program for each of the 17 municipalities.

SENATOR MCGUIRE noted that the state does a similar program with school district appropriations. She added that administrative fees often can erode the base of the dollars that people are trying to collect for whatever their purposes.

SENATOR WIELECHOWSKI asked how the bill impacts the Anchorage property tax cap.

[9:29:34 AM](#)

DANIEL MOORE, City Treasurer, Municipality of Anchorage, Anchorage, Alaska, replied that the auto registration tax is a payment in lieu of property tax. He explained that every dollar collected in auto registration tax for the municipality is a dollar decrease in the amount of property tax that is needed. He said Anchorage increased its rate schedule in 2012, resulting in increased auto tax registration revenues of \$5 million to \$6 million; that meant \$5 million to \$6 million less was needed from property taxes.

MR. MOORE detailed that the 8 percent fee, which has not changed since 1993, provides for DMV's administrative costs. He explained that prior to the tax increase in 2012, the municipality paid 45 percent of DMV's entire program cost, a percentage that matched Anchorage having 45 percent of the state's vehicles. He revealed that today the municipality pays 59 percent of all MVRT costs, but Anchorage still has 45 percent of the state's vehicles. He remarked that Anchorage pays double the amount for administration fees while not getting any additional services. He asserted that Anchorage's MVRT increase has been a windfall to DMV with an added \$500,000 per year.

He explained that the bill corrects the situation by lowering the administrative fee from 8 percent to 5.5 percent. He specified that DMV would retain approximately \$1 million, an amount the division used to retain, and the \$500,000 would be spread across the state; Anchorage will annually recover \$300,000 and Mat-Su will recover \$100,000. He said the 16 or 17 communities will basically receive a 3 percent increase in their net revenues from DMV, resulting in more money to provide local services or to reduce property taxes.

[9:32:51 AM](#)

CHAIR STOLTZE asserted that previous testimony had clearly established that the state was overly gouging the recipient of vehicle title or registration. He declared that his constituents' hearts would not be warmed that the municipalities are getting the money rather than the state. He asked if

consideration was ever given towards reducing the MVRT by giving the money back to the people.

MR. WOLFE replied that he had no comment.

CHAIR STOLTZE asked if Mr. Wolfe had a philosophy about where the money belongs.

MR. WOLFE replied that he did not feel comfortable commenting at that time.

CHAIR STOLTZE asked Mr. Moore to comment.

[9:34:23 AM](#)

MR. MOORE explained that the difference between the city and the state is that Anchorage has a tax-cap set by charter. When Anchorage gets any type of tax, by charter the tax must be taken into account within the municipality's cap, the result means less money is being charged for property taxes. He noted that one good thing about the MVRT is that a broader base of people are paying than property taxes.

CHAIR STOLTZE replied that he understood the government aspect and how it worked for government. He noted that he was concerned for the people who were paying the MVRT. He asserted that people did not care which government entity the tax goes to. He stated that the crux of the bill will be the fiscal issue and the referral to the Senate Finance Committee was appropriate. He inquired if the committee members had reviewed the bill's fiscal note. He confirmed that there would be a revenue shift from the state to the municipalities. He asked if there was any other public testimony on SB 22.

[9:37:08 AM](#)

SENATOR COGHILL commented that he would like to associate himself with Chair Stoltze's remarks on the individuals in Alaska and noted his appreciation. He conceded that the bill was a finance issue.

He moved to report SB 22 from committee with individual recommendations and the attached fiscal note.

[9:37:28 AM](#)

CHAIR STOLTZE announced that seeing no objection, SB 22 moved out of the Senate State Affairs Standing Committee.

[9:37:38 AM](#)

At ease

**HB 93-PROBATION AND PAROLE: WORK, TRAVEL ACCOM.**

9:38:25 AM

CHAIR STOLTZE announced the consideration of HB 93. [CSHB 93(STA) was before the committee.]

REPRESENTATIVE CATHY TILTON, Alaska State Legislature, Juneau, Alaska, introduced HB 93 speaking to the following sponsor statement:

Before you today, I bring HB 93 which is a piece of a continuing legislation on our ongoing reforms of Alaska's criminal justice and corrections systems. If I may, I would like to thank Senator Coghill for letting me work with him last year on SB 64 and for allowing me to carry this bill this session.

As we all know, Alaska has held one of the highest rates of recidivism and the cost of keeping a prisoner in jail is over \$150 per day with the cost continuing to rise; it is a fact with our budget climate today, our state cannot afford to build another prison. HB 93 builds on the bipartisan efforts of the legislature that we have started to move the needle on recidivism. In 2011, 52 percent of probationers did not complete their court orders of release and returned back to prison; those reforms that we've been putting in place has helped to lower that number to 45 percent in 2014.

9:40:07 AM

CHAIR STOLTZE asked Representative Tilton to repeat what percentage of probationers did not complete their orders.

REPRESENTATIVE TILTON replied that 52 percent in 2011 did not complete their court ordered conditions. She asserted that some of the reforms that the Legislature has put into place from 2011 to 2014 has lowered the number to 45 percent.

CHAIR STOLTZE commented that probationers are essentially doing their full sentences in installments.

REPRESENTATIVE TILTON answered yes. She continued her overview as follows:

Those who work with probationers, such as Partners In Progress, have identified employment as being one of the three largest components, but employment being number one, the other two are housing and social services to help them through their transitioning; but, what we do know is that few employers are willing to hire somebody with a record, so we have a little challenge there. As a matter of fact, there is a study with the Urban Institute that showed just 12.5 percent of employers said that they would definitely accept an applicant with a criminal record.

What HB 93 does is it encourages employment by making it clear to probation officers that when they are scheduling the probation appointments that they use diligent effort to schedule around the person's employment, thereby allowing the probationer to be successful in their employment. This bill also allows the probationers reasonable travel within the state to work as long as it is not in conflict with the terms of the conditioners of their probation; it is a building block and another tool in our toolbox.

By keeping probationers employed, we give them the opportunity to give back to the system, they reduce the draw on our health and social services budget, and the cost to our state when a prisoner recidivates, so ultimately and potentially saving a lot of dollars to our state.

[9:42:03 AM](#)

CHAIR STOLTZE asked for comments from the Alaska Department of Corrections.

[9:43:42 AM](#)

CARRIE BELDEN, Director, Probation & Parole, Alaska Department of Corrections, Anchorage, Alaska, announced that the department supports HB 93 and noted that the department has worked with the sponsor on the bill. She said the department believes that work is a very important to keep the state's population of probationers and paroles on the straight-and-narrow and out of trouble. She stated that the department thinks that work and employment is a very vital part of the reentry process.

SENATOR WIELECHOWSKI stated that he liked HB 93. He asked how the department deals with an issue where parolees in Anchorage or Fairbanks work on the Slope or rural Alaska.

MS. BELDEN answered that the department deals with the situation Senator Wielechowski noted quite often. She detailed that the department's probation and parole officers do value employment and the department tries to schedule meetings when the person is in town. She said the department does telephonic meetings and very much tries to accommodate schedules.

SENATOR WIELECHOWSKI noted that Senator Coghill is doing a good bill which seeks to have more electronic monitoring. He asked if the department has an issue with electronic monitoring in rural communities or on the Slope.

[9:45:29 AM](#)

MS. BELDEN replied that the department can and does monitoring in the areas that Senator Wielechowski noted.

SENATOR COGHILL asked if the word "diligent" was used as a term of art in the phrase, "Diligent efforts to secure and maintain steady employment." He asked if "active efforts" should be used rather than "diligent efforts." He opined that "diligent" has more flexibility, but also could be very subjective.

REPRESENTATIVE TILTON replied that Senator Coghill's reference in the use of the word "diligent" had been the first time. She remarked that consideration in the use of "diligent" should be discussed with the department.

CHAIR STOLTZE noted that "diligent" must mean something due to its use in the sponsor statement.

[9:47:52 AM](#)

SHERRIE DAIGLE, Special Assistant to Commissioner Taylor, Alaska Department of Corrections, commented that the use of "diligent efforts" probably comes from the diligent efforts of the probation officers who are constantly working with the probationers to help and assist them in obtaining employment. She commented that she did not know why the word "active" was not used. She added that the department would review the use of "diligent efforts" in the bill.

SENATOR COGHILL commented that accountability and flexibility are big things to parole officers. He reiterated that "diligent" was very subjective compared to "active."

SENATOR WIELECHOWSKI asked what happens when a probation officer believes that a probationer is "gaming the system." He noted

that the bill places requirements on a probation officer that they "shall permit" each probationer travel.

MS. DAIGLE answered that the probation officers are very keen to some of the tactics that some people use. She specified that most people on probation are going to comply by seeking employment and going through the right avenues to stay employed. She said probation officers closely monitor individuals that Senator Wielechowski was referencing.

SENATOR WIELECHOWSKI stated that because the bill does say "shall permit each probationer to travel in the state to make different efforts," there could be a situation where a parole officer does not allow travel and the probationer challenges the decision by saying the law says he or she can go. He asked who solves the situation that he previously noted.

9:50:20 AM

MS. DAIGLE answered that the department does not know. She noted that the department has had discussion on the scenario that Senator Wielechowski described, but the department was not sure.

SENATOR WIELECHOWSKI asked how the bill should be fixed to avoid the situation he previously described.

CHAIR STOLTZE asked if the scenario Senator Wielechowski described has never been litigated.

SENATOR WIELECHOWSKI guaranteed that the scenario he described would occur if the current bill passes.

SENATOR COGHILL pointed out that Section 2 in the bill talks about what the parolee is responsible to do. He said the bill falls into the category of why the government does that; for example, the parole officer sometimes is more concerned about what they are doing than what the parolee is doing and the scenario Senator Wielechowski described is an assertion where the parolee must be accommodated if work is the issue. He conceded that consideration must also be given to the "gaming of the system." He said he is open to further discussions.

REPRESENTATIVE TILTON concurred with Senator Coghill that the parolee would have to be accommodated.

CHAIR STOLTZE stated that he understood probation and parole. He asked if probation and parole was entirely an administrative

procedure within the parole board or does it get kicked up to the courts.

MS. DAIGLE answered that courts are involved in probation and parole.

9:53:20 AM

MS. BELDEN detailed that a parolee or the probationer and the probation officer would sit down and have their office visit where work schedules are discussed. She asserted that parole officers try and be fair about work schedules because they do want them employed. She specified that courts and parole boards come into play when there are violations. She said when the parole officer has tried to work with probationers and parolees informally, but the violations are too big or the parole officer is just not getting anywhere with the probationer or parolee, the probation officer will file a petition to revoke probation or parole violation and bring the probationer or parolee before the court or before the board.

9:54:50 AM

CHAIR STOLTZE asked what is the condition for the consumption of alcohol and if the condition has been tested in the courts.

MS. BELDEN answered that no alcohol to excess is a general condition that all of the probationer or parolees get. She detailed that the no alcohol consumption means zero tolerance is a case-by-case basis and that depends on the individual's history and crime that is specific to them.

CHAIR STOLTZE noted that marijuana is supposed to be regulated like alcohol. He asked if there should be parole conditions on marijuana.

MS. BELDEN replied that if the parole board or court does not want a probationer or parolee to ingest marijuana, then the parole board or court can put a specific condition on that says no marijuana consumption.

CHAIR STOLTZE asked even under the new paradigm where marijuana is legal.

MS. BELDEN answered that just like alcohol is legal for most, a prohibition condition can be placed on an individual. She said marijuana would be legal for most, but a parole board or court can invoke a marijuana prohibition if they chose.

SENATOR WIELECHOWSKI noted two scenarios as follows:

Number one, a probation officer says "No, I don't think you should go to travel," and then the probationer gets an attorney and they go to court, and the attorney says "Well, the law says you shall permit them." So explain what is likely to happen and maybe we need Legislative Legal Services to come in and weigh in on this, explain what is likely to happen in that situation.

The other situation is the person goes and then the probation officer wants to get them back and then it goes before a judge as well, maybe just talk about how the courts you expect would deal with that situation.

9:57:13 AM

MS. BELDEN replied that the department shared Senator Wielechowski's concern. She said by placing "shall" in the bill removes the discretion of the parole officer and Legislative Legal Services may indicate how big the issue was. She said the department will try to work things out internally to get a happy middle, but a worst case scenario could occur where a person ends up before the court or parole board.

SENATOR COGHILL stated that the parole board still has significant leeway by setting other conditions. He said the bill orders travel to be taken into account, but consistency is also mandated.

REPRESENTATIVE TILTON specified that, "When not in conflict with the other terms and concerns of their probation" was clearly stated in the bill. She noted that previous discussions with Legislative Legal Services occurred in a previous committee that tried to address other verbiage, but there was not another work-around. She said the decision was to go ahead with the bill as it was with the understanding that the bill is not in conflict with conditions of probation terms.

9:59:34 AM

CHAIR STOLTZE asked if probation should be viewed as a qualified privilege or a right.

REPRESENTATIVE TILTON answered that probation was a qualified privilege.

MS. DAIGLE answered that the department would agree that probations was a qualified privilege.

CHAIR STOLTZE stated that he understood the reformation provision in the state's constitution as well. He remarked that he just wanted to make sure in the zeal to try to empty the state's prisons that the "wrong ones" were not let out.

SENATOR WIELECHOWSKI asked if the bill has a Judiciary Committee referral.

CHAIR STOLTZE answered yes.

REPRESENTATIVE TILTON confirmed that the bill does has a Senate Judiciary Committee referral.

CHAIR STOLTZE commented that having two committee referrals for the bill was advantageous in order to address a few issues. He opined that HB 93 looks more right for passing than the bill that was just dropped.

[10:01:24 AM](#)

CHAIR STOLTZE announced that HB 93 would be held in committee with a sincere intent to readdress it as quickly as possible. He added that the committee would like to have Commissioner Taylor of the Department of Corrections on the record as well. He noted that Commission Taylor began his career in probation and added that the committee would deprive itself of a strong voice with a lot of authority if the commissioner did not address the committee.

MS. DAIGLE replied that the department would make Chair Stoltze's request happen.

[10:02:26 AM](#)

There being no further business to come before the committee, Chair Stoltze adjourned the Senate State Affairs Standing Committee hearing at 10:02 a.m.