HB
225
261
293
PAROLE BD.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 261

House Bill 261 replaces the current Parole Board laws with a more comprehensive statute that includes the following provisions:

a. Five year terms for Board members as recommended by the Commission on Accreditiation for Corrections and other professional organizations.

b. Statutorily sets the compensation of Board members at $100/day and provides for a raise with the consumer price index in Anchorage.

c. Requires the Board to recommend statutory changes to the Legislature.

d. Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code.

e. Allows the Board to discharge parolees from supervision after two years.

The changes listed in sections a), b), d), and e) above are supported by the Commission on Accreditation for Corrections and by the Alaska Corrections Masterplan Consultants of 1979.

EXECUTIVE DIRECTOR

For section .090 the Department recommends the executive director be hired by the Department and serve at the pleasure of the Department to provide better coordination within the Department.

"PAROLE RIGHTS"

Section .150 of the bill gives offenders a right to have copies of all information considered by the Board a minimum of 30 days in advance of any kind of parole hearing. Many hearings would be continued well beyond this time frame as to increased movement and bulk. Considerable expense and staff time would be saved by providing a summary of the information in the file rather than providing copies of all information in the file (average about 200 pages/file). This summary would give the offender all pertinent information considered by the Board. Section .150 of HB 261 also allows the offender a copy of all mental health records. Controversy surrounds the release of these records. Many clinicians and therapists are opposed to the release of patient records without benefit of medical interpretation.

GOOD TIME PROVISIONS

Section .170 of HB 261 requires parolees be given good time for good behavior while on parole, but this good time earned is subject to forfeiture by the Board. There is no way to avoid an enormous amount of staff time, red tape, paperwork, more policies and procedures, and hearings to implement this section. Considerable additional travel expense will be incurred on interstate parole cases. The good time system in the correctional facilities

has proven to produce a high error rate causing serious problems, and a similar system for parolees is expected to produce similar results. Although the concept of parole good time is a unique approach, we recommend a more simple and less costly solution for the earlier release of parolees from supervision. Instead, the Committee might consider giving the Board the authority to release parolees from supervision after 1 year of good behavior rather that the 2 years listed in Section .270 of this bill, in lieu of the good time provisions of this bill.

PAROLE CONDITIONS

Section .180 unduly restricts the imposition of necessary parole conditions by the Board. The courts allow any reasonable condition that relates to the prisoner's crime and background. Where the Board determines that there is clear evidence, some parolees need to be restricted from associating with victims or their crime partners. The Board cannot require restitutions during parole nor establish other conditions normally imposed by other parole agencies or the courts, such as having the car license numbers of drug dealers.

MODIFYING CONDITIONS OF PAROLE

Section .190 of HB 261 requires 30 days written notice be given the parolee before a parole conditions can be changed. This is impractical. Currently, conditions of parole are discussed with parolees at the release hearing. New conditions of parole are imposed only when immediate intervention is needed because of risk to the community or to the parolee. This section will not allow the Board to deal with a parolee's problems when they surface, posing a risk to the community and to the parolee.

DISCHARGE OF PAROLEE

Section .250 of the bill requires that parolees be discharged from supervision automatically after five years on parole. The only exception would be if the parolee had been charged with a felony offense while on parole. An additional phrase is recommended to be inserted in line 19, "or has not violated parole by absconding supervision". Without this phrase, a parolee could abscond supervision the date of his release, and as long as he was able to avoid detection for a period of five years, he would suffer no liability. This would not be conducive toward assisting the parolee to live by the rules of society.

REVOCATION OF PAROLE

Section .290 also requires that the Commissioner prove by "clear and convincing evidence" that a parolee has violated the terms of his parole. This is a higher standard of proof than the courts have adopted in probation and parole revocation cases in Alaska, and is higher than the standard adopted by any other court or paroling agency in this country. The "preponderance of the evidence" standard is more appropriate, providing adequate safeguards for the parolee and protection for the public.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 261

PAROLE ARREST WARRANTS

Section .300 of HB 261 requires that a parole violation warrant be obtained from a judicial officer. This requirement will unnecessarily tax the already overburdened judicial system. The additional paperwork required from parole officers to secure a judicial warrant would increase their workload, and the Alaska Supreme Court has already ruled this an unnecessary burden on the parole officers. It is standard procedure in all other states to have a warrant issued by the Board, member of the Board or a corrections staff person.

ADDITIONAL BURDEN ON THE BOARD

Of major concern to the Department would be the increase in "Board member days" spent on Parole Board business as a result of this bill. With the responsibilities outlined in HB 261 the average number of days spent by each current Board member on Board business will increase from the current 45 to 60 days per year, to a minimum of 138 to 153 days per year. Considering there are 251 work days in a year, being a Parole Board member would be more than a half time job due to the increased workload mandated by HB 261.

The department feels that with the amendments proposed this bill could add to the effectiveness of the present parole system.

Approved by: Helen D. Beirne Date 2-5-82

Helen D. Beirne, Commissioner
Department of Health and
Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 261
Title "An Act relating to parole offenders"
Requested by House HESS Date February 4, 1982

II. FISCAL DETAIL
Agency Affected Health and Social Services
Program Category Affected Offender Confinement, Reformation and Supervision
BRU, Program, Or Subprogram(s) Affected Adult Confinement, Probation & Community Programs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		7.9	228.7	244.7	261.8	280.2
200 TRAVEL		2.2	3.6	3.9	4.2	4.6
300 CONTRACTUAL		14.9	52.4	57.2	62.3	67.9
400 COMMODITIES		23.9	38.4	41.8	45.6	49.7
500 EQUIPMENT			3.0			
600 LAND & STRUCTURES		992.6				
700 GRANTS,CLAIMS,ETC.		6.2	10.0	10.9	11.9	12.9
TOTAL	-0-	1047.7	336.1	385.5	385.8	415.3

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	1047.7	336.1	385.5	385.8	415.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	-0-	-0-	5	5	5	5
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

I. Program

A. Adult Confinement

On the basis of information given to us by the Parole Board we would conclude that the passage of House Bill No. 261 without modification, would result in a need for additional capacity within the correctional system. Capital projects requested or in progress to provide more beds do not take into consideration the effects of new or amending legislation.

Without the provisions regarding conditions of parole or with modification of those provisions allowing the Board the flexibility it desires with respect to setting and changing conditions of parole, there would be no bed space impact.

Roger C. Lange (AP)

IV. DATE February 4, 1982 PREPARED BY Roger C. Lange
AGENCY Adult Corrections
Original: Legislative Finance PHONE 465-3376
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

1. The restrictions on changing of parole will result in approximately 15 revocations of parole per year. It is estimated that each revocation will result in an average period of incarceration of 60 days while the conditions of parole are being changed.

$$\text{New beds required} = \frac{\quad \times 60}{365}$$

$$= \underline{2.5}$$

2. The bill provides an inclusive list of conditions of parole without language permitting the parole board to impose other conditions they consider appropriate for some parolees. Therefore, the assumption is that the parole board may hesitate to grant parole to these individuals. It is assumed, based on information provided by the Parole Board Administrator, that at least seven persons a year would be denied parole. The average length of sentence remaining when persons are paroled, considering good time that would be earned, is 20 months. Therefore, the impact on bed availability would be:

An assumption only

$$\text{Number of beds needed} = \frac{\text{(beds)}\ 7 \text{ persons} \times 20 \text{ months}}{12 \text{ months}}$$

Number of Beds - 11.7

3. Total bed identified from above.

An assumption only

$$\begin{array}{r} 2.5 \\ 11.7 \\ \hline 14.0 \text{ (rounded)} \end{array}$$

The Division of Adult Corrections estimates that an additional 14 beds will need to be constructed if House Bill No. 261 is enacted.

B. Probation and Community Programs

The provision in the proposed legislation for earning of "good time" by persons on parole will result in an increment of work for the probation staff. It is not known at this time the amount of additional staff time which will be required to document violations of conditions of parole and attend hearings of forteiture of good time as a result of violation of parole conditions.

This increased requirement for staff time will have to be addressed in future requests for additional staff based on total work load units around the state.

II. Fiscal

A. Capital Expenditures

It is assumed that the additional beds can be added to a new facility. Using recent costs of additional beds at Eagle River Correctional Center plus two years' inflation of 15% per year, the estimated construction costs per bed is $70,900. Therefore, capital expenditures required are:

Capital Funding = 14 x $70,900

= $992,600

B. It is assumed that the 14 beds will result in one additional 24-hour post requiring 5 Correctional Officers II (Anchorage pay area; Range 13, Step B; March 1982 schedule):

Annual Salary	$24,876
Variable Benefits @ 16.63%	4,137
Supplemental Benefits @ 6.13%	1,525
Police Retirement @ 9.66%	2,403
Health Insurance	2,196
Overtime, Shift Differential	3,325
Total Five C.O. II's	$ 38,462
Total Five C.O. II's	$192,310

C. Inmate Costs - 1982 Costs $ 3,000

Travel (return inmate to point of arrest)	$ 3,000
Food @ 5.50 per day	$228,100
Clothing @ $300 per year	4,200
Gratuities for work	8,400
Medical costs $1231/inmate/year	17,200
	$57,900

D. Building Costs

Utilities	$25,000

E. Reproduction of Inmate Casefiles

Personal Services:

217 casefiles x 2 1/2 hrs/file x 14.57/m. = 7904.

Xeroxing:

217 casefiles x 200 pages x $.05/page	2170
	$10,074

F. Assumptions

1. The new beds will not be completed until FY 1984. Therefore, staff and utility costs will first appear in FY 1984.

2. There will be 9.5 full time equivalent inmates in FY 1983 and 14 in FY 1984.

3. Inflation of 9% per year is used for all expenditure categories except personal services where 7% per year is used.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 261
Title An Act Relating to Parole of Offenders: Continuing the Parole Board
Requested by Senator Parr Date March 24, 1981

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Offender Confinement Reformation and Supervision
BRU, Program, Or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		35.0	38.2	41.6	44.5	47.6
200 TRAVEL		89.1	102.5	117.9	129.7	142.7
300 CONTRACTUAL		50.1	50.2	54.2	58.5	63.2
400 COMMODITIES		1.0	1.1	1.2	1.3	1.4
500 EQUIPMENT		2.1				
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
800 COMPENSATION		84.9	92.5	99.9	106.9	114.4
TOTAL		262.2	284.5	314.8	340.9	369.3

FUNDING (Thousands of Dollars)

GENERAL FUND		262.2	284.5	314.8	340.9	369.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See attached sheets.

IV. DATE January 25, 1982 PREPARED BY Samuel H. Trivette
AGENCY D.H.& S.S., Parole Board
PHONE 465-3335

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

A. Section .010, Members

Included in this section are funds to cover cost of two additional Board members at the quarterly Board hearings. Because of their presence at hearings, hearings are lengthened by twelve minutes/hearings adding up to twelve additional days of hearings per year. Some additional xeroxing and more long distance phone calls for new members. Funds are also included for per diem and compensation for the other five members for the 12 additional days.

Travel and Per Diem-New	23.3
Contractual	1.9
Compensation-New & Old	24.0
Per Diem Increas-Old Members	5.0
Total	54.1

B. Sections .020 & .030, Nomination/Selection of Members

Budget one trip by one staff to Anchorage, Fairbanks, Nome, Bethel, Kenai, Ketchikan and Sitka to meet with organizations to recruit for Board members and administer member assessment. Two additional one day trips to two locations to do final interviews and train on member responsibilities.

Travel & Per Diem	3.9

C. Section .050, Compensation

The bill would provide payment to the Board members for any day they are conducting business, including the reading of files, handling Board business by phone, as well as hearings.

a) Reading reports-assume 225 cases/year x 3/4 hours per file = 23 "member days". Guess 23 days x 7 members = 16.1

b) Phone log shows average of 30 calls/quarter to the office x 4 quarters/year = 120 calls for handling appeals, requests for special hearings, mandatory release conditions, etc. = 12.0

c) Pay full days compensation for those days signing warrants, holding preliminary hearings, 1/2 day parole hearings, etc. Guess 70 member days x $50 = 3.5

Total 31.6

D. Section .080, Responsibilities

Cost to rent meeting rooms, advertise, professional recording of hearings, to establish regulations in Alaska Administrative Code (other costs in FY-82 budget).

4.4

Contract with criminal justice research firm to validate and keep parole guidelines research current in order to avoid lawsuits.

7.2

Total 11.6

E. Section .150, Release Hearings

Current statute allows the Board to conduct interviews of prisoners in the Federal Prison System by one member and then conduct a full hearing in Alaska with all members, with the interviewer presenting all information from the Federal Bureau of Prisons interview. This section requires the Prisoner's presence at the hearing and these figures reflect the cost of sending two more members on the twice annual trek to the contract facilities to hold hearings on applicants.

Travel	24.4
Compensation	6.0

This section also requires that all information be made available to parole applicants a minimum of 30 days in advance. Information is frequently not received until the week of the hearings, and therefore some hearings will have to be rescheduled again. Guess that 20% of cases (approximately 300) will be reheard, or 60 hearings/year.

Transportation	3.2
Compensation	3.5
Total	6.7

Total Transportation	27.6
Total Compensation	9.5
Total	37.1

F. Section .170, Good Time

This section mandates the awarding of good time while on parole. Money is included to contract with someone to draft regulations and policy to implement this section, since standards in this area are novel to correctional agencies and no definitions or formats are available to follow. Since parolees generally have more rights than do prisoners, we anticipate establishing the same minimum due process safeguard set forth under current Division of Corrections institutional good time policies. Current Board hearings are taxed to their maximum capacity in terms of time and additional hearing times would be established between quarterly meetings to handle all good time matters (including forfeitures), and any overflow of revocations. This would require the Board to be available at all Division of Corrections Parole offices twice yearly to handle cases in the outlying areas. Assuming only five members and one staff person, the costs would be:

Transportation and Per Diem	17.5
Compensation	1.6
Contractual (regulations)	3.6

One Administrative Assistant would be hired to keep up with the complex record keeping system, handle increased flow of reports from parole officers, and oversee the operation of the office in the absense of professional staff (due to their quarterly-increased traveling). This position is necessitated by this section as well as the additional workload brought about by Sections .010, .020, .080, .190, and .290.

Personnel	35.0
Equipment	2.1
Commodities	1.0
Total	60.8

G. Section .190, Change in Conditions

Due to the very cumbersome nature of this section and since there is often the need for the parole officer to intervene in a case on short notice to enable the parolee to remain in the community and to protect the public, it is anticipated that in approximately 15 cases/year a parole officer will have a parolee arrested to expedite the condition change process. This will of course require an additional 15 preliminary revocation hearings.

Transportation	1.6
Per Diem	1.3
Compensation	1.5
Total	4.4

H. Section .290, Revocation Hearings

The "clear and convincing evidence" test will result in a representative from the District Attorney's office presenting most of the cases for the Division of Corrections, as is done in probation revocation cases now. Assume District Attorneys will be present in 3/4 cases (27) which will result in a doubling in the length of the hearing time in those cases resulting in 14 additional "board days per year".

Per Diem	8.1
Compensation	9.8

Due to the 30 day requirement for information to be dispursed to parolees before preliminary hearings, anticipate rescheduling eight hearings because of requests for continuances at the original hearings.

Per Diem	.9
Compensation	.8
Total Per Diem & Transportation	9.0
Total Compensation	10.6
Total	19.6

I. Overall Costs

This bill will greatly increase the record-keeping responsibilities of the Board. It will be necessary to collect and maintain various kinds of data on all corrections clients that is not currently being kept. Because of the volume and variety of information to be kept, automation appears reasonable. We will contract with a computer firm to write the appropriation programs, set up and maintain the necessary reports for the Board. A criminal justice researcher familiar with the requirements of this bill and with the Board, advises that $33,000 would minimally be required to handle the tasks. The Department has been unable to meet the Board's current data needs and this is why we would propose to contract for services

Contractual	33.0

J. Assumption for FY-84 Through FY-87

a) Personnel = 9% in FY-84 and FY-85; 7% thereafter.
b) Travel = 15% in FY-84 and FY-85; 10% thereafter.
c) Compensation = Consumer Price Index will increase by 9% in FY-84; 8% in FY-85; 7% in FY-86 and FY-87.
d) Contractual = 8%
e) Commodities = 8%

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 225

House Bill 225 presents many changes to the current Parole Board statute including:

a) Sets five year terms for Board members as recommended by the Commission on Accreditation for Corrections and other professional organizations.

b) Statutorily sets the compensation of Board members at $100 per day for each day they are involved in carrying out Parole Board business.

c) Requires the Board to maintain standards for the release of offenders.

d) Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code, making the regulations more accessable to the public.

e) Defines statutorily the bases for the appeal of Board decisions.

f) Sets standards for the imposition of any condition of release and allows the offender to appeal any condition imposed.

g) Allows the Board to discharge parolees from parole after two years of supervision cutting down the parole officer's workloads and limiting the intrusion of the State into the lives of the offenders. It requires the offender be discharged after 5 years unless good cause is shown.

h) Provides clarification of definitions and of the mandatory release statutes.

i) Establishes statutorily the bases for the removal of Parole Board members.

The department believes that the proposed changes in this bill would add to the effectiveness of the present parole system.

Approved by: Helen D. Beirne Date 2-5-82

Helen D. Beirne, Commissioner
Department of Health and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 225
Title "An Act relating to parole of offenders & continuing existence of the * Board of Parole."
Requested by House HESS Committee Date February 4, 1982

II. FISCAL DETAIL
Agency Affected Department of Health & Social Services
Program Category Affected Offender Confinement, Reformation, and Supervision
BRU, Program, Or Subprogram(s) Affected Adult Confinement; Probation & Com. Prog.
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill essentially enables the Board of Parole to continue their existence and carry out their responsibilities in the same general manner as in the past. Therefore, there would be no fiscal impact on the Division of Adult Corrections.

IV. DATE February 4, 1982 PREPARED BY Roger C. Lange
AGENCY Division of Adult Corrections
PHONE 465-3376

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

cc

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 225
Title An Act Relating to Parole of Offenders: Continuing the Existence of the Board
Requested by Representative Martin Date February 25, 1981

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200	TRAVEL	-0-	5.5	5.9	6.4	6.9	7.5
300	CONTRACTUAL	-0-	2.4	-0-	2.8	-0-	3.2
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	COMPENSATION	-0-	23.8	23.8	23.8	23.8	23.8
	TOTAL	-0-	31.7	29.7	33.0	30.7	34.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	31.7	29.7	33.0	30.7	34.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE March 5, 1981 PREPARED BY Samuel H. Trivette
AGENCY Parole Board
PHONE 465-3384

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval [signature] Date 3/9/81

33-001 (Rev. 12/80)

A. Section .020 & .030, Nomination/Selection of Members

Budget one trip to Anchorage, Fairbanks, Bethel, Nome, Kenai, Ketchikan, and Sitka to meet with organizations to recruit for Board members and to administer member assessment. One additional day trip to one location to do final interviews and train on member responsibilities.

Travel	3.8

B. Section .050, Compsensation

a) Reading reports - assume 225 cases/year X 3/4 hours per file = 23 "member days"
Guess 23 X 5 members X $100 = 11.5

b) Phone log shows average of 30 calls/quarter to the office X 4 quarters = 120 calls/year for handling appeals, requests for special hearings, setting mandatory release conditions, etc.
120 calls X $120 = 12.0

Compensation Total	23.5

C. Section .080, Responsibilities

a) Costs to rent meeting rooms, advertise, professional recording of hearings, to establish regulations in the Alaska Administrative Code.

Contractual	2.4

b) Travel costs for Executive Director and Chairman to conduct 1 day hearings in Anchorage, Fairbanks, and Juneau.

Travel	1.7

c) Compensation for Chairman 3 days at $100.

	.3
Section .080 Total	4.4

Assumptions

1. Travel will increase at a rate of 8% per year.
2. Contractual will increase at a rate of 8% per year, but hearings to modify regulations will be held only once every two years.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 293
Title An Act Establishing a Parole System and Relating to Correctional Facilities, etc...
Requested by Rules Committee by Request of the Governor Date 3/9/81

II. FISCAL DETAIL
Agency Affected Health & Social Services
Program Category Affected Offender Confinement, Reformation & Supervision
BRU, Program, or Subprogram(s) Affected Adult Confinement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		126.0	152.9	62.6	68.2	303.1
200	TRAVEL		1.6	1.8	-0-	-0-	14.0
300	CONTRACTUAL		148.5	463.6	825.0	1,254.9	220.6
400	COMMODITIES		2.6	4.3	4.2	6.0	233.1
500	EQUIPMENT		1.4	-0-	1.7	-0-	20.0
600	LAND & STRUCTURES		5,520.0	-0-	-0-	-0-	-0-
700	GRANTS, CLAIMS, ETC.						42.8
	TOTAL	-0-	5,800.1	622.6	893.5	1,329.1	1,333.6

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	5,800.1	622.6	893.5	1,329.1	1,333.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	1	1	2	2	19
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A. Four specific areas within the Division of Adult Corrections will be impacted as a result of passage of House Bill #293. These are Adult Confinement, Major Medical, Director's Office and, for two-year period, Institutional Counseling. Individual analysis of each area follows:

1. Adult Confinement

As a result of presumptive sentencing, it is anticipated that the prison population will increase by 80 persons. This increase is assumed to occur at a uniform rate of 16 persons per year for five years.

In order to accomodate this increase in the prison population, construction of 80 beds would be requested in FY 1982. These beds would be added to a request for a 200 bed facility already anticipated. The capital funds identified represent the cost of the dormatory space for 80 beds. With funds

IV. DATE 4/9/81 PREPARED BY Roger C. Lange Roger C. Lange
AGENCY Health & Social Services Div. of Corrections
PHONE 465-3376

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval Date

33-001 (Rev. 12/80)

appropriated in FY 1982, an opening date of July 1985 for the new beds would be anticipated. At that time, 17 staff positions would be needed to provide for security and program supervision of the 80 bed wing.

Contractual costs for housing the additional prisoners out-of-state would be necessary until July 1, 1935. Computation of these costs are, as follows:

Fiscal Year	Full-Year Equivalents	Average Cost Per Day	Days	Total Cost
1982	8	$45.53	365	$132,948
1983	24	49.63	365	434,759
1984	40	54.09	366	791,878
1985	56	58.96	365	1,205,142

2. Major Medical

With the increase in prisoner population, medical expenses related to these prisoners will result in a budgetary need. Costs were developed using an average of 8 prisoners for FY 1982, with an increase of 16 in each of the subsequent fiscal years. The FY 1982 budget figure of $573.47 per prisoner year cost of medical care was used to compute estimated need.

Inflation for medical costs were estimated to be 14% per year for each of the successive fiscal years. The yearly cost of medical care per prisoner was multiplied by the estimated average prisoner population resulting from this legislation. The yearly costs were computed, as follows:

Fiscal Year	Full-Year Equivalents	Average Cost Per Year	Total Cost
1982	8	$573.47	$4,588
1983	24	653.76	15,690
1984	40	745.28	29,811
1985	56	849.62	47,579
1986	72	968.57	69,737

3. Director's Office

Section 33.30.131 - Furlough Involving Employment - stipulates that "when a prisoner is employed outside a correctional facility as a part of a furlough program, his earnings shall be sent by his employer to the commissioner." It is assumed the administrative responsibilities regarding these earnings will be delegated by the Commissioner to the Division of Adult Corrections.

With a large number of offenders in the furlough program, a sizable accounting responsibility for the earnings will result. To accomplish the accountability and disbursement of earnings as specified, an Accountant I position is identified to be hired January 1, 1982 and an Accounting Clerk II to be hired July 1, 1983.

The cost of this activity, by fiscal year, is estimated to be:

Fiscal Year	Amount
1982	$18,100
1983	36,400
1984	71,800
1985	76,400
1986	83,400

4. Institutional Counselors

It will be necessary to provide additional staff to prepare all pre-parole hearing reports. It is assumed that all inmate cases must be reviewed so that the inmate could be seen within a two-year period. In order to accomplish this additional increment of activity, it is estimated that 3 new Institutional Counselor positions (Probation Officer II classification) will be needed. The location and costs are, as follows:

Position	Location	Cost - FY 1982
1 P.O. II	Anchorage Central Office (Federal Bureau of Prisons inmates)	$39,664
1 P.O. II	Eagle River/Palmer	39,664
1 P.O. II	Fairbanks	45,202
	Total position cost (includes equipment, office space, etc)	124,530

These positions are requested for FY 1982 and FY 1983. During this period, the Institutional Counselors identified will prepare the pre-parole hearing reports for all individuals who committed a crime before July 1, 1981. Upon completion of this task, the specific function will no longer be needed.

It is noted, however, that additional staff is anticipated after June 30, 1983 as a result of several systems of good time calculations being in place. It will be extremely important that these calculations be kept current so that inmates are released at the appropriate time. No costs are included in this fiscal note for this activity increment.

B. Inflation of 9% per year was used to carry forward all expenditure categories with the exception of medical costs at 14%, as noted above.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H.B. #293

Title An Act establishing a parole system, etc.

Requested by Governor Date March 19, 1981

II. FISCAL DETAIL

Agency Affected Health and Social Services

Program Category Affected Offender confinement, reformation, and supervision

BRU, Program, or Subprogram(s) Affected Parole Board

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		220.2	240.0	(168.4)	(183.6)	(200.1)
200	TRAVEL		72.8	17.2	(53.2)	(58.0)	(63.2)
300	CONTRACTUAL		32.1	35.0	(16.6)	(18.1)	(19.7)
400	COMMODITIES				(2.5)	(2.7)	(3.0)
500	EQUIPMENT		4.0				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	OTHER (COMPENSATION)		(23.7)	(23.7)	(23.7)	(23.7)	(23.7)
	TOTAL		305.4	268.5	(264.4)	(286.1)	(309.7)

FUNDING (Thousands of Dollars)

		(1)		(2)		
GENERAL FUND		305.4	268.5	(264.4)	(286.1)	(309.7)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		3	3	(7)	(7)	(7)
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

(1) Impact of new commission over and above current Parole Board

(2) Negative impact of no commission or Parole Board

IV. DATE March 19, 1981 PREPARED BY Samuel H. Trivetto

AGENCY Parole Board

PHONE 465-3385

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval [signature] Date 3/23/81

33-001 (Rev. 12/80)

ASSUMPTIONS

Base in Anchorage

Anchorage - Must be able to secure space in Court House for hearings every other month.

Fairbanks
and Juneau- Same as above.

A. PERSONAL SERVICES

a) Members - Range 26 = 4,819 x 3 = $ 14,457
x 12
173,325
x 1.27
$220,325

b) Executive Director
c) Parole Board Officer
d) Two (2) Clerk Typist III's

Salaries from FY-82 Budget = $141,660
Total Salary and Benefits: $361.925

B. TRAVEL

Five trips to Juneau for three members lasting five days
266 x 5 = 1,330
67 x 25 = 1,675
Misc. = 150
3,155 x 5 = $15,775

Five trips to Fairbanks for three members lasting five days
152 x 5 = 760
67 x 25 = 1,675
Misc. = 150
2,585 x 5 = $12,925

Four trips to F.B.P. for three members lasting 5 days
800 x 5 - 4,000
65 x 25 = 1,625
Misc. = 200
5,825 x 4 = $23,300

Member Travel Total: $52,000 x 1.15 - $59,800

Miscellaneous travel for Executive Director, P.O. II, meet with Executive Clemency Advisory Committee, etc., for training and assistance to institutions:

Two 2 day trips to Fairbanks and Juneau
1 x 152 = 152
1 x 266 = 266
67 x 4 = 268 603
Misc.= 270
686 x 1.15 = $789

Sub-Total Travel: $60,589

Assume two Board members will be employed from areas of the State other than Anchorage and will have to move to Anchorage.
2 x $10,000 = $20,000

Office moving expenses:
a) move files, cabinets, desks etc. to Anchorage $ 5,000

Staff moving expenses:
a) Two professional staff 2 x $10,000 $ 20,000
b) Two clerical staff 2 x $ 6,000 $ 12,000

Total staff and office moving expenses	$ 37,000
Total Moving and Travel	$117,589

C. CONTRACTUAL

a) FY-82 Request = $14,000

b) Office Space = $22,050

The Board will need to contract for office space. Current Board office has about 380 sq. ft. in Alaska Office Building. Assume 150 sq. ft. per employee.

Anchorage - 7 x 150 sq. ft. = 1,050 sq. ft.

c) "Time served" data update = $10,000
Reassess data already collected to identify most recent information on time served by offenders in specific crime categories.

Total Contractual $46,050

D. COMODITIES

FY-82 Request	$ 2,100

E. EQUIPMENT

Three Double pedestal desks (plain) @ $534.56	= $1,603.68
Three Executive Swivel Chairs w/arms @ $235.54	= $ 706.62
Two Printing Calculators @ $273.97	= $ 547.94
One Lanier Dictatin, Machine	= $ 582.93
One Lanier Transcribing Machine	= $ 582.93
	$4,024.10

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

JAY S. HAMMOND, Governor

ALASKA BOARD OF PAROLE
POUCH H-01E
JUNEAU, ALASKA 99811
PHONE: (907) 465-3384

March 9, 1981

Pebr
re: Parole
Board

Honorable Fred Brown
Chairman
Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Chairman Brown:

Because of the serious medical condition of my father, I am unable to return to Alaska to attend the Judiciary Committee hearing scheduled for tomorrow. I have directed that Mr. Trivette provide you and the other members with the most recent research material on the Parole Board including a short summary of the data.

Please advise me when your next hearing will take place and I will make every attempt to attend. In the meantime, Mr. Trivette has been directed to provide you with any information you request or answer any questions you might have. We hope you will take advantage of our hospitality.

Sincerely yours,

William B. Lyons

William B. Lyons
Chairman

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

ALASKA BOARD OF PAROLE
POUCH H-01E
JUNEAU, ALASKA 99811
PHONE: (907) 465-3384

March 4, 1981

Honorable Fred Brown, Chairman
Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Chairman Brown:

Although I have been out of the State due to a family emergency and therefore unable to attend recent hearings regarding the Parole Board, I wish these comments to be made available to each of the Committee members to perhaps clarify some of the testimony regarding the Parole Board presented at the hearing on February 26, 1981. I also would like the opportunity to come to Juneau and personally speak to the Committee about Parole Board legislation. If you will give me some notice when the Committee will be holding additional hearings, I will arrange to travel to Juneau. You can contact me through the Board staff office in Juneau at 465-3385.

Much of the testimony of the Department of Law stated conclusions about the Board and other segments of the criminal justice system that need very careful scrutiny. Accepting them as fact without supportive information could result in you drastically altering the system based upon "one liners", inuendo, or misinformation. Comments made by the Law representative stated or implied the following:

(1) Presumptive sentencing greatly restricts all discretion.

(2) Presumptive sentencing eliminates most unjustified disparity at sentencing.

(3) Presumptive sentencing mandates certain sentences in specific cases no matter what the judge, district attorney or defense attorney does.

(4) The system knows what impact presumptive sentencing has had on the system and that effect has been positive.

(5) Disparity in sentencing would be minimized by the elimination of the Parole Board.

(6) The Department of Law's bill would eliminate unjustified disparity in the system.

(7) "Split sentences" (a period of jail time with probation to follow) don't make sense and therefore the potential for parole release should be eliminated to "solve the problem".

(8) Elimination of the Parole Board would necessarily give more "finality" at the time of sentencing than if the Board remained (with its policy of seeing inmates within six months after the date of sentencing).

(9) "Gameplaying" by offenders is unique to Parole Board hearings and all gameplaying would be eliminated in all other segments of the criminal justice decision making points (bail, pre-trial diversion, trials, sentencings, sentence modification hearings, all Corrections disciplinary hearings, all contacts with defense and prosecuting attorneys, etc.).

(10) Sentencing is based primarily upon what the offender did and that most Parole Board decisions are based on predicting what the offender will do when he is released (and that risk <u>should not</u> be considered by the Board).

(11) Offenders sentenced presumptively know their actual date of release once they are sentenced.

(12) Under Department of Law's bill, offender's would know shortly after sentencing when they would be released on furloughs by the Division of Corrections.

(13) A system of replacing parole release with good time and furloughs would result in more just and equitable treatment of offenders.

(14) Three or four other states have abolished parole boards and all related parole board functions without causing problems in the criminal justice system and without just changing the name of the board or without giving other responsibilities to the Board.

(15) The court handles probation revocations very differently than does the Board and the court conditions of probation are significantly different and less restrictive than the Board's.

(16) The Division of Corrections standards for the handling of good time and furloughs are more specific, fair and just than the Boards' for the parole of offenders.

(17) The current law makes most offenders ineligible for furloughs now and that is why only a few people are on furloughs and why a new furlough law is necessary.

(18) Parole Board hearings are not open to the public because it doesn't want the public to see what it is doing.

(19) The Board does not allow attorneys at either parole release or parole revocation hearings.

(20) The State had been moving toward abolishing the Parole Board for many years and the Department of Law's bill is the next logical step in this goal supported by everyone in the system after fully understanding all current information about the Board.

(21) The Parole Board is the only segment of the system that allows offender programing or offender non-involvement in program to be a consideration, and this factor would disappear as a consideration at pre-trial diversion hearings, classification hearings (at which furloughs are considered), disiplinary (good time) hearings, and probation violation hearings.

I would suggest that most of these statements--not facts--are incorrect, very incomplete, or at best, misleading. I would strongly urge you to get the facts and require data to support the "conclusions" or supposed "facts" before arriving at your own conclusions. Permit me to give you an example how you could be easily misled by incomplete information. You heard testimony at the Feb. 26 hearing that the State had essentially been moving toward abolishing parole for a decade. Mr. Stern cited the fact that the Legislature had given the judges authority to limit or even deny parole eligibility to specific offenders when they were sentenced. The presumptive sentencing scheme was given as yet another example of the Criminal Code Commission's and the Legislature's intent to phase out the Parole Board in Alaska. I disagree with Mr. Stern's perception and let me explain by giving some additional background on the Criminal Code Commission's handling of the parole issue.

The Criminal Code Commission did originally recommend the abolition of parole in Alaska in January 1976. The record does not clearly reflect what led the members of the Commission to this conclusion, but one or more reference books discussing parole appear to have been the primary basis for the decision. It is known no data on the operation of the Alaska Parole Board was requested by the Commission members and no one from Corrections nor the Parole Board was contacted for input. (The primary staff person for the Commission was on record as saying he felt parole decisions should be made by judges.) That preliminary report was not to stand and the parole issues continued to be discussed by Commission members along with sentencing and related issues.

One of the Commission members requested the Parole Board present input on parole and sentencing issues, the Board and the visiting Chairman of the Oregon Parole Board did testify before the Commission in November 1977. Although the staff of the Commission (including Mr. Stern and the other staff person I mentioned in the above paragraph) had drafted a proposal abolishing parole, the Commission rejected this approach. Instead they approved a concept that would tightly structure the judicial sentencing discretion, but would allow for parole release withing certain specified guidelines. This approach was supported by a great majority of the Commission members after developing a thorough understanding over the years as Commission members of the importance of how DISCRETION works in the criminal justice system. Without thorough understanding of how discretion works, rational decisions about effective changes in the system will not follow. Let me explain the concept of discretion in the criminal justice system that is supported by experienced and well-respected criminal justice professionals around the country, such as Professors Andrew Von Hirsch and Vincent O'Leary.

There is a given amount of discretion in any criminal justice system. All components of the system have some, but there is only so much no matter who has it. You can move around the discretion, you can increase or decrease the amount any segment has, but discretion is not eliminated, only transferred from one component to another. Here are some examples of some discretion various segments of the system have now.

WHO		WHAT
POLICE:	(a)	Charge as crime or handle informally.
	(b)	Arrest or not arrest - issue summons.
	(c)	Initially charge as most serious to least serious crime.
	(d)	Initially charge all possible crimes, a few, or only one.
	(e)	Initially recommend high bail, low bail, O.R. release.

DISTRICT ATTORNEY:

(a) Dismiss one or all charges.

(b) Allow to handle as deferred prosecution.

(c) Charge most serious to least serious charge (this will determine the possible range of sentences the judge will have available at sentencing).

(d) Charge all possible crimes, a few, or only one (this also will determine whether or not the judge may sentence to consecutive terms, concurrent, and also the sentencing range).

(e) Change all counts of an offense, a few, or one (same effect as above).

(f) Recommend bail to court.

(g) Charge no aggravating factors, charge one, charge many factors (judge cannot sentence above presumptive term, if applicable, unless D.A. charges an aggravating factor and judge rules the factor exists).

(h) Charge or not charge a prior felony (presumptive sentencing is triggered only if the D.A. charges and substantiates a prior felony in the required seven year period. If not charged, defendant not sentenced presumptively).

(i) Charge or not charge the use of a gun during the commission of the crime (same effect as above - if D.A. doesn't charge the use of the gun, not subject to presumptive sentencing).

(j) Charge or not charge the fact defendant caused serious physical injury during the commission of the crime (same effect as previous example).

(k) The D.A. can make any recommendation he wishes to the sentencing court about disposition, including sending the case to the three-judge panel but none of these recommendations have the effect of changing the judge's discretion.

JUDGE:

(a) Sentence a "first A felony" offender to a jail term of 0-20 years, a fine of $50,000, restitution, community work, probation etc.

(b) Sentence a "first A felony" offender to a term of 3-20 years if D.A. charges and judge finds gun used or serious physical injury.

(c) Sentence a "first B felony" offender to a jail term of 0-10 years, or other sentences listed in (a).

(d) Sentence a "first C felony to a jail term of 0-5 years.

(e) Sentence a "second A felony" to a jail term of 5-20 years if the D.A. charges and the Judge any aggravating or mittigating factors, and other sentences listed in (a).

(f) Sentence a "second B felony" to a jail term of 0-10 years and other sentences listed in (a).

(g) Sentence a "second C felony" to a jail term of 0-5 years and other sentences listed in (a).

(h) Sentence a "third A felony" to a jail term of 7-1/2 years to 20 years and other sentences listed in (a).

(i) Sentence a "third B felony" to a jail term of 3-10 years and other sentences listed in (a).

(j) Sentence a "third C felony" to a jail term of 0-5 years and other sentences listed in (a).

(k) Sentence an offender convicted of 1st degree murder to a jail term of 20-99 years and other sentences listed under (a) and a fine up to $75,000.

(l) Sentence an offender convicted of second degree murder or kidnapping to a jail term of 5-99 years, and other sentences listed in (a) and a fine up to $75,000.

(m) Send the case of any "presumptive offender" to a three-judge panel for sentencing if the first judge thinks the term of imprisonment would result in "manifest injustice".

	(n)	Place most offenders on probation under any reasonable condition for up to five years.
	(o)	Revoke all or part of an offender's probation for violation of any condition of probation or a violation of a law, at any time during the sentence.
	(p)	Terminate or extend probation at any time in the sentence.
	(q)	Make any offender serve more time than one-third up to the maximum sentence before becoming eligible for parole.
CORRECTIONS:	(a)	Make recommendation for sentencing in the presentence report.
	(b)	File petitions to have the judge consider probation revocations or request the D.A. file such petitions, depending upon the judicial district.
	(c)	Grant good time credits amounting to 25% of an offender's sentence for good institutional adjustment. Take away part or all good time for one or more infractions of jail rules, requiring prisoner to serve up to 25% more time.
	(d)	Make recommendations on Parole Board release decisions.
	(e)	File Petitions to revoke parole with Parole Board and make recommendations to Board.
	(f)	Grant various kinds of furloughs to almost any sentenced offender serving a jail sentence.
PAROLE BOARD:	(a)	Consider offenders for parole once they have served one-third of their sentences, and make a decision to parole or not parole the offender before he is released from jail after serving 66%-75% of his sentence with good time (the Board has control over 33%-42% of the offender's sentence). This assumes the judge has not made the offender ineligible for parole or more than 1/3 of his sentence or for all of his sentence.

(b)	Set conditions of release on all those paroled and on those subject to "mandatory release" or "legislative parole", based upon guidelines set in regulation and in current case law.
(c)	Revoke the release of offenders that parole officers bring to the Board's attention if the Board determines the offender cannot follow the laws.
(d)	Change a parolee's conditions of parole when good cause justifies it.
(e)	Carry out executive clemency investigations and make recommendations to the Governor's Executive Clemency Advisory Committee.

DISCUSSION OF DISCRETION

As you can see from the tables above, there is a lot of discretion in the system. Let's examine this discretion in light of the comments made at the recent House Judiciary Committee, understanding that only a few areas I mentioned earlier in my letter will be discussed here but that the committee members should be aware generally of the magnitude of discretion available to various segments.

Statements made at the hearing implied that presumptive sentencing has taken most or all discretion out of sentencing and that it will get rid of disparity in sentencing. The new criminal code did classify most crimes into categories and set maximum lengths of jail terms but did not do away with discretion. It in fact sharply increased the influence of the prosecutor while limiting somewhat the power of the judiciary. Except in a small percentage of cases, the new sentencing law <u>does not</u> mandate specific or mandatory sentences. But the prosecutor is the person that frequently holds the key to whether most of these presumptive or mandatory sentences will apply to a given case. (Examples are difficult to follow without having the chart of the presumptive sentences handy to refer to, and I or my staff would be more than happy to give you some additional examples before the entire Committee with the aid of the chart.)

Example: Mr. Smith has been arrested on an assault charge. He had a prior felony conviction five years ago which you would assume would automatically make Smith subject to presumptive sentencing. Not so. If the prosecutor does not charge the prior felony and prove it in court, Smith is considered a "first felony offender".

The facts of his case indicate he could be charged as either a first degree assault or a second degree assault. Assuming the prosecutor charged the prior felony, he knows Smith would have a presumptive term of 10 years if charged as first degree assault and if any mitigating and aggravating factors were charged, the judge could sentence Smith to 5-20 years. Smith would have to be sentenced to the presumptive sentence of 10 years only if the prosecuting and defense attorneys did not charge any mitigating or aggravating factors to the court (both tell us it will be unusual not to charge at least some mitigating and aggravating factors). The prosecutor knows if Smith is charged with assault in the second degree, the presumptive term would be 4 years, but could be mittigated down to 0 years or aggravated up to 10 years. Thus he can effectively decide what range the judge will have available a sentencing (5 to 20 years or 0 to 10 years) by what Smith is charged with. Of course if the prosecutor doesn't charge the prior felony, the judge discretion is 0-20 years for the assault one and 0-10 years for the assault two charge. Obviously the prosecutor isn't lacking discretion under the new code.

We are told judicial discretion is removed or severely limited by presumptive sentencing. It is limited somewhat but certainly not removed entirely. For example two different judges with Mr. Smith's case could sentence him to widely varying sentences on the same circumstances of the crime and background, (asuming an assault II conviction) as long as at least one factor in mittigation and one factor in aggravation was proven, by giving different weights to those factors. For example, Judge A could give strong weight to the mittigating factors and sentence Smith to no jail time or certainly less than four years. Then Judge B could sentence Smith to ten years by giving primary weight to the aggravating factor. The point is either judge could sentence Smith to 0-10 years, with Judge A usually handing out a sentence of one year to most offenders while Judge B usually sentences offenders to six years for similar crimes and backgrounds, and still be within the constraints of the presumptive sentencing scheme.

These or other examples are not meant to impugn the integrity of either prosecutors or judges around the State of Alaska, but only show that even with presumptive sentencing, disparity in the handling of cases by the criminal justice system is far from being eliminated. Obviously there is a need to develop some specific guidelines about who should go to jail and who should not, before we can seriously tackle the problem how long should offenders stay in jail if we decide they should go to jail. (At least the Parole Board does have specific, concrete, written guidelines for determining how long offenders serve if they are sent to jail but those guidelines don't help with the more basic decision of who should or should not go to jail at all.)

Before placing stock on what anyone says the new presumptive sentencing has had on the criminal justice system, I would urge you to get a hold of specific data about the impact of the code. My guess is you will find not much information is yet available unless things have changed a lot since the Parole Board tried to get some information on the impact of the system late last summer. The best information we have now is that approximately 18 offenders have actually been sentenced to presumptive terms since January 1, 1980 out of over 600 sentenced felons in jail now. Even if we has sufficient data on all these presumptive cases it would probably be difficult to identify any trends, or positive or negative influences on the system. Possibly the Judiciary Committee can insure that careful attention is given to keeping a close watch on the system and providing some indepth information to the public and the Legislature so we can assess the impact of presumptive sentencing down the line.

Let me concentrate on some of the misconceptions that may have been alluded to about the Parole Board. First it was implied that there is no "certainty" when an offender would, if ever be granted parole. That is not true. The Board has adopted regulations (available to judges, D.A.'s offenders, the public, etc.) that outlines the specific time ranges an offender can expect to serve if the criminal justice decides to send him to jail. These ranges are fairly narrowly drawn (16 to 21 months for a class B felony with little or no prior record, etc.; 21 to 28 months for a more extensive prior record, abuse of alcohol/drugs, etc.). The work was completed on these parole guidelines last summer, they were given a trial run for six months last fall and they were put into use beginning January 1, 1981. Any offender can sit down with his institutional counselor when he is sentenced, have a score sheet filled out based upon his case file information, and he will know with about 85% certainty when he is going to be released--without ever appearing before the Board.

The Board has been working on the development of these guidelines since 1978. During the time the Board was working on the guidelines, the members also felt it would be to everyone's benefit to begin seeing offenders (who did not have real long sentences) within the first six months of their sentences. There would be many good reasons for this change in policy. The Board currently sees offenders when they are within three months of being eligible for parole release. Some of the goals of this policy change would be:

(a) Set presumptive release dates on most offenders with shorter sentences so everyone would know when offenders could expect to be released and the whole system could plan accordingly.

(b) Allow the Board members to discuss problem areas/goals with offenders so the offender could make the best use of time before they are due to be released.

(c) Board would review the offender shortly before his presumptive release date to discuss his release plan and conditions of parole with him and see that he had conducted himself in a reasonable manner in the institution.

(d) Insure that the offender's release plan provided him with sufficient support to optimize his chances of a successful parole adjustment.

Why hasn't the Board implemented this policy change? This change would necessitate the Board receiving specific information in a timely manner from the Department of Health and Social Services about all sentenced offenders who might be eligible for parole. This information was not available to the Board so the Parole Board staff began requesting it informally through Departmental channels in 1978. These requests were made to both the Commissioner's office and the Department's office of information services. After approximately one year had passed with no information, I requested the information from the Commissioner in February, 1979. In the summer of 1980 the information began to trickle in and with considerable effort by the Board staff and the staff of the Division of Corrections, we have recently developed a fairly accurate list of offenders. The problem is that the institutional population has increased so rapidly since our initial request the Board would probably need some additional time to see every offender, say with sentences of 5 years or less, immediately. (The Board will not be able to even see those that are currently eligible for parole between now and July 1981 unless supplemental funding is made available to the Board for the upcoming Board hearing.) However, the Board did adopt this policy of hearing offenders early in their sentences and the members reiterated their desire to begin the process as soon as possible for everyone's benefit. So as you can see, the Board members themselves have been working on eliminating the "uncertainties" of parole release dates long before the Department of Law testified before your committee last week. Given sufficient resources, we expect we can probably achieve our goal with the offenders with shorter sentences before the end of the year.

The Board was chastised by the Department of Law for considering an offender's "risk" when making parole decisions. The Board does consider the risk factor when making parole decisions because it is required to by Alaska Statute (AS 33.15.080). We believe this law clearly mandates the Board's consideration of risk at the present time. However, I should point out that most of the "risk factors"

utilized by the Board in its guidelines are what Mr. Stern referred to as "what the offender did" items, such as prior felony convictions, prior misdemeanor convictions, juvenile probation record, juvenile institutional record, adult probation/parole record, alcohol abuse/drug abuse record, etc. They are used more precisely and consistently in parole hearings. So even if the Legislature were to change the statute listed above, it probably would have little effect on the guidelines because most of the risk factors are related to "what the offender did". Of course, the most important factor in any case considered by the Board are the facts of the present offense(s), or "what the offender did" (see our 1979 study for documentation).

Mr. Stern told you Parole Board hearings are not open to the public. He is correct. They are closed pursuant to Alaska Statute 44.62.310. This means that the door to hearings are not open for anyone to walk in. However, he failed to inform you the Board has <u>always</u>, to the best of my knowledge, since I have been a member of the Board, allowed any responsible person to sit in on Board hearings once they received a short briefing on how hearings were conducted, the purpose of the information and procedures, and that information presented at hearings was confidential by <u>law</u> (AS 33.15.140) and must not be communicated to anyone outside the hearing. The Parole Board has had State legislators, prosecutors, defense attorneys, staff of all various State governmental agencies, newspaper reporters, T.V. staff, university students, and ordinary citizens from the community sit in on hearings. All hearings are taped and you are welcome to listen to the tapes of any hearing if the offender signs the appropriate waiver. Furthermore, in spite of what Mr. Stern said, attorneys are allowed at <u>any</u> Parole Board hearing and we strongly encourage their attendance at <u>all</u> parole revocation hearings where there might be a dispute of facts. Come over and listen to our tapes or sit in on some hearings if you have any questions.

The Department of Law has suggested the Parole Board be eliminated and be replaced with more furloughs and more good time. I know that almost all sentenced prisoners <u>are not prohibited by law</u> from being placed on furloughs now - it is the regulations and practices of the Division of Corrections that have severely limited the use of furloughs. It might be beneficial to consolidate and update these laws but the low utilization of furloughs cannot be blamed on the Legislature. I know these furlough policies are changing but I am not sure furloughs would be appropriate for the extended periods of time we have offenders on parole. All the experts have told us that six months maximum is all the time you want an offender on most community based programs, except probation or parole supervision in an offender's own home. I would strongly urge you very carefully and skeptically review this as an alternative to parole release and certainly not do so when all the various kinds of potential furloughs are just in the "talking stage". I would strongly urge you discuss this with Mr. Trivette and Mr. Campbell, both whom have a lot of experience with halfway houses and community based programs. You should also carefully consider whether or not this might introduce more disparity in the handling of offenders. Instead of the Parole

Board releasing offenders subject to the specific guidelines adopted, you would have nine classification committees and superintendents in Alaska and another 25-30 classification committees and wardens in contract facilities making furlough decisions based upon few standards. Disparity in the handling of offenders is almost certain to be increased with the large number of persons involved in the process and institution concerns will prevail as an overiding factor in many cases. Again, this is no reflection on the staff of Corrections - just a byproduct of spreading decision making out to 156 persons with all their individual personalities.

Good time in Alaska has been a "can of worms" for a decade. I would respectfully defer to Mr. Trivette on this subject who is very knowledgeable on this topic. From my limited knowledge on the subject, I would strongly urge you not consider changing the good time laws without Mr. Trivette explaining some of the numerous problems with good time previously and currently providing you with some background on the purposes of good time.

Let me take a moment of your time to tell you something of Mr. Trivette's background, experience and standing in the criminal justice community in Alaska and around the country. He is considered knowledgeable and an expert in many of the specialized areas of corrections work, such as classification committees, good time, parole laws, report-writing, systems operations, parole guidelines and other "risk assessment scales", community-based corrections, etc. He is frequently called upon by various corrections personnel, attorneys, judges and other criminal justice employees to serve in a problem solving capacity. He has been a leader in some national corrections groups and is currently in the Commission on Accreditation for Corrections "pool" to serve on committees to review parole boards for possible accreditation based upon strict national standards. He has been a very active participant and sometimes chairman of various groups working on improving the criminal justice system in Alaska. He has conducted training sessons, seminars and presented papers at various state and national correctional meetings. Because of the deep respect he has gained from the wide spectrum of criminal justice employees, I would hope you would carefully question him about any proposed changes you expect to make in the system and specifically about the statements made by the Department of Law. You will get nothing but "straight talk" from him.

Although I have been supportive in the past of the concept of the abolition of parole and replacing it with "presumptive", "flat-time", or "determinate" sentencing, I have become more skeptical each year about the ability of a system to really deal more consistently, more equitably and more fairly deal with offenders without a parole board. I am beginning to believe that a small collegial body, operating under specific guidelines, hearing all cases around the state, using the same interpretation of the guidelines, will be almost impossible to improve upon if given the tools to do the job.

Let me suggest you carefully consider Professor Von Hirsch's study, "Abolish Parole". The Alaska Parole Board has never been given those tools nor the support it needs to properly carry out its responsibilities - why don't you give us a chance for a couple of years with this support and see what materializes. I don't think you will be disappointed. After all, we are relatively cheap!!

Thank you for taking the time to consider the contents of this letter.

Sincerely yours,

William B. Lyons

William B. Lyons
Chairman

WBL

P.S. Why should the Board be given the opportunity to "prove" itself over the next few years? Recent Parole Board research indicates the Board is doing an outstanding job of fairly and equitably dealing with those offenders that apply for parole, even though those applicants come from various racial backgrounds. The fact that 3/5ths of the Board members come from minority or "protected classes" probably is a factor - the Board is one of the few segments of the criminal justice system that has much minority representation and certainly few if any have this high percentage of minority representation.

Again, I would defer to Mr. Trivette's expertise in explaining why I feel the Board has done such an exceptional job in fairly and equitably dealing with those offenders sentenced to jail, even before we had our parole guidelines to reply upon. Once you have seen the supportive documentation, I think you will be pleasantly surprised what a segment of the system can do with very little money.

Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

DATE: March 11, 1981

TO: House Judiciary and HESS Committees

FROM: Peter B. Froehlich, Counsel
House Judiciary Committee

RE: Summary of Parole Board Bills
HB 261 by H. Judiciary
HB 225 by Martin

* * * * * * * * * * * * * * * * * * *

The attached chart reflects a comparative summary of two House bills now before the legislature concerning the Parole Board (HB 261 and HB 225). It also includes the final version of last year's bill CSHB 983 (Fin), which includes three House Finance Committee amendments adopted at the request of the House Judiciary Committee. These amendments are noted because they were omitted from HB 261, and the committees may desire to re-insert them.

HB 261, by the House Judiciary Committee is identical to the version of last year's bill, CSHB 983 which was passed out of the House Judiciary Committee. It would make approximately fourteen substantial changes in existing statutes most of which either recognize existing non-statutory rights of prisoners and parolees (E.g. the right to access to law books in prisons) or in some cases grant new rights (E.g. the right to accumulation of good time while on parole). The bill would also make a half dozen or so less substantial changes (E.g. increasing the number of board members from five to seven). These changes to existing statutory law are briefly described in the first or left hand column of the chart.

CSHB 983 (Fin) is the final version of the 11th Legislature's 1980 Parole Board bill. It is identical to this year's HB 261 except for three somewhat technical amendments concerning certificates of discharge and release for good time. These amendments are shown in the second or center column of the table.

HB 225 and SB 217, by Martin and Fischer respectively, include many differences from the House Judiciary bills (HB 261 and last year's HB 983) both technical (E.g. insertion of single words) and substantial (E.g. eliminating good time while on parole). Nearly all of these differences follow two general themes, less recognition of the rights of

prisoners and parolees and more discretion for the Parole Board. The differences between HB 225 (SB 217) and HB 261 (last year's CSHB 983) are described in the third or right hand column of the table.

In the table "same" means the bill version referred to includes the same provision as does another, and "_____" means it does not.

I hope this material is helpful to your consideration of these bills.

Attachment

COMPARISON OF PAROLE BILLS

1980 CSHB 983 (Jud) and 1981 HB 261	1980 CSHB 983 (Fin)	1981 HB 225 and 1981 SB 217
p.1, line 13: changes bd. from 5 to 7 members	-same-	p.1, line 13: keeps bd. at 5 members
-----	-----	p.1, lines 20-22: requires presiding officer to have experience in corrections
p.2, lines 9-10: sets grounds for removal of bd. members accdg to Model Act	-same-	-same-
p.3, line 1: sets daily compensation for bd. member at $100.	-same-	-same-
p.3, line 10: sets quorum at 4	-same-	keeps quorum at 3
p.3, lines 23-29: adds 3 duties of board (discharge parolee, keep records, and set standards)	-same-	-same-
-----	-----	p.4, lines 11-12: adds duty of bd. to submit budget
p.4, lines 6-12: adds duties of bd. to adopt specific regs.	-same-	-same-
-----	-----	p.4, lines 21-23: adds general authority for regs.
p.4, line 17: adds that exec.director serves at pleasure of bd.	-same-	-same-
-----	p.5, lines 4-5: adds "less 180 days" at end of 33.16.100(c)	-----

-----	-----	p.5, line 8: adds "discretionary" before "parole"
-----	-----	p.5, line 12: adds "mandatory" before "parole"
-----	-----	P.5, lines 24-29: adds "discretionary" (p.6, lines 1-9:) before "parole"
-----	-----	p.6, lines: 6-7: adds requirement that minimum sentence be served before parole
p.6, lines 14-19: adds that parole cannot be denied because necessary treatment was unavailable	-same-	-----
-----	-----	p.6, lines 27-29: totally different (p.7, lines 1-9:) section on parole hearings less beneficial to prisoners
p.6, lines 24-28: adds requirement that prisoners get copy of all evidence 30 days before parole hearing	-same-	-----
-----	-----	p.7, line 15: adds requirement of approved parole plan before parole
p. [illegible] lines 12-17: provides for good time deduction while on parole	-same-	-----
p. [illegible] lines 18-29: sets out 13 possible conditions (p.7, lines 1-20:) of parole	-same-	, lines 20-23: provides for cancellations of parole to be set aside [illegible] grants, and ad[illegible]

		the prisoners background as a factor
p.8, lines 27-29: establishes right to notice (p.9, lines 1-13) and hearing on any change in parole conditions	-same-	p.7, lines 24-26: allows request for reconsideration of parole conditions under regs.
-----	-----	p.7, line 28: substitute revocation hearings for change in condition hearing in waiver of hearing section
-----	----	p.8, line 4: deletes defense attorney, prisoners, and prisoners attorney from those with access to pre-parole reports
p.9, lines 23-25: adds statutory right to appeal	-same-	-same-
-----	-----	p.8, line 8: substitutes "capriciousness" for abuse of discretion in grounds for appeal
-----	-----	p.3, lines 18-20: adds duty of commissioner to provide timely [illegible] to bd.
p.10, line 3-7: states prisoner's right to access to law	-same-	-----
-----	p.10, lines 15-20: adds 180 day sentence reduction to prisoners released by certificate of discharge	-----

-----	-----	p.8, line 29: editorial language changes in middle of line
p.10, lines 23-29: makes discharge of 5 yr. parolee mandatory if no felony charge or conviction	-same-	p.9, lines 8-11: make discharge of 5 yr parolee discretionary
p.11, lines 1-4: allows discretionary discharge of 2 yr parolee	-same-	-same- and p.9, lines 15-18 require 2 yr review of parolee
-----	-----	p.9, lines 22-26: editorial improvements to language of subsections (a) and (b)
-----	-----	p.10, line 15: omits reference to good time on parole and omits requirement of release if hearing results in nonrevocation
p.12, lines 7-12: provides that on revocation, bd. has discretion to set time to serve and must give credit for good time on parole	-same-	p.10, lines 16-22: provides that on parole revocation prisoner serves out original sentence with no reduction
p.12, lines 12-18: provides that on revocation for any reason besides violation of law, 6 mos. is maximum confinement	-same-	-----
p.12, line 19: provides that only a judicial officer can issue warrant for arrest for parole violation	-same-	p.10, line 1 [illegible] vides that the bd. or reader may for arrest parole viol
-----	-----	p.11, lines 13 adds [illegible]

		that when parolee is arrested without warrant the reason for no warrant must be reported with the manner of violation of parole
-----	-----	p.11, line 24: adds "discretionary" before "parole" in definition
-----	-----	p.11, lines 28-29: (p.12, lines 1-2:) adds definition of mandatory parole--by operation of law
p.14, lines 2-8: amends AS 33.20.040(a) to provide that prisoner released for good time with more than 180 days of sentence shall be released as provided in the bill	p.14, lines 3-9: same except deletes reference to maximum term minus 180 days	p.12, lines 9-12: rewrites AS 33.20.040(a) to reflect optional nature of good time parole

WHAT HB 293 DOES

I. Establishes New Parole System.

II. Sets Release Dates for Offenders Who Committed a Crime before July 1, 1981.

WHY CHANGE CURRENT SYSTEM

I. Certainty in length of sentence served.

II. "Just Desserts" theory of punishment.

III. Rehabilitative programs are more effective.

IV. Public's "right to know."

HIGHLIGHTS OF HB 293

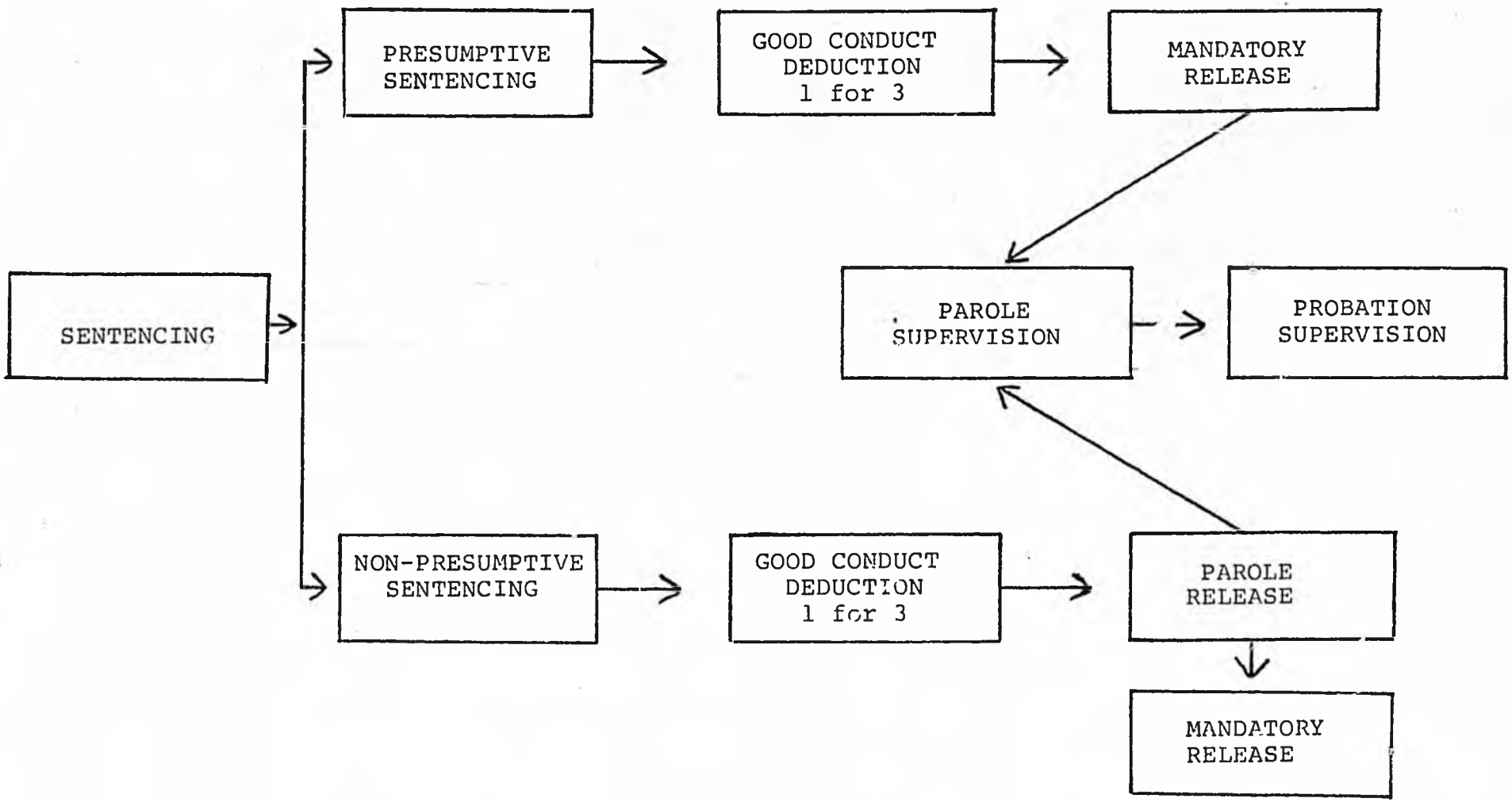
I. Parole Board Sunsets July 1, 1981.

II. Interim Sentence Review and Parole Commission For Offenders Who Committed a Crime Before July 1, 1981.

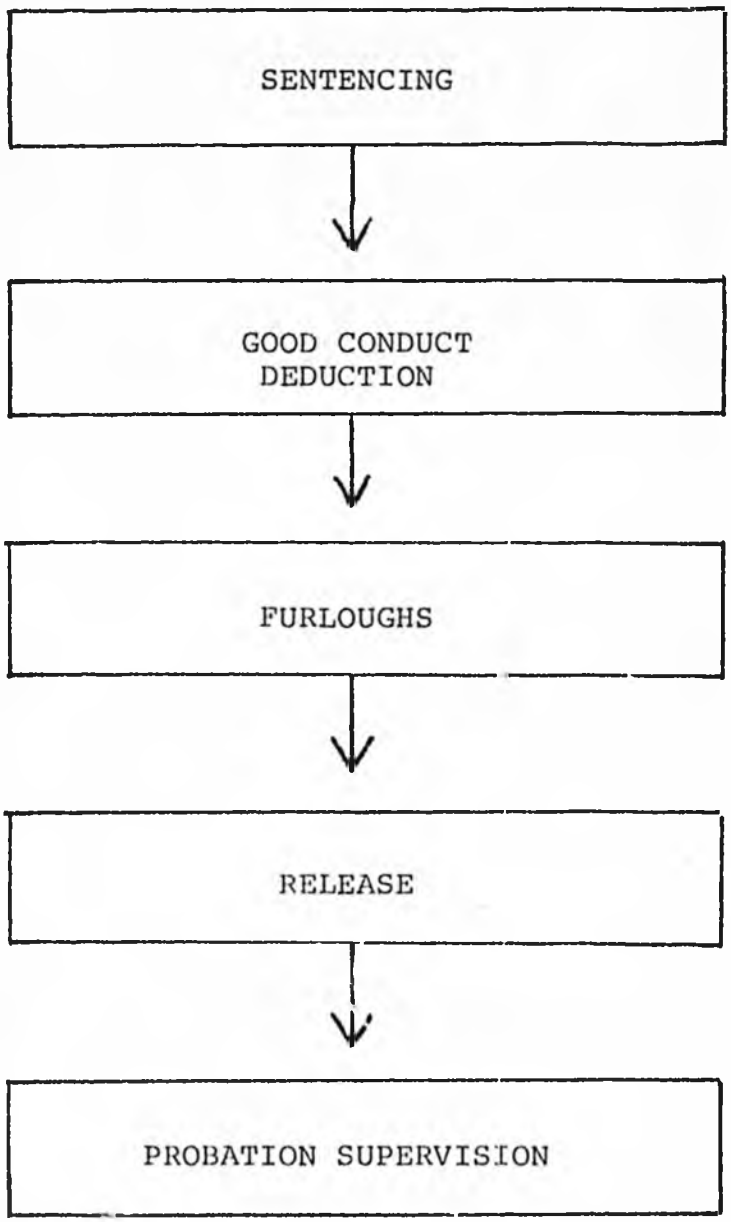
III. New Parole System -- Good Conduct Deductions Plus Furlough Programs.

IV. Presumptive Sentencing for First Felony Offenders.

CURRENT PAROLE SYSTEM



PAROLE SYSTEM - HB 293



SUMMARY OF HB 293

I. AS 33.15. PAROLE OF OFFENDERS AND EXECUTIVE CLEMENCY.

A. Interim Sentence Review and Parole Commission.

B. Parole of persons who commit crimes after 7/1/81.

C. Supervision of prisoners released = probation.

1. Length
2. Conditions
3. Formal/Open

D. Defendant informed of release date at sentencing.

II. AS 33.30. CORRECTIONAL FACILITIES AND PROGRAMS.

A. Establishment, Control and Management.

1. Duties of Commissioner
2. Custody of offenders

B. Programs and Furloughs.

1. Designation of facilities
2. Designation of programs
3. Furloughs

a. Types

i. Pre-release
ii. Short-durational

b. Eligibility

C. General Provisions - Permanent fund dividend eligibility.

III. AS 12.55. SENTENCING.

A. Probation amendments.

B. Presumptive sentencing.

INTERIM SENTENCE REVIEW AND

PAROLE COMMISSION

A. Three member commission lasts two years.

B. Sets parole release dates for prisoners who are or will be eligible for parole; and

1. committed a crime before 7/1/81; and
2. sentenced before 1/1/83.

C. Hearing required where prisoner has a right to present evidence and cross-examine witnesses.

D. Considerations in setting parole release date include:

1. Whether there was unjustified disparity in sentence imposed; and

2. Whether sentence deviated substantially from sentence under revised criminal code.

GOOD CONDUCT DEDUCTION

I. Computation

A. One-quarter of sentence if

1. Presumptive sentence for repeat felony; or
2. Murder I, II, or Kidnapping;
3. Life Sentence = 99 years.

B. One-third of sentence for all other crimes.

II. Forfeiture of Deduction

A. 90 days maximum for major incidents of bad conduct.

B. 30 days maximum for minor incidents of bad conduct.

C. Vesting of 90 days per year for incident-free conduct.

PRE-RELEASE FURLOUGH ELIGIBILITY

I. If sentence of 5 years or less, eligible after serving one-third of sentence.

II. If sentence of more than 5 years, eligible after serving one-third of sentence, or within 3 years of release, whichever is later.

TYPES OF FURLOUGHS

1. Obtain drug or alcohol treatment or counselling.

2. Vocational training.

3. Secure or engage in employment.

4. Attend school.

5. Prepare for release.

6. Other rehabilitative programs.

PRESUMPTIVE SENTENCING

	FIRST	SECOND	THIRD
A	2-1/2 - (5) - 20 4 - (8) - 20	5 - (10) - 20	7-1/2 - (15) - 20
B	0 - (2) - 10	0 - (4) - 10	3 - (6) - 10
C	0 - (1) - 5	0 - (2) - 5	0 - (3) - 5

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 225

House Bill 225 presents many positive changes to the current Parole Board statute including:

a) Five year terms for Board members as recommended by the Commission on Accreditation for Corrections and other professional organizations.

b) Statutorily sets the compensation of Board members at $100 per day for each day they are involved in carrying out Parole Board business.

c) Requires the Board to maintain standards for the release of offenders.

d) Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code, making the regulations more accessable to the public.

e) Defines statutorily the bases for the appeal of Board decisions.

f) Sets standards for the imposition of any condition of release and allows the offender to appeal of any condition imposed.

g) Allows the Board to discharge parolees from parole after two years of supervision cutting down the parole officers' workloads and limiting the intrusion of the State into the lives of offenders. It requires the offender be discharged after 5 years unless good cause is shown.

h) Provides clarification of definitions and of the mandatory release statutes.

i) Establishes statutorily the bases for the removal of Parole Board members.

The changes listed in sections a) through g) above are supported by the Commission on Accreditation for Corrections, the Alaska Corrections Masterplan consultants and other professional corrections organizations. These are the same provisions that were included in HB 983 passed by the Alaska House of Representatives in 1980. This bill does an excellent job of balancing the interests of the offenders and of the public. The costs of implementing this bill are negligible. It allows the Parole Board to continue out its functions in a manner that current research shows has been very equitable and just.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 225

The Department of Law is currently drafting a bill that would abolish the Parole Board. We are taking no position on this bill.

Recommended by _____ Date 3/12/81
Samuel H. Trivette
Executive Director

Recommended by _____ Date 3/10/81
Charles F. Campbell
Director
Division of Corrections

Approved by _____ Date 3/10/81
Helen D. Beirne
Commissioner
Department of Health
and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 225
Title An Act Relating to Parole of Offenders: Continuing the Existence of the Board
Requested by Representative Martin Date February 25, 1981

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200	TRAVEL	-0-	5.5	5.9	6.4	6.9	7.5
300	CONTRACTUAL	-0-	2.4	-0-	2.8	-0-	3.2
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	COMPENSATION	-0-	23.8	23.8	23.8	23.8	23.8
	TOTAL	-0-	31.7	29.7	33.0	30.7	34.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	31.7	29.7	33.0	30.7	34.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE March 5, 1981 PREPARED BY Samuel H. Trivette
AGENCY Parole Board
PHONE 465-3384

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) M&B Approval [signature] Date 3/5/81

33-001 (Rev. 12/80)

A. Section .020 & .030, Nomination/Selection of Members

Budget one trip to Anchorage, Fairbanks, Bethel, Nome, Kenai, Ketchikan, and Sitka to meet with organizations to recruit for Board members and to administer member assessment. One additional day trip to one location to do final interviews and train on member responsibilities.

Travel	3.8

B. Section .050, Compsensation

a) Reading reports - assume 225 cases/year X 3/4 hours per file = 23 "member days"
Guess 23 X 5 members X $100 = 11.5

b) Phone log shows average of 30 calls/quarter to the office X 4 quarters = 120 calls/year for handling appeals, requests for special hearings, setting mandatory release conditions, etc.
120 calls X $120 = 12.0

Compensation Total	23.5

C. Section .080, Responsibilities

a) Costs to rent meeting rooms, advertise, professional recording of hearings, to establish regulations in the Alaska Administrative Code.

Contractual	2.4

b) Travel costs for Executive Director and Chairman to conduct 1 day hearings in Anchorage, Fairbanks, and Juneau.

Travel	1.7

c) Compensation for Chairman 3 days at $100.

	.3
Section .080 Total	1.4

Assumptions

1. Travel will increase at a rate of 8% per year.
2. Contractual will increase at a rate of 8% per year, but hearings to modify regulations will be held only once every two years.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 225

Title An Act relating to parole of offenders & continuing existance of the Board of Parole

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Health and Social Services

Program Category Affected Offender Confinement, Reformation and Supervision

BRU, Program, or Subprogram(s) Affected Adult Confinement; Probation & Community Programs

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill essentially enables the Board of Parole to continue their existance and carry out their responsibilities in the same general manner as in the past. Therefore, there would be no fiscal impact on the Division of Adult Corrections.

IV. DATE March 5, 1981 PREPARED BY Roger C. Lunge Roger C. Lunge

AGENCY Division of Corrections / Dept. of H & S.S.

PHONE 465-3376

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) M&B Approval _____ Date _____

33-001 (Rev. 12/80)

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

ALASKA BOARD OF PAROLE
POUCH H-01E
JUNEAU, ALASKA 99811
PHONE: (907) 465-3384

March 4, 1981

Honorable Fred Brown, Chairman
Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Chairman Brown:

Although I have been out of the State due to a family emergency and therefore unable to attend recent hearings regarding the Parole Board, I wish these comments to be made available to each of the Committee members to perhaps clarify some of the testimony regarding the Parole Board presented at the hearing on February 26, 1981. I also would like the opportunity to come to Juneau and personally speak to the Committee about Parole Board legislation. If you will give me some notice when the Committee will be holding additional hearings, I will arrange to travel to Juneau. You can contact me through the Board staff office in Juneau at 465-3385.

Much of the testimony of the Department of Law stated conclusions about the Board and other segments of the criminal justice system that need very careful scrutiny. Accepting them as fact without supportive information could result in you drastically altering the system based upon "one liners", inuendo, or misinformation. Comments made by the Law representative stated or implied the following:

(1) Presumptive sentencing greatly restricts all discretion.

(2) Presumptive sentencing eliminates most unjustified disparity at sentencing.

(3) Presumptive sentencing mandates certain sentences in specific cases no matter what the judge, district attorney or defense attorney does.

(4) The system knows what impact presumptive sentencing has had on the system and that effect has been positive.

(5) Disparity in sentencing would be minimized by the elimination of the Parole Board.

(6) The Department of Law's bill would eliminate unjustified disparity in the system.

(7) "Split sentences" (a period of jail time with probation to follow) don't make sense and therefore the potential for parole release should be eliminated to "solve the problem".

(8) Elimination of the Parole Board would necessarily give more "finality" at the time of sentencing than if the Board remained (with its policy of seeing inmates within six months after the date of sentencing).

(9) "Gameplaying" by offenders is unique to Parole Board hearings and all gameplaying would be eliminated in all other segments of the criminal justice decision making points (bail, pre-trial diversion, trials, sentencings, sentence modification hearings, all Corrections disciplinary hearings, all contacts with defense and prosecuting attorneys, etc.).

(10) Sentencing is based primarily upon what the offender did and that most Parole Board decisions are based on predicting what the offender will do when he is released (and that risk <u>should not</u> be considered by the Board).

(11) Offenders sentenced presumptively know their actual date of release once they are sentenced.

(12) Under Department of Law's bill, offender's would know shortly after sentencing when they would be released on furloughs by the Division of Corrections.

(13) A system of replacing parole release with good time and furloughs would result in more just and equitable treatment of offenders.

(14) Three or four other states have abolished parole boards and all related parole board functions without causing problems in the criminal justice system and without just changing the name of the board or without giving other responsibilities to the Board.

(15) The court handles probation revocations very differently than does the Board and the court conditions of probation are significantly different and less restrictive than the Board's.

(16) The Division of Corrections standards for the handling of good time and furloughs are more specific, fair and just than the Boards' for the parole of offenders.

(17) The current law makes most offenders ineligible for furloughs now and that is why only a few people are on furloughs and why a new furlough law is necessary.

(18) Parole Board hearings are not open to the public because it doesn't want the public to see what it is doing.

(19) The Board does not allow attorneys at either parole release or parole revocation hearings.

(20) The State had been moving toward abolishing the Parole Board for many years and the Department of Law bill is the next logical step in this goal supported by everyone in the system after fully understanding all current information about the Board.

(21) The Parole Board is the only segment of the system that allows offender programing or offender non-involvement in program to be a consideration, and this factor would disappear as a consideration at pre-trial diversion hearings, classification hearings (at which furloughs are considered), disiplinary (good time) hearings, and probation violation hearings.

I would suggest that most of these statements--not facts--are incorrect, very incomplete, or at best, misleading. I would strongly urge you to get the facts and require data to support the "conclusions" or supposed "facts" before arriving at your own conclusions. Permit me to give you an example how you could be easily misled by incomplete information. You heard testimony at the Feb. 26 hearing that the State had essentially been moving toward abolishing parole for a decade. Mr. Stern cited the fact that the Legislature had given the judges authority to limit or even deny parole eligibility to specific offenders when they were sentenced. The presumptive sentencing scheme was given as yet another example of the Criminal Code Commission's and the Legislature's intent to phase out the Parole Board in Alaska. I disagree with Mr. Stern's perception and let me explain by giving some additional background on the Criminal Code Commission's handling of the parole issue.

The Criminal Code Commission did originally recommend the abolition of parole in Alaska in January 1976. The record does not clearly reflect what led the members of the Commission to this conclusion, but one or more reference books discussing parole appear to have been the primary basis for the decision. It is known no data on the operation of the Alaska Parole Board was requested by the Commission members and no one from Corrections nor the Parole Board was contacted for input. (The primary staff person for the Commission was on record as saying he felt parole decisions should be made by judges.) That preliminary report was not to stand and the parole issues continued to be discussed by Commission members along with sentencing and related issues.

One of the Commission members requested the Parole Board present input on parole and sentencing issues, the Board and the visiting Chairman of the Oregon Parole Board did testify before the Commission in November 1977. Although the staff of the Commission (including Mr. Stern and the other staff person I mentioned in the above paragraph) had drafted a proposal abolishing parole, the Commission rejected this approach. Instead they approved a concept that would tightly structure the judicial sentencing discretion, but would allow for parole release withing certain specified guidelines. This approach was supported by a great majority of the Commission members after developing a thorough understanding over the years as Commission members of the importance of how DISCRETION works in the criminal justice system. Without thorough understanding of how discretion works, rational decisions about effective changes in the system will not follow. Let me explain the concept of discretion in the criminal justice system that is supported by experienced and well-respected criminal justice professionals around the country, such as Professors Andrew Von Hirsch and Vincent O'Leary.

There is a given amount of discretion in any criminal justice system. All components of the system have some, but there is only so much no matter who has it. You can move around the discretion, you can increase or decrease the amount any segment has, but discretion is not eliminated, only transferred from one component to another. Here are some examples of some discretion various segments of the system have now.

	WHO	WHAT
POLICE:	(a)	Charge as crime or handle informally.
	(b)	Arrest or not arrest - issue summons.
	(c)	Initially charge as most serious to least serious crime.
	(d)	Initially charge all possible crimes, a few, or only one.
	(e)	Initially recommend high bail, low bail, O.R. release.

DISTRICT ATTORNEY:

(a) Dismiss one or all charges.

(b) Allow to handle as deferred prosecution.

(c) Charge most serious to least serious charge (this will determine the possible range of sentences the judge will have available at sentencing).

(d) Charge all possible crimes, a few, or only one (this also will determine whether or not the judge may sentence to consecutive terms, concurrent, and also the sentencing range).

(e) Change all counts of an offense, a few, or one (same effect as above).

(f) Recommend bail to court.

(g) Charge no aggravating factors, charge one, charge many factors (judge cannot sentence above presumptive term, if applicable, unless D.A. charges an aggravating factor and judge rules the factor exists).

(h) Charge or not charge a prior felony (presumptive sentencing is triggered only if the D.A. charges and substantiates a prior felony in the required seven year period. If not charged, defendant not sentenced presumptively).

(i) Charge or not charge the use of a gun during the commission of the crime (same effect as above - if D.A. doesn't charge the use of the gun, not subject to presumptive sentencing).

(j) Charge or not charge the fact defendent caused serious physical injury during the commission of the crime (same effect as previous example).

(k) The D.A. can make any recommendation he wishes to the sentencing court about disposition, including sending the case to the three-judge panel but none of these recommendations have the effect of changing the judge's discretion.

JUDGE:	(a)	Sentence a "first A felony" offender to a jail term of 0-20 years, a fine of $50,000, restitution, community work, probation etc.
	(b)	Sentence a "first A felony" offender to a term of 3-20 years if D.A. charges and judge finds gun used or serious physical injury.
	(c)	Sentence a "first B felony" offender to a jail term of 0-10 years, or other sentences listed in (a).
	(d)	Sentence a "first C felony to a jail term of 0-5 years.
	(e)	Sentence a "second A felony" to a jail term of 5-20 years if the D.A. charges and the Judge any aggravating or mittigating factors, and other sentences listed in (a).
	(f)	Sentence a "second B felony" to a jail term of 0-10 years and other sentences listed in (a).
	(g)	Sentence a "second C felony" to a jail term of 0-5 years and other sentences listed in (a).
	(h)	Sentence a "third A felony" to a jail term of 7-1/2 years to 20 years and other sentences listed in (a).
	(i)	Sentence a "third B felony" to a jail term of 3-10 years and other sentences listed in (a).
	(j)	Sentence a "third C felony" to a jail term of 0-5 years and other sentences listed in (a).
	(k)	Sentence an offender convicted of 1st degree murder to a jail term of 20-99 years and other sentences listed under (a) and a fine up to $75,000.
	(l)	Sentence an offender convicted of second degree murder or kidnapping to a jail term of 5-99 years, and other sentences listed in (a) and a fine up to $75,000.
	(m)	Send the case of any "presumptive offender" to a three-judge panel for sentencing if the first judge thinks the term of imprisonment would result in "manifest injustice".

	(n)	Place most offenders on probation under any reasonable condition for up to five years.
	(o)	Revoke all or part of an offender's probation for violation of any condition of probation or a violation of a law, at any time during the sentence.
	(p)	Terminate or extend probation at any time in the sentence.
	(q)	Make any offender serve more time than one-third up to the maximum sentence before becoming eligible for parole.
CORRECTIONS:	(a)	Make recommendation for sentencing in the presentence report.
	(b)	File petitions to have the judge consider probation revocations or request the D.A. file such petitions, depending upon the judicial district.
	(c)	Grant good time credits amounting to 25% of an offender's sentence for good institutional adjustment. Take away part or all good time for one or more infractions of jail rules, requiring prisoner to serve up to 25% more time.
	(d)	Make recommendations on Parole Board release decisions.
	(e)	File Petitions to revoke parole with Parole Board and make recommendations to Board.
	(f)	Grant various kinds of furloughs to almost any sentenced offender serving a jail sentence.
PAROLE BOARD:	(a)	Consider offenders for parole once they have served one-third of their sentences, and make a decision to parole or not parole the offender before he is released from jail after serving 66%-75% of his sentence with good time (the Board has control over 33%-42% of the offender's sentence). This assumes the judge has not made the offender ineligible for parole or more than 1/3 of his sentence or for all of his sentence.

(b)	Set conditions of release on all those paroled and on those subject to "mandatory release" or "legislative parole", based upon guidelines set in regulation and in current case law.
(c)	Revoke the release of offenders that parole officers bring to the Board's attention if the Board determines the offender cannot follow the laws.
(d)	Change a parolee's conditions of parole when good cause justifies it.
(e)	Carry out executive clemency investigations and make recommendations to the Governor's Executive Clemency Advisory Committee.

DISCUSSION OF DISCRETION

As you can see from the tables above, there is a lot of discretion in the system. Let's examine this discretion in light of the comments made at the recent House Judiciary Committee, understanding that only a few areas I mentioned earlier in my letter will be discussed here but that the committee members should be aware generally of the magnitude of discretion available to various segments.

Statements made at the hearing implied that presumptive sentencing has taken most or all discretion out of sentencing and that it will get rid of disparity in sentencing. The new criminal code did classify most crimes into categories and set maximum lengths of jail terms but did not do away with discretion. It in fact sharply increased the influence of the prosecutor while limiting somewhat the power of the judiciary. Except in a small percentage of cases, the new sentencing law does not mandate specific or mandatory sentences. But the prosecutor is the person that frequently holds the key to whether most of these presumptive or mandatory sentences will apply to a given case. (Examples are difficult to follow without having the chart of the presumptive sentences handy to refer to, and I or my staff would be more than happy to give you some additional examples before the entire Committee with the aid of the chart.)

Example: Mr. Smith has been arrested on an assault charge. He had a prior felony conviction five years ago which you would assume would automatically make Smith subject to presumptive sentencing. Not so. If the prosecutor does not charge the prior felony and prove it in court, Smith is considered a "first felony offender".

The facts of his case indicate he could be charged as either a first degree assault or a second degree assault. Assuming the prosecutor charged the prior felony, he knows Smith would have a presumptive term of 10 years if charged as first degree assault and if any mitigating and aggravating factors were charged, the judge could sentence Smith to 5-20 years. Smith would have to be sentenced to the presumptive sentence of 10 years only if the prosecuting and defense attorneys did not charge any mitigating or aggravating factors to the court (both tell us it will be unusual not to charge at least some mitigating and aggravating factors). The prosecutor knows if Smith is charged with assault in the second degree, the presumptive term would be 4 years, but could be mittigated down to 0 years or aggravated up to 10 years. Thus he can effectively decide what range the judge will have available a sentencing (5 to 20 years or 0 to 10 years) by what Smith is charged with. Of course if the prosecutor doesn't charge the prior felony, the judge discretion is 0-20 years for the assault one and 0-10 years for the assault two charge. Obviously the prosecutor isn't lacking discretion under the new code.

We are told judicial discretion is removed or severely limited by presumptive sentencing. It is limited somewhat but certainly not removed entirely. For example two different judges with Mr. Smith's case could sentence him to widely varying sentences on the same circumstances of the crime and background, (asuming an assault II conviction) as long as at least one factor in mittigation and one factor in aggravation was proven, by giving different weights to those factors. For example, Judge A could give strong weight to the mittigating factors and sentence Smith to no jail time or certainly less than four years. Then Judge B could sentence Smith to ten years by giving primary weight to the aggravating factor. The point is either judge could sentence Smith to 0-10 years, with Judge A usually handing out a sentence of one year to most offenders while Judge B usually sentences offenders to six years for similar crimes and backgrounds, and still be within the constraints of the presumptive sentencing scheme.

These or other examples are not meant to impugn the integrity of either prosecutors or judges around the State of Alaska, but only show that even with presumptive sentencing, disparity in the handling of cases by the criminal justice system is far from being eliminated. Obviously there is a need to develop some specific guidelines about who should go to jail and who should not, before we can seriously tackle the problem how long should offenders stay in jail if we decide they should go to jail. (At least the Parole Board does have specific, concrete, written guidelines for determining how long offenders serve if they are sent to jail but those guidelines don't help with the more basic decision of who should or should not go to jail at all.)

Before placing stock on what anyone says the new presumptive sentencing has had on the criminal justice system, I would urge you to get a hold of specific data about the impact of the code. My guess is you will find not much information is yet available unless things have changed a lot since the Parole Board tried to get some information on the impact of the system late last summer. The best information we have now is that approximately 18 offenders have actually been sentenced to presumptive terms since January 1, 1980 out of over 600 sentenced felons in jail now. Even if we has sufficient data on all these presumptive cases it would probably be difficult to identify any trends, or positive or negative influences on the system. Possibly the Judiciary Committee can insure that careful attention is given to keeping a close watch on the system and providing some indepth information to the public and the Legislature so we can assess the impact of presumptive sentencing down the line.

Let me concentrate on some of the misconceptions that may have been alluded to about the Parole Board. First it was implied that there is no "certainty" when an offender would, if ever be granted parole. That is not true. The Board has adopted regulations (available to judges, D.A.'s offenders, the public, etc.) that outlines the specific time ranges an offender can expect to serve if the criminal justice decides to send him to jail. These ranges are fairly narrowly drawn (16 to 21 months for a class B felony with little or no prior record, etc.; 21 to 28 months for a more extensive prior record, abuse of alcohol/drugs, etc.). The work was completed on these parole guidelines last summer, they were given a trial run for six months last fall and they were put into use beginning January 1, 1981. Any offender can sit down with his institutional counselor when he is sentenced, have a score sheet filled out based upon his case file information, and he will know with about 85% certainty when he is going to be released--without ever appearing before the Board.

The Board has been working on the development of these guidelines since 1978. During the time the Board was working on the guidelines, the members also felt it would be to everyone's benefit to begin seeing offenders (who did not have real long sentences) within the first six months of their sentences. There would be many good reasons for this change in policy. The Board currently sees offenders when they are within three months of being eligible for parole release. Some of the goals of this policy change would be:

(a) Set presumptive release dates on most offenders with shorter sentences so everyone would know when offenders could expect to be released and the whole system could plan accordingly.

(b) Allow the Board members to discuss problem areas/goals with offenders so the offender could make the best use of time before they are due to be released.

(c) Board would review the offender shortly before his presumptive release date to discuss his release plan and conditions of parole with him and see that he had conducted himself in a reasonable manner in the institution.

(d) Insure that the offender's release plan provided him with sufficient support to optimize his chances of a successful parole adjustment.

Why hasn't the Board implemented this policy change? This change would necessitate the Board receiving specific information in a timely manner from the Department of Health and Social Services about all sentenced offenders who might be eligible for parole. This information was not available to the Board so the Parole Board staff began requesting it informally through Departmental channels in 1978. These requests were made to both the Commissioner's office and the Department's office of information services. After approximately one year had passed with no information, I requested the information from the Commissioner in February, 1979. In the summer of 1980 the information began to trickle in and with considerable effort by the Board staff and the staff of the Division of Corrections, we have recently developed a fairly accurate list of offenders. The problem is that the institutional population has increased so rapidly since our initial request the Board would probably need some additional time to see every offender, say with sentences of 5 years or less, immediately. (The Board will not be able to even see those that are currently eligible for parole between now and July 1981 unless supplemental funding is made available to the Board for the upcoming Board hearing.) However, the Board did adopt this policy of hearing offenders early in their sentences and the members reiterated their desire to begin the process as soon as possible for everyone's benefit. So as you can see, the Board members themselves have been working on eliminating the "uncertainties" of parole release dates long before the Department of Law testified before your committee last week. Given sufficient resources, we expect we can probably achieve our goal with the offenders with shorter sentences before the end of the year.

The Board was chastised by the Department of Law for considering an offender's "risk" when making parole decisions. The Board does consider the risk factor when making parole decisions because it is required to by Alaska Statute (AS 33.15.080). We believe this law clearly mandates the Board's consideration of risk at the present time. However, I should point out that most of the "risk factors"

utilized by the Board in its guidelines are what Mr. Stern referred to as "what the offender did" items, such as prior felony convictions, prior misdemeanor convictions, juvenile probation record, juvenile institutional record, adult probation/parole record, alcohol abuse/drug abuse record, etc. They are used more precisely and consistently in parole hearings. So even if the Legislature were to change the statute listed above, it probably would have little effect on the guidelines because most of the risk factors are related to "what the offender did". Of course, the most important factor in any case considered by the Board are the facts of the present offense(s), or "what the offender did" (see our 1979 study for documentation).

Mr. Stern told you Parole Board hearings are not open to the public. He is correct. They are closed pursuant to Alaska Statute 44.62.310. This means that the door to hearings are not open for anyone to walk in. However, he failed to inform you the Board has always, to the best of my knowledge, since I have been a member of the Board, allowed any responsible person to sit in on Board hearings once they received a short briefing on how hearings were conducted, the purpose of the information and procedures, and that information presented at hearings was confidential by law (AS 33.15.140) and must not be communicated to anyone outside the hearing. The Parole Board has had State legislators, prosecutors, defense attorneys, staff of all various State governmental agencies, newpaper reporter , T.V. staff, university students, and ordinary citizens from the community sit in on hearings. All hearings are taped and you are welcome to listen to the tapes of any hearing if the offender signs the appropriate waiver. Furthermore, in spite of what Mr. Stern said, attorneys are allowed at any Parole Board hearing and we strongly encourage their attendance at all parole revocation hearings where there might be a dispute of facts. Come over and listen to our tapes or sit in on some hearings if you have any questions.

The Department of Law has suggested the Parole Board be eliminated and be replaced with more furloughs and more good time. I know that almost all sentenced prisoners are not prohibited by law from being placed on furloughs now - it is the regulations and practices of the Division of Corrections that have severely limited the use of furloughs. It might be beneficial to consolidate and update these laws but the low utilization of furloughs cannot be blamed on the Legislature. I know these furlough policies are changing but I am not sure furloughs would be appropriate for the extended periods of time we have offenders on parole. All the experts have told us that six months maximum is all the time you want an offender on most community based programs, except probation or parole supervision in an offender's own home. I would strongly urge you very carefully and skeptically review this as an alternative to parole release and certainly not do so when all the various kinds of potential furloughs are just in the "talking stage". I would strongly urge you discuss this with Mr. Trivette and Mr. Campbell, both whom have a lot of experience with halfway houses and community based programs. You should also carefully consider whether or not this might introduce more disparity in the handling of offenders. Instead of the Parole

Board releasing offenders subject to the specific guidelines adopted, you would have nine classification committees and superintendents in Alaska and another 25-30 classification committees and wardens in contract facilities making furlough decisions based upon few standards. Disparity in the handling of offenders is almost certain to be increased with the large number of persons involved in the process and institution concerns will prevail as an overiding factor in many cases. Again, this is no reflection on the staff of Corrections - just a byproduct of spreading decision making out to 156 persons with all their individual personalities.

Good time in Alaska has been a "can of worms" for a decade. I would respectfully defer to Mr. Trivette on this subject who is very knowledgeable on this topic. From my limited knowledge on the subject, I would strongly urge you not consider changing the good time laws without Mr. Trivette explaining some of the numerous problems with good time previously and currently providing you with some background on the purposes of good time.

Let me take a moment of your time to tell you something of Mr. Trivette's background, experience and standing in the criminal justice community in Alaska and around the country. He is considered knowledgeable and an expert in many of the specialized areas of corrections work, such as classification committees, good time, parole laws, report-writing, systems operations, parole guidelines and other "risk assessment scales", community-based corrections, etc. He is frequently called upon by various corrections personnel, attorneys, judges and other criminal justice employees to serve in a problem solving capacity. He has been a leader in some national corrections groups and is currently in the Commission on Accreditation for Corrections "pool" to serve on committees to review parole boards for possible accreditation based upon strict national standards. He has been a very active participant and sometimes chairman of various groups working on improving the criminal justice system in Alaska. He has conducted training sessons, seminars and presented papers at various state and national correctional meetings. Because of the deep respect he has gained from the wide spectrum of criminal justice employees, I would hope you would carefully question him about any proposed changes you expect to make in the system and specifically about the statements made by the Department of Law. You will get nothing but "straight talk" from him.

Although I have been supportive in the past of the concept of the abolition of parole and replacing it with "presumptive", "flat-time", or "determinate" sentencing, I have become more skeptical each year about the ability of a system to really deal more consistently, more equitably and more fairly deal with offenders without a parole board. I am beginning to believe that a small collegial body, operating under specific guidelines, hearing all cases around the state, using the same interpretation of the guidelines, will be almost impossible to improve upon if given the tools to do the job.

Let me suggest you carefully consider Professor Von Hirsch's study, "Abolish Parole". The Alaska Parole Board has never been given those tools nor the support it needs to properly carry out its responsibilities - why don't you give us a chance for a couple of years with this support and see what materializes. I don't think you will be disappointed. After all, we are relatively cheap!!

Thank you for taking the time to consider the contents of this letter.

Sincerely yours,

William B. Lyons

William B. Lyons
Chairman

WBL

P.S. Why should the Board be given the opportunity to "prove" itself over the next few years? Recent Parole Board research indicates the Board is doing an outstanding job of fairly and equitably dealing with those offenders that apply for parole, even though those applicants come from various racial backgrounds. The fact that 3/5ths of the Board members come from minority or "protected classes" probably is a factor - the Board is one of the few segments of the criminal justice system that has much minority representation and certainly few if any have this high percentage of minority representation.

Again, I would defer to Mr. Trivette's expertise in explaining why I feel the Board has done such an exceptional job in fairly and equitably dealing with those offenders sentenced to jail, even before we had our parole guidelines to reply upon. Once you have seen the supportive documentation, I think you will be pleasantly surprised what a segment of the system can do with very little money.

TERMS OF IMPRISONMENT AND AUTHORIZED FINES IN REVISED CRIMINAL CODE

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
"A" Felony	0-20 3-[6]*-20	5-[10]-20	7 1/2-[15]-20
"B" Felony	0-10	0-[4]-10	3-[6]-10
"C" Felony	0-5	0-[2]-5	0-[3]-5

MAXIMUM FINES - PERSONS

Murder or kidnapping	- $75,000
A, B, or C Felony	- $50,000
A misdemeanor	- $ 5,000
B misdemeanor	- $ 1,000
Violation	- $ 300

MAXIMUM FINES - ORGANIZATIONS

All offenses - $100,000 or
3 X pecuniary gain
- whichever is greater

KEY

Number in bracket is presumptive sentence. Number to left is lowest mitigated sentence. Number to right is highest aggravated sentence.

* Six year presumptive term applies if first A felony conviction, other than manslaughter, and defendant used or possessed a firearm during the offense or caused serious physical injury.

MAXIMUM TERMS OF IMPRISONMENT FOR MISDEMEANORS

A misdemeanor - 1 year

B misdemeanor - 90 days

2-1

2-09-81

PAROLE BOARD OUTLINE

1. The Parole Board is extremely inexpensive to operate in relationship to other sectors of the Alaska Criminal Justice system. The overall costs of the operation of the Board just exceeds $225,000 for the upcoming fiscal year. Most of the money spent goes for salaries of staff, some compensation for Board members, and travel funds to allow the members to hold hearings throughout the state and in contract facilities housing Alaskan inmates. Although we do not have the actual cost of operating the court system or other segments of the criminal justice system in Alaska, they certainly exceed the cost of operation of the Board by far.

2. The Parole Board has very specific written guidelines for making its decisions, which make it available for very close public scrutiny. Any time a prisoner is not granted parole, he is sent an individual letter advising him of the reasons for the decision. Whenever a parolee has his parole revoked, he receives an individualized letter explaining the specific reasons why he has been returned to custody. Any time the Board deviates from their written guidelines in any given case, they must document the specific reasons in the file why such a decision was made. These letters are available for public scrunity. (Refer to articles on guidelines for more specific examples).

3. The new parole guidelines research has allowed the Board to develop very concrete guidelines with numerical weights given to statistically vaild factors that allows the Board to closely compare similar cases and will result in equal treatment of similarly-situated inmates.

4. The Board members are representative of the major ethnic and minority groups of the state. The Board has had Alaskan natives and black membership since 1971, and a women on the Board since early 1976. Each of these members have a wide variety of experience in dealing with and relating to minority persons. They are familiar with the diverge cultures of the citizens of the State of Alaska. No other segment of the system has or is likely to have in the near future, this broad representation.

5. In spite of the problems with the disparity in sentencing in Alaska, the inmates handled by the Board are treated very similarly, no matter what their ethnic background is. Current Parole Board research indicates that within the parameters with the law which requires all inmates to serve one-third of their sentence to which they are sentenced before being eligible for parole, the Parole Board does treat individuals similarly as much as is reasonable.

6. The Board members are not employees of the State, but are citizens from various communities around the state that retain their ties there and are familiar with the wishes of the communities from which they come. They are concerned with the community foremost rather than the needs of any department of the state government, and their decisions reflect their community and individual person orientation. The Legislature established a separate Parole Board office in 1972 specifically for the purpose of allowing the Board members to not be controlled or too heavily influenced by the other full time employees of the criminal justice system. This appears to be working very effectively.

7. The Board members make consistent decisions statewide. Although there is known to be wide disparity in sentencing between different areas of the state, this small group of Parole Board members maintains consistency in its decision-making throughout the State of Alaska. No matter how closely regulations and guidelines are written, such consistency is unlikely to occur throughout the state with the number of judges, district attorneys, and defense attorneys involved in the other segments of the criminal justice system.

8. Social science research has shown that group decisions in making parole and related kinds of decisions produce more consistent and equitable than those made by individuals.

9. The State constitution requires a parole system. Although the parole function could be handled by the courts or another agency of the State, or by other state employees, or some other group, the current make-up of the Board is the most cost effective while offering fair, consistent and reviewable decisions. Unless and until the citizens of the state wish to amend the state constitution, or a more cost effective and equitable system can be shown to be available, the current procedure should be maintained.

10. In the mid to late 70's, many criminal justice professionals, college professors, attorneys, and others, were recommending the abolition of parole throughout the country. A great majority of those making that recommendation have since changed direction and many are now supportive of the parole process. The concept of a "community release board" separate from the courts to determine the length of prison terms was supportive by the American Bar Association in a position paper in the fall of 1977. This was a reversal of the Association's previous recommendation that parole be abolished.

11. A "community release board" concept is now being supported by many criminal justice professionals that had previously supported the concepts of "determinate", 'flat-time", or "presumptive" sentencing schemes where the prison terms were set in statute with little judicial discretion and no parole discretion.

12. Some persons would argue that all relevant factors are known at the time of sentencing and therefore there is no need for any other determination about a release date later on after the date of sentencing. The proponents of this kind of system and the "nothing works" idea have lost most of their support in recent years.

    (a) Research in other jurisdictions shows that institutional behavior does have a significant relationship to the success or failure of parolees and therefore should be considered at a parole release hearing some time after sentencing.

    (b) Research in other jurisdications shows that institutional programming and programming after release have a significant relationship to the success or failure of parolees and therefore should be considered at parole release hearings. (One such program that enchances the change of success is T.A.S.C.).

    (c) Research in Alaska shows that certain aspects of an inmate's release plan do have a significant relationship to the success or failure of the parolee and therefore should be considered at the parole release hearing some time after sentencing.

    Although we certainly do not have all of the research necessary to prove all relationships that exist, it is very clear that relationships do exist that are relevant after a person is sentenced and incarcerated and are appropriate to consider at a hearing by a parole board or similar body.

PAROLE BOARD RESEARCH FINDINGS

1. 70% of the "mandatory releasees" had served two years or less in jail when released on mandatory release supervision. Only 1% of the mandatory releasees had sentences exceeding five years.

   It is apparent that the Parole Board frequently does not parole people with relatively short sentences (two years of less), but does parole most inmates with longer sentences.

   A casual check of files several years showed that only one inmate out of 13 with six month sentences that applied for parole was paroled in a given year. It appears that the Board is following its stated of purpose in dealing with inmates with longer sentences and paroling those with short sentences only when unusual circumstances warrant.

2. Percentage of Inmates Paroled v M.R.'d by Race.

Race	M.R.	Parole
White	35%	65%
Black	21%	79%
Native	44%	56%
Other	35%	65%

   Blacks get paroled at the highest rate with others and whites next. Natives get paroled at the lowest rate. At first glance, it would appear that there is a great disparity in who gets paroled and who mandatory releasees if you do not look at the following tables. As it turns out, some of the other tables give us a much better picture of the habits of the Parole Board, and provide us with the background on the differing parole rates.

3. Mean Months Sentenced by Race of M.R.'s and Parolees.

Race	M.R.	Parole
White	26.6	54.2
Black	34.6	79.2
Native	30.3	59.6
Other	61.5	127.6

   This table gives us the length of sentence of people that the Board paroled and those that were released on mandatory supervision by operation of law without parole. This figure tells us more about the sentencing patterns of the court system rather than the Parole Board's, except that the Board does not parole inmates as frequently with shorter sentences as those with longer sentences. This especially true with the longer sentences as inmates are required to serve at least one-third and sometimes more of their sentence before being eligible to apply for parole.

4. Mean Months Served by Race of M.R.'s and Parolees.

Race	M.R.	Parole
White	20.2	19.4
Black	23.0	25.7
Native	22.9	21.4
Other	43.8	24.1

   This table gives us a good comparison of how much time the Parole Board actually has inmates serve before they are released from custody either by parole or mandatory releases. Please note that the parole time on whites and natives is only two months different. The parole time on blacks and others is somewhat higher, but realizing that amount of time served before an inmate is eligible for parole is a function of the length of sentence, and thus these differences are somewhat dependent on the length of the inmate's sentence.

The time served for whites, blacks, and natives who are mandatory releasees are very close, being less than three months difference. Although the "other" mandatory releasees time is quite high, there are only a few people in that category which artificially inflates the time served number.

Very interesting are the close similarities between the amount of time the Board requires a person to serve by each race category whether or not they are paroled or released on mandatory supe vision. There is less than one month's difference between the white parolees and white madatory releasees, less than three months time served between the black parolees and black mandatory releasees and one month difference between the native parolees and native mandatory releasees.

Remembering that "others" had the longest sentences, followed by blacks, and then whites, this table shows that there is a very close relationship to the amount of time served by parolees and mandatory releasees within each race category.

5. Mean Months Served as Proportion of Mean Sentence, by Race.

Race	M.R.	Parole
White	76%	36%
Black	66%	32%
Native	76%	36%
Other	71%	19%

Interestingly, the Board required white and native parolees to serve an identical amount of their sentences before being released on parole. Blacks were required to serve four percent less of their sentences before being paroled, recalling that their sentences were somewhat longer than whites or natives. "Others" were required only to serve 19% of their sentences, but their sentences were extremely long in comparison to the other groups, and again there was a very small sample in this category which unduly influences the figures. It appears the Board is treating all races as similarly as is possible within the current statutory scheme.

Let's take a look at those released on mandatory supervision. Again, whites and native served an identical portion of their sentences before being released on mandatory release. Blacks served a little less time than whites or natives, proportionally which is probably a function of their longer sentences and the Board's attempt to treat all prisoners similarly. "Others" released on mandatory release served a little more time proportionally than did blacks, but less than whites or natives.

6. For a summary of release characteristics by race, please refer to the table on page 9 of the Supplemental Report Time Served Component of the Alaska Parole Guidelines Study (September, 1980). This sheet provides a quick overview of the release patterns of the Parole Board, the relative length of sentences imposed by the courts on those persons seen by the Parole Board, etc.

7. Only six percent of parolees released by the Board from 1970-1979 were convicted of a new felony at any time while on parole. This figure is less than half the national figure with a two year follow up. This figure alone does not necessarily mean anything by itself, but probably indicates the Board is fairly careful about its release decisions, and also would suggest that parolees are being adequately supervised by parole officers. We know for certain that only about two or three parolees a year on the average are convicted of new felonies, so they are not a strong factor in the increased crime rate in Alaska.

SHT/vh

NOTE REGARDING THE FOLLOWING FRAME ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES IN ALASKA STATE ARCHIVES. TITLE PAGE ONLY HAS BEEN FILMED.

PAROLE GUIDELINES FOR ALASKA

SUPPLEMENTAL REPORT
TIME SERVED COMPONENT

ALASKA BOARD OF PAROLE

SEPTEMBER 1980

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

BOARD OF PAROLE

JAY S. HAMMOND, Governor

ALASKA BOARD OF PAROLE
POUCH H-01E
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PHONE: (907) 465-3384

September 11, 1980

Dear Colleagues:

The basic PAROLE GUIDELINES FOR ALASKA report was completed, printed, and distributed in December 1979. It explained the progress made at that time on developing parole guidelines in Alaska. The report also outlined the additional research necessary before the "time served" portion of the parole guidelines could be established.

We are very pleased to announce the National Institute of Corrections did award the Parole Board a supplemental grant allowing us to complete the necessary research for the "time served" component. The results are contained in the consultant's attached report. We believe you will find much of this data very interesting and informative. Many of the basic questions about the release patterns of the Board are answered in this report.

The Board members met with the consultants on June 27, 1980 and adopted the parole guidelines matrix as outlined in table M8 on page 20 of the attached report. The members also voted to delete the race data item from the risk score after receiving an opinion from the Attorney General's office and after further discussion regarding that item. The revised risk score sheet is included with this report.

The Board's staff is drafting the coding manual to accompany the risk score sheet and the Board expects to initiate the "dry runs" soon as recommended on page 21 of the report. If no major problems arise, we expect to be using the guidelines for our decisions by Spring 1981.

We are happy to share the results of our research with you. Your comments are always welcome.

Sincerely Yours,

William B. Lyons
Chairman

Sincerely Yours,

Samuel H. Trivette
Executive Director

Attachments: PAROLE GUIDELINES FOR ALASKA REPORT--SUPPLEMENTAL REPORT

SHT/clr

This report was prepared by Bay Area Research Design Associates under contract with the Alaska Board of Parole. The research was supported by supplemental funding from the National Institute of Corrections under grant number A18. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the National Institute of Corrections or the Alaska Board of Parole.

BAY AREA
Research Design
ASSOCIATES

ALASKA PRISON RELEASE

MATRIX DECISION MAKING

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June 1980

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ABSTRACT

This document is a technical supplement to the materials provided the Alaska Board of Parole in November 1979 and published by them in December 1979. The major task left undone in that report was recommendation of a release decision matrix to be tested and then implemented as an information resource.

The suggested matrix appears as Table M8 herein. Also included are analyses of mandatory releasee data and demonstration responses to queries typical of those received/generated by the Board in its usual operations.

This report closes with observations about some possible next steps.

ALASKA PRISON RELEASE

MATRIX DECISION MAKING

Mandatory Releasees

New cases augmented the set from which decisions can be make in the time elapsing since the last report.[1] These took three forms: 1) existing parolee cases were edited to some extent, 2) new parole cases were added, both in instances of earlier omissions of cases and paroles since mid-1979, and 3) data on mandatory releasees exiting prison from 1970 - 1979 were added. These last cases are not as extensive as the parolee files, however; we have only identifiers race, year of release, offense, sentence, time served, and release status for each of those 362 files.

Race

For this report[2] the mandatory releasees have been classified into four ethnic categories: white, black, native, and other.

Table R1

Racial Composition of Mandatory Releasees

Race	#	%
White	202	56%
Black	30	8%
Native	120	33%
Other	8	2%
Unknown	2	1%
Total	362	100%

Most mandatory releasees are white (56%) and a third are native.

Release Year

Persons in this file were released over a ten year period--from 1970 - 1979. (The first year, 1970, and the last, 1979, are incomplete.)

Table R2

Mandatory Release Years

Year	#	%
1970	1	-
1971	12	3%
1972	30	8%
1973	19	5%
1974	34	9%
1975	38	10%
1976	66	18%
1977	48	13%
1978	65	18%
1979	46	13%
Unknown	3	1%
Total	362	100%

As Table R2 demonstrates, peak mandatory release years were 1976 - 1979 with 1976 and 1978 having the heaviest concentrations of cases (18% each).

Sentences

Sentence lengths also are of interest. Table R3 presents the picture. Almost 2/3 of the mandatory releasees had sentences of 2 years or less. Only 3 persons (1%) had sentences exceeding 5 years. None of these are life sentences as lifers do not mandatorily release under Alaska law. Mean mandatory release sentence length was 29.2 months.

Similarly, Table R4 shows mandatory releasee time served. Seventy percent of these persons served 2 years or less; only 1 stayed in prison over 5 years. Mean time served was 21.8 months, 75% of the sentence mean (see Table R3). Thus, although Alaska good time credit laws as applied to these persons

Table R3

Mandatory Release Sentences

(in Months)

Months Sentenced	#	%
Under 7	27	7%
7 - 12	103	28%
13 - 24	103	28%
25 - 36	68	19%
37 - 60	40	11%
61 - 120	18	5%
Over 120	3	1%
Mean	29.2	100%

Table R4

Mandatory Releasee Time Served

(in Months)

Months Served	#	%
Under 7	29	8%
7 - 12	107	30%
13 - 24	117	32%
25 - 36	60	17%
37 - 60	34	9%
61 - 120	14	4%
Over 120	1	-
Mean	21.8	100%

are tedious to understand and explain, they worked out to about a 25% credit on sentences up to 5 years on which parole was not granted.

Offense

These mandatory releasees were imprisoned for a great variety of offenses. In no case were more than 30 persons mandatorily released for the same offense. Table R5 shows the 10 most frequent crimes represented and the percent of the 362 total population included in each crime grouping. The table accounts for 54% of the cases.

Table R5

Mandatory Releasees' Most Frequent Imprisonment Offenses

Offense	#	%
BNIAD	30	8%
ADW	26	7%
BIAD	24	7%
GL	22	6%
Forgery	20	6%
Robbery	17	5%
L&L	17	5%
R&C	15	4%
Manslaughter	13	4%
Sale of Drugs	12	3%
Total	196	54%

Race & Release

Though there are a multitude of excursions possible through these data, their full exploration awaits questions for which answers are needed from them. To give an idea of the potential here we can use a couple of questions about race.

During the formulation of these data sets a question arose as to whether one racial group or another receives parole

Table R6

Release Type by Race

Race	Mode of Release: Mandatory Release #	Mandatory Release %	Parole #	Parole %	Combined #	Combined %	% Paroled
White	202	56%	381	57%	583	57%	65%
Black	30	8%	110	17%	140	14%	79%
Native	120	33%	152	23%	272	26%	56%
Other	8	2%	15	2%	23	2%	65%
Unknown	2	1%	7	1%	9	1%	-
Total	362	100%	665	100%	1,027	100%	-

$x^2 = 21.15$ df= 3 P= L .001

more frequently. The last column in Table R6 indicates blacks are most likely to be paroled (79%), whites and "others" are next most likely (65% each), and natives are least likely (56%). The main differences are among the whites, blacks, and natives. Whites are about equally represented in both the mandatory release and the parole groups, with blacks overrepresented among parolees and natives overrepresented among mandatory releasees.

Whether or not these differences can be accounted for in terms of the applicable sentence lengths is a reasonable question. Table R7 shows mean sentences for mandatory releasees and for parolees by race. The parolees have sentences roughly twice as long as do the MR's. This is true of each racial group, except that paroled blacks' mean sentences are well over twice as long as are their MR counterparts'.

Table R8 gives comparable findings for mean terms served by race. Each racial group serves much closer to the same mean months whether MR'd or paroled.

Table R7

Mean Months Sentenced by Race
Mandatory Releasees and Parolees

Race	Release Type: Mandatory Release	Release Type: Parole*
White	26.6	54.2
Black	34.6	79.2
Native	30.3	59.6
Other	61.5	127.6
Overall Mean	29.3	61.3
Total Cases (Missing Cases)	360 (2)	576 (89)

Table R8

Mean Months Served by Race
Mandatory Releasees and Parolees

Race	Release Type: Mandatory Release	Release Type: Parole
White	20.2	19.4
Black	23.0	25.7
Native	22.9	21.4
Other	43.8	24.1
Overall Mean	21.9	21.1
Total Cases (Missing Cases)	360 (2)	576 (89)

* Note that these tables are based on a slightly different population than data cited in previous reports. This base is used to make MR and parolee codings comparable.

Table R9 tells that only "other" races serve a substantially different portion of their sentences than the balance of the ethnic groups. Thus, it appears that sentence length does impact proportions paroled. Natives tend to have shorter sentences and, thus, to be paroled somewhat less than other minority racial groups. They serve the same portions of their sentences as whites, though, whether MR'd or paroled. Blacks serve shorter terms, proportionally, reflecting the longer sentences with which they enter prison. This is even more true for those in the "other" racial group. Blacks are paroled at the greatest rate of any racial group though they serve slightly more time than whites and natives.

Table R9

Mean Months Served as a Proportion of Mean Sentence, by Race Mandatory Releasees and Parolees

	Release Type	
Race	Mandatory Release	Parole
White	76%	36%
Black	66%	32%
Native	76%	36%
Other	71%	19%

Another way to formulate these data, to assure mean sentence data are not distorting, is to look at sentence lengths by time categories. Table R10 lends this perspective.

Another important consideration here touches parole performance by various racial groups. How one evaluates the appropriateness of times served by racial groups is impacted by effectiveness considerations. One index to effectiveness is the proportions of each group who sustain new felonies while on parole. Table R11 shows blacks have the highest portion of new

Table R10

Categorized Months Sentenced by Race
Mandatory Releasees and Parolees Combined

	Sentence Categories																							
	Under 7		7 - 12		Cum	13 - 24		Cum	25 - 36		Cum	37 - 60		Cum	61 - 120		Cum	Over 120		Total		Unknown	
Race	#	%	#	%	%	#	%	%	#	%	%	#	%	%	#	%	%	#	%	#	%	#	%
White	27	5%	109	20%	26%	124	23%	49%	113	21%	70%	94	18%	88%	49	9%	97%	17	3%	533	100%	90	14%
Black	3	2%	8	6%	9%	23	18%	27%	24	19%	45%	48	38%	83%	13	10%	93%	9	7%	128	100%	0	
Native	14	6%	45	18%	23%	63	25%	48%	59	23%	72%	38	15%	87%	23	9%	96%	10	4%	252	100%	0	
Other	0		4	17%	17%	5	22%	39%	4	17%	57%	4	17%	74%	3	13%	87%	3	13%	23	100%	0	
Total	44	5%	166	18%	22%	215	23%	45%	200	21%	67%	184	20%	86%	88	9%	96%	39	4%	936	100%	90	9%

felonies; natives and whites have essentially equal proportions of new felonies and there were no new felonies outside these groups.

Table R11

Parolee
New Felonies by Race

	Race				
	White	Black	Native	Other	Total
Number of Cases	383	111	152	15	661
Number of New Felonies	19	14	9	0	42
Percent New Felonies	5%	13%	6%	-	6%

From these observations we can look at release characteristics of racial groups in summary form.

Release Characteristics by Race

Whites	Blacks	Natives	Others
medium proportion paroled	largest proportion paroled	smallest proportion paroled	medium proportion paroled
shortest mean sentences	second longest mean sentences	third longest mean sentences	longest mean sentences
(with natives) shortest mean terms served	second longest mean terms served	(with whites) shortest mean terms served	longest mean terms served
(with natives) served largest proportion of sentence	served medium proportion of sentence	(with whites) served largest proportion of sentence	served smallest proportion of sentence
low proportion new felonies	higher proportion new felonies	low proportion new felonies	no new felonies

Sentence Length and Release Type

Another example of the use of these data comes from the question: "What proportion of persons in each sentence length category receives parole?" Tables R12 and R13 respond. Note that as sentence length increases proportion paroled grows. This is true both for the years 1970-80 and 1975-80.

Table R12

Release Type by Sentence Length
Mandatory Releasees and Parolees
1970 - 1980

	Mandatory Releasees	Parolees	
Months Sentenced	#	#	%
Under 7	27	17	39%
7 - 12	103	74	42%
13 - 24	103	122	54%
25 - 36	68	144	68%
37 - 60	40	159	80%
61 - 120	18	78	81%
Over 120	3	38	93%
Total	362	632	

Table R13

Release Type by Sentence Length
Mandatory Releasees and Parolees
1975 - 1980

	Mandatory Releasees	Parolees	
Months Sentenced	#	#	%
Under 7	13	2	13%
7 - 12	61	16	21%
13 - 24	80	53	40%
25 - 36	57	75	57%
37 - 60	35	95	73%
61 - 120	16	49	75%
Over 120	2	15	88%
Total	264	305	

Matrix Decision Making

The last report on this undertaking* left off with spelling out the principles of matrix decision making and sample formats of decision tables. The next step in the progression from experimentation with the ideas underlying matrix decisions to operationalization involves analyzing data on terms served. In the months elapsing since last report those data have been secured and tentatively analyzed (data editing remains incomplete).

The derivation of risk scores is an empirical endeavor, risk scores being the product of the relation between parole performance and background factors. In the previous analysis the 665 Alaska parole cases under study were segmented into four risk categories--very low risk, low risk, medium risk, and high risk. The very low risk cases are seen essentially as cases on which risk is not an element. The risk dimension thus makes a contribution to the release decision in about 40% of the cases (269 of 665).

The other axis of the matrix has to do with seriousness. The decision was made to follow the new Alaska Criminal Code (effective January 1, 1980) on this dimension.[3] Thus, the categories that dimension encompasses are: Unclassified, Felony A, Felony B, Felony C, Misdemeanor A, Misdemeanor B, and Violation. Because our interest is in imprisoned offenders, the last three categories have marginal applicability.

A decision matrix adhering to these constraints takes this general form:

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* Neitheructt, M. G. *Alaska and Parole Guidelines.* San Francisco: Bay Area Research Design Associates, November 1979

Table M1

General Form
Decision Matrix

Crime Categories	Risk Scores: 0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified				
Felony A				
Felony B				
Felony C				
Misdemeanor A				
Misdemeanor B				
Violation				

Several issues are pertinent to applying this decision form to parole release choices. One can be relatively secure in the supposition that risk scores will relate to release (at least parole release) outcomes because the scores were derived using parole performance as the criterion. However, it may be that the crime categories are related to empirical considerations.

Further, assurance is absent that there is any correlation between risk and prison time served or between "seriousness" and time served. This dilemma is made more complex by the possibility that whatever relations do exist will take forms not readily clarified by accepted analytical approaches. Thus, it is necessary to look at some varied presentations of relationships before placing the cases in a two-dimensional table.

When the study cases are classified on the seriousness dimension and placed in risk categories, the following table emerges. Table M2 tells us that mean months of prison time served before parole increase steadily as risk becomes greater (reading across the table) and that terms served decrease consistently as crime categories grow less serious (reviewing

Table M2

MEAN MONTHS
TIME SERVED

Alaska Parolees

1971 - 1979

Crime Categories	Risk Scores: 12 - 0 #	12 - 0 Mos.	-1 - -4 #	-1 - -4 Mos.	-5 - -8 #	-5 - -8 Mos.	-9 - -15 #	-9 - -15 Mos.	
Unclassified	17	50.2	5	69.2	2	92.5	0		
Felony A	122	18.3	46	28.8	10	61.1	1		
Felony B	143	16.1	68	23.4	27	33.0	0		
Felony C	52	12.0	33	16.4	7	24.3	0		
Misdemeanor A	11	8.2	4	13.8	1	37.0	0		
Misdemeanor B	9	7.6	2	17.5	0		0		
Violation	Too few to categorize								
Unknown	42		33		28		2		
Total	396		191		75		3		665

Table M3

Parolee
Median Months Served
by Crime Category
by Risk Group

Crime Category	Risk Group: Lowest Risk Mdn Mos	Mid80% Mos Svd	Mid60% Mos Svd	#	Low Risk Mdn Mos	Mid80% Mos Svd	Mid60% Mos Svd	#	Moderate Risk Mdn Mos	Mid80% Mos Svd	Mid60% Mos Svd	#	High Risk #
Unclassified	37	9 - 94	16 - 91	17	45	-	-	5	-	-	-	2	
Felony A	14	5 - 34	8 - 26	122	26	11 - 48	16 - 43	46	49	29 -108	36 - 79	10	
Felony B	15	5 - 28	6 - 23	143	20.5	10 - 41	12 - 31	68	33	18 - 49	19 - 45	27	
Felony C	10	5 - 22	8 - 17	52	13.5	7 - 30	10 - 23	33	24	17 - 32	17 - 32	7	
Misdemeanor A	6	3 - 16	3 - 15	11	13	-	-	4	-	-	-	1	
Misdemeanor B	6	2 - 8	2 - 8	9	-	-	-	2	-	-	-	0	
Unknown				42				33				28	
Total				396				191				75	3

table columns). Cautions about the size of the study groups in the misdemeanor and violations seriousness cells and in the highest risk group remain appropriate. Also, the number of unknown cases in each risk score column could have an impact.

Looking at mean time served is not adequate, however, because the mean may be an inappropriate measure of central tendency when scores vary widely. Thus Table M3 presents median months served (the median being the middle point of each score array) and then the middle 80% time served range and the middle 60% time served range. Again, the medians follow the pattern of the means. Note, however, that Felony A and B "lowest risk" cases (column 1, row 2) have similar medians, probably indicating that the A and B Felonies are treated as comparable unless the inmate is a parole risk. Notice also that the differences in felony class ranges appear primarily on the upper bounds.

With added confidence that the data have some consonance with "reasonable expectations" (that more serious offenders will serve more time and that greater risks will do likewise), we can move to fill in the decision matrix. Were a decision maker hearing analogous cases to those analyzed here to employ a time-set matrix designed to encompass 80% of the relevant cases, his/her reference table would look something like Table M4.

Table M5 affords the same perspective but includes only the middle 60% of the terms served.

In each of these tables (M4 and M5) the decision maker would be viewing products of release decisions which have ranged over substantial numbers of months. Since one of the purposes of these matrices is to increase equity in decision making (that is, enhance the degree to which like inmates are treated alike), one can take the opposite tack and refer to a matrix in which minimum variability is described, with

Table M4

Months Served Matrix
80% Inclusive

Crime Category	Risk Scores			
	0 & Over	-1 - 14	-5 - -8	-9 & Under
Unclassified	9 - 94	-	-	-
Felony A	5 - 34	11 - 48	29 - 108	-
Felony B	5 - 28	10 - 41	18 - 49	-
Felony C	5 - 22	7 - 30	17 - 32	-
Misdemeanor A	3 - 16	-	-	-
Misdemeanor B	2 - 8	-	-	-
Violation	-	-	-	-

Table M5

Months Served Matrix
60% Inclusive

Crime Category	Risk Scores			
	0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified	16 - 91	-	-	-
Felony A	8 - 26	16 - 43	36 - 79	-
Felony B	6 - 23	12 - 31	19 - 45	-
Felony C	8 - 17	10 - 23	17 - 32	-
Misdemeanor A	3 - 15	-	-	-
Misdemeanor B	2 - 8	-	-	-
Violation	-	-	-	-

documentation of exceptions.

A method of doing this is to start with the category median and allow only 10% variation above and below that value. This results in a matrix like Table M6. Though this

Table M6

Months to be Served Matrix
10% Bounded Median

	Risk Scores			
Crime Category	0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified	36 - 47	45	-	-
Felony A	11 - 17	21 - 35	41 - 57	-
Felony B	12 - 17	17 - 22	27 - 39	-
Felony C	8 - 12	12 - 15	18 - 30	-
Misdemeanor A or B or Violation	4 - 8	11 - 19	-	-

table has the form and configuration the data dictate (that is, it is a strict interpretation of the data, starting in each cell with the population median score and moving up and down the array to include the 20% of cases nearest the median), it has some discontinuities that may be troublesome. The "Unclassified, -1 - -4" value is not a range but a fixed term, the product of a limited number of relevant cases. Also, the table gives no assistance with cases falling in 7 cells (including all the highest risk cases); again, we see the impact of strictly interpreting rules applied to a limited population.

Thus, we face the same quandary many others working with similar data have met. Several have used an approach sometimes referred to as "smoothing". In other words, the data are conformed to assure easier application while preserving the empirical sense of the findings.

There are several aspects of judgment that impact the table's final form. One way to bring the decision matrix to

a more useful state could be to modify it as follows.

Table M7

Example
Months Served Matrix

	Risk Scores			
Crime Category	0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified	36 - 47	41 - 50		
Felony A	11 - 17	21 - 35	41 - 57	
Felony B	12 - 17	17 - 22	27 - 39	
Felony C	8 - 12	12 - 15	18 - 30	
Misdemeanor/ Violation	4 - 8	11 - 19		

The "Unclassified, -1 - -4" range can be settled upon by taking the average range of the other -1 - -4 categories and distributing this average around the category median. Similar procedures can be used to as great an extent as is deemed necessary; however, it is important to recognize that these steps exceed the grasp which these analyses can give and so are based on such considerations as "policy", "public protection," etc. It is highly unlikely that many cases of great risk but with misdemeanor/violation crimes will be encountered, so the last two vacant cells in the matrix probably are inconsequential.

A different situation exists regarding the last column of the table. It is observable that there are few of these cases getting parole. It may be, though, that several such persons appear before the Board. We get some idea of this by looking at mandatory release time served data. These seem to say that very few of these types of cases are being released from Alaska prison custody, since only 15 subjects in that set had served over 5 years.

Release Matrix

The matrices presented thus far have used all available

data because a large number of cases is necessary to allow stability of findings. Alaska presents a peculiar necessity for using only part (rather than all) of the available data, in that in 1974 substantial law changes introduced minimum terms as a significant release-decision consideration.

Thus, all things considered, we felt it necessary to develop the final form of the suggested matrix resting only on 1975 and succeeding cases. Thus, Table M8 takes only those cases paroled on and after January 1, 1975 into consideration. Notice that that gives somewhat more smoothness in form and also reflects higher minimum terms for several categories.

The work is incomplete, of course, for matrix decision making requires continuing update. At this juncture, though, the preferred decision set seems to be reflected in Table M8.

Table M8

Suggested
Months Served Matrix
(1975 & later cases base)

Crime Category	Risk Scores			
	0 & Over	-1 - -4	-5 - -8	-9 & Under
Unclassified				
Felony A	17 - 23	29 - 36	41 - 57	
Felony B	16 - 21	21 - 28	33 - 41	
Felony C	13 - 19	14 - 19	18 - 24	
Misdemeanor/ Violation	7 - 10	11 - 19		

Race - An Afterword

Throughout these endeavors the Board has (commendably) been open to consideration of use of any factor whose relation to parole performance (risk) could be demonstrated empirically. Some original decision factors were deleted because of their instability, their susceptibility to devious alteration, etc.

Race, though a "hot" issue, has steadfastly been retained in the risk analyses, the Board's view being that if it added information it should be retained as a consideration. Feedback on the published work to date has been laden with (sometimes ominous) comments about using race as a release decision factor. Thus, the Board has asked the Alaska Attorney General for a formal legal opinion on the matter and requested an analysis of how many cases would actually change risk categories as a result of deletion of race from the scoring program.

The Attorney General's report is not yet in hand. Data analysis reveals that only 14 cases would change risk score categories with the deletion of race. In most instances the person's risk score would improve though, ironically, in a few the risk score is made more detrimental by deletion of the item.

Conclusion

As this report tells, the primary task during this contract period was to develop a time served matrix which the Alaska Board of Parole could implement. That task has been accomplished, as have several others. It is recommended that it be used in a "dry run" a couple of hearing schedules and then be implemented. Meantime, the Board needs to find the resources to have analytical services available to it, to update the tables at least semi-annually, to keep its computerized case records current, to assure its ability to respond to data inquiries fully, and to forward its desire to understand more fully its own practices and their implications.

FOOTNOTES

1. See: Neithercutt, M. G. *Parole Guidelines for Alaska.* Juneau: Alaska Board of Parole, December 1979

2. The data base herein fluctuates somewhat as cases have been added in phases. The mandatory release group is stable throughout, though parolee counts vary.

3. Pending legislation was used to classify drug offenses.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE:

Honorable Fred E. Brown
Chairman
Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Chairman Brown:

House Bill 261 is essentially the same bill as passed by the House last year as HB 983. Departmental staff are working on the fiscal notes and position papers and they should be completed before the end of the week.

I have enclosed copies of last year's fiscal notes and position papers that will give you some idea of the impact of the bill. Since there are two other bills before the committee I expect the Department's position paper will change.

Sincerely yours,

Helen D. Beirne

Helen D. Beirne
Commissioner

Enclosures

06-F38LH

POSITION PAPER
COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 983 (FINANCE)

Committee Substitute for House Bill 983 (Finance) presents many positive changes in the current Parole Board statute including:

a. Five year terms for Board members as recommended by the Commission on Accreditation for Corrections and other professional organizations.

b. Statutorily sets the compensation of Board members at $100/day and provides for a raise with the consumer price index in Anchorage.

c. Requires the Board to recommend statutory changes to the Legislature.

d. Requires the Board's regulations to be promulgated pursuant to the Alaska Administrative Code.

e. Allows the Board to discharge parolees from supervision after two years as recommended by the Corrections Masterplan consultants and other professional corrections organizations.

The changes listed in sections a), b), d), and e) above are supported by the Commission on Accreditation for Corrections and by the Alaska Corrections Masterplan consultants. The change in section c) would enchance the mutual planning and cooperation of criminal justice agencies in the State.

EXECUTIVE DIRECTOR

Section .090 has the executive director reporting directly to the Board with no direct links to an administrative department. The department recommends for improved administration and coordination of parole functions that cross many divisions and department lines in State Government that the Executive Director be responsible to the Governor or the Department of Health and Social Services and be assigned to work with the Parole Board.

"PAROLE RIGHTS"

Section 150 of the bill gives offenders a right to have copies of all information considered by the Board a minimum of 30 days in advance of any kind of parole hearing. Many hearings would be continued 90 days because of later arrival of material. Considerable expense and staff time would be saved by providing a summary of the information in the file rather than providing copies of all information in the file (average about 200 pages/file). This summary would give the

offender all pertinent information considered by the Board. Section .150 of CSHB 983 (Finance) also allows the offender a copy of all mental health records. Controversy surrounds the release of these records. Many clinicians and therapists are opposed to the release of patient records without benefit of medical interpretation.

GOOD TIME PROVISIONS

Section .170 of CSHB 983 (Finance) requires parolees be given good time for good behavior while on parole, but this good time earned is subject to forfeiture by the Board. There is no way to avoid an enormous amount of staff time, red tape, paperwork, more policies and procedures, and hearings to implement this section. Considerable additional travel expense will be incurred on interstate parole cases. Although the concept of parole good time is a unique approach, we recommend a more simple and less costly solution for the earlier release of parolees from supervision. Instead, the Committee might consider givng the Board the authority to release parolees from supervision after 1 year of good behavior rather than the 2 years listed in Section .270 of this bill, in lieu of the good time provision of this bill.

PAROLE CONDITIONS

Section .180 unduly restricts the imposition of necessary parole conditions by the Board. The courts allow any reasonable condition that relates to the person's crime. Where the Board determines that there is clear evidence, some parolees need to be restricted from associating with victims or their crime partners. The Board cannot require restitution during parole nor establish other conditions normally imposed by other parole agencies or the courts, such as having the car license numbers of drug dealers.

MODIFYING CONDTIONS OF PAROLE

Section .190 of CSHB 983 (Finance) requires 30 days written notice before a parole condition can be changed. This is impractical. Currently, conditions of parole are discussed with parolees at the release hearing. New conditions of parole are imposed only when immediate intervention is needed because of risk to the community or to the parolee. This section will not allow the Board to deal with a parolee's problems when they surface, posing a risk to the community and to the parolee.

DISCHARGE OF PAROLE

Section .250 of CSHB 983 (Finance) requires that parolees be discharged from supervision automatically after five years on parole. The only exception would be if the parolee had been charged with a felony offense while on parole. An additional phrase is recommend to be inserted in line 19, "or has not violated parole by absconding supervision". Without this phrase, a parolee could abscond supervision the date of his release. As long as he was able to avoid detection for a period of five years, he would suffer no liability.

REVOCATION OF PAROLE

Section .290 also requires that the Commissioner prove by "clear and convincing evidence" that a parolee has violated the terms of his parole. This is a higher standard of proof than the courts have adopted in probation and parole revocation cases in Alaska, and is higher than the standard adopted by any other court or paroling agency in this country. The "preponderance of the evidence" standard is more appropriate.

PAROLE ARREST WARRANTS

Section .300 of CSHB 983 (Finance) requires that a parole violation warrant be obtained from a judicial officer. This requirement will unnecessarily tax the already overburdened judicial system. The additional paperwork required from parole officers to secure a judicial would increase their workload and the Alaska Supreme Court has already said this is an unnecessary burden on the parole officers. It is standard procedure in all other states to have a warrant issued by the Board, member of the Board or a corrections staff person.

ADDITIONAL BURDEN ON THE BOARD

Of major concern to the Department would be the increase in "Board member days" spent on Parole Board business as a result of this bill. With the responsibilities outlined in CSHB 983 (Finance), the average number of days spent by each Board member on Board business will increase from the current 45 to 60 days per year, to a minimum of 122 to 137 days per year. Considering there are 251 work days in a year, being a Parole Board member would be a half time job. A full time Board would probably become a necessity in the near future due to the increased workload mandated by CSHB 983.

RECOMMENDATION OF THE DEPARTMENT

The Department recognizes the positive changes to the Parole System that are made by CSHB 983 (Finance), but recommends that further study is necessary in order to fine tune those concepts into a workable Parole System of benefit to the public and the offenders it supervises.

Recommended by: Samuel H. Trivette Date May 22, 1980

Samuel H. Trivette
Executive Director

Approved by: Helen D. Beirne Date 5/22/80

Helen D. Beirne, Commissioner
Department of Health & Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS House Bill No. 983 (Finance)
Title "An Act relating to parole of offenders and continuing the Board of Parole."
Requested by House Judiciary Committee Date May 22, 1980

II. FISCAL DETAIL
Agency Affected Department of Health and Social Sevices
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Adult Confinement & Probation/Community Programs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100	PERSONAL SERVICES		501.9	547.1	596.3	650.0	708.5
200	TRAVEL		26.5	28.9	31.5	34.3	37.3
300	CONTRACTUAL		207.9	226.6	247.0	269.2	293.4
400	COMMODITIES		8.4	9.2	10.0	10.9	11.9
500	EQUIPMENT		14.3	15.6	17.0	18.5	20.2
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		759.0	827.4	901.8	982.9	1,071.3

FUNDING (Thousands of Dollars)

GENERAL FUND		759.0	827.4	901.8	982.9	1,071.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		15	15	15	15	15
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A. Adult Confinement

There will be an increase in out-of-state prisoner care. In-state correctional centers are at optimum capacity, therefore, caseload increases must be accomodated through out-of-state placements.

1. The restriction on changing conditions of parole will result in 10 to 15 revocations of parole. The average length of incarceration is estimated to be sixty days.

15 x 60 x $34.26 = $30,834
Related Travel 15 x $500 = $7,500

Walt Jones for Roger Lange

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Prepared by: Roger C. Lange Date: May 22, 1980
Division/Office: Corrections Ph: 465-3376
Department of Health & Social Services

Approval DHSS Mgt. & Bdgt: _____ Date: _____

33-001 (Rev. 12/79)
Modify by DHSS (11-28-79)

2. The provisions of this bill restricts the imposition of non-association with convicted felons or victims as parole conditions. Therefore, a number of persons who would otherwise be paroled will remain in custody. It is estimated that 7 individuals would not be released from custody each fiscal year to a maximum of twenty-one (21) persons.

FY 1981:	7 x 365 x $34.26 =	$ 87,534
FY 1982:	14 x 365 x $37.34 =	190,807
FY 1983:	21 x 365 x $40.70 =	311,966
FY 1984:	21 x 365 x $44.37 =	340,096
FY 1985	21 x 365 x $48.36 =	370,679

(9% annual increase of the daily rate)

3. Reference to treatment in the bill will result in mandatory provision of services within the correctional centers. The Board of Parole will not release any persons who are a "risk" for committing a subsequent illegal act.

a. Most court-ordered treatment is for alcohol and drug abuse-related offenders. One additional counselor position (Probation Officer II) for eight of the nine correctional centers will be required (Anchorage Annex ommitted).

Eight position posts:

Personal Services	$ 278,200
Travel	4,000
Contractual	8,300
Commodities	5,100
Equipment	7,600
TOTAL	$ 303,200

b. Some court-ordered treatment will have to be purchased from resources in the local community where the correctional center is located. There is no valid methodology to compute this need, so $50,000 for FY 1981 is included as a "best guess".

4. The bill specifies that inmates will have available copies of all materials considered by the Board of Parole. There are approximately 300 cases per year which are considered by the Board of Parole. It is estimated tat each file contains 200 pages of documentation, which would take an average of two (2) years to duplicated at $Ø.05 per page. The cost, therefore, would be:

Clerical time costs (at time and one-half):
300 x 2 x $12.14 = $ 7,285

Duplicating costs:
300 x 200 x $Ø.05 = 3,000
$10,285

B. Probation and Community Programs

1. The provision for "good time" for parolees will require an additional workload increment for the probation/parole staff. A monthly computation of "good time" will be required. It is estimated that 600 reports will have to be written annually. Appearances by the supervisory probation officer at the "good time" hearings will be necessary (600 appearances). Approximately 68 reports will have to be written for early release cases. The manpower needed to accomplish the above itemized tasks is four (4) Probation Officer II's and two (2) Clerk Typist III's and one (1) Probation Officer III.

Position Costs (average):

Personal Services	$ 216,400
Travel	15,000
Contractual	21,000
Commodities	3,300
Equipment	6,700
Total	$ 262,400

C. Except for cost specified for A-2 above, a cost of living index of 9% is applied to all fiscal years over the preceding fiscal year estimates.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS HB 983 (Finance)
Title An Act Relating to parole of offenders; Continuing the Parole Board
Requested by House Judiciary Committee Date May 16, 1980

II. FISCAL DETAIL
Agency Affected Department of Health and Social Sevices
Program Category Affected Administration of Justice
BRU, Program, or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100	PERSONAL SERVICES		27.3	29.8	32.5	34.8	37.2
200	TRAVEL		64.5	74.2	85.3	93.8	103.2
300	CONTRACTUAL		61.8	66.7	72.0	77.8	84.0
400	COMMODITIES		1.0	1.1	1.2	1.3	1.4
500	EQUIPMENT		2.1				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	COMPENSATION		89.7	103.2	115.6	127.2	139.9
	TOTAL		246.4	275.0	306.6	334.9	365.7

FUNDING (Thousands of Dollars)

GENERAL FUND		246.4	275.0	306.6	334.9	365.7
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Prepared by: [signature] Date: 5/22/80
Division/Office: Parole Board PH: 465-3385
Department of Health & Social Services

33-001 (Rev. 12/79)
Modify by DHSS (11-28-79)

Approval DHSS Mgt. & Bdgt: _____ Date: _____

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

SECTION BY SECTION ANALYSIS
P. 1

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS HB 983 (Finance)
Title An Act Relating to parole of offenders; Continuing the Parole Board
Requested by House Judiciary Committee Date May 16, 1980

II. FISCAL DETAIL
Agency Affected Department of Health and Social Sevices
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) FY-81

	SECTIONS	Overall Costs	.010	.020/.030	.050	.080	
100	PERSONAL SERVICES						
200	TRAVEL		14.0	2.8			
300	CONTRACTUAL	30.0	1.5			8.0	
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	COMPENSATION		22.5		28.1		
	TOTAL	30.0	38.0	2.8	28.1	8.0	

FUNDING (Thousands of Dollars)

GENERAL FUND	30.0	38.0	2.8	28.1	8.0	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Prepared by: Samuel H. Trivett Date: May 22, 1980
Division/Office: Parole Board PH: 465-3385
Department of Health & Social Services

33-001 (Rev. 12/79)
Modify by DHSS (11-28-79)

Approval DHSS Mgt. & Bdgt: _____ Date: _____

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

SECTION BY SECTION ANALYSIS
P.2

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS HB 983 (Finance)
Title An Act Relating to parole of offenders; Continuing the Parole Board
Requested by House Judiciary Committee Date May 16, 1980

II. FISCAL DETAIL
Agency Affected Department of Health and Social Sevices
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Parole Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) FY-81

	SECTIONS	.150	.170	.190	.290		TOTALS
100	PERSONAL SERVICES		27.3				27.3
200	TRAVEL	13.1	22.8	2.7	9.1		64.5
300	CONTRACTUAL		22.3				61.8
400	COMMODITIES		1.0				1.0
500	EQUIPMENT		2.1				2.1
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	COMPENSATION	14.5	12.5	1.5	10.6		89.7
	TOTAL	27.6	88.0	4.2	19.7		246.4

FUNDING (Thousands of Dollars)

GENERAL FUND	27.6	88.0	4.2	19.7		246.4
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1				1
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Prepared by: Samuel H. Trivette Date: May 22, 1980
Division/Office: Parole Board Ph: 465-3385
Department of Health & Social Services

33-001 (Rev. 12/79)
Modify by DHSS (11-28-79)

Approval DHSS Mgt. & Bdgt: _____ Date: _____

A. Section .010, Members

Included in this section are funds to cover cost of 2 additional Board members at the quarterly board hearings. Because of their presence at hearings, hearings are lengthened by 12 minutes/hearings adding up to 12 additional days of hearings per year. Some additional zeroxing and more long distance phine calls for new members.

Travel and Per Diem	14.0
Contractual	1.5
Compensation	22.5
	38.0

B. Sections .020 & .C30, Nomination/Selection of Members

Budget one trip to Anchorage, Fairbanks, Bethel, Nome, Kenai, Ketchikan and Sitka to meet with organizations to recruit for Board members, and administer member assessment. One additional 1 day trip to 1 location to do final interviews and train on member responsibilities.

Travel	2.8	x 45% = $3,220

C. Section .050, Compensation

The bill would provide payment to the Board members for any day they are conducting business, including the reading of files, handling board business by phone, as well as hearings.

a) Reading reports-assume 225 cases/year x 3/4 hours per file = 23 "member days". Guess 23 X 7 members = 16.1
b) Phone log shows average of 30 calls/quarter to the office X 4 quarters/year = 120 calls for handling appeals, requests for special hearings, mandatory release conditions, etc. = 12.0

Total	28.1

D. Section .C80, Responsibilities

Cost to rent meeting rooms, advertise, professional recording of hearings, to establish regulation in Alaska Administrative Code (other costs in FY-81 budget). 2.0

Contract with criminal justice research firm to validate and keep parole guidelines research current in order to avoid law suites. 6.0

Total	8.0

F. Section .150, Release Hearings

Current statute allows the Board to conduct interviews of prisoners in the Federal Prison System by one member and then conduct a full hearing in Alaska with all members, with the interviewer presenting all information from the Federal Bureau of Prisons interview. This section requires the prisoner's presence at the hearing and these figures reflect the cost of sending two more members on the twice annual trek to the contract facilities to hold hearings on applicants.

Travel	9.6
Compensation	5.4

This section also requires that all information be made available to parole applicants a minimum of 30 days in advance. Information is frequently not received until the week of hearings, and therefore some hearings will have to be reheard again. Guess that 20% of cases (approximately 300) will be reheard, or 60 hearings/year.

Transportation	3.5
Compensation	9.1
Total Transporation =	13.1
Total Compensation =	14.5

G. Section .170, Good Time

This section mandates the awarding of good time while on parole. Money is included to contract with someone to draft regulations and policy to implement this section, since standards in this area are novel to correctional agencies and no definitions or formats are available to follow. Since parolees generally have more rights than do prisoners, we anticipate establishing the same minimum due process safeguards set forth under current Division of Corrections institutional good time policies. Current Board hearings are taxed to their maximum capacity in terms of time and additional hearing times would be established between quarterly meetings to handle all good time matters (including forfeitures), and any overflow of revocations. This would require the Board to be available at all Division of Corrections Parole Offices twice yearly to handle cases in the outlying areas. Assuming only 5 members and 1 staff person, the costs would be:

Transportation and Per Diem	22.8
Compensation	12.5
Contractual (regulations)	3.6

One Administrative Assistant would be hired to keep up with the complex record keeping system, handle increased flow of reports from parole officers, and oversee the operation of the office in the absense of the professional staff (due to their greatly-increased traveling). This position is necessitated by this section as well as the additional work load brought about by Sections .010, .020, .080, .190, and .290.

Personnel	27.3
Equipment	2.1
Commodities	1.0

There is no space available in the Parole Board office or in the Department of Health and Social Services building for more staff or for additional space for files, and space will have to be leased from the private sector. Proposed to rent 1200 square feet at $1.30 per square foot.

Contractual	18.7

H. Section .190, Change in Conditions

Due to the very cumbersome nature of this section and since there is often the need for the parole officer to intervene in a case on short notice to enable the parolee to remain in the community and to protect the public, it is anticipated that in approximately 15 cases/year a parole officer will have a parolee arrested to expedite the condition change process. This will of course require an additional 15 preliminary revocation hearings.

Transportation (7 hearings only)	1.8
Per Diem	.9
Compensation	[illegible]
	.4

I. Section .290, Revocation Hearings

The "clear and convincing evidence" test will result in a representative from the District Attorney's office presenting most of the cases for the Division of Corrections, as is done in probation revocation cases now. Assume District Attorney's will be present in 3/4 cases (27) which will result in a doubling in the length of the hearing time in those cases resulting in 14 additional "board days per year".

Per Diem	7.6
Compensation	9.8

Due to the 30 day requirement for information to be dispursed to parolees before preliminary hearings, anticipate rescheduling 8 hearings because of requests for continuances at the original hearings.

Per Diem and Transportation	1.5
Compensation	.8
Total Per Diem & Transportation	9.1
Total Compensation	10.6

J. Overall Costs

This bill will greatly increase the record - keeping responsibilities of the Board. It will be necessary to collect and maintain various kinds of data on all corrections clients that is not currently being kept. Because of the volume and variety of information to be kept, automation appears reasonable. We will contract with a computer firm to write the appropriate programs, set up and maintian the necessary reports for the Board. A criminal justice researcher familiar with the requirements of this bill and with the Board, advises that $30,000 would minimally be required to handle the tasks. The Department has been unable to meet our current data needs and I am sure the additional work will be outside their capabilities, and this is why we would propose to contract for the services.

Contractual	30.0

[illegible]

K. Assumption for FY 82 Through FY 85

a) Personnel = 9% in FY 82 and FY 83; 7% thereafter.
b) Travel = 15% in FY 82 and FY 83; 10% thereafter.
c) Compensation = Consumer Price Index will increase by 15% in FY 82; 12% in FY 83; 10% in FY 84 and FY 85.
d) Contractual = 8%.
e) Commodities = 8%.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS House Bill No. 983
Title "An Act relating to parole of offenders and continuing the Board of Parole."
Requested by House Judiciary Committee Date April 21, 1980

II. FISCAL DETAIL
Agency Affected Department of Health and Social Sevices
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Adult Confinement & Probation/Community Programs
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EXPENDITURES (Thousands of Dollars)

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100	PERSONAL SERVICES		562.3	612.9	668.0	728.2	793.7
200	TRAVEL		36.5	39.8	43.4	47.3	51.5
300	CONTRACTUAL		224.3	339.9	474.6	517.3	563.9
400	COMMODITIES		11.0	12.0	13.1	14.2	15.5
500	EQUIPMENT		19.7	-0-	-0-	-0-	-0-
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		853.8	1004.6	1199.1	1307.0	1424.6

FUNDING (Thousands of Dollars)

GENERAL FUND		853.8	1004.6	1199.1	1307.0	1424.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		17	17	17	17	17
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A. Adult Confinement

There will be an increase in out-of-state prisoner care. In-state correctional centers are at optimum capacity, therefore, caseload increases must be accommodated through out-of-state placements.

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Roger C. Lange

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Prepared by: Roger C. Lange Date: 04/23/80
Division/Office: Corrections PH: 465-3376
Department of Health & Social Services

33-001 (Rev. 12/79)
Modify by DHSS (11-28-79)

Approval DHSS Mgt. & Bdgt: _____ Date: _____

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TOTAL	303,200

b. Some court-ordered treatment will have to be purchased from resources in the local community where the correctional center is located. There is no valid methodology to compute this need, so $50,000 for FY 1981 is included as a "best guess."

4. The bill specifies that inmates will have available copies of all materials considered by the Board of Parole. There are approximately 300 cases per year which are considered by the Board of Parole. It is estimated that each file contains 200 pages of documentation, which would take an average of two (2) years to duplicate at $0.05 per page. The cost, therefore, would be:

Clerical time costs (at time and one-half):
300 x 2 x $12.14 = $ 7,285

Duplicating costs:
300 x 200 x $0.05 = 3,000
$10,285

B. Probation and Community Programs

1. The provision for "good time" for parolees will require an additional workload increment for the probation/parole staff. A monthly computation of "good time" will be required. It is estimated that 600 reports will have to be written annually. Appearances by the supervisory probation officer at the "good time" hearings will be necessary (600 appearances). Approximately 68 reports will have to be written for early release cases. The manpower needed to accomplish the above itemized tasks is four (4) Probation Officer II's and one (1) Clerk Typist III.

Position costs (average):

Personal Services	$ 155,900
Travel	15,000
Contractual	21,000
Commodities	3,300
Equipment	6,700
TOTAL	$ 201,900

2. Section 100 C requires that all offenders released from custody with any "good time" must be on parole for the duration of the "good time" earned. The additional persons requiring supervision cannot be absorbed by the existing probation staff. It is estimated that two (2) full-time Probation Officer II's would be required to supervise the approximate 175 offenders which are released annually. The period of supervision will range from 1 to 180 days, as offenders released under current law with more than 180 days of "good time" require supervision. One Probation Officer III would be required to supervise the six (6) Probation Officer II's identified, and one additional Clerk-Typist would be required to type the heavy volume of reports generated by probation officers.

Personal Services	$120,900
Travel	10,000
Contractural	16,400
Commodities	2,600
Equipment	5,400
TOTAL	$155,300

C. Except for cost specified for A-2 above, a cost of living index of 9% is applied to all fiscal years over the preceding fiscal year estimates.

FISCAL NOTE

HB 293

REST
Resolution No. HOUSE BILL NO 293
re Parole System relating to Correctional Facilities
equested by _____ Date March 6, 1981

I. FISCAL DETAIL
Agency Affected Department of Health & Social Services
Program Category Affected Offender Confinement, Reformation and Supervision
BRU, Program, or Subprogram(s) Affected Adult Confinement; Probation and Community Programs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		610.2	665.1	725.0	790.2	861.3
200 TRAVEL		30.8	33.6	36.6	39.9	43.5
300 CONTRACTUAL		1,661.6	1,811.1	1,974.1	2,151.8	2,345.5
400 COMMODITIES		11.1	12.1	13.2	14.4	15.7
500 EQUIPMENT		46.2	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		20.0	21.8	23.8	25.9	28.2
TOTAL	-0-	2,379.9	2,543.7	2,772.7	3,022.2	3,294.2

FUNDING (Thousands of Dollars)

GENERAL FUND		2,379.9	2,543.7	2,772.7	3,022.2	3,294.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	17	17	17	17	17
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Continuing analysis may require revision of this fiscal note.

The coocept represented by the bill places great reliance on community-based correctional programs as a means of off-setting the effect of there no looger being a discretionary parole function. This is a valid notion, provided we avoid placing people on extended furloughs in lieu of releasing them on parole and providing the Division of Adult Corrections is able to continue to utilizing sound practices in administering its community-based correctional programs. This involves placing careful time limitations on the community phases of the correctional continuum.

IV. DATE March 6, 1981 PREPARED BY Roger C. Lange
AGENCY Department of Health & Social Services
PHONE 465-3376

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

HB
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The Division of Adult Corrections can significantly increase the number of offenders in community programs without resorting to unproven, questionable practices, but to do so will require a significant increase in resources.

It is estimated that within two years we will be able to have 150 persons on some type of furlough status, or about 100 more than are presently in furlough placement. The probation/parole unit has been given the responsibility to supervise and provide resources to the persons placed on furlough. The workload standards, for the most part, will have to be changed for the investigation, reporting and supervision portion of the job because employees will be dealing with inmates, rather than just probationers and parolees. Inmates on furlough will require more scrutiny and resources, at least during the initial phase of release, than probationers and parolees, generally speaking, in order to help ensure community protection.

In order to provide the increased services, the Probation and Community Based BRU will need the following positions.

FY '82

Position	Location	Utilization	Cost
1 P.O. II	Ketchikan	Investigation, supervision & arrange services	$46,424
1 P.O. II	Juneau	Investigation, Supervision	$45,424
1 S.W. III	Juneau	Arrange services, & supervises Center	$43,124
2 P.O. II's	Anchorage	Investigations, Supervision	$98,848
1 Com. Couns.	Anchorage	Arrange services	$38,767
1 C.T. III	Anchorage	Clerical support	$29,300
1 P.O. II	Fairbanks	Investigation, Supervision	$58,662
1 Com. Couns.	Fairbanks	Arrange services	$43,324
1 C.T. III	Fairbanks	Clerical support	$32,000
1 P.O. II	Bethel	Investigations, Supervision, Arrange services	$59,236
1 P.O. II	Nome	Investigation, Supervision, Arrange services	$59,236
	Total position cost	(includes equipment, office space, etc.)	$554,345

In addition, approximately 100 more community program beds will be utilized at estimated cost of $1,620,000.

It will also be necessary to provide additional staff to prepare all pre-parole hearing reports. It is assumed that all inmates cases must be reviewed so that the inmate could be seen within a two year period. In order to accomplish this additional increment of activity, it is estimated that five new Institutional Counselor positions (Probation Officer II classification) will be needed. The location and costs are, as follows:

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Position	Location	Cost - FY 1982
1 P.O. II	Anchorage Central Office (Federal Bureau of Prisons inmates)	$39,664
1 P.O. II	Eagle River	$39,664
1 P.O. II	Palmer	$40,996
1 P.O. II	Fairbanks	$45,202
1 P.O. II	Juneau	$39,964
	Total Position cost (includes equipment, office space, etc.)	$205,490

It is assumed that there will be a constant 9% inflation rate through FY 1986. This percentage was applied to the applicable FY 1982 costs in computing subsequent fiscal year estimates.

(11) Persons confined in "Compact Institutions" under the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "Compact Institution" for transfer to a prison or other correctional institution within the sending state, for return to probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state.

(12) All persons who may be confined in a "Compact Institution" under the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of incarceration or reincarceration in a receiving state shall not deprive any person so incarcerated or reincarcerated of any rights which said person would have had if incarcerated or reincarcerated in an appropriate institution of the sending state; nor shall any agreement to submit to incarceration or reincarceration under the terms of this amendment be construed as a waiver of any rights which the prisoner would have had if he had been incarcerated or reincarcerated in any appropriate institution of the sending state, except that the hearing or hearings, if any, to which a parolee or probationer may be entitled (before incarceration or reincarceration) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(13) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves. (§ 2 ch 138 SLA 1957; am § 1 ch 106 SLA 1960)

ALR reference. — Validity of probation on condition of leaving state of locality, 70 ALR 100.

Sec. 33.10.020. Definition. As used in this chapter the term "state" means the several states and the Commonwealth of Puerto Rico, the Virgin Islands and the District of Columbia. (§ 1 ch 138 SLA 1957)

Chapter 15. Parole Administration Act.

Sec. 33.15.010. State board of parole. There is in the department a board of parole consisting of five members to be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. One of the members, who shall be chairman of the board, shall be a person with training or experience in the field of probation and parole, and he may be an official or employee of the department but may not be an official or employee of the division of corrections. The term of each of the other four members of the board is four years and until his successor is appointed and qualifies. Successors are appointed in the same manner as provided for the board members first appointed. A vacancy shall be filled for the unexpired term. (§ 2 ch 81 SLA 1960; am § 1 ch 5 SLA 1964; am § 1 ch 106 SLA 1968; am § 3 ch 107 SLA 1969; am § 48 ch 32 SLA 1971)

Effect of amendment. — The 1971 amendment substituted "division of corrections" for "youth and adult authority" in the second sentence.

Legislative committee reports. — For legislative committee report on ch. 106, SLA 1968 (CSHB 465), see 1968 House Journal, p. 515. For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

Cited in Bear v. State, Sup. Ct. Op. No. 470 (File No. 813), 439 P.2d 432 (1968).

Am. Jur., ALR and C.J.S. references. — 15 Am. Jur., Criminal Law, §§ 443, 459, 498, 499, 529; 39 Am. Jur., Pardon, Reprieve and Amnesty, §§ 80 to 95.

Statute conferring power upon administrative body in respect to parole of prisoners or discharge of parolees, as unconstitutional infringement of power of executive, 14 ALR 1488.

24 C.J.S. Criminal Law §§ 1571, 1582, 1618; 67 C.J.S. Pardon § 1 et seq.

Sec. 33.15.015. Executive director. The board shall hire an executive director who has training and experience in the field of probation and parole. The executive director shall serve as the executive officer for the board in the accomplishment of its functions. He shall serve the board at the pleasure of the governor. (§ 1 ch 30 SLA 1972)

Sec. 33.15.020. Compensation and expenses. The members of the board, other than the chairman, shall not receive salaries but are entitled to compensation per day at an amount to be set by the governor for every day they are in session, and per diem and travel allowance as provided by law. The chairman is not entitled to a salary or compensation for days he attends a session of the board, but is

entitled to a per diem allowance and travel costs as provided by law. (§ 2 ch 81 SLA 1960)

Sec. 33.15.030. Governor to advise of duties and call board meeting. Upon appointment, the governor shall advise those appointed of their duties under this chapter and shall, as soon as practicable, call the first meeting of the members of the board. (§ 2 ch 81 SLA 1960)

Sec. 33.15.040. Payment of board expenses. The necessary expenses of the board shall be paid by appropriation made to the department. (§ 2 ch 81 SLA 1960)

Sec 33.15.050. Duty of board to consider those eligible for parole. The board shall consider all prisoners serving sentences who may be eligible for parole. (§ 3 ch 81 SLA 1960)

Sec. 33.15.060. Considerations in determining eligibility for parole. In considering a prisoner, the board shall consider the presentence report made to the sentencing court, the recommendations by the sentencing court and the prosecuting attorney, the report from the proper officers of the institution where the prisoner is incarcerated, the record of the prisoner and all pertinent information that will enable the board to make a determination. (§ 3 ch 81 SLA 1960)

Sec. 33.15.070. Order for parole. An order for parole shall contain the conditions imposed, including the fixing of the parolee's residence, which may be changed in the discretion of the board. (§ 3 ch 81 SLA 1960)

Sec. 33.15.080. Granting of parole. If it appears to the board from a review that a prisoner eligible for parole will, in reasonable probability, live and remain at liberty without violating the laws, or without violating the conditions imposed by the board, and if the board determines that his release on parole is not incompatible with the welfare of society, the board may authorize the release of the prisoner on parole. However, no prisoner may be released on parole who has not served at least one-third of the period of confinement to which he has been sentenced, or in the case of a life sentence, has not served at least 15 years. (§ 3 ch 81 SLA 1960; am § 1 ch 110 SLA 1974)

Effect of amendment. — The 1974 amendment added the second sentence.

Sec. 33.15.090. Revocation of parole. The board may revoke the parole granted to a prisoner for violation of a law or ordinance, or condition imposed by the board. (§ 3 ch 81 SLA 1960)

Sec. 33.15.100. Adoption of rules and holding of meetings. The board shall adopt rules which it considers necessary or proper with respect to the eligibility of prisoners for parole, the conduct of parole hearings, and conditions of release to be imposed on parolees. The

board shall meet as often as it finds necessary, but it shall meet at least twice each year. Three members constitute a quorum for the conduct of business. (§ 3 ch 81 SLA 1960; am § 2 ch 5 SLA 1964)

No rules promulgated by the parole board regarding eligibility of prisoners for parole have been brought to the attention of the supreme court. Robinson v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 686 (1971).

Rules should be adopted as soon as practicable. — Concerning sentencing, sentence appeals, and parole matters in general, the supreme court believes it would be of benefit to all concerned if, as soon as practicable, the parole board, in conformity with this section, adopted rules regarding eligibility of prisoners for parole, the conduct of parole hearings, and conditions of release to be imposed on parolees. Robinson v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 686 (1971).

The question of when a prisoner is eligible for parole when consecutive sentences are imposed is of considerable significance not only to the prisoner and the state, but also to the supreme court in carrying out its sentence review functions. If, under present practices and policies of the parole board, the accused is ineligible for parole until he has served all of an initial seven-year sentence and some portion of a consecutive sentence, then the supreme court would view the consecutive sentence as excessive and contradictory of the goal of rehabilitation in the administration of our system of criminal justice. Robinson v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 686 (1971).

Sec. 33.15.110. Authority of board to issue process. The board may issue subpoenas and subpoenas duces tecum, and may issue warrants to retake a parole violator. (§ 3 ch 81 SLA 1960)

Sec. 33.15.120. Board may release prisoners to answer process. If a court of this state, another state, or the United States, or other authority issues a warrant charging a prisoner with a crime, the board may release the prisoner on parole to answer the warrant. (§ 3 ch 81 SLA 1960)

Sec. 33.15.130. Orders, records, and annual report. (a) If three members of the board are present at a meeting, all decisions of the board shall receive not less than two affirmative votes. If more than three members are present at the meeting, all decisions shall receive not less than three affirmative votes.

(b) The board shall keep a record of its acts and shall notify the commissioner of its decisions relating to prisoners considered for parole. At the close of each fiscal year the board shall submit to the governor, the commissioner, and the attorney general, a report containing statistical and other data of its work, including research studies which it may make of probation, sentencing, parole or related functions, and a computation and analysis of dispositions in criminal matters by the courts in the state. (§ 4 ch 81 SLA 1960; am § 3 ch 5 SLA 1964)

Sec. 33.15.140. Protection of records. The pre-parole reports submitted to the board are privileged and shall not be disclosed to anyone other than the board, the sentencing judge, the prosecuting attorney, or others entitled under this chapter to receive the information. However, the board or court may permit a prisoner, his

attorney, or other person having a proper interest in it to inspect the report or a part of it when the best interest or welfare of the prisoner makes it desirable or necessary. (§ 5 ch 81 SLA 1960)

Sec. 33.15.150. Duties of the commissioner. The commissioner is charged with the administrative duties and responsibilities necessary to

(1) conduct investigations of prisoners eligible for parole as the board requests;

(2) supervise the conduct of parolees and institute programs for reform and rehabilitation of parolees as the board requests;

(3) appoint and assign parole officers and personnel to the judicial districts in the state and to train and supervise parole officers and personnel;

(4) keep records, files and accounts as the board requests. (§ 6 ch 81 SLA 1960)

Sec. 33.15.160. Delegation of duties to executive director. The commissioner may delegate all or part of the administrative duties and responsibilities specified in § 150 of this chapter to the executive director of the board. (§ 6 ch 81 SLA 1960; am § 2 ch 30 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "executive director" for "chairman."

Sec. 33.15.170. Commissioner may assign duties of probation officers to parole officers. The commissioner may assign the duties of probation officers as provided in the Probation Administration Act to personnel appointed under § 150 (3) of this chapter. (§ 6 ch 81 SLA 1960)

Sec. 33.15.180. Persons eligible for parole. A state prisoner other than a juvenile delinquent, wherever confined and serving a definite term of over 180 days or a term the minimum of which is at least 181 days, whose record shows that he has observed the rules of the institution in which he is confined, may, in the discretion of the board, be released on parole, subject to the limitation prescribed in §§ 80 and 230 (a) (1) of this chapter. (§ 7 ch 81 SLA 1960; am § 34 ch 43 SLA 1964; am § 9 ch 68 SLA 1965; am § 2 ch 110 SLA 1974)

Effect of amendment. — The 1974 amendment added "subject to limitation prescribed in §§ 80 and 230 (a) (1) of this chapter" to the end of the section.

Chapter 43, SLA 1964, inapplicable to offense committed before October 1, 1964. — See 1964 Op. Att'y Gen., No. 8.

Quoted in Faulkner v. State, Sup. Ct. Op. No. 506 (File No. 885), 445 P.2d 815 (1968); Robinson v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 686 (1971).

Sec. 33.15.190. Release and terms and conditions of release. The board may permit a parolee to return to his home if it is in the state, or to go elsewhere in the state, upon such terms and conditions, including personal reports from the paroled person as the board prescribes. The board may permit the parolee to go into another state upon terms and

conditions as the board prescribes, and subject to the provisions of any compact executed under the authority of ch. 10 of this title and amendments to it. A prisoner released on parole remains in the legal custody of the board until the expiration of the maximum term or terms to which he was sentenced, less good time allowances provided by law. While in the custody of the board, a person is subject to the disabilities imposed by AS 11.05.070. (§ 8 ch 81 SLA 1960)

Section held unconstitutional. — This section, insofar as it suspends, in conjunction with AS 11.05.070, the access of parolees to civil courts, violates the due process clauses of the Alaska and United States constitutions. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

AS 11.05.070 and this section combine to deny a parolee the right to initiate civil suit; but such denial of access to the civil courts is a violation of due process and equal protection provisions of the Alaska and United States constitutions. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

A parolee denied access to the judicial process by reason of his custodial status is thereby condemned to suffer a grievous loss of property rights protected by the due process clause of the 14th amendment of the United States Constitution. The supreme court would reach an identical result in interpreting the due process provisions of the Alaska Constitution alone. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

The state, by this section and 11.05.070, denies parolees the right of access to the civil courts possessed by other persons. The state interest in denying parolees this right satisfies neither the "compelling state interest" test applied when a "fundamental right" is at stake, nor the traditional, more lenient "rational basis" test otherwise applicable. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

Since there is neither a "compelling state interest" nor a "rational basis" for the state's denial to parolees of the right to initiate civil actions, this section denies parolees the "equal protection of the laws," in violation of the Alaska and United States constitutions. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

Although the state has a legitimate interest in restricting some activities of parolees, prohibiting a parolee from initiating civil actions has no logical connection with such an interest. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

The administration of a parole system differs so substantially from the administration of a prison that the reasons for denying convicts while imprisoned access to civil courts cannot logically support the "civil death" of parolees. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

The only pertinent interest is preventing behavior which is detrimental to the restoration of a parolee into normal society. Since the parolee is no longer incarcerated, there is no justification based on the furthering of smooth penal administration. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

The parolee's ability to avail himself of the civil judicial process in order to vindicate his rights and protect his property interests in fact furthers, rather than restricts, the parolee's constructive development and restoration into normal society. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

Since this section and AS 11.05.070 deny parolees right to initiate civil suit. — In light of the absence of indications of legislative intent to distinguish the use of "the civil rights" in AS 11.05.070 from "all civil rights," and the strong common law authority holding that convicts are denied civil access to the courts, the supreme court held that AS 11.05.070 and this section combine to deny parolees the right to initiate civil suit. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

AS 11.05.070 and this section when read together clearly indicate that a parolee's civil rights, similar to those of a prisoner, remain suspended during the time he is in the custody of the parole board. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

This section expressly states that a parolee is subject to the disabilities imposed by AS 11.05.070. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

The right to initiate civil suit is a right suspended by AS 11.05.070, and under this section, parolees—similar to convicts—are subject to this disability. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

The bar to access to the civil courts is absolute and no ameliorative device exists. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

Property rights impaired by depriving parolee access to courts. — See Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

Supreme court not impeded by narrower United States supreme court holding. — Finding that "civil death" of parolees violates the spirit and intention of the Alaska Constitution, the supreme court would not be impeded in its constitutional progress by a narrower holding of the United States supreme court. Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

Holding in Bush v. Reid to be applied prospectively. — The holding in Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973), is to be applied prospectively, not retroactively. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

After December 14, 1973, the date of the opinion in Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973), time spent on parole shall not toll the statute of limitations, provided however, that any person on parole as of that date shall, in any event, have one year from that date within which to bring an action. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

If the supreme court were to give retroactive effect to its holding in Bush v. Reid, Sup. Ct. Op. No. 973 (File No. 1841) 516 P.2d 1215 (1973), the statute of limitations would have begun to run upon a parolee's release on parole in 1969, but under the wording of the statutes then in effect, a parolee had no right to bring suit during the time he was on parole. Thus, a parolee might totally lose his right to bring a civil suit, rather than having that right merely suspended during time of sentence. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

For example, if the time of parole was longer than two years, the statute of limitations would bar any action; and the combination of AS 11.05.070 and this section would have prevented filing at any point before release from parole. Such a result would be inconsistent with the legislative intent to suspend, not abolish, the exercise of civil rights while imprisoned or on parole, and would result in violation of due process. State v. McCracken, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

Sec. 33.15.200. Retaking of parole violator. A warrant for the retaking of a state prisoner who violates his parole may be issued only by the board or a member of it and the warrant shall issue within the maximum term or terms to which the parolee was sentenced. A parole violator may be retaken with or without a warrant for violation of a term of parole. The unexpired term of imprisonment of the parolee shall be served and begins to run from the date he is returned to the custody of the commissioner under the warrant, and the time the prisoner was at liberty on parole does not diminish the time he was sentenced to serve. (§ 9 ch 81 SLA 1960)

ALR references. — Parole as suspending running of sentence, 28 ALR 947.

Right to notice and hearing before revocation of parole or conditional pardon, 54 ALR 1474; 132 ALR 1254; 29 ALR2d 1074.

Extradition of paroled convict, 78 ALR 422.

Sentence for new offense committed while accused was at large on parole or conditional release, as concurrent or consecutive, 116 ALR 811.

Sec. 33.15.210. Execution of warrant to retake parole violator. A parole officer or an officer of a state prison facility, or a prison facility made available to the state under contract, or a peace officer

authorized to serve criminal process in the state shall execute the warrant by taking the prisoner and confining him in a prison facility designated by the commissioner. A parolee who violates his parole may be retaken by a parole officer without a warrant and returned to the prison facility designated by him. (§ 10 ch 81 SLA 1960)

Sec. 33.15.220. Revocation upon retaking parolee. (a) Upon the retaking of a parolee, a peace officer making the arrest shall notify the parole officer. The parole officer upon making the arrest, or being notified by a peace officer of an arrest, shall immediately notify the board, or a member of the board. If the retaking is without a warrant, the parole officer shall submit to the board, or a member of it, a report in writing indicating in what manner the parolee violated the terms and conditions of his parole. The board shall have the parolee brought before it without unreasonable delay for a hearing on the violation charged, under such rules as the board adopts. If the violation is established, the board may then, or at any time within its discretion, revoke the order of parole and terminate the parole or change the terms and conditions of parole, or impose additional conditions. The parolee may waive the hearing provided for in this section.

(b) If parole is revoked and terminated, the prisoner is subject to serve the remainder of the term to which he was sentenced as provided in § 200 of this chapter. The board may require the prisoner to serve only a part of the term to which he was sentenced. If the board does not terminate all or part of the parole, the parolee shall be released from confinement and continue on parole under the terms and conditions the board prescribes. (§ 11 ch 81 SLA 1960)

Sec. 33.15.230. Fixing eligibility for parole at time of sentencing. (a) Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interests of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may

(1) designate in the sentence of imprisonment imposed a minimum term at the expiration of which the prisoner is eligible for parole, which term shall be at least one-third of the maximum sentence imposed by the court; or

(2) fix the maximum sentence of imprisonment to be served, in which case the court may specify that the prisoner is eligible for parole at the time the board determines.

(b) Upon commitment of a prisoner sentenced to imprisonment under (a) of this section, the commissioner, under such regulations as the board prescribes, shall have a complete study made of the prisoner and shall furnish to the board a summary report together with any recommendations which, in his opinion, would be helpful in determining the suitability of the prisoner for parole. This report may include, but shall not be limited to, data regarding the prisoner's

previous delinquency or criminal experience, circumstances of his social background, his capabilities, his mental and physical health, and such other factors considered pertinent. The board may make such other investigation as it considers necessary.

(c) Parole officers and government bureaus and agencies shall furnish the board information concerning the prisoner, and, whenever not incompatible with the public interest, their views and recommendations with respect to the parole disposition of his case.

(d) The board may adopt rules and regulations for the supervision, discharge from supervision, or recommitment of paroled prisoners. (§ 12 ch 81 SLA 1960; § 35 ch 43 SLA 1964; § 10 ch 68 SLA 1965; am § 3 ch 110 SLA 1974)

Effect of amendment. — The 1974 amendment substituted "shall be at least" for "may be less than, but shall not be more than" in paragraph (1) of subsection (a).

Editor's note. — Former AS 33.15.230 was repealed by ch. 43, § 35, SLA 1964. Present AS 33.15.230 was added by ch. 68, § 10, SLA 1965 and contains the identical language of the original section.

Denial of eligibility for parole is illegal under this section. Sonnier v. State, Sup. Ct. Op. No. 685 (File No. 1332), 483 P.2d 1003 (1971).

Sentence providing for eligibility for parole only after one-third of 10-year sentence served. — Where the trial judge imposed a sentence of 10 years in prison for rape with the provision that defendant would not be eligible for parole until he had served a full one-third of that sentence, and the transcript revealed that the judge imposed the sentence he did for the purposes of reaffirmation, deterrence, and protection, but not for rehabilitation, the supreme court concluded on the basis of the judge's comments that proper factors were considered and that the judge had a reasoned basis for the sentence imposed. Gordon v. State, Sup. Ct. Op. No. 831 (File No. 1537), 501 P.2d 772 (1972).

Applied in Gallard v. State, Sup. Ct. Op. No. 794 (File No. 1606), 497 P.2d 93 (1972); Newsom v. State, Sup. Ct. Op. No. 909 (File No. 1726), 512 P.2d 557 (1973).

Quoted in Faulkner v. State, Sup. Ct. Op. No. 567 (File No. 885), 445 P.2d 815 (1968); Robinson v. State, Sup. Ct. Op. No. 691 (File No. 1344), 484 P.2d 686 (1971).

Sec. 33.15.240. Applicability to persons on parole or incarcerated. This chapter applies to all persons convicted and sentenced in the superior court and the district courts of this state, and to all persons convicted of a crime punishable under laws enacted by the Alaska Territorial Legislature who were convicted and sentenced before Alaska became a state or before the Alaska state court system was in operation. (§ 13 ch 81 SLA 1960; am § 1 ch 38 SLA 1961; am § 3 ch 24 SLA 1966)

The state parole board has no jurisdiction to hear parole hearings of prisoners convicted under territorial law prior to statehood who are confined in federal penitentiaries. Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963). See also Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964).

Nor has supreme court jurisdiction to hear petition for writ of habeas corpus. — Until some federal court determines that federal authorities are unlawfully exercising their parole authority over a prisoner convicted under Alaska territorial law prior to statehood, whose case has been finally determined, or until such time as the federal authorities relinquish jurisdiction over him, the supreme court has no jurisdiction to hear or consider such prisoner's petition for a writ of habeas corpus. Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

As such prisoners are subject to sole jurisdiction of United States parole board. — A federal prisoner is subject to the sole jurisdiction of the United States

parole board, and therefore not entitled to a parole hearing before the Alaska parole board. Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

State courts generally have no power to require a federal jailer to produce a federal prisoner, and federal authorities would or should honor a writ directed to it or any of its officials only if the petitioner is not exclusively a federal prisoner. Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

There is no law enacted by Congress, nor has the federal government entered into an agreement with the state, transferring jurisdiction over prisoners convicted, whose cases, under territorial statute, were finally determined prior to statehood, to the state parole board. Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

In the absence of some directive from the legislature of the territory of Alaska imposing a duty upon the parole board to assume jurisdiction over applications for parole of prisoners convicted under territorial law prior to statehood whose cases had been finally determined, the supreme court has no jurisdiction, since the Statehood Act, §§ 13, 14, 15, 16, 17, and 18, apply only to the judicial branch of the government and not to the executive, and the parole board is, without question, a branch of the executive department of the government. Moody v. State, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964). See also Moody v. State, 1 Alas. L.J. No. 12, p. 7 (Dec., 1963).

Sec. 33.15.250. Administrative Procedure Act inapplicable. The Administrative Procedure Act (AS 44.62) does not apply to this chapter. (§ 14 ch 81 SLA 1960)

Sec. 33.15.260. Definitions. In this chapter

(1) "board" means the Board of Parole;

(2) "commissioner" means the commissioner of the Department of Health and Social Services or his designee;

(3) "parole" means the release of a prisoner to the community by the parole board before the expiration of his term, subject to conditions imposed by the board and subject to its supervision.

(4) "department" means the Department of Health and Social Services. (§ 1 ch 81 SLA 1960; am § 6 ch 104 SLA 1971)

Effect of amendment. — The 1971 amendment substituted "Department of Health and Social Services" for "Department of Health and Welfare" in paragraphs (2) and (4).

Sec. 33.15.270. Short title. This chapter may be cited as the Parole Administration Act. (§ 15 ch 81 SLA 1960)

Cited in Bear v. State, Sup. Ct. Op. No. 470 (File No. 813), 439 P.2d 432 (1968).

Chapter 20. Pardons and Paroles.

Article

1. Remission of Sentences (§§ 33.20.010—33.20.060)
2. Power of Governor to Grant Pardons, Commutations and Reprieves (§§ 33.20.070—33.20.080)

Article 1. Remission of Sentences.

Sec. 33.20.010. Computation generally. (a) Each prisoner convicted of an offense against the state and confined in a penal or correctional institution for a definite term other than for life, whose record of conduct shows that he has faithfully observed all the rules and has not been subject to punishment, is entitled to a deduction from the term of his sentence beginning with the day on which the sentence starts to run, as follows:

(1) five days for each month, if the sentence is not less than six months and not more than one year;

(2) six days for each month, if the sentence is more than one year and less than three years;

(3) seven days for each month, if the sentence is not less than three years and less than five years;

(4) eight days for each month, if the sentence is not less than five years and less than ten years;

(5) ten days for each month, if the sentence is ten years or more.

(b) When two or more consecutive sentences are served, the basis upon which the deduction is computed is the aggregate of the several sentences. (§ 1 ch 107 SLA 1960)

Cited in Bear v. State, Sup. Ct. Op. No. 470 (File No. 813), 439 P.2d 432 (1968).

Am. Jur., ALR and C.J.S. references. — 15 Am. Jur., Criminal Law, §§ 443, 459, 520; 39 Am. Jur., Pardon, Reprieve and Amnesty, §§ 81 to 95.

Parole as suspending running of sentence, 27 ALR 447.

Withdrawal, modification or denial of good time allowance to prisoner, 127 ALR 1203.

24 C.J.S. Criminal Law § 1582.

Sec. 33.20.020. Good time. (a) A prisoner may, in the discretion of the commissioner of health and social services or his designee, be allowed a deduction from his sentence of not to exceed three days for each month of actual employment in a prison or camp project or activity for the first year or any part of it, and not to exceed five days for each month of any succeeding year or part of it.

(b) In the discretion of the commissioner the same allowance may also be made to a prisoner performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations.

(c) The allowance is in addition to commutation of time for good conduct, and under the same terms and conditions and without regard to length of sentence. (§ 2 ch 107 SLA 1960; am § 4 ch 104 SLA 1971)

Effect of amendment. — The 1971 amendment substituted "commissioner of health and social services" for "commissioner of health and welfare" in subsection (a).

Use of prisoners on public works projects. — A program authorizing the use of state prisoners on a voluntary basis on governmental public works projects is proper under the statutes. 1960 Op. Att'y Gen., No. 22.

Sec. 33.20.030. Discharge. A prisoner shall be released at the expiration of his term of sentence less the time deducted for good conduct. A certificate of deduction shall be entered on the commitment by the warden, keeper, or the commissioner. (§ 3 ch 107 SLA 1960)

Sec. 33.20.040. Released prisoner as parolee. (a) A prisoner serving the term or terms for which he was sentenced less good time deductions shall be released unconditionally if there remains less than 180 days to serve under his sentence. If there remains more than 180 days to serve under his sentence a prisoner, upon release, shall be considered as if released on parole until the expiration of the maximum term or terms for which he was sentenced less 180 days.

(b) This section does not prevent delivery of a prisoner to the authorities of a state or the United States entitled to his custody. (§ 4 ch 107 SLA 1960)

Sec. 33.20.050. Forfeiture for offense. If during the term of imprisonment a prisoner commits an offense or violates the rules of the institution, all or any part of his earned good time may be forfeited. (§ 5 ch 107 SLA 1960)

ALR and C.J.S. references. — Withdrawal, modification or denial of good time allowance to prisoner, 127 ALR 1203.

72 C.J.S. Prisons § 21.

Sec. 33.20.060. Restoration of lost good time. The commissioner may restore forfeited or lost good time or such portion of it which he considers proper upon recommendation of the keeper or person in charge of the penal or correctional institution in which the prisoner is incarcerated. (§ 6 ch 107 SLA 1960)

Cited in Bear v. State, Sup. Ct. Op. No. 470 (File No. 813), 439 P.2d 432 (1968).

ALR and C.J.S. references. — Right to credit for time served under erroneous or void sentence or invalid judgment of conviction necessitating new trial, 35 ALR2d 1283.

72 C.J.S. Prisons § 21.

Article 2. Power of Governor to Grant Pardons, Commutations and Reprieves.

Sec. 33.20.070. Governor may grant pardons, commutations and reprieves. The governor may grant pardons, commutations of sentence, and reprieves, and suspend and remit fines and forfeitures in whole or part for offenses against the laws of the State of Alaska or the Territory of Alaska. (§ 1 ch 16 SLA 1961)

Cited in Bear v. State, Sup. Ct. Op. No. 470 (File No. 813), 439 P.2d 432 (1968).

ALR references. — Power of executive to pardon one committed for contempt, 23 ALR 524; 26 ALR 21; 38 ALR 171; 63 ALR 226.

Statute conferring on court power as to suspension of sentence as infringement of

power of executive to grant reprieve and pardon, 26 ALR 400; 101 ALR 1402.

Recovery of fine or penalty after pardon, 26 ALR 1536.

Judicial investigation of pardon by governor, 30 ALR 238; 65 ALR 1471.

Formal requisites of pardon, 34 ALR 212.

Pardon as restoring license or other special privilege forfeited by conviction, 47 ALR 542.

Consent of convict as essential to a pardon, commutation or reprieve, 52 ALR 575.

Validity of and power to grant conditional pardon, 61 ALR 1411, 1413.

Change in sentence after commitment as infringement of pardoning power of executive, 168 ALR 711.

Offenses and convictions covered by pardon, 35 ALR2d 1241.

Sec. 33.20.080. Board of parole to investigate applications for executive clemency. The governor may refer applications for executive clemency to the board of parole. The board shall investigate each case and submit to the governor a report of the investigation, together with all other information the board has regarding the applicant. (§ 2 ch 16 SLA 1961)

Chapter 25. Western Interstate Corrections Compact.

Sec. 33.25.010. Compact enacted. The Western Interstate Corrections Compact as contained in this section is enacted into law and entered into on behalf of the State of Alaska with any and all other states legally joining in it in a form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

ARTICLE I

PURPOSE AND POLICY

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders.

(2) "commissioner" means the commissioner of the Department of Health and Social Services or his designee. (§ 1 ch 105 SLA 1960; am § 6 ch 104 SLA 1971; am § 4 ch 32 SLA 1979

Cross reference. — For provisions allowing imprisonment as a special condition of probation, see AS 12.55.086 added by ch. 32, SLA 1979.

Effect of amendment.

The 1979 amendment, in paragraph (1), inserted "except as authorized under AS 12.55.086" and substituted "provided in this chapter" for "hereinafter provided."

Authority to impose period of incarceration as condition of probation prior to enactment of AS 12.55.086. See Boyne v. State, Sup. Ct. Op. No. 1766 (File No. 3675), 586 P.2d 1250 (1978).

Applied in Jackson v. State, Sup. Ct. Op. No. 1194 (File No. 2422), 541 P.2d 23 (1975).

Chapter 10. Interstate Compact on Probation and Parole.

Sec. 33.10.010. Authorizing governor to execute interstate compact.

Cited in Gonzales v. State, Sup. Ct. Op. No. 1757 (File No. 3397), 586 P.2d 178 (1978).

Sec. 33.10.020. Definition.

Cited in Gonzales v. State, Sup. Ct. Op. No. 1757 (File No 3397), 586 P.2d 178 (1978).

Chapter 15. Parole Administration Act.

Section

80. Granting of parole
180. Persons eligible for parole

Sec. 33.15.010. State board of parole.

There is no authority which would sanction the expansion of the superior court's jurisdiction to pass sentence into a realm of review and modification which is statutorily vested in either the supreme court or the executive branch of government. Davenport v. State, Sup. Ct. Op. No. 1318 (File No. 2202), 543 P.2d 1204 (1975); Szeratics v. State, Sup. Ct. Op. No. 1525 (File No. 3390), 572 P.2d 63 (1977).

Sec. 33.15.060. Considerations in determining eligibility for parole.

Cited in Kraus v. State, Sup. Ct. Op. No. 1989 (File No. 4669), 604 P.2d 12 (1979).

Sec. 33.15.070. Order for parole.

Cited in Kraus v. State, Sup. Ct. Op. No. 1989 (File No. 4669), 604 P.2d 12 (1979).

Sec. 33.15.080. Granting of parole. If it appears to the board from a review that a prisoner eligible for parole will, in reasonable probability, live and remain at liberty without violating the laws, or without violating the conditions imposed by the board, and if the board determines that his release on parole is not incompatible with the welfare of society, the board may authorize the relase of the prisoner on parole: However, no prisoner may be released on parole who has not served at least one-third of the period of confinement to which he has been sentenced. (§ 3 ch 81 SLA 1960; am § 1 ch 110 SLA 1974; am § 14 ch 166 SLA 1978)

Effect of amendment.

The 1978 amendment deleted "or in the case of a life sentence, has not served at least 15 years" from the end of the section.

When prisoners may be paroled. — In the absence of a court order to the contrary, this section allows the parole board to parole a prisoner after one-third of his sentence has been served. Shaglonk v. State, Sup. Ct. Op. No. 1688 (File No. 3300), 582 P.2d 1034 (1978).

The trial court is not required to advise of parole minimums, or of its authority to fix parole eligibility, under the terms of Criminal Rule 11. Morgan v. State, Sup. Ct. Op. No. 1663 (File No. 2894), 582 P.2d 1017 (1978).

But it is preferable for court to so inform defendant. — While it is not necessary for the court to inform the defendant of the possibilities with reference to parole, it is preferable for a court to so inform the defendant, particularly if the court is imposing more than the minimum of one-third of the term required to be served for eligibility for parole. Morgan v. State, Sup. Ct. Op. No. 1663 (File No. 2894), 582 P.2d 1017 (1978).

Applied in Thomas v. State, Sup. Ct. Op. No. 1445 (File No. 2723), 566 P.2d 630 (1977); Post v. State, Sup. Ct. Op. No. 1642 (File No. 2851), 580 P.2d 314 (1978); Hansen v. State, Sup. Ct. Op. No. 1689 (File No. 3412), 582 P.2d 1041 (1978); Mills v. State, Sup. Ct. Op. No. 1826 (File No. 3984), 592 P.2d 1247 (1979); Williams v. State, Sup. Ct. Op. No. 1942 (File No. 4159), 600 P.2d 1092 (1979).

Quoted in State v. Lancaster, Sup. Ct. Op. No. 1247 (File No. 2571), 550 P.2d 1257 (1976); Labarbera v. State, Sup. Ct. Op. No. 1902 (File No. 3445), 595 P.2d 947 (1979).

Stated in Creed v. State, Sup. Ct. Op. No. 1553 (File No. 3638), 573 P.2d 1379 (1978); Kraus v. State, Sup. Ct. Op. No. 1989 (File No. 4669), 604 P.2d 12 (1979).

Sec. 33.15.090. Revocation of parole.

This section may be given effect independently of whether a released prisoner is under the custody of the parole board. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4852), 604 P.2d 1 (1979).

Sec. 33.15.100. Adoption of rules and holding of meetings.

Parole Board urged to prescribe specific rules to govern situations where searches of parolees are permissible. — See Roman v. State, Sup. Ct. Op. No. 1521 (File No. 2638), 570 P.2d 1235 (1977).

Sec. 33.15.180. Persons eligible for parole. (a) A state prisoner other than a juvenile delinquent, wherever confined and serving a definite term of over 180 days or a term the minimum of which is at least 181 days, and who is not imprisoned in accordance with AS 12.55.125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2), whose record shows that he has observed the rules of the institution in which he is confined, may, in the discretion of the board, be released on parole, subject to the limitation prescribed in AS 33.15.080 and 33.15.230(a)(1).

(b) A state prisoner who has been imprisoned in accordance with AS 12.55.125(a) or (b) may not be released on parole until he has served at least the prescribed minimum term of imprisonment.

(c) A state prisoner imprisoned in accordance with AS 12.55.125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2) who is released under AS 33.20.030 shall be placed on parole for the period specified in the certificate of deduction, subject to written rules and conditions imposed by the board or his parole officer. (§ 7 ch 81 SLA 1960; am § 34 ch 43 SLA 1964; am § 9 ch 68 SLA 1965; am § 2 ch 110 SLA 1974; am §§ 15, 16 ch 166 SLA 1978)

Effect of amendment.

The 1978 amendment, inserted "and who is not imprisoned in accordance with AS 12.55.125(c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2)" in present subsection (a) and added subsections (b) and (c).

Editor's note. — Section 23, ch. 166, SLA 1978, provides, in subsection (d): "AS 33.15.180, as amended in secs. 15 and 16 of this Act, applies only to persons imprisoned for crimes committed on or after the effective date of this Act."

Cited in Stone v. State, Sup. Ct. Op. No. 1883 (File No. 4130), 598 P.2d 72 (1979).

Sec. 33.15.190. Release and terms and conditions of release.

This section and AS 33.20.040 in pari materia. — This section and AS 33.20.040 were enacted at the same time and concern the same subject, and are therefore in pari materia. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

And may be reconciled. — Although this section and AS 33.20.040 are in conflict since under this section, when the prisoner's term less good time has expired, he no longer remains in the legal custody of the board, yet under AS 33.20.040, he is to be considered as if released on parole until the expiration of his maximum term less 180 days, these provisions may be reconciled if, during the period of release, after the term less good time has expired but prior to the time that the maximum term for which he was sentenced less 180 days has terminated, the released prisoner is not in the legal custody of the parole board, but is nevertheless considered as if on parole so as to be subject to reincarceration upon violation of a statutory condition of parole. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

Sec. 33.15.200. Retaking of parole violator.

A parolee's liberty should be afforded all protections consistent with his status as one convicted of a crime and under supervision and restrictions, although released from incarceration. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2865), 568 P.2d 939 (1977).

Warrant ordinarily required. — This section requires that absent exigent circumstances a parole officer must secure a warrant from the Parole Board or board member. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Warrant issued only upon probable cause. — In order for the warrant requirement of this section to be meaningful, the warrant should be issued only upon probable cause of a violation of the conditions of parole being presented to the parole board or a member thereof. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Written statement of probable cause required. — To avoid unnecessary appeals from warrants issued on oral statements, the contents of which may be subject to argument, in the future a written statement indicating probable cause shall be required to be filed with the parole board or member as justification for issuance of a warrant. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Parolee subject to arrest for a wide variety of causes which do not apply to others. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Usual arrest requirements not imposed as regards arrest of parolee. — To impose the same requirements on the arrest of a parolee as are otherwise mandated for an arrest, including an affidavit or sworn complaint, would constitute meaningless additional time and effort on the part of parole officers. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

For a discussion of cases decided in state and federal courts addressing the subject of parole arrest warrants, see Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Use of illegally obtained evidence in revocation proceeding. — Ordinarily, neither the Alaska Constitution nor its criminal rules bar the use of illegally obtained evidence in parole revocation proceedings. Davenport v. State, Sup. Ct. Op. No. 1479 (File No. 2885), 568 P.2d 939 (1977).

Credit for time served since arrest for subsequent offenses. — Where defendant's sentences were to be served consecutively to a sentence then being served for a parole revocation on an earlier offense, the trial court order that the defendant receive no credit for time served since his arrest was proper in view of the court's action in making the sentences consecutive to the time to be served on the parole revocation, for the time served from defendant's arrest should properly have been credited toward the parole revocation sentence. Reynolds v. State, Sup. Ct. Op. No. 1849 (File No. 4024), 595 P.2d 21 (1979).

Sec. 33.15.230. Fixing eligibility for parole at time of sentencing.

Alternatives available to courts concerning parole eligibility. — Sentencing courts may either recommend or order a limitation on parole eligibility at the time of sentencing, or they may say nothing about the matter. A sentence embodying a recommendation that the division of corrections not grant parole until a specific portion of the sentence is served is not binding on the parole board, although it may be considered relevant by the board. An order, however, must be followed by the parole board in its determination of a prisoner's eligibility for parole. Shagloak v. State, Sup. Ct. Op. No. 1688 (File No. 3300), 582 P.2d 1034 (1978).

Recommendation may not be later amended to order. — Since either a recommendation or an order as to parole eligibility was logically possible and no obvious mistakes were committed by the court's use of the term "recommendation" in the judgment, the court's recommendation may not be later amended to an order. Shagloak v. State, Sup. Ct. Op. No. 1688 (File No. 3300), 582 P.2d 1034 (1978).

Defendant's parole eligibility was governed by subsection (a)(1) of this section as it existed at the time he committed the offense for which he was ultimately sentenced. Elstad v. State, Sup. Ct. Op. No. 1912 (File No. 4272), 599 P.2d 137 (1979).

Use of 1974 version to determine eligibility unconstitutional. — Where subsection (a)(1) in 1973 provided that the term a prisoner had to serve before becoming eligible for parole could "not be more than one-third of the maximum

sentence imposed by the court" and in 1974 the statute was amended to provide that any term thus designated "shall be at least one-third of the maximum sentence imposed by the court," use of the amended version to determine parole eligibility for a crime committed in 1973 was sufficiently akin to the enforcement of an ex post facto law to amount to a denial of defendant's right to due process of law under Alaska Const., art. I, § 7. Elstad v. State, Sup. Ct. Op. No. 1912 (File No. 4272), 599 P.2d 137 (1979).

"Maximum sentence" means aggregates of sentences. — "Maximum sentence" does not mean the maximum given on an individual count, rather than the aggregate of any consecutive sentences imposed by the court on any number of counts. Thomas v. State, Sup. Ct. Op. No. 1445 (File No. 2723), 566 P.2d 630 (1977).

The phrase "maximum sentence imposed," as employed in this section, is intended to authorize the sentencing court to fix eligibility for parole based on the entire length of imprisonment the particular sentence requires. Thomas v. State, Sup. Ct. Op. No. 1445 (File No. 2723), 566 P.2d 630 (1977).

It is significant that subsection (a) does not read "the maximum sanction provided for the commission of the particular crime." Thomas v. State, Sup. Ct. Op. No. 1445 (File No. 2723), 566 P.2d 630 (1977).

When subsection (a)(1) formerly provided that the minimum imposed by the judge not exceed one-third of the maximum sentence he imposed, this meant one-third of the total number of years. Davis v State, Sup. Ct. Op. No. 1453 (File No. 2698), 566 P.2d 640 (1977).

Where defendant was convicted on five counts of selling heroin and one count of possessing heroin and was sentenced to ten years, the maximum term, on each count, with one of the sentences to run consecutively to the others, and the other five to run concurrently with each other, for a total of 20 years imprisonment, defendant was to be ineligible for parole until he had served five years, and all the sentences were made consecutive to two sentences he had not yet finished serving, the imposition of consecutive sentences did not violate Alas. Const., art. I, §§ 9 and 12 and the minimum of five years before parole did not violate subsection (a) of this section. Davis v. State, Sup. Ct. Op. No. 1453 (File No. 2698), 566 P.2d 640 (1977).

Eligibility for parole does not guarantee parole. — It does not follow from subsection (a)(1) of this section that there is any certainty that a prisoner will actually be paroled after serving one-third of the maximum sentence imposed. Huff v. State, Sup. Ct. Op. No. 1493 (File No. 3201), 568 P.2d 1014 (1977).

Imposing maximum sentence with provision for parole after at least one-half sentence served. — The trial court was not clearly mistaken in imposing the statutory maximum sentence of three years imprisonment, with a provision that defendant not be eligible for parole until at least one-half of his sentence was completed. Horton v. State, Sup. Ct. Op. No. 1515 (File No. 3359), 570 P.2d 482 (1977).

Informing defendant of possibilities with reference to parole. — While it is not necessary for the court to inform the defendant of the possibilities with reference to parole, it is preferable for a court to so inform the defendant, particularly if the court is imposing more than the minimum of one-third of the term required to be served for eligibility for parole. Morgan v. State, Sup. Ct. Op. No. 1663 (File No. 2894), 582 P.2d 1017 (1978).

In Alaska the trial court is not required to advise of parole minimums, or of its authority to fix parole eligibility, under the terms of Criminal Rule 11. Morgan v. State, Sup. Ct. Op. No. 1663 (File No. 2894), 582 P.2d 1017 (1978).

Sentence of less than one year. — It is beyond the authority of trial courts to determine parole eligibility where the sentence is for less than one year. State v. Tucker, Sup. Ct. Op. No. 1665 (File No. 3567), 581 P.2d 223 (1978).

Applied in Hansen v. State, Sup. Ct. Op. No. 1689 (File No. 3412), 582 P.2d 1041 (1978).

Quoted in Kraus v. State, Sup. Ct. Op. No. 1989 (File No. 4669), 604 P.2d 12 (1979); Charles v. State, Sup. Ct. Op. No. 2017 (File No. 4492), 606 P.2d 390 (1980).

Stated in Davis v. State, Sup. Ct. Op. No. 1599 (File No. 3540), 577 P.2d 690 (1978); Williams v. State, Sup. Ct. Op. No. 1942 (File No. 4159), 600 P.2d 1092 (1979).

Cited in Donlun v. State, Sup. Ct. Op. No. 1270 (File No. 2438), 550 P.2d 369 (1976); Morrell v. State, Sup. Ct. Op. No. 1577 (File No. 2790), 575 P.2d 1200 (1978).

Chapter 20. Pardons and Paroles.

Article 1. Remission of Sentences.

Derivation. — Alaska's mandatory release scheme is derived from 18 U.S.C. §§ 4161-66. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

Section

Sec. 33.20.010. Computation generally.

Cited in McGinnis v. Stevens, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975); Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

Sec. 33.20.010. Computation of good time. Notwithstanding AS 12.55.125(f)(3) and (g)(3), each prisoner convicted of an offense against the state and sentenced to imprisonment, whose record of conduct shows that he has faithfully observed the rules of the institution in which he is confined, is entitled to a deduction from his term of imprisonment of one day for every three days of good conduct served. (§ 1 ch 107 SLA 1960; am § 17 ch 166 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Editor's note. — Section 23, ch. 166, SLA 1978, in subsection (c), provides: "AS 33.20.010, as re-enacted in sec. 17 of this Act, applies to all persons serving terms of imprisonment in state correctional institutions on or after the effective date of this Act, but is not retroactive in application."

Sec. 33.20.020. Good time.

Repealed by § 21 ch 166 SLA 1978.

Cross reference. — As to computation of good time, see AS 33.20.010.

Editor's note. — The repealed section derived from § 2, ch. 107, SLA 1960; § 6, ch. 104, SLA 1971.

Sec. 33.20.030. Discharge.

Applied in Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

Sec. 33.20.040. Released prisoner as parolee.

The wording of 18 U.S.C. § 4164 is very close to that of subsection (a). Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

This section and AS 33.15.190 in pari materia. — Alaska Statute 33.15.190 and this section were enacted at the same time and concern the same subject. and are therefore in pari materia. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

And may be reconciled. — Although AS 33.15.190 and this section are in conflict since under AS 33.15.190, when the prisoner's term less good time has expired, he no longer remains in the legal custody of the board, yet under this section, he is to be considered as if released on parole until the expiration of his maximum term less 180 days, these provisions may be reconciled if, during the period of release, after the term less good time has expired but prior to the time that the maximum term for which he was sentenced less 180 days has terminated, the released prisoner is not in the legal custody of the parole board, but is nevertheless considered as if on parole so as to be subject to reincarceration upon violation of a statutory condition of parole. Morton v. Hammond, Sup. Ct. Op. No. 1982 (File No. 4882), 604 P.2d 1 (1979).

Article 2. Power of Governor to Grant Pardons, Commutations and Reprieves.

Sec. 33.20.070. Governor may grant pardons, commutations and reprieves.

There is no authority which would sanction the expansion of the superior court's jurisdiction to pass sentence into a realm of review and modification which is statutorily vested in either the supreme court or the executive branch of government. Davenport v. State, Sup. Ct. Op. No. 1218 (File No. 2202), 543 P.2d 1204 (1975); Szeratics v. State, Sup. Ct. Op. No. 1525 (File No. 3390), 572 P.2d 63 (1977).

Chapter 30. Prison Facilities.

Article
3. General Provisions (§§ 33.30.200 — 33.30.320)

Article 1. Establishment, Control and Management.

Section
55. [Repealed]

Sec. 33.30.010. Commissioner to control and manage state prison facilities.

Duty to promulgate regulations. — The commissioner is under a legislative mandate and has the concomitant duty to promulgate appropriate regulations concerning prison facilities and the numerous other matters coming within the ambit of AS 33.30.010 — 33.30.260. McGinnis v. Stevens, Sup. Ct. Op. No. 1517 (File No. 3094), 570 P.2d 735 (1977).

Commissioner's control of prison system. — There are strong indications of a legislative intent to leave the establishment, control, and management of the prison system in the hands of the Commissioner of the Department of Health and Welfare whenever practical under the state constitution. Rust v. State, Sup. Ct. Op. No. 1668 (File No. 3172), 582 P.2d 134, on rehearing modified on other grounds, 584 P.2d 38 (1978).

Administration must be neither arbitrary nor vindictive. — As an extension of the state, the Division of

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 21, 1982

RECEIVED JAN 2 2 1982

The Honorable Joe Hayes
Speaker
House of Representatives
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Joe Speaker:

I would like to bring to your attention a crisis situation which affects the public safety of Alaskans living in our major urban areas, and which requires immediate action by the Legislature. That problem is the skyrocketing prison population. Division of Corrections data show that our prison system is overburdened with prisoners and suffering from a shortage of staff. In addition, the Division's prisoner profile data demonstrate that we are locking up more felons for longer periods of time, indicating the problem may be long-term in nature.

The explosive growth confronting the Division is best demonstrated by "booking" data. In 1975 there were 13,283 bookings throughout the prison system. The Division is projecting more than 18,000 bookings during this fiscal year and could well see 20,000 bookings during calendar year 1982. The logistics of dealing with the interviews, personal property, photographs, fingerprinting, bail, attorneys and transportation of that number of people are the cause of some of our difficulties at the 6th Avenue Facility. In order to comply with a December 1981 court order by Judge Carlson, and to meet other treatment standards mandated by the court by February 19, 1982, the Division of Corrections must shift inmates from the 6th Avenue facility to other facilities statewide.

As you know, through our mutually cooperative past efforts, the Legislature and Administration have attempted to address this problem by allocating substantial amounts of operating and capital funds to the Division. The ongoing capital program will result in 25 to 40 new beds coming into service

at the Ridgeview correctional site in Anchorage. At the same time that these beds are added, however, some of the capacity at 6th Avenue will be taken out of service, so this will result in a net gain of only 15 beds.

In March the 100 beds authorized for Palmer will be ready for occupancy. This facility will have developed from concept stage to occupancy in ten months due to a "fast track" process and the hard work of the Division's staff.

Other projects now underway and the expected completion dates include:

1. The Ketchikan jail, with a planned occupancy of 30 beds, will be ready by May, 1982; originally it was scheduled to open in September. The old Federal Jail now used in Ketchikan will be discontinued when the new jail is opened.

2. In Juneau, the women and children's facility will open next month. This is a joint-use facility with four beds for women and three detention beds for juveniles. The availability of these beds will create an equal amount of space at the Southeast Correctional Facility at Lemon Creek.

3. Also in Juneau, the Lemon Creek facility, with a capacity of 95 beds has been scheduled for interior remodeling. This project is scheduled for completion in October 1983, and will result in a net increase of 36 beds.

4. In the Anchorage area, in addition to the Palmer and Ridgeview projects already mentioned, the new Post Road pre-trial and pre-sentence facility with 180 beds is scheduled for completion in December, 1982.

5. While the present 6th Avenue facility was planned to be returned to the leasor, the Municipality of Anchorage, it now appears necessary to retain it as a correctional facility. The Ridgeview facility was also scheduled to be taken out of service when the new women's unit was opened at the Eagle River Correctional Center; however, Ridgeview was kept on line because of the population pressures and now houses about 50 sentenced misdemeanants. Of course, we have coordinated our efforts regarding this facility in the past with Mayor Sullivan and with the present administration of Mayor Knowles.

6. The Eagle River Correctional Center now has 80 more beds for males under construction with a scheduled completion date of July, 1982.

7. There will be 67 additional beds at the Fairbanks adult correctional center expected to become available in October, 1983.

8. The facility in Nome, with 32 beds, is scheduled for completion in the fall, 1983. This will be again offset by the old beds and facility being taken off line.

9. Progress in constructing the Bethel jail is moving with site selection and preparation. A scheduled completion date has not been determined.

We believe these actions -- together with passage of my FY83-84 corrections budget -- will ultimately help alleviate the long-term prison population problem. However, the immediate problem of a presently burgeoning prison population and Judge Carlson's ruling presented me with an immediate problem. As Governor, I am responsible for making certain that the public safety of all Alaskans is guaranteed. Therefore, I asked Commissioner Beirne and my staff to develop a short-term plan to insure that the increasing number of prisoners would be kept in secure facilities under humane conditions.

I also requested the Department and my staff to review each appropriation in the agency's FY82 budget to determine if there were potential sources of existing funds that could be used to implement any plan we developed, thereby avoiding the need to request supplemental general funds from the Legislature. After a considerable amount of review and discussion of options, I decided to implement a plan by taking the following actions:

1. Open the Palmer Facility ahead of schedule on March 1, 1982 and provide immediate staffing of 35 positions. The Department plans to move prisoners from overcrowded facilities throughout the state to Palmer as soon as it opens.

2. Increase the capacity of Ridgeview men's facility from 45 to 80 beds and authorize additional positions to accommodate the expanded population.

3. Provide a 56 bed modular addition to the Fairbanks facility and authorize five positions to staff the additional beds.

4. Authorize five positions for the Anchorage 6th Avenue Annex to bring the facility into compliance with Judge Carlson's order.

5. Add 13 beds to the special treatment unit at Eagle River and provide one position to staff the additional beds.

I propose a no cost, "delete/add" appropriation to cover the cost of the plan I authorized in December. Put simply, the plan -- totaling $2.75 million -- would require no new additional funds as it would be covered by savings incurred in other programs in the Department. However, due to the prohibition of transferring funds between appropriations, Legislative approval of the no cost appropriation is needed.

I recognize that the issue of adding new positions is one of great sensitivity to the House. However, considering the crisis situation which faces the corrections system, and the resultant potential danger to the public safety of Alaskans living in Anchorage, Fairbanks, Eagle River, Palmer, Juneau and other areas of the state, I had no choice but to authorize immediate hiring of 70 new staff to address it. To date, the Department has hired 24 people to fill the positions which I authorized.

The "new position" issue is complicated by the fact that the Legislature overrode my veto of language to the FY82 budget bill which limits the number of positions which an agency may fill. It is our view that, even assuming that the Legislature can limit the Executive's authority to hire the number of people it considers necessary in carrying out the law, this provision in the budget bill amounts to an attempt by the Legislature to make substantive law in an appropriation bill, which, of course, is illegal. Therefore, we view this provision as a nullity. We are exploring possible courses of action to address this matter and therefore will not deal with it further in this letter. However, knowing the House's interest in this issue, and in an attempt to work cooperatively with its members to solve this serious problem, the following actions are being requested or taken:

1. I am submitting a $2.75 million no cost, "delete/add" appropriation bill to the House for review

and, hopefully, rapid approval. Funding for this appropriation would cover the costs of the 70 corrections positions noted earlier in this letter.

2. I have directed Commissioner Beirne and her staff to be available to discuss this matter with you and other members of the House.

3. I am ordering Commissioner Beirne to cease recruitment and hiring of persons to fill the remaining 46 positions which I authorized in December, pending legislative approval of the proposed appropriation.

4. If the no cost, "delete/add" appropriation is not passed by the Legislature by February 5, 1982, I'll have little recourse but to order Commissioner Beirne to terminate the 24 persons who have been hired to address the crisis situation.

As you can readily determine, my Administration is placed in a very difficult position on this matter. The State Constitution charges me with providing for the public safety of all Alaskans. Clearly, the crisis in corrections poses serious potential public safety problems for each community in which a correctional facility is located and to the public in general.

This is but demonstrated by the recent escape attempt -- which was nearly successful -- at the 6th Avenue facility in Anchorage. Although I am not stating that escape attempts will be commonplace at our correctional facilities if my plan is not approved by the House, I am stating that the potential for dangerous felons escaping from jail will be greatly increased, as will the potential for inmate violence and the host of other dangerous acts that traditionally go hand in hand with overcrowding.

Another problem we face in this matter is the potential for further judicial action to address the overcrowding situation. The range of possible remedial action runs the gamut of court-ordered transfer of prisoners to -- as has occurred recently in other states -- action to release prisoners.

I took my action in December to address this immediate problem and to respond to Judge Carlson's court order. However, overriding my veto of budget bill language which limits the number of positions the executive branch may establish and fill at each of the state's correctional facilities, the Legislature has created a serious problem for the people of Alaska and me as Chief Executive; one in which I am limited in what I can do and therefore will require your assistance to overcome. Complicating the situation is Representative Adams' well-publicized statements that he will not authorize any new positions in the FY83 operating budget, and in fact, plans to delete nearly $300 million from it. In view of these pronouncements, it would appear unwise to add 70 new positions to the Division of Corrections staff, only to have them eliminated by the House in the FY83 budget. Therefore, I would appreciate an early indication of the House's intent in regard to my no cost, "delete/add" appropriation and to the Division's FY83 budget request. I am determined to solve this problem, but will need your help to do it.

If I, Commissioner Beirne, or my staff may be of assistance to you in your policy deliberations on this matter, please do not hesitate to contact us.

Sincerely,

Jay S. Hammond
Governor

Alaska State Legislature

HOUSE CALENDAR

BARNES

OFFICIAL BUSINESS OF THE HOUSE

NINETEENTH DAY

Friday

Chaplain: Father Innocent
St. Nicholas Russian Orthodox

January 29, 1982
Convenes: 10:00 a.m.

SECOND READING OF HOUSE BILLS

HB 229 "An Act relating to employee overtime compensation; and providing for an effective date."
- State Affairs report, p.133 with C/S (SA) new title: "An Act relating to the Alaska Wage and Hour Act; and providing for an effective date."

HB 632 "An Act providing for waiver of jurisdiction under AS 47.10 over a minor if there is probable cause for believing that the minor committed a violent crime and the minor is over 16 years of age or that the minor committed murder regardless of the minor's age."
- Judiciary report, p.134

HB 643 "An Act repealing and amending certain appropriations made in 1981; making an appropriation to the legislative finance division for a Bristol Bay development study; and providing for an effective date."
- Finance report, p.166 with CS(Fin) same title.

SECOND READING OF HOUSE RESOLUTIONS

HJR 30 "Relating to military maneuvers in Alaska on federally managed land.'
- State Affairs report, p.133

CITATIONS

*Honoring - Jerry Austin by Representatives Fuller and Vaska and Senator Ferguson

*Recognizing - National School Nurse Day by Senators Stimson, Sturgulewski, Rodey and Bradley

Committee Announcements on back
(Subject to change)

HOUSE

DATE: January 29, 1982 — DAILY COMMITTEE ANNOUNCEMENTS — Prepared by the Chief Clerk's Office

COMMUNITY & REGIONAL AFFAIRS
Capitol 102 - MWF - 8:30 to 9:45am

No Meeting Scheduled

JUDICIARY
Capitol 124 - 1:15 daily

1/29 - Testimony - HB 206 and HB 47

RULES
Capitol 204

No Meeting Scheduled

FINANCE
Capitol 519

1/29 - 8:30 - Fish & Game - 519 Capitol
1:30 - HB 675, HB 101, HB 344
519 Capitol
2:45 - Revenue Work Session
519 Capitol

LABOR & COMMERCE
Behrends Conf. Rm. - Mon-Thu - 1-3:00pm

No Meeting Scheduled

STATE AFFAIRS
Capitol 102 - 1:00 to 3:00pm

1/29 - HB 663 and SB 146(Testimony)
HB 184

HEALTH, EDUCATION & SOCIAL SERVICES
Capitol 112 - MWF - 3:00 to 4:30pm

1/29 - HB 210 - (Child Custody
Teleconference)

RESOURCES
Capitol 118 - 3:00 to 5:00pm

1/29 - HB 199 and HJR 63(hearing)

TRANSPORTATION
Capitol 112 - 8:30am daily

1/29 - Committee Work Session

Alaska State Legislature

TWELFTH LEGISLATURE - SECOND SESSION

S E N A T E C A L E N D A R

FRIDAY
January 29, 1982
10:00 a.m.

OFFICIAL BUSINESS OF THE SENATE

Nineteenth Legislative Day

Chaplain: Reverend Jimmie Stringer of the First Baptist Church

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CITATIONS

Honoring - The Sisters of Providence
by Senator Rodey

In Memoriam - Clayton L. Shupe
by Senator Rodey

Publication Notice - CITATIONS - 2/1/82

Honoring - Mae Tischer
by Senator Colletta

Honoring - Captain Edward Nelson, Jr.
by Representatives Miller, Duncan and Zharoff
and Senator Ray

HOUSE BILL NO. 229 by Randolph, Anderson, Beirne, Bettisworth, Fanning and Metcalfe, entitled:

"An Act relating to employee overtime compensation; and providing for an effective date."

was read the first time and referred to the State Affairs and Finance Committees.

2-26-81
H

1-25-82
H

HB 229

The State Affairs Committee has had HOUSE BILL NO. 229 (relating to employee overtime compensation; eff. date) under consideration and a majority of the committee recommend that it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 229 (SA):

"An Act relating to the Alaska Wage and Hour Act; and providing for an effective date"

HB 229 cont'd

and that it do pass. Concurring: Metcalfe (Chairman), Abood and Fanning. Not concurring: Miller and Brown had no recommendation.

Representative Adams moved and asked unanimous consent that the Finance referral be waived. There being no objection, it was so ordered.

HB 229 was referred to the Rules Committee for placement on the calendar.

HB 632

1/11/82
(H)

HB 632

HOUSE BILL NO. 632 by Anderson, entitled:

"An Act providing for waiver of jurisdiction under AS 47.10 over a minor if there is probable cause for believing that the minor committeed a violent crime and the minor is over 16 years of age or that the minor committed murder regardless of the minor's age."

was read the first time and referred to the Judiciary Committee.

1-25-82
H

HB 632

The Judiciary Committee has had HOUSE BILL NO. 632 (providing for waiver of jurisdiction under AS 47.10 over a minor if there is probable cause for believing that the minor committed a violent crime and the minor is over 16 years of age or that the minor committed murder regardless of the minor's age) under consideration and a majority of the committee recommend it do pass. Concurring: Barnes (Chairman), Anderson, O'Connell and Meekins. Not concurring: Buchholdt and Freeman have no recommendation.

HB 632 was referred to the Rules Committee for placement on the calendar.

HOUSE BILL NO. 643 by Chuckwuk, entitled:

"An Act repealing and amending certain appropriations made in 1981; making an appropriation to the legislative finance

was read the first time and referred to the Committees on Resources and Finance.

1-11-82
(H)

HB 643

Representative Fanning moved and asked unanimous consent that the Resources Committee referral on HOUSE BILL NO. 643 (repealing and amending certain appropriations made in 1981; making an appropriation to the legislative finance division for a Bristol Bay Development study; eff. date) be waived. There being no objection, HB 643 was referred to the Finance Committee.

1-14-82
H

HB 643

The Finance Committee has had HOUSE BILL NO. 643 (repealing and amending certain appropriations made in 1981; making an appropriation to the legislative finance division for a Bristol Bay development study; eff. date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 643 (Fin) (same title) and that it do pass. Concurring: Adams (Chairman), Bettisworth, Hurlbert, Chuckwuk, Fuller and Cotten, Not concurring: Cuddy and Montgomery have no recommendation.

1-27-82
H

HB 643 was referred to the Rules Committee for placement on the calendar.

HJR 30

HJR 30

3-17-81
H

HOUSE JOINT RESOLUTION NO. 30 by Fanning, Abood, Brown, Bylsma, Moss, Phillips, Rogers and Randolph:

Relating to military maneuvers in Alaska on federally managed land.

was read the first time and referred to the State Affairs Committee.

1-25-82
H

HJR 30

The State Affairs Committee has had HOUSE JOINT RESOLUTION NO. 30 (relating to military maneuvers in Alaska on federally managed land) under consideration, and a majority of the committee recommend that it do pass. Concurring: Metcalfe (Chairman), Abood, Fanning and Brown. Not concurring: Miller recommends do not pass.

HJR 30 was referred to the Rules Committee for placement on the calendar.

State of Alaska

THE LEGISLATURE

HONORING - JERRY AUSTIN

The Twelfth Alaska Legislature on behalf of all Alaskans wishes to congratulate Jerry Austin of St. Michael, winner of the third annual Kuskokwim 300 Dog Sled Race.

Defending champion Jerry Austin has done it again. This time he mushed into Bethel a full 17 minutes ahead of his competitors. Incredible perserverance, discipline, and a fierce competitive drive, all attributes embodying the true Alaskan spirit, have enabled Jerry Austin to achieve triumph in this highly acclaimed dog sled race from Bethel to Aniak.

The Alaskan Legislature is proud of all those who took part in this exciting and grueling event, now an Alaskan tradition. We salute you, Jerry Austin, for another outstanding victory.

SPEAKER OF THE HOUSE

PRESIDENT OF THE SENATE

Date:

Requested by: Representatives Fuller and Vaska
and Senator Ferguson

State of Alaska

THE LEGISLATURE

RECOGNIZING - NATIONAL SCHOOL NURSE DAY

The Twelfth Alaska Legislature wishes to call to the attention of all Alaskans the observance of January 27, 1982, National School Nurse Day.

No longer is the school nurse the lady with the Band-Aid or bottle of Mercurochrome. Today's school nurse must deal with a myriad of complex problems ranging from chronic absences and learning difficulties to child abuse, drug abuse, incest, and teen-age pregnancy. In many cases the school nurse is the only contact many youth have with a health care professional. The need for such services cannot be underestimated or overstated.

The people of Alaska and of the nation can be proud of the services the school nurse so generously provides. It is through these professionals, in collaboration with other educators, that the school health program is able to contribute so significantly to attaining the maximum health and education potential of each student.

With great appreciation and gratitude for outstanding service we extend our ~~full support~~ congratulations and encouragement for the future of the school nurse program.

SPEAKER OF THE HOUSE

PRESIDENT OF THE SENATE

Date: 1/27

Requested by: Senator Terry Stimson & Sturgulewski
Rodey, Bradley.

OVERVIEW OF THE DAILY CALENDAR

HB 229 PROVIDES THAT A PERSON CANNOT BE EXCLUDED FROM THE DEFINITION IN IN AS 23.10.055(A) OF AN EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY BECAUSE OF THE NUMBER OF HOURS SPENT IN OTHER DUTIES.

ALSO ALLOWS THE COURTS TO AWARD BACK PAY ONLY IN THE AMOUNT OF THE UNPAID WAGES OR OVERTIME IF THE COURT DETERMINES THAT THE EMPLOYER WAS NOT INTENTIONALLY VIOLATING AS 23.10.060 OR 23.10.065.

HB 643 THIS LEGISLATION IS BASICALLY A HOUSE CLEANING BILL FROM LAST YEAR, APPROPRIATION TO FISH AND GAME ARE REDUCED BY $250,000 AND ADDED TO LEGISLATIVE FINANCE DIVISION FOR PURPOSES OF A BRISTOL BAY DEVELOPMENT STUDY.

HJR 30 REQUIRES THAT WHENEVER POSSIBLE THE MILITARY SHOULD CONDUCT THEIR MANEUVERS ON FEDERAL LAND IN ALASKA.

HB 632

OF REMEDIAL LEGISLATION.

THE ARGUMENT THAT PEOPLE SHOULD NOT HAVE TO BORROW THEIR OWN MONEY FROM THE STATE FOR HYDRO PROJECTS PERSUADES ME ONLY WHEN ALL PEOPLE GET SIMILAR BENEFITS OR WE MEET THE NEEDS OF THOSE WHOSE NEEDS ARE LESS WELL MET THAN OTHERS. IF IT BE OUR CONCLUSION THAT WE ARE TO PROVIDE PUBLIC POWER SUBSIDIES, THEN ALL THE PUBLIC SHOULD BE FAVORABLY AFFECTED. THE LEGISLATION I'LL PROPOSE WOULD MORE EQUITABLY ADDRESS THAT ISSUE.

SINCE TO DATE THERE'S BEEN NO DECISION FROM THE COURT REGARDING THE PERMANENT FUND DIVIDEND PROGRAM, I'M PREPARING LEGISLATION WHICH PROVIDES AN ALTERNATIVE TO BE TRIGGERED ONLY BY AN ADVERSE RULING. MEANWHILE, SHOULD THE COURT RULE WISELY, CHECKS WOULD BE MAILED OUT SHORTLY. WHEN IT WAS SUGGESTED BY SOME WAG THAT I SHOULD SIGN THOSE CHECKS, I TOLD HIM THAT TO DO SO WOULD BE PRESUMPTIVE, UNSEEMLY, TACKY, ILL-RECEIVED AND OUTRAGEOUS -- SO I WENT AHEAD AND DID IT.

MUCH IS HEARD THESE DAYS ABOUT "ALASKANIZING" THE PERMANENT FUND. N THING WOULD MORE "ALASKANIZE" IT THAN IF EVERY ALASKAN WERE TO RECEIVE A DIVIDEND WHICH ROSE AND FELL DEPENDENT UPON SIZE AND PRUDENT INVESTMENT OF THE FUND.

FUND TRUSTEES NOW ADMINISTER INVESTMENTS OF SUCH MAGNITUDE THAT WHEN THEY SPEAK E.F. HUTTON LISTENS. TO IMPROVE PERFORMANCE THEY PROPOSE SOME CHANGES IN THE STATUTE. THESE ARE COMPILED INTO A BILL FOR YOUR CONSIDERATION.

I AGREE THAT IF THE FUND IS TO KEEP PACE WITH INFLATION, SOME EQUITY OWNERSHIP MUST BE ACQUIRED AND AT THE VERY LEAST ONE-HALF ITS EARNINGS FLOW BACK INTO THE FUND.

WHILE STILL IN OFFICE I'D LIKE TO SEE PASSAGE OF A DRUG BILL SIMILAR TO THE ONE WE AND THE SENATE HAVE ENDORSED. EPIDEMIC DRUG ABUSE, INCLUDING ALCOHOL, MAKES IT EVIDENT THAT WHAT WE'RE DOING -- OR NOT DOING -- ISN'T WORKING. I DON'T KNOW HOW EFFECTIVE THE PROPOSED DRUG BILL WILL PROVE TO BE. BUT WE ALL KNOW HOW INEFFECTIVE THE STATUS QUO HAS PROVEN. WHEN LEGISLATION IS ENDORSED BY THOSE WHO KNOW FAR MORE ABOUT THESE MATTERS THAN, I CONFESS, DO I, IT SEEMS THAT COMMON SENSE AND PUBLIC INDIGNATION WARRANT ACTION IF WE CARE AT ALL. AGAIN, PERCEPTION MAY BE AS IMPORTANT AS REALITY. IF YOU CAN'T SUPPORT IT, PUT IT UP FOR PUBLIC VOTE.

FREQUENTLY I'M ASKED: WHAT WAS ACHIEVED DURING THIS ADMINISTRATION? WHILE I'D LIKE TO TAKE FULL CREDIT FOR AT LEAST SOME OF THEM, NONE OCCURRED WITHOUT JOINT EFFORT AND MUCH MORE COOPERATION THAN SCREAMING HEADLINES GIVE US CREDIT FOR. I SUSPECT THAT WERE WE PARTY TO THEM OR BUT RELUCTANT PROTESTORS, THESE ARE THE MOST MEMORABLE OCCURRENCES WHILE MOST OF YOU HAVE BEEN IN OFFICE: (1) CREATION OF THE PERMANENT FUND. (2) EFFORTS TO MORE EQUITABLY PRIVATIZE THE PEOPLE'S WEALTH THROUGH DIVIDENDS. (3) FOR PROPOSING LIMITATION ON STATE SPENDING. (4) FOR EXPANDING AGRICULTURE. (5) FOR ADVANCES IN FISHERIES ENHANCEMENT. (6) FOR UNPRECEDENTED TAX REDUCTION. (7) FOR MULTI-MILLIONS IN LOW INTEREST LOANS. (8) FOR VAST EXPANSION OF EDUCATIONAL OPPORTUNITIES TO ALL.

(9) FOR PROVIDING TELECOMMUNICATIONS TO VIRTUALLY ALL ALASKANS. (10) FOR GREATLY INCREASED BENEFITS TO OLD-TIMERS. (11) FOR LAND DISBURSAL EXCEEDING ALL PRIOR ADMINISTRATIONS PUT TOGETHER. (12) FOR VAST INCREASES IN MUNICIPAL ASSISTANCE. (13) FOR GRANTING FAR GREATER PUBLIC "SAY" IN HOW THEIR MONEY IS EXPENDED. (14) FOR PROVIDING MEANS OF RESOLVING THE CAPITAL MOVE IMPASSE. (15) FOR DRAFTING THE SEVEN CONSENSUS POINTS TO BE PRESSED FOR IN D(2) LEGISLATION. (16) FOR AN ECONOMY IN WHICH MANY BUSINESS PEOPLE ASSERT THEY'VE NEVER DONE BETTER. (17) FOR AN UNEMPLOYMENT RATE FOR THE FIRST TIME BENEATH THE NATION'S HIGHEST. (18) FOR A PERIOD IN WHICH THE GREATEST INCREASE IN FEMALE AND MINORITY HIRING HAS OCCURRED. (19) FOR GREATER ATTENTION AND FINANCIAL SUPPORT FOR ALCOHOL AND DRUG ABUSE PROGRAMS AND FOR TOUGHER LAWS DEALING WITH OFFENDERS. (20) FOR AN AWARENESS THAT SOME KINDS OF GROWTH MAY BRING COSTS EXCEEDING BENEFITS, AND A WILLINGNESS TO EXERCISE THAT AWARENESS THROUGH SUCH THINGS AS REPURCHASE OF KACHEMAK BAY OIL LEASES AND SUCCESSFUL CHALLENGE TO SOME FEDERAL LEASING ON OUR CONTINENTAL SHELF. (21) FOR A CABINET AND STAFF WHICH EVEN SOME MEMBERS OF PREVIOUS ADMINISTRATIONS HAVE TOLD ME IS THE BEST COLLECTIVE CREW SINCE STATEHOOD. AND, FINALLY, FOR THE RELUCTANT ACKNOWLEDGEMENT FROM SOME OF OUR SEVEREST CRITICS THAT WE SEEM TO BE REASONABLY HONEST. OF COURSE, FOR ALMOST NONE OF THE ABOVE CAN THIS ADMINISTRATION TAKE FULL BLAME OR CREDIT. MOREOVER, ONLY TIME WILL TELL WHICH ACHIEVEMENTS WARRANT ONE AND NOT THE OTHER. I PREDICT TIME'S ASSESSMENT WILL TAKE ON FAR GREATER LUSTER IF BOTH THE DIVIDEND AND

SPENDING LIMIT ARE IN PLACE.

ONE ACHIEVEMENT I'D LIKE TO SEE YOU ALL GET CREDIT FOR IS LIMITING LEGISLATIVE SESSION LENGTH. A PUBLIC ADVISORY VOTE HAS OVERWHELMINGLY EXPRESSED SUPPORT. MY PROPOSAL WOULD LIMIT SESSIONS TO 90 DAYS; HOWEVER, EXTENSIONS OF 15 DAYS COULD BE CALLED WITHIN 3 LEGISLATIVE DAYS. ITEMS TO BE CONSIDERED MUST BE APPROVED BY A MAJORITY OF EACH HOUSE AND THE GOVERNOR.

SOME ASSERT THIS WOULD PLAY INTO SPECIAL INTEREST HANDS BY MAKING IT EASIER FOR THEM TO KILL CRUCIAL LEGISLATION. CONVERSELY, IT'S ALSO LESS LIKELY SPECIAL INTERESTS CAN GET LOUSY LEGISLATION PASSED WITHIN THE SHORTER TIMEFRAME. I SUSPECT THE PUBLIC WILL AGREE THAT HAZARDS OF LEGISLATION PASSED ARE FAR GREATER THAN THOSE OF LEGISLATION WHICH NEVER SEES THE LIGHT OF DAY.

NO DOUBT SOME WILL FEEL THAT 90 DAYS IS FAR TOO SHORT AND THAT YOU NEED 120. HOWEVER, UNDER MY PROPOSAL 90 DAYS IS BY NO MEANS A LIMIT ABSOLUTE. IT IS BUT A TARGET DATE FOR WHICH TO SHOOT. IF CRUCIAL REASONS OBLIGATE MORE TIME, IT CAN BE PROVIDED. STRETCH OUT THAT TARGET DATE BY YET ANOTHER MONTH, AND IT GROWS INDISTINCT AND FAR LESS EFFECTIVE. MOREOVER, WITH THE SPENDING LIMIT IT SHOULD BE MUCH EASIER TO STRUCTURE BUDGETS. WITH NO LIMIT, THE BUDGET PROCESS IS DRAWN OUT AND ENORMOUSLY COMPLEX -- A POTPOURRI OF POLITICS AND PERSONALITIES. CERTAINLY PREPARATION OF INGREDIENTS FOR ANY STEW CAN BE MORE READILY ACCOMPLISHED IF ONE FIRST KNOWS THE SIZE OF THE RESTRAINING POT. THE SPENDING LIMIT, BY DEFINING ITS DIMENSIONS,

SHOULD LEAD TO SHORTER SESSIONS. COUPLE THAT WITH THE FACTS THAT FORMULA PROGRAMS NOW AUTOMATICALLY DICTATE ABOUT HALF THE BUDGET PLUS THE LARGE GROWTH IN BOTH LEGISLATIVE STAFF AND INTERIM COMMITTEES, AND IT WOULD SEEM THAT THE LEGISLATIVE IN-SESSION BURDEN WOULD BE SUBSTANTIALLY REDUCED. FINALLY, SHOULD YOU STILL FEEL 90 DAYS IS TOO RESTRICTIVE, WHY NOT TRY IT ON FOR SIZE THIS SESSION? SHOOT FOR THAT TARGET DATE AND THEN PERMIT ONLY ITEMS DEEMED CRUCIAL BY THE MAJORITY TO BE BROUGHT UP BEYOND IT. AS ANOTHER SAFEGUARD, YOU COULD PROVIDE FOR VOTER REENDORSEMENT OR REJECTION IN 1986.

OTHER LEGISLATION I'LL PROPOSE WOULD CONSOLIDATE REVENUE SHARING AND MUNICIPAL ASSISTANCE TO BETTER RECOGNIZE TRUE NEEDS, ABILITY TO PAY, LOCAL EFFORT AND SELF-DETERMINATION. WITHOUT CHANGE, RECENT AMENDMENTS TO CORPORATE OIL AND GAS TAXES WOULD REDUCE AID TO LOCAL GOVERNMENTS.

ADDITIONALLY, I URGE YOU TO SUBMIT TO THE VOTERS A PROPOSAL TO INCREASE CONTRIBUTIONS TO THE PERMANENT FUND. CURRENTLY BUT ONE-TENTH OF OUR OIL WEALTH GOES INTO THE FUND. BY CONTRIBUTING A COMPARABLE PERCENTAGE OF THE SEVERANCE TAX, NOT SIMPLY ROYALTIES, THIS WOULD ALMOST DOUBLE, BUT STILL BE FAR LESS THAN PUBLIC PERCEPTION THAT ABOUT ONE-HALF OUR OIL WEALTH GOES IN THE FUND.

WHILE POSSIBLE TAKEOVER OF THE RAILROAD HAS BEEN DEFERRED, WE SHOULD ESTABLISH NOW THE MECHANISMS REQUIRED TO BEST ACCOMPLISH THIS. I WOULD BE PLEASED TO WORK WITH YOU ON SUCH LEGISLATION.

SOME YEARS AGO, I ADVISED THE LEGISLATURE THAT UNLESS THEY HAD A TWO-THIRDS VOTE FOR VETO OVERRIDE, PLEASE DON'T PUT UPON MY DESK ANY BILLS FURTHER LIBERALIZING SUCH THINGS AS GAMBLING, DRUG USAGE, PROSTITUTION, OR ABORTION. THESE ARE BASIC MORAL ISSUES WHICH, BEST ARE CHANGED BY PUBLIC VOTE. SUBSEQUENTLY, NONE OF THE THEN PENDING LEGISLATION SURFACED. NOW, HOWEVER, I AM ADVISED THERE WILL BE AN EFFORT TO LIBERALIZE SO-CALLED "CHARITABLE GAMBLING." IN THE PAST, SUCH EFFORTS WERE VETOED BY GOVERNOR EGAN ON ADVICE OF LEGAL COUNSEL THAT IT WOULD COMPOUND ENFORCEMENT COSTS AND PROBLEMS PLUS PAVE THE WAY FOR PROFESSIONAL GAMBLING AND ITS ATTENDANT UNSAVORY CONSEQUENCES. I QUITE AGREE. ACCORDINGLY, LET ME REITERATE THAT EITHER YOU SHOULD PLACE THIS ISSUE UP FOR PUBLIC VOTE OR HAVE AT LEAST TWO-THIRDS SUPPORT BEFORE BRINGING UP THE MATTER.

IN THAT REGARD, I PROPOSE WE TAKE ADVANTAGE OF THIS ELECTION YEAR BY PLACING ON THE BALLOT A SLATE OF ADVISORY QUESTIONS FOR WHICH THERE ARE NOT NOW CLEAR, COLLECTIVE PUBLIC VIEWPOINTS. FOR EXAMPLE, REPORTEDLY A MAYOR KNOWN FOR HIS DEVELOPMENTAL LEANINGS RECENTLY WON REELECTION IN A COMMUNITY PURPORTING TO SUPPORT PETROCHEMICAL DEVELOPMENT AFTER REVERSING HIS POSITION AND ANNOUNCING HE OPPOSED THE PROJECT. COULD IT BE ALASKANS SUPPORT PETROCHEMICAL DEVELOPMENT IN CONCEPT BUT NOT PRACTICE? SIMILARLY, SHOULD WE NOW SET A SEVERANCE TAX ON COAL AND STABILIZE IT, AS OIL PEOPLE LAMENT WE DID NOT IN THEIR CASE? OR SHOULD WE CHARGE NO SUCH TAX ON COAL DEVELOPMENT UNTIL IT IS ESTABLISHED? OR WOULD MOST ALASKANS PROMOTE

DEVELOPMENT AND POPULATION GROWTH WHETHER OR NOT THAT DEVELOPMENT CAN PAY ITS WAY? DO MOST ALASKANS WANT TO HELP FINANCE THE GASLINE? YOU COULD USE THE BALLOT TO FIND OUT JUST WHERE THE PEOPLE STAND.

I YET HOPE THAT WHILE IN OFFICE MOST ISSUES THAT DIVIDE ALASKANS MAY ABATE. FOR EXAMPLE, IN DRAWING UP THE SEVEN D(2) CONSENSUS POINTS, I'D HOPED TO GIVE SOME UNITY AND FOCUS TO OUR EFFORTS IN SECURING AN ALASKAN LANDS BILL WHICH WOULD PROVIDE BOTH RATIONAL RESOURCE DEVELOPMENT AND ADEQUATE ENVIRONMENTAL SAFEGUARDS. THAT THE FINAL PRODUCT PLEASED NO ONE IN ITS ENTIRETY SUGGESTS IT MAY YET APPROACH THOSE GOALS. REGARDLESS OF THAT BILL'S DEFICIENCIES, FEW CAN DENY THE AGGRAVATION LEVEL ON THAT ISSUE HAS DROPPED SEVERAL NOTCHES. SIMILARLY, WHEN I TOOK OFFICE THE STATE WAS ANGRILY DIVIDED OVER WHERE THE CAPITAL SHOULD BE. THE BALLOT QUESTION PRESENTED TO YOU LAST YEAR WILL TO THE BEST DEGREE POSSIBLE SETTLE THIS ISSUE. MEANWHILE, THAT ISSUE TOO HAS COOLED. THE FEW REMAINING HOTHEADED AND DISGRUNTLED, IN ATTEMPTING TO FAN ITS FLAMES, ARE PERCEIVED BY MOST AS SIMPLY BLOWING SMOKE. HOPEFULLY, THAT SMOKE WILL NOT OBSCURE THE VISION OF MOST WHO AWAIT THE CHANCE TO CAST A MORE ENLIGHTENED VOTE UPON THE QUESTION.

ONE EXPLOSIVE ISSUE YET REMAINS. THIS ISSUE IS SUBSISTENCE. UNTIL RECENTLY BUT A TIME BOMB TICKING IN THE WINGS, IT HAS NOW ROLLED TO CENTER STAGE. ITS POTENTIAL FOR SHATTERING DIVISIVENESS IS EVIDENT. IF WE'RE TO DEFUSE IT, THERE MUST BE BROADER UNDERSTANDING OF SOME BASIC FACTS.

THE NATIVE CLAIMS SETTLEMENT ACT WAS, OF COURSE, THE PRICE, AT THE TIME WILLINGLY ACCEPTED IN RETURN FOR THE TRANS-ALASKA PIPELINE, BY SOME WHO NOW DECRY THE ACT. AN APPENDAGE OF THAT ACT WAS THE SUBSISTENCE ISSUE.

MOST ALASKA NATIVES BELIEVE SUBSISTENCE CRUCIAL TO THEIR IDENTITY AND WAY OF LIFE. CURRENT STATUTES DEALING WITH SUBSISTENCE ARE VIEWED BY THEM AS ALMOST SACRED WRIT WHICH SHOULD NOT BE CHANGED. CONVERSELY, MANY URBAN SPORTSMEN VIEW SUBSISTENCE STATUTES AS UNNECESSARY AND BLATENTLY DISCRIMINATORY. THE PROBLEM IS BOTH ARE PARTLY RIGHT AND PARTLY WRONG. HAD THE LEGISLATURE NEVER PASSED THE CURRENT LAW, I BELIEVE A REASONABLE SUBSISTENCE PREFERENCE COULD HAVE BEEN PROVIDED WHICH MOST ALASKANS WOULD ACCEPT AS FAIR. HOWEVER, BY INCLUDING PREFERENCE FOR ILL-DEFINED "CUSTOMARY AND TRADITIONAL" USAGE INSTEAD OF ONLY NEED, OPPONENTS OF THE STATUTE FELT THEY WERE GIVEN A LONG, SHARP-BLADED SHAFT. NOW THEY'VE REVERSED THAT BLADE AND WOULD USE IT HEAVY-HANDEDLY TO PIN A SUBSISTENCE LAW REPEALER ON THE BALLOT WHICH, IF PASSED, IRONICALLY COULD DO MORE INJURY TO THEM THAN THOSE THEY VIEW AS THEIR OPPONENTS.

I CAN UNDERSTAND WHY THE LEGISLATURE WILL NOT LIKELY TINKER WITH THIS ISSUE. AFTER ALL, JUST LIKE D(2) IT'S A SURE LOSER IF YOU COME DOWN IN THE ARENA ANYWHERE BETWEEN THE WARRING FACTIONS. YET I'M CONVINCED THAT'S WHERE MOST WOULD BE IF THEY KNEW THE FACTS. I BELIEVE THIS ISSUE COULD BE DEFUSED BY AMENDING THE SUBSISTENCE STATUTE TO GRANT PREFERENCE ONLY WHERE RESOURCES WERE INSUFFICIENT TO MEET THE QUANTIFIABLE "NEEDS" OF THOSE

TRULY MOST DEPENDENT. IMPERFECT YARDSTICK THOUGH IT IS, INCOME LEVEL MAY BE THE BEST AND MOST ACCEPTABLE "NEED" MEASURE. "CUSTOMARY AND TRADITIONAL" USAGE, ON THE OTHER HAND, DEFIES DEFINITION, MUCH LESS MEASURE. FOR EXAMPLE, SHOULD I, HOPEFULLY LIVING IN THE BUSH ON A FAT RETIREMENT, BE GRANTED SPECIAL SUBSISTENCE PRIVILEGES BY SIMPLE VIRTUE OF AREA RESIDENCY WHILE, SAY, AN ANCHORAGE NATIVE WITH BUT ONE-TENTH MY INCOME IS DISQUALIFIED? "CUSTOM AND TRADITION" LANGUAGE MIGHT HAVE IT SO, BUT EQUITY AND COMMON SENSE DO NOT. THERE SIMPLY IS NO PROPER YARDSTICK BY WHICH TO MEASURE TRADITIONAL AND CUSTOMARY USE, AND IF YOU HAVE NO CLEAR MARKERS ON A YARDSTICK, IT SHOULD BE DISCARDED. IF YOU WON'T AMEND EXISTING LAW TO PROVIDE SOME BETTER MEANS OF MEASURE, AT LEAST MAKE SURE THAT YOUR CONSTITUENTS ARE WELL AWARE THAT REFERENDUM LANGUAGE DOES MUCH MORE THAN SIMPLY REPEAL THE STATE'S SUBSISTENCE LAW. IT WOULD AS WELL PROHIBIT USING ANY ACCEPTABLE "NEED" FACTOR IN DETERMINING SUBSISTENCE PREFERENCE; TO SAY NOTHING OF INVITING THE FEDERAL GOVERNMENT TO MANAGE OUR FISH AND GAME ON CERTAIN OF THEIR LANDS. AS ONE WHO REMEMBERS WELL THE STATEHOOD BATTLE LARGELY PREMISED ON THE CHARGE THAT WE COULD BETTER MANAGE OUR AFFAIRS THAN COULD THE FEDERAL GOVERNMENT, I CAN'T BELIEVE THAT MOST ALASKANS WOULD SUPPORT RETURN TO SUCH SPLINTERED MANAGEMENT WHICH CAN ONLY LEAD TO GREATER DIVISION AND CONFUSION. WHILE IN MY VIEW THE NATIVES ERR IN NOT SUPPORTING SOME DEFUSING AMENDMENTS TO SUBSISTENCE LAWS, THAT ERROR PALES IN CONTRAST TO THE PROBABLE DISSERVICE RENDERED ALL ALASKANS IF THE

REFERENDUM PASSES. THESE THINGS HAD BEST BE CLEARLY UNDERSTOOD BY YOUR CONSTITUENTS BEFORE THEY CAST THEIR VOTES OR IT WILL COME BACK TO HAUNT YOU.

IN CLOSING, A FEW WORDS OF SINCERE APPRECIATION. I MUST ADMIT MY FIRST MONTHS AS GOVERNOR WERE NOT FILLED WITH JUBILATION. I FELT NOT ONLY UNDULY OVERWORKED, BUT UNDULY WORKED OVER. I COUNTED DAYS UNTIL I COULD RETURN TO MY OLD LIFE. SOME OF YOU, NO DOUBT, COUNTED WITH ME. WHAT I LIKED LEAST WERE DEMANDS FOR IMMEDIATE SELECTION FROM TWO OR MORE ALTERNATIVES WHICH, TO ME, WERE OFTEN GARBED IN NON-DISTINCTIVE SHADES OF GRAY, EACH, HOWEVER, PASSIONATELY ENDORSED BY PARTISANS WHO FELT THEIR OPTION FESTOONED IN ALL THE COLORS OF THE RAINBOW. FREQUENTLY, THOSE UNSUCCESSFUL IN LOBBYING THEIR CAUSE WERE LIKE SOME THWARTED SWAINS, PATHETIC OR VINDICTIVE. FROM THEM ADVERSE DECISIONS PROMPTED CHARGES OF VENALITY, CORRUPTION, PERSONAL GAIN, OR, AT BEST, STUPIDITY. AND THESE CAME FROM OUR FRIENDS. OPPONENTS WERE EVEN LESS APPROVING.

DAILY WE IN GOVERNMENT, OF COURSE, ARE FACED WITH DECISIONS BOTH MUNDANE AND MOMENTOUS. AND AS SOME UNKNOWN AUTHOR SAID: "ON THE PLAINS OF HESITATION BLEACH THE BONES OF COUNTLESS MILLIONS WHO AT THE DAWN OF VICTORY SAT DOWN TO REST AND IN RESTING DIED.' WHILE, COMPARATIVELY, PRESENT TIMES HERE IN ALASKA MIGHT SEEM VERY GOOD, DON'T SIT BACK IN PRESUMPTION THAT THEY WILL GO ON FOREVER WITHOUT ASKING RUDE QUESTIONS OR SIFTING HEALTHY FROM UNHEALTHY GROWTH. IF I'VE DONE NOTHING MORE, I HOPE I'VE STUCK TOO MANY

NEEDLES IN THE CUSHIONS OF THOSE INCLINED TO QUIETLY SIT BACK.

OVER TIME SOME POINTED MESSAGES HAVE GOTTEN THROUGH AND MOST OF WHAT I'D HOPED TO DO HAS BEEN ACCOMPLISHED OR SET IN MOTION. FOR THAT, I HAVE ALL OF YOU TO THANK. YOURS HAS BEEN AN AWESOME JOB. YOU SHOULDERED BURDENS UNIMAGINED BY MOST YOUR CRITICS. TOGETHER WE'VE GONE THROUGH THE MOST TUMULTUOUS YEARS IN THIS STATE'S HISTORY AND HAVE COME THROUGH THEM PRETTY WELL. THOSE OF US WHO HAVE COME TO KNOW YOU ARE WELL AWARE THAT MOST POLITICIANS REALLY WANT TO DO WHAT'S RIGHT, SOMETIMES AGAINST ENORMOUS PRESSURES TO DO WRONG AND OFTEN WITH A BLURRING OF ANY CLEAR DISTINCTION.

IF POLITICIANS HAVE ONE COMMON BOND IT IS DESIRE TO BE LOVED. IN COURTING THE ELECTORATE TIME WILL JUDGE WHETHER LOVE AFFAIRS WERE SACRED OR PROFANE. MEANWHILE, SOMETIMES WE WONDER WHY OUR CRITICS TRY SO HARD TO MAKE US HATE THEM. IN MY CASE, THEY HAVE NOT SUCCEEDED. NOT ONLY HAVE THEY PROMPTED WARRANTED SOUL-SEARCHING, BUT AT TIMES WHIMSICAL DIVERSION. FOR EXAMPLE, WHO CAN REALLY HATE A FELLOW WHO COMES UP WITH SUCH A FULSOME TERM AS "POSEY-SNIFFING SWINE?"

MOREOVER, TO APPRECIATE WHEN ONE IS STANDING ON A MOUNTAIN TOP, HE MUST AS WELL TRAVERSE SOME VALLEYS. IN PROVIDING PITFALLS AND IMPEDIMENTS, ONES CRITICS ASSURE THAT SUCH WILL BE THE CASE. I THANK THEM FOR IT. NOT IN SPITE OF, BUT BECAUSE OF THEM DO I CONSIDER MYSELF AMONG THE LUCKIEST OF MEN, BOOSTED TO MORE THAN HIS SHARE OF APPRECIATED

MOUNTAIN TOPS. I THANK BOTH THOSE WHO SUPPORTED AND THOSE WHO HAVE MERELY SUFFERED MY PRESENCE IN THIS OFFICE. SPECIAL GRATITUDE TO THOSE WHO THROUGH THEIR PRAYERS OR PRESENCE HAVE SUSTAINED MY FAMILY AND MY ADMINISTRATION.

WHILE ADMITTEDLY THE FIRST FEW YEARS WERE LESS THAN TOTALLY ENCHANTING, IN RETROSPECT I'VE ENJOYED EVERY ONE OF THEM, ONCE AWARE THAT GRIEF ENRICHES GLORY. ALASKANS HAVE BEEN WONDROUS KIND, FORGIVING, INDULGENT AND SUPPORTIVE. THAT'S RIGHT -- SUPPORTIVE. WHILE ALL RECALL MY THIN VOTE MARGINS, IN THE LAST ELECTION YOU GAVE ME MORE THAN TWICE THE MARGIN GRANTED ANY OTHER GOVERNOR. SO WHAT IF WE HAD TO SLICE THE PIE FOUR WAYS TO GET IT?

SOME ASK IF I WILL RUN AGAIN, PERHAPS FOR CONGRESS? NOT ONLY ARE WE WELL-REPRESENTED THERE ALREADY, BUT ANYTHING COMPELLING MY DEPARTURE FROM ALASKA I VIEW AS A STEP BACKWARDS OFF THAT MOUNTAIN TOP SHARED BY ALL THOSE PRIVILEGED TO LIVE UP HERE.

BESIDES, I AGREE WITH ARTEMUS WARD WHO SAID: "THE PREVAILING WEAKNESS OF MOST PUBLIC MEN IS TO SLOP OVER. GEORGE WASHINGTON NEVER SLOPPED OVER." AFTER SOME 34 YEARS IN GOVERNMENTAL SERVICE, JAY HAMMOND'S COMING PERILOUSLY CLOSE TO SLOPPING OVER. KNOWING WHEN TO QUIT IS ONE WASHINGTONIAN ATTRIBUTE WE'D ALL DO WELL TO EMULATE.

IN MY FIRST INAUGURAL ADDRESS, I SAID THAT I WOULD DO MY BEST TO FASHION OF GOVERNMENT A "TABLE IN THE ROUND AT WHICH ALL ALASKANS COULD SIT AND SUP AS CO-EQUALS." YOU'VE PERMITTED ME TO UNDERTAKE THAT TASK. I REGRET THAT

CARPENTRY'S NOT YET COMPLETED. IF AT TIMES I'VE TRIED TO ELBOW ASIDE SOME ALREADY FEEDING SUMPTIOUSLY TO MAKE ROOM FOR THOSE OTHERWISE CONFINED TO SCRAPS WHICH FALL UPON THE FLOOR, I MAKE NO APOLOGY WHATSOEVER. I APOLOGIZE ONLY IF I HAVE FAILED OR DISAPPOINTED YOU AND TO THOSE I MAY HAVE INJURED BY UNTHOUGHTFUL WORD OR DEED. MY REGRETS FOR HAVING DONE SO ARE EXCEEDED ONLY BY MY APPRECIATION OF THE CHANCE YOU GRANTED ME TO COME TO BETTER KNOW AND PERHAPS SERVE THIS STATE AND ALL ITS PEOPLE. FOR THAT I AM IN YOUR DEBT FOREVER.

What is Crime Stoppers?

- The Crime Stoppers program provides a means of communication, encouraging concerned citizens to volunteer vital information that may be helpful to law enforcement agencies.

- In order to overcome fear of involvement and apathy, Crime Stoppers offers anonymity and cash rewards to persons who furnish information leading to the arrest and indictment of felony crime offenders and to the capture of fugitives.

- Over 90 U.S. cities have discovered and implemented such a program — Crime Stoppers, is a successful method which involves the public, the media and the police force in fighting and preventing crime in the community.

CRIMINAL DESCRIPTION DATA

WEIGHT/BODY BUILD
RACE/NATIONALITY
HAIR: COLOR/CUT
COMPLEXION
BEARD, MOUSTACHE, SIDEBURNS
VISIBLE SCARS, TATOOS
WEAPON, IN RIGHT OR LEFT HAND
AGE
SPEECH CHARACTERISTICS
MASK, GLASSES, COLOR EYES
HEIGHT
COAT, JACKET, SHIRT
GLOVES OR ANY JEWELRY
TROUSERS
SHOES

REVOLVER **AUTOMATIC**

OTHER WEAPONS-KNIFE, RIFLE, CLUB

VEHICLE:
YEAR
MAKE
COLOR
BODY TYPE—2 Door/4 Door/Van/Truck
LICENSE NUMBER

CRIME STOPPERS

of

ANCHORAGE

415 F Street
ANCHORAGE

PHONE 274-STOP

Does Crime Stoppers Help Stop Crime?

- Since its inception in Albuquerque in September of 1976, Crime Stoppers programs have spread throughout the United States and have assisted in solving tough crimes of rape, murder, burglary, drug trafficking and other major offenses.

STATISTICS

- **SOLVED**

9715 - FELONY CRIMES

- **RECOVERED**

OVER $27,770,138 IN STOLEN PROPERTY AND NARCOTICS

- **TRIED**

2990 - DEFENDENTS

- **CONVICTED**

2955 - DEFENDENTS

How Does the Program Work?

- The Crime Stoppers program is funded by private donations from concerned citizens, businesses, and social organizations. No tax dollars are involved.

- A board of directors, composed entirely of involved citizens establishes policy, the amount and method of the reward system and the raising of funds. Tax exempt status has been granted by the IRS.

- The Anchorage Police Department is responsible for the daily operations of the Crime Stoppers program. It receives and processes incoming information through a special Crime Stoppers telephone.

274-7867

- Each caller is given a code number and rewards are paid in cash to insure anonymity.

HOW CRIME STOPPERS IS PUBLICIZED

CRIME OF THE WEEK

- In order to publicize those cases deemed appropriate for the Crime Stoppers program, video re-enactments and news stories are prepared for the use of local television stations, radio stations, and newspapers.

- Every Monday a television re-enactment strives to recreate the crime as close to the actual event as possible. In this way, the authenticity is hoped to jog someone's memory in the audience and to encourage them to relay their information to Crime Stoppers.

- When a caller's information leads to an indictment, the caller is contacted by publicizing his code number in the local media. To claim his reward, the caller simply contacts Crime Stoppers' in order to arrange for the payment.

- The average reward is approximately $75.00 per crime solved.

CRIME STOPPERS OF ANCHORAGE

Incorporated under the provisions of IRC
Sec. 501 (c) (3). Contributions are tax deductible.

Please accept my ch... _____ pledge _____ for:

_____$1,000 _____$500 _____$250 _____$100

_____$50 _____$25 _____Other

(Make check out to: Crime Stoppers of Anchorage)

NAME _____

ADDRESS _____

CITY _____ STATE _____

ORGANIZATION NAME _____

ADDRESS _____ _____

CRIME STOPPERS of ANCHORAGE

415 F STREET — PHONE 274-STOP

Rep. Barnes

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Ramona, I have reviewed this and flagged those suggestions that seemed most workable to me. If you concur I will inform Rep. Beirne. Thanks, DAVE

January 18, 1982

Dear Legislators:

The House HESS Committee is currently drafting a bill addressing the student loan program. Many of us have heard of misuse of these funds and feel compelled to address the negative aspects of the current program. The Alaska Postsecondary Education Commission has drafted several alternatives to the existing student loan program.

I am asking your assistance in evaluating the proposed alternatives. I have enclosed a copy of the Commission's report, "Alternatives for Amending the Student Loan Program".

Please send your comments to Representative Mike Beirne, Chairman of the House HESS Committee, Room 106-Capital Building.

Sincerely,

Terry

Representative Terry Martin

/ld

Alternatives for Amending the Student Loan Program

The following alternatives for amending the current Alaska Student Loan Program are not meant to be exclusive, nor are they being suggested for adoption. Rather, they are simply those alternatives which have arisen from initial staff and Commission study and discussion. A number will surely be discarded as being impractical or unsatisfactory, but for the present, all must at least receive consideration.

Prior to presentation to the Legislature, the Commission will be establishing positions on each of these alternatives and will be assigning priorities for those being recommended for possible adoption if and when circumstances so warrant.

The order of presentation will be: those alternatives requiring administrative action, usually through regulations; those alternatives requiring legislative actions; and those miscellaneous alternatives dealing with the general administration of the program.

Alternatives Accommodated Through Regulations

1. Enforce a loan application deadline. The current deadline for applying for a student loan is May 15 of each year (20 AAC 15.020 [a]). For most purposes this deadline date is ignored. Persons may apply for a loan at any time throughout the year, with the only restriction being that of 20 AAC 15.020 [d]. Under that section of the regulations, a person may not apply for a school term which is one-half or more over.

An alternative is to set new realistic deadlines and then strongly adhere to those dates. Suggested deadlines are:

For attendance	Application deadline
Beginning July 1 - October 31	July 15
Beginning November 1 - February 29	November 15
Beginning March 1 - June 30	March 15

2. Restrict continuing loans to students maintaining certain grade-point averages. In order to receive a student loan, the student must be attending school full-time and be in "good standing". Good standing is defined by the Commission (through regulations) as having a 2.0 cumulative grade point average (g.p.a.) for undergraduate students and a 3.0 cumulative grade point average for graduate students (20 AAC15.040[j]).

An alternative could be to raise the requirement for maintenance of "good standing". Undergraduate good standing could be defined as a g.p.a. of 2.5 or 3.0, and graduate could be 3.5. This could greatly reduce the number of eligible borrowers.

It is estimated that raising the requirement to 3.0 and 3.5 would eliminate as many as 50% of the current borrowers. This would mean a savings of as much as $31 million in 1982-83.

3. Require residency verification. Student loans are available to eligible borrowers who are at least two-year Alaska residents. There has been a good deal of hypothesizing as to the extent of persons willing to perjure themselves by falsely claiming Alaskan residency in order to obtain a student loan.

The Commission could, by regulation, require that a student obtain four references willing and able to attest to the student's residency claim. This verification would also be under personal oath.

The process could slow down processing somewhat, but it should not require increased staff, and it should eliminate some of the potential for abuse.

Alternatives requiring Legislative Changes

4. Employ a needs test. The imposition of a needs test is based upon the logic that if funds cannot be provided to fund all Alaskans wishing student loans, then those who are "most needy" are the ones who should receive support. A needs test can be handled in at least two ways. First, a level of available funds could be determined. Then, all applicants could be ranked, based upon need, and awards could be made until funds were exhausted. Second, a minimum level of "need" could be set. All persons meeting the need criteria would be funded, all others denied.

A nationally-known needs test would be employed. The students would be required to fill out the needs analysis form, pay a fee for processing, and send the form to a processing center (probably in California). The center would report results to the student and the Commission.

This would not require increased staffing at the state level, but would slow processing considerably.

A needs test would require a parental contribution based upon family income levels and would penalize the dependent student, as opposed to the independent student.

A substantial amount could be saved annually, depending upon how restrictive either the funding level or the income levels were.

5. Deny loans for foreign study. Loans can currently be used for study at any approved institution. A small number of students, 20-25 in 1981-82, use these loans for study in foreign countries. These loans could be denied. The savings would amount to $120,000 - $165,000 annually.

6. Deny loans to freshmen borrowers. Since freshmen tend to be the largest credit risk (after vocational students), the entire group of freshmen borrowers could be denied loans This currently accounts for 31.8% of the student loans, so the savings for 1981-82 would be $11.3 million, and for 1982-83, as much as $21.3 million.

7. Restrict loan use to only tuition, fees, and books, or tuition, fees, books, room, and board. The current practice is to loan for tuition, fees, books, room, board, and other educational expenses. These "other expenses" include personal expenses, child care, travel, etc. At the University of Alaska, these expenses account for 22 to 35% of the standard student budget. If room and board were also eliminated, the savings would be another 40 to 65%. Hence, the savings of eliminating all expenses other than tuition, fees, and books would be from 60 to 90% of the current loan levels.

In 1982-83, eliminating "other expenses" could save from $15 to $24 million. Eliminating all expenses but tuition, fees, and books, could save as much as $40 to $60 million. It should also be noted that such restrictions in borrowing eligibility would also result in forcing some students not to attend school. In fact, those that need the funds the most would be those most likely to be forced out of school.

8. Roll back the borrowing maximums. The 1981 Legislature increased the undergraduate borrowing maximum from $3,000 per year to $6,000 per year, and the graduate maximum from $5,000 to $7,000 per year. The program then experienced a 70% increase in borrowers, and a 288% increase in funds requested. While other factors undoubtedly contribute to this increase, the principal element is the new borrowing limit.

Reducing the loan maximum could profoundly affect the cost of the program. Rolling back to $3,000 and $5,000 would save as much as $30 million in 1982-83, but it would also mean some students could not attend school. If the large increase in borrowing is in part attributable to the increased maximums, a reduction would mean forcing some students back out of the educational system.

9. Raise the interest rate charged on loans. The current interest rate on Alaska student loans is 5%. Federal student loans are now at 9%. The interest rate charged to students could be raised to 7%, 8%, 9%, or even 10%. Raising the rate could make the loans less attractive and thereby discourage some borrowers, but probably very few. The effect would be negligible for the first few years, but raising the interest from 5% to 9%, for example, could result in as much as $1.3 million in 1986-87.

In order to prevent the necessity of legislative action every few years, the interest could also be based upon current interest rates for federal student loans. Therefore, when federal student loan interest rates change, the state's rates would also change.

10. Increase residency requirements for loans. To qualify for a student loan, a borrower must be at least a two-year Alaska resident. This could be increased to three, five, or ten years. All would save considerably over the present system; for example, raising to a five-year requirement would eliminate approximately 32% of the borrowers. In 1982-83, this could mean as much as $20 million. However, it should be noted that the Attorney General has previously advised against such residency restrictions.

11. Eliminate forgiveness. If a borrower resides in Alaska after completion of study, up to 50% of the loan, including interest, may be forgiven (cancelled). This partial cancellation is earned at a rate of 10% per year of residence after completion of study, for up to five such cancellations.

If this provision were eliminated, a great deal of money would be saved eventually. It could not and would not affect the $97 million already loaned under the program. Although the effect would be negligible for the next few years, there would be an increasing savings realized that would be at an annual level of $2 to $5 million by 1986-87.

There may be an impact which would not be desirable if this action were taken. The forgiveness, currently at 50%, is believed to be a significant inducement for persons to live in Alaska after completing study. Removal of that inducement would lessen the number of educated Alaskans remaining or returning to work in Alaska after schooling.

A second point should be made, and that is that the 1981 Legislature just took action raising the forgiveness from 40% to 50%.

12. Restrict loans to in-state students. Student loans could be made available only to those persons attending in-state educational institutions. This would save a considerable amount, since about 60% of all student loans are for study out-of-state. Some of those students would be forced to attend in-state if the loan program were not available, others would go out anyway, and still others would not go to school at all. The savings could easily be 40% over current levels. For 1980-81, that would be $18.8 million, and for 1981-82, as much as $26.8 million.

Previous legislative attempts at adopting this type of restriction were not very well received. Arguments against such a restriction included the absence of certain programs in Alaska, the issue of freedom of choice - particularly with a loan that had to be repaid, the issue of educational quality, the issue of educational diversity, and simply the issue of being able to leave home and experience life in another part of the country.

13. Eliminate interest waivers during in-school and other deferment periods. Interest and payments are currently deferred while the borrower is a full-time student, in the military, in the peace corps, serving an internship, on medical hardship and disability, and during a one-time unemployment period. Interest could accumulate during these periods. This would greatly increase the amount of interest to be paid and would increase monthly payments when the borrower enters the repayment cycle. The burden of repayment would be increased since the accumulated interest would be disbursed over the normal ten-year repayment period.

14. Establish a two-tier or dual, loan program. The state could continue to emphasize loans as its principal means of providing student assistance, but it could have two programs available. One, called somthing like, the Alaska Basic Student Loan program, could be available only to those students able to demonstrate substantial "need". The loans could be varying amounts, dependent upon the level of need verified by a standard needs analysis, and should carry a low interest rate, such as 5%.

The second loan program, called something like the State Standard Student Loan Program, the State Supplemental Student Loan Program, or simply the State Student Loan Program, could be available to all those unable or unwilling to demonstrate the need required to qualify for a "basic" loan. This program could carry high interest rates, such as 10% or 11%.

Costs to the state would be decreased under such a plan, because of the higher income generated from the second program and also because a number of persons currently borrowing might choose not to borrow if the terms are less attractive. Forgiveness features would be at the discretion of the Legislature, but if these were eliminated, even greater savings would be realized.

General Administration Alternatives

A. The Commission has been quite concerned about the timely handling and processing of loan awards. Some suggestions and alternatives have been identified which could improve this processing time.

15. Fully staff the awards division. The current awards staff consists of 7.0 full-time people. These include a division officer, an awards specialist, three awards clerks II, and two awards clerks I. Using the adopted staffing formula of 1.0 staff member per 1,000 loan awards, the division is understaffed by 36.4%, or 4.0 people. With the additional personnel, loan processing could continue and be kept current. The division was operating 30 days behind in loan processing as of November 1, 1981. Even working evenings and weekends, the current staff cannot service the loan applicants in an adequate and timely manner.

16. Maintain a revolving base for loan processing. The 1981 Legislature created a $10 million revolving base for the program. This was to enable the processing of loans during February, March, April, and May. Unfortunately this benefit of the base was negated by the delay in program start-up this past year, but the concept of a revolving base is sound and would greatly improve loan processing by leveling the work load. The base, with the increased borrowing limits and volume of applicants, would need to be about $25 million to be effective.

17. Eliminate the institutional sign-off on educational cost of attendance. The current procedure requires the applicant to have the school of attendance review the application and certify that the costs listed by the loan applicant are reasonable and appropriate for that particular institution. This step can cause great delays in the loan process. At times applications are lost or simply held by the schools until such time that the student does not receive funds in time for the beginning of school. If this step is eliminated, the process would be greatly accelerated.

The trade-off here is that the loan division would then have no check on the appropriateness of what the applicant says it will cost to attend a particular school. Budgets could be exaggerated to assure the qualification for a maximum loan.

B. The Commission has also expressed concern over administrative costs and growth of staff. Hence, a few alternatives to current practices have been explored.

18. Contract for loan collection with an outside agency. The current program only contracts out the basic receipt of payments. Coupon booklets are ordered and sent to loan recipients entering the repayment cycle. The monthly payments are then mailed to a "lock-box" contracted through a commercial bank. The bank receives the funds and transfers them to the state. The rest of the administration is handled in-house.

The increased loan volumes and the maturation of the program are creating large demands for increased staff. Using the adopted staffing formula, the current staff of 24.0 full-time persons will increase to 56.0 in 1982-83, 82.0 in 1983-84, and 106 in 1984-85. If state government is not to expand, alternatives need to be examined.

Loan collections actually consist of loan repayments and loan collections. Loan repayment is the routine repayment of loans, and loan collection is the collection of delinquent and default accounts. In exploring the use of an outside contractor, three approaches were explored: a nationwide loan management service, a commercial banking service, and a private collections agency.

(a) Loan management service. Three nationwide loan management services were contacted on behalf of the loan program. All three specialize in the collection of student loans and handle accounts for a number of institutions and states - usually federally guaranteed student loans. Since the Alaska program is so different from the federal program, one company would not submit a bid for servicing the Alaska loans, one did submit a bid, and a third has not responded definitively. The sound bid is from Wachovia Student Loan Management Services of Winston-Salem, North Carolina. Wachovia indicated a willingness to alter existing data processing software to handle Alaska's program. The costs, submitted October 27, 1981, are:

$1.15 per borrower per month while in school
$2.00 per borrower per month during deferments
$2.85 per borrower per month during repayment

Wachovia will not be responsible for collection of delinquent or defaulted loans.

Based upon current figures and estimates, the following cost comparison is made:

Year	Wachovia	State	Difference
1981-82	$ 895,453	$ 497,502	$ (397,951)
1982-83	$1,461,150	$ 938,222	$ (522,928)
1983-84	$2,036,263	$1,498,480	$ (537,783)
1984-85	$2,552,537	$2,117,724	$ (434,813)

Therefore, the cost of contracting these services would be considerably higher than "in-house" processing.

(b) Commercial banking services. Attempts to obtain sound bids from in-state banks have not been very successful. A few banks would be willing to administer all or parts of the loan program, but initial programming costs and staffing costs would be extremely high. Either the state or the borrower would have to absorb those costs and the result would again be increased cost to the state, when compared to maintaining the "in-house" servicing.

(c) Private collection agency. A number of private collection agencies will attempt to collect our "bad debts", i.e., the delinquent and defaulted loans; however, the charges all are around 50% to 65% of the amount recovered. This charge far exceeds that currently being paid the five persons handling these collections "in-house". The collection rate for the current staff for "bad debts" is averaging over $200,000 per staff member per year.

19. Combine this loan program with other state loan programs. This alternative has been explored before and has been found to be not a workable alternative. The Legislature made this determination when all loan programs were being re-examined and re-vamped two sessions ago. They found that student loans should not be included in any type of large loan package portfolio, particularly if the bond market is to be involved.

Additionally, the transfer of the program to another state agency would not reduce administrative costs, rather it would simply transfer existing costs to another agency and would, in fact, result in increased costs to the state due to inefficiencies which would necessarily occur. The ability now exists to "package" a student's aid. The Commission administers three other programs (besides the loans) which affect a student's need for financial assistance. Currently all four programs are coordinated at the time of award and the problems of over-awarding are avoided. This would not be as easily accomplished with a second agency involved. A certain amount of staff over-lap would be necessary with another agency involved.

Additional Financial Assistance Concerns

Alaska currently has a large loan program, a small, nearly non-existent federally-matched grant program, and no state scholarship or state work-study program. Each of these programs, other than loans, will be briefly described or discussed below.

Grants. The state currently participates in the federal/state cooperative State Educational Incentive Grant Program (SEIG). This is a "need-based" grant which requires a needs analysis of all applicants. Grants of up to $1,500 per year are awarded for undergraduate attendance. In 1981-82 over 2,000 Alaskans applied for these grants, but funds were available to award grants to only [illegible]. This program requires a federal match and is being drastically reduced in the curre[illegible]ederal budget cuts.

There is a bill, SB 254, currently in the Legislature which would establish this program as an Alaskan program and would provide grants of up to $3,000 per year.

Scholarships. Alaska currently has no state-level scholarships for outstanding high school seniors. Two bills currently exist which would establish scholarship programs. SB 310 would establish the Alaska State Scholarhip Program and would provide competitive scholarships for in-state attendance. The scholarhips would provide $4,000 per year, and the student would need to maintain a grade-point-average of 3.25 to keep the scholarship.

SB 301 would establish the Alaska Cooperative Scholarship Program which would provide matching funds for private sources of scholarships. The scholarships would be for up to $5,000 ($2,500 state) per year, and the student would need to maintain a 3.0 grade average to keep the scholarship. The scholarships would be available for undergraduates attending in-state.

State Work Study. College Work Study, a federally-funded program, exists in Alaska, but only on a very limited basis. Some states, most notably Washington, have created state work-study programs directly designed to provide assistance for their in-state students. Alaska has no such program, but it is a possibility for the future. Under such a program, a student would be eligible to work for up to an average of 20 hours per week with a cooperating employer. The state would pay 65% of the student's wage and the employer would pay the remaining 35% for up to a pre-determined "need" level.