

LEG. FINANCE - BILLS 1985 - 1986 2436

HB 554 - HB 558

2436

HOUSE
COMMITTEE REPORT

5/1

(7)

Date referred: 2/7/86

FURTHER REFERRALS: FINANCE

DATE: _____

The JUDICIARY Committee has considered HB 554

"An Act relating to sentencing."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 554 (JUD) same title
- new title

and recommends revised

further referral to the _____ Committee

and attaches:

- letter of intent
- first fiscal note *sup # 127*
- new fiscal note
- zero fiscal notes *with analysis sup 127*

SIGNING DO PASS: *2 zero fiscal notes*

SIGNING OTHER RECOMMENDATIONS:

First

[Signature]

[Signature]

[Signature]

[Signature]

[Signature] (NO REC)

[Signature] No Rec.

[Signature] NO REC

[Signature]
Chairman

Offered: 5/1/86
Referred: Finance

17 notes (first) } Sep 126
2 300 w/4 (first) }
3 3000 7/10/86

Utterance

Original sponsors: Clocksin, Adams,
Duncan, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 554 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to sentencing and discretionary
7 parole."

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

9 * Section 1. AS 12.55.015(d) is repealed and reenacted to read:

10 (d) The court, in imposing sentence on a defendant convicted of
11 (1) sexual assault or sexual abuse of a minor; (2) misconduct involv-
12 ing a controlled substance in the first, second, third, fourth, fifth
13 or sixth degree; or (3) a felony involving the abuse of alcohol, may
14 in addition to a sentence required by law, order the defendant to
15 participate in a treatment program for persons who are sex offenders
16 or a program for treatment of drug or alcohol abusers, if the court
17 determines that the treatment is appropriate. Participation may be
18 required as a condition of probation, a condition of suspended exe-
19 cution of sentence, or a condition of suspended imposition of sen-
20 tence. This subsection may not be construed to reduce a mandatory
21 minimum or presumptive sentence.

22 * Sec. 2. AS 12.55.125(c) is amended to read:

23 (c) A defendant convicted of a class A felony may be sentenced
24 to a definite term of imprisonment of not more than 20 years, and
25 shall be sentenced to the following presumptive terms, subject to
26 adjustment as provided in AS 12.55.155 - 12.55.175:

27 (1) [IF THE OFFENSE IS A FIRST FELONY CONVICTION AND DOES
28 NOT INVOLVE CIRCUMSTANCES DESCRIBED IN (2) OF THIS SUBSECTION, FIVE
29 YEARS;]

1 (2) If the offense is a first felony conviction, other than
2 for manslaughter, and the defendant possessed a firearm, used a dan-
3 gerous instrument, or caused serious physical injury during the com-
4 mission of the offense, or knowingly directed the conduct constituting
5 the offense at a uniformed or otherwise clearly identified peace
6 officer, fire fighter, correctional officer, emergency medical techni-
7 cian, paramedic, ambulance attendant, or other emergency responder who
8 was engaged in the performance of official duties at the time of the
9 offense, five [SEVEN] years;

10 (3) If the offense is a second felony conviction, 10 years;

11 (4) If the offense is a third felony conviction, 15 years.

12 * Sec. 3. AS 12.55.155(a) is amended to read:

13 (a) If a defendant is convicted of an offense and is subject to
14 sentencing under AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), or
15 (f) and

16 (1) the presumptive term is four years or less, the court
17 may decrease the presumptive term by an amount as great as the pre-
18 sumptive term for factors in mitigation or may increase the presump-
19 tive term up to the maximum term of imprisonment for factors in aggra-
20 vation;

21 (2) the presumptive term of imprisonment is more than four
22 years, the court may decrease the presumptive term by an amount as
23 great as 25 [50] percent of the presumptive term for factors in miti-
24 gation or may increase the presumptive term up to the maximum term of
25 imprisonment for factors in aggravation.

26 * Sec. 4. AS 12.55.155(d) is amended by adding new paragraphs to read:

27 (17) the defendant is under the age of 25;

28 (18) the defendant has demonstrated good potential for
29 rehabilitation;

1 (19) the offense was isolated and not premeditated;

2 (20) the defendant, before apprehension, notified law en-
3 forcement authorities of the defendant's involvement in the criminal
4 conduct.

5 * Sec. 5. AS 33.16.090(b) is amended to read:

6 (b) Unless a prisoner is serving a term for the prisoner's first
7 conviction of an offense subject to a presumptive sentence, a [A]
8 prisoner is not eligible for discretionary parole during the term of a
9 presumptive sentence; however, a prisoner is eligible for
10 discretionary parole during a term of sentence enhancement imposed
11 under AS 12.55.155(a) or during the term of a consecutive or partially
12 consecutive presumptive sentence imposed under AS 12.55.025(e) or (g).
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702d

Introduced: 2/7/86
Referred: Judiciary and
Finance

BY CLOCKSIN, ADAMS, DUNCAN,
GOLL, HERRMANN, KOPONEN,
M.M. MILLER, SUND, TAYLOR,
AND WALLIS

1 IN THE HOUSE

2 HOUSE BILL NO. 554

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to sentencing."

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

8 * Section 1. AS 12.55.125(c) is amended to read:

9 (c) A defendant convicted of a class A felony may be sentenced
10 to a definite term of imprisonment of not more than 20 years, and
11 shall be sentenced to the following presumptive terms, subject to
12 adjustment as provided in AS 12.55.155 - 12.55.175:

13 (1) [IF THE OFFENSE IS A FIRST FELONY CONVICTION AND DOES
14 NOT INVOLVE CIRCUMSTANCES DESCRIBED IN (2) OF THIS SUBSECTION, FIVE
15 YEARS;

16 (2) IF THE OFFENSE IS A FIRST FELONY CONVICTION, OTHER THAN
17 FOR MANSLAUGHTER, AND THE DEFENDANT POSSESSED A FIREARM, USED A DAN-
18 GEROUS INSTRUMENT, OR CAUSED SERIOUS PHYSICAL INJURY DURING THE COM-
19 MISSION OF THE OFFENSE, OR KNOWINGLY DIRECTED THE CONDUCT CONSTITUTING
20 THE OFFENSE AT A UNIFORMED OR OTHERWISE CLEARLY IDENTIFIED PEACE
21 OFFICER, FIRE FIGHTER, CORRECTIONAL OFFICER, EMERGENCY MEDICAL TECUNI-
22 CIAN, PARAMEDIC, AMBULANCE ATTENDANT, OR OTHER EMERGENCY RESPONDER WHO
23 WAS ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES AT THE TIME OF THE
24 OFFENSE, SEVEN YEARS;

25 (3) if the offense is a second felony conviction, nine
26 [10] years;

27 (2) [(4)] if the offense is a third felony conviction, (14)
28 [15] years.

29 * Sec. 2. AS 12.55.125(d) is amended to read:

HB 554

1 (d) A defendant convicted of a class B felony may be sentenced
2 to a definite term of imprisonment of not more than 10 years, and
3 shall be sentenced to the following presumptive terms, subject to
4 adjustment as provided in AS 12.55.155 - 12.55.175:

5 (1) if the offense is a second felony conviction, three
6 [FOUR] years;

7 (2) if the offense is a third felony conviction, five [SIX]
8 years [;

9 (3) IF THE OFFENSE IS A FIRST FELONY CONVICTION, AND THE
10 DEFENDANT KNOWINGLY DIRECTED THE CONDUCT CONSTITUTING THE OFFENSE AT A
11 UNIFORMED OR OTHERWISE CLEARLY IDENTIFIED PEACE OFFICER, FIRE FIGHTER,
12 CORRECTIONAL OFFICER, EMERGENCY MEDICAL TECHNICIAN, PARAMEDIC, AMBU-
13 LANCE ATTENDANT, OR OTHER EMERGENCY RESPONDER WHO WAS ENGAGED IN THE
14 PERFORMANCE OF OFFICIAL DUTIES AT THE TIME OF THE OFFENSE, TWO YEARS].

15 * Sec. 3. AS 12.55.125(e) is amended to read:

16 (e) A defendant convicted of a class C felony may be sentenced
17 to a definite term of imprisonment of not more than five years, and
18 shall be sentenced to the following presumptive terms, subject to
19 adjustment as provided in AS 12.55.155 - 12.55.175:

20 (1) if the offense is a second felony conviction, one year
21 [TWO YEARS];

22 (2) if the offense is a third felony conviction, two
23 [THREE] years [;

24 (3) IF THE OFFENSE IS A FIRST FELONY CONVICTION, AND THE
25 DEFENDANT KNOWINGLY DIRECTED THE CONDUCT CONSTITUTING THE OFFENSE AT A
26 UNIFORMED OR OTHERWISE CLEARLY IDENTIFIED PEACE OFFICER, FIRE FIGHTER,
27 CORRECTIONAL OFFICER, EMERGENCY MEDICAL TECHNICIAN, PARAMEDIC, AMBU-
28 LANCE ATTENDANT, OR OTHER EMERGENCY RESPONDER WHO WAS ENGAGED IN THE
29 PERFORMANCE OF OFFICIAL DUTIES AT THE TIME OF THE OFFENSE, ONE YEAR].

1 * Sec. 4. AS 12.55.125(g) is amended to read:

2 (g) If a defendant is sentenced to a presumptive term under (c)
3 [, (d)(1), (d)(2), (e)(1), (e)(2),] or (i) of this section, except to
4 the extent permitted under AS 12.55.155 - 12.55.175,

5 (1) imprisonment may not be suspended under AS 12.55.080;

6 (2) imposition of sentence may not be suspended under
7 AS 12.55.085;

8 (3) terms of imprisonment may not be otherwise reduced.

9 * Sec. 5. AS 12.55.125(i) is amended to read:

10 (i) A defendant convicted of sexual assault in the first degree
11 or sexual abuse of a minor in the first degree may be sentenced to a
12 definite term of imprisonment of not more than 30 years, and shall be
13 sentenced to the following presumptive terms, subject to adjustment as
14 provided in AS 12.55.155 - 12.55.175:

15 (1) ~~IF THE OFFENSE IS A FIRST FELONY CONVICTION AND DOES~~
16 ~~NOT INVOLVE CIRCUMSTANCES DESCRIBED IN (2) OF THIS SUBSECTION, EIGHT~~
17 ~~YEARS;~~

18 (2) IF THE OFFENSE IS A FIRST FELONY CONVICTION, AND THE
19 DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS INSTRUMENT, OR CAUSED
20 SERIOUS PHYSICAL INJURY DURING THE COMMISSION OF THE OFFENSE, 10
21 YEARS;

22 (3) if the offense is a second felony conviction, 14 [15]
23 years;

24 (2) [(4)] if the offense is a third felony conviction,
25 (24) [25] years.

26 * Sec. 6. AS 12.55.155(c)(4) is amended to read:

27 (4) the defendant possessed a firearm or employed a
28 dangerous instrument in furtherance of the offense;

29 * Sec. 7. AS 12.55.155(d) is amended by adding new paragraphs to read:

1 (17) the defendant is under the age of 25;

2 (18) the defendant has demonstrated good potential for
3 rehabilitation;

4 (19) the defendant has no record of criminal law violations;

5 (20) the defendant has demonstrated sincere remorse for the
6 offense;

7 (21) the offense was isolated and not premeditated;

8 (22) the defendant's capacity to formulate the requisite
9 culpable mental state for the offense was diminished to a degree
10 insufficient to constitute a complete defense;

11 (23) the defendant sought counseling or other mental health
12 treatment for the conduct underlying the criminal offense before
13 discovery of the offense or apprehension of the defendant;

14 (24) the defendant, before apprehension, notified law en-
15 forcement authorities of the defendant's involvement in the criminal
16 conduct.

17 * Sec. 8. AS 12.55.155(e) is amended to read:

18 (e) If a factor in aggravation is a necessary element of the
19 present offense, [OR REQUIRES THE IMPOSITION OF A PRESUMPTIVE TERM
20 UNDER AS 12.55.125(c)(2), (d)(3) OR (e)(3),] that factor may not be
21 used to aggravate the presumptive term. If a factor in mitigation is
22 raised at trial as a defense reducing the offense charged to a lesser
23 included offense, that factor may not be used to mitigate the presump-
24 tive term.

25 * Sec. 9. AS 12.55.165 is amended to read:

26 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant
27 is subject to sentencing under AS 12.55.125(c)(1), (c)(2) [AS 12.55.-
28 125(c)], (d)(1), (d)(2), (e)(1), (e)(2), (1)(1), or (1)(2) [(i)] and
29 the court finds by clear and convincing evidence that the ends of

1 justice and the best interest of the public as well as the defendant
2 require consideration of [MANIFEST INJUSTICE WOULD RESULT FROM FAILURE
3 TO CONSIDER] relevant aggravating or mitigating factors not specif-
4 ically included in AS 12.55.155 or a deviation from imposition of the
5 presumptive term, whether or not adjusted for aggravating or mitigat-
6 ing factors, the court shall enter findings and conclusions and cause
7 a record of the proceedings to be transmitted to a three-judge panel
8 for sentencing under AS 12.55.175.

9 * Sec. 10. AS 12.55.175(b) is amended to read:

10 (b) Upon receipt of a record of proceedings under AS 12.55.165,
11 the three-judge panel shall consider all pertinent files, records, and
12 transcripts, including the findings and conclusions of the judge who
13 originally heard the matter. The panel may hear oral testimony to
14 supplement the record before it. If the panel finds that the ends of
15 justice and the best interest of the public as well as the defendant
16 require consideration of [MANIFEST INJUSTICE WOULD RESULT FROM FAILURE
17 TO CONSIDER] relevant aggravating or mitigating factors not specif-
18 ically included in AS 12.55.155 or a deviation from imposition of the
19 presumptive term, whether or not adjusted for aggravating or mitigat-
20 ing factors, it shall sentence the defendant in accordance with this
21 section. If the panel does not so find, [FIND THAT MANIFEST INJUSTICE
22 WOULD RESULT,] it shall remand the case to the sentencing court, with
23 a written statement of its findings and conclusions, for sentencing
24 under AS 12.55.125.

25 * Sec. 11. AS 33.15.180(a) is amended to read:

26 (a) A state prisoner other than a juvenile delinquent, wherever
27 confined and serving a definite term of over 180 days or a term the
28 minimum of which is at least 181 days, [AND WHO IS NOT IMPRISONED IN
29 ACCORDANCE WITH AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), OR

1 (i),] whose record shows that the prisoner has observed the rules of
2 the institution in which the prisoner is confined, may, in the dis-
3 cretion of the board, be released on parole, subject to the limitation
4 prescribed in AS 33.15.080 and 33.15.230(a)(1).
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**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

OK 1/14/86

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 554 # 1
Title : "An Act relating to sentencing."

Sponsor : Representative Clocksin
Requestor : H. Judiciary
Date of Request : 2/12/86

FISCAL DETAIL

Agency Affected : Public Safety
BRU : Alaska State Troopers

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : *K Niles* Kathy Niles, Admin. Assistant
Division : Commissioner's Office

Phone : 465-4336
Date : 2/14/86

Approved by Commissioner : *[Signature]*
Agency : Public Safety

Date : 2/14/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Department of Public Safety

HOUSE BILL 554 # 1

Position Paper

Commissioned Officers within the Department of Public Safety, as well as other law enforcement officers within the State of Alaska, are charged with the responsibility to protect the life and property of all persons within the jurisdiction of this State. You, as members of the Alaska Legislature, duly elected representatives of the citizens of the State of Alaska, are likewise charged with the responsibility to insure that the citizens of this State can reside in a safe environment.

This bill, in the opinion of law enforcement, takes a tremendous step towards reducing the ability of law enforcement to protect the citizens we serve. This law allows those predators to serve a minimal period of incarceration and does nothing to address the needs of the victim or the protection of our citizens.

This bill is allegedly designed to address the first offender who, in the sponsor's opinion, may be receiving an excessive sentence. There are, in fact, very few individuals who are first offenders when they are arrested. What we are really talking about in this bill is reducing the sentence of those individuals who may have an extensive history of committing crimes, but who had never been previously convicted.

In Alaska, consistent with the rest of the nation, law enforcement agencies solve approximately 25 percent of the crimes by arresting the defendants. Due to the abolishment of plea bargaining, the prosecutors heavily screen cases before accepting the case for trial. Thus, even a smaller number are eventually charged within our court system. Of those, fewer yet plead guilty or are convicted. The odds of committing a crime, not being prosecuting, and not being convicted are heavily in favor of the offender.

To specifically address this bill, I find that it is extremely confusing to interpret.

The only mandatory sentences which are not affected by this bill are first degree murder, second degree murder, kidnapping, and misconduct involving a controlled substance in the first degree.

Virtually every other crime has had the sentencing structure gutted.

There is no longer any protection for a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other first responder who is engaged in the performance of his official duties at the time of the offense. This law reduces the jeopardy of the offender, and increases the jeopardy of those who respond to give aid.

An individual who commits a heinous rape or sexually abuses a minor and is convicted for the first time could receive any sentence, including, as I understand this bill, a suspended sentence or a suspended imposition.

Although this bill purports to reduce presumptive sentencing by only one year for subsequent felony convictions, this bill allows much more discretion. For Class B and Class C felony convictions for the second or third offense, the sentence can be suspended or the individual can receive a suspended imposition of sentence. For a Class A felony, an individual convicted of sexual assault or sexual abuse of a minor in the first degree, several mitigating factors have been incorporated into this bill.

1. The defendant is under the age of 25. We fail to find any valid reason for this to be a mitigating circumstance.
2. The defendant has demonstrated good potential for rehabilitation. Who is to judge that the defendant has demonstrated good potential for rehabilitation? In many instances, the individual has not even been under observation from the time that he was first apprehended until he is convicted. Will this result in bringing in various psychiatrists to argue their less than exact scientific findings?
3. The defendant has no record of criminal law violations. This makes no sense, since we are talking about those individuals who are being presumptively sentenced for second and third offenses.
4. The defendant has demonstrated sincere remorse for the offense. It has been my experience, after 23 years in this profession, that most individuals, when they are apprehended, are sincerely remorseful. I would find it extremely subjective

for an individual to determine whether the remorse was for the victim or for the fact that the defendant was apprehended.

5. The offense was isolated, and not premeditated. What does this mean, if an individual is involved in a drunk driving manslaughter case, is it not isolated? It certainly is not premeditated. If an individual has two or three beers and rapes a woman in a hospital parking lot, is the offense not isolated? Was it a crime of opportunity?
6. The defendant's capacity to formulate the requisite culpable mental state for the offense was diminished to a degree insufficient to constitute a complete defense. I suppose this means that everyone who claims that he was using drugs or alcohol at the time of the offense was in a diminished mental state.
7. The defendant sought counseling or other mental health treatment for the conduct underlying the criminal offense before discovery of the offense or apprehension of the defendant. This situation would probably only occur in those child sexual abuse cases, where the family has become aware of the parent or other relative's abhorrent behavior. Is this a result of pressures from within the family, or the defendant acknowledging that he needs treatment? If, in fact, it is the latter, he certainly had the opportunity to discuss his abnormal desires with a competent professional before committing the act.
8. The defendant, before apprehension, notified law enforcement authorities of the defendant's involvement in the criminal conduct. It would appear that if an individual is being questioned for an offense without being taken into custody, and admits that offense, this could also be considered as a mitigating circumstance. If the defendant knew a warrant had been issued, he/she could call in before apprehension.

Section 11 of the proposed bill purportedly amends AS 33.15.180(a). Although this statute was repealed in the last legislative session, it would appear the sponsor's intent, in my opinion, is that any individual who is sentenced for a term over 180 days, other than a juvenile delinquent, is eligible for parole.

Alaska is unique. Alaska has both a young and transient population. Both of these factors contribute to a higher crime rate, according to many national studies.

Although it is too early to tell, it would appear that crime in Alaska is beginning to level off. Although we do not know exactly what the cause for this is, it could be Alaska's tough presumptive sentencing laws, which discourage individuals from coming to Alaska to commit their crimes.

Previous legislators cast presumptive sentencing, with the intent to insure a measure of certainty and uniformity in prison sentences, while allowing mitigating or extraordinary cases to be treated differently. The primary benefit of presumptive sentencing has been to minimize disparity created by widely varying sentencing practices among individual judges. Any law enforcement officer or criminal attorney knows that the particular judge assigned to a case is the single most significant factor in the ultimate sentence imposed. This law would create an incentive for "judge shopping." It would turn the sentencing system into the "luck of the draw."

It is true that there are more sex offenses being reported, investigated, and referred to prosecution. That would indicate that the sponsor of this bill is incorrect in indicating that people are not reporting the offenses because of the length of sentencing. We believe that more crimes are being reported now due to the publicity or the offense and the emphasis placed on sex offenses by our legislators. However, the trend does show some indication of levelling off.

Although one of the sponsors of this bill indicated there may be too much control by prosecutors, our system is designed to insure that unjust convictions do not occur. The defendant is represented by counsel and he does have a right to trial by jury. Offenses must be proven beyond a reasonable doubt. The individual may appeal those convictions, even after that determination has been made by a trial judge and jury. The only real danger to the public is that a prosecutor may choose a charge which is too low or too lenient. That concern is not addressed by this bill.

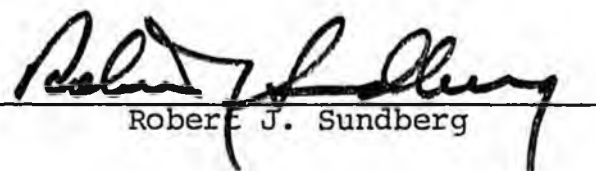
During the last two years, I have heard many individuals testify before this legislative body regarding the traumatization of a child victim. Some of these individuals have expressed concern as a result of the criminal justice system breaking up the family unit, as a result of presumptive sentencing. Many have explained that the father who rapes his child is not the same as a predator who rapes a

stranger's child. I ask you, who is better off, the child who is traumatized by a stranger who has loving parents to go home to for support, or a child who is traumatized by an individual whom that child loves and respects, and who believes is there to protect her or him? If the family unit turns on a child who becomes a victim within their own family, then maybe it is in the best interest of the child to remove the child from that family unit, rather than allow the child to continue to be victimized by either the defendant or the other family members.

If this bill is designed to reduce the cost of corrections, I believe other avenues should be explored.

Certainly, the cost of criminal justice in Alaska, as well as in the rest of the nation, is rising.

In good conscience, I do not believe we can reduce that cost by increasing the risk to those we serve.


Robert J. Sundberg

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Page 1 of 2

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 554 # 2
 Title: "An Act relating to sentencing."

Sponsor: Repr. Clocksin
 Requestor: House Judiciary Committee
 Date of Request: February 13, 1986

FISCAL DETAIL

Agency Affected: Department of Law
 BRU: Prosecution

Components: All Components

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/20/86
 Approved by Commissioner: Richard I. Pegues/For/
Harold M. Brown, Attorney General Date: 2/20/86
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 554 # 2 Page 2 of 2

This bill would remove first time offenders from the presumptive sentencing provisions of AS 12.55, would reduce all other presumptive sentences, would make many repeat felony offenders eligible for suspended impositions of sentence and suspended sentences, would extend parole eligibility to presumptively sentenced prisoners and would create a number of additional mitigating factors.

This bill will probably reduce the number of trials of first time felony offenders charged with class A felonies or unclassified sexual assaults. Because of the addition of new mitigating factors such as "good potential for rehabilitation" and "sincere remorse for the offense," it is anticipated that sentencing proceedings will delve into areas involving psychological evidence that is for the most part irrelevant under current law. Sentencing proceedings may, as a consequence, be longer and more complicated. In addition, more cases may undergo additional sentencing proceedings before the three-judge panel.

Because potentially more prisoners will be placed under probation or parole supervision, there may be more revocation proceedings and, in the appropriate case, further sentencing procedures. It is difficult to assess whether there would be substantial savings in trial resources. However, there would be substantially less expense and inconvenience in connection with jury service and more flexibility for the court and the Department of Law in calendaring cases for post plea proceedings.

FEB 20 '86 15:34 ACA 2ND JUD DIST FAX276-6342

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

REQUEST Page 1 of 2

Revision Date: _____

Bill/Resolution No.: HB 554 #3
Title: An Act Relating to Presumptive Sentencing.

FISCAL DETAIL
Agency Affected: Alaska Court System
BRU: Trial Courts

Sponsor: _____
Requestor: _____
Date of Request: _____

Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Karla Forsythe
Division: Alaska Court System

Phone: 264-8228
Date: 2/19/86

Approved by Commissioner: Arthur H. Snowden, II
Agency: Alaska Court System

Date: 2/19/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FEB 20 '86 15:34 ACA 2ND JUD DIST FAX276-6342

#3 Page 2 of 2
HB 554: Presumptive Sentencing
Fiscal Impact

Although the precise impact of HB 554 is difficult to quantify, it appears that this bill would permit the judiciary to devote more of its resources to the civil caseload, decreasing the delay in scheduling civil trials.

Alaska Court System statistics reflect that 18% of all felonies filed in superior court go to trial, more than double the national trial rate as reported by the National Center for State Courts. Alaska's presumptive sentencing scheme, combined with the ban on plea bargaining, appears to have contributed to this disproportionately high trial rate.

It is anticipated that the provisions of this bill which decrease the length of presumptive terms will have limited impact on the courts. However, eliminating first offenders from the presumptive scheme may have a significant and positive impact. In a recent study assessing the impact of sentencing patterns for sex-related offenses, the Judicial Council found that the trial rate for these defendants was double the rate for defendants sentenced non-presumptively. If this ratio can be generalized to all felonies, eliminating first offenders from presumptive sentencing could significantly reduce the overall felony trial rate.

Felonies comprise only 5% of the Anchorage superior court workload, but require half of the court's judicial resources. A decreased felony trial rate would result in more expeditious processing of domestic relations matters, commercial cases and other disputes which comprise the civil portion of the court's workload.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST Page 1 of 4

Bill/Resolution No. : HB 554 #4
 Title : "An Act Relating to Sentencing."

Sponsor : Representative Clocksin
 Requestor : House Judiciary Committee
 Date of Request : February 19, 1986

FISCAL DETAIL

Agency Affected : Corrections
 BRU : Administration and Support and Operations

Components : Various

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		113.6	118.1	122.9	127.8	132.9
TRAVEL		113.5	119.2	125.1	131.4	138.0
CONTRACTUAL		115.0	120.7	126.8	133.1	139.8
SUPPLIES		1.2	1.3	1.3	1.4	1.4
EQUIPMENT		20.0	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	363.3	359.3	376.1	393.7	412.1
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	363.3	359.3	376.1	393.7	412.1
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	363.3	359.3	376.1	393.7	412.1

POSITIONS :

FULL-TIME	-0-	3	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See Attached

Prepared by : Susan E. Knighton *Susan E. Knighton* Research Analyst Phone : 465-3376
 Division : Corrections Date : 2-19-86

Approved by Commissioner : [Signature] Date : 2-19-86
 Agency : Corrections

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 554 #4 Page 2 of 4

Currently the Parole Board is holding 200 parole cases a year. This bill provides for increased parole eligibility that would approximately double the number of parole case hearings per year. To accommodate the increased workload the department has two options.

Option I (Displayed on fiscal note form): Continue to operate with a 5 member Parole Board composed of lay persons with increased support staff.

Probation Officer II 16A		
\$2702/mo x 12	=	\$ 32,424
SBS @ .0613	=	1,988
RET @ .1325	=	4,296
VAR BEN @ .051694	=	1,676
HI @ \$252.29/mo	=	<u>3,027</u>
		<u>\$ 43,411 x 2 = \$ 86,822</u>

Clerk Typist II 7B		
\$1586/mo x 12	=	\$ 19,032
SBS @ .0613	=	1,167
RET @ .1325	=	2,522
VAR BEN @ .051694	=	984
HI @ \$252.29/mo	=	<u>3,027</u>
		<u>= \$ 26,732</u>

Total Personnel Services	\$113,554
Assumed 4% inflation in personal services for fiscal years beyond FY87	

Travel	\$113,500
Provides for increased travel for 5 board members and 2 support staff to hold increased number of hearings	

Contractual	\$115,000
Additional board members compensation, increased office space rent and utilities	

Supplies	\$ 1,200
----------	----------

Equipment	
Office furniture and word processing equipment for new staff, one-time expenditure	<u>\$ 20,000</u>

Total FY87 Costs	\$363,254
Assumed 5% inflation in other than personal services line items for fiscal years beyond FY87	

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 554 # 4 Page 3 of 4

Option II: Provide for a full-time, compensated Parole Board of three members and support staff.

Parole Board Member 21A		
\$3,812/mo x 12	=	\$ 45,744
SBS @ .0613 or 2800	=	2,800
RET @ .1325	=	6,061
VAR BEN @ .051694	=	2,365
HI @ \$252.29/mo	=	3,027
		\$ 59,997 x 3 = \$179,991
Probation Officer II 16A		
\$2,702/mo x 12	=	\$ 32,424
SBS @ .0613	=	1,988
RET @ .1325	=	4,296
VAR BEN @ .051694	=	1,676
HI @ \$252.29/mo	=	3,027
		\$ 43,411 x 2 = \$ 86,822
Clerk Typist II 7B		
\$1586/mo x 12	=	\$ 19,032
SBS @ .0613	=	1,167
RET @ .1325	=	2,522
VAR BEN @ .051694	=	984
HI @ \$252.29/mo	=	3,027
		\$ 26,732
Delete Executive Director		(\$ 75,231)
		\$218,314
Travel		\$113,500
Same as Option I		
Contractual		\$ 30,000
Increase office rent, delete board members compensation		
Supplies		\$ 2,000
Equipment		\$ 30,000
Total FY87 Costs		\$393,814

For fiscal years beyond FY87 the inflation rates of Option I would be assumed for Option II. FY88 - \$379.8, FY89 - \$396.5, FY90 - \$414.0, FY91 - \$432.2.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 554 # 4 Page 4 of 4

This proposed legislation reflects only minimal change to the current criminal code sentencing provisions. However, these minor changes will represent cost savings to the state in future years.

The following table represents the reduction in prisoner-years associated with presumptively sentenced felons projected to be admitted over the next five years.

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Number of felons admitted to serve presumptive sentences	424	458	495	535	578
Total prisoner-years to be served by felons sentenced presumptively-current criminal code	2,544	2,748	2,970	3,210	3,468
Total prisoner-years to be served with proposed changes	2,264	2,446	2,643	2,857	3,087
Difference in prisoner-years	280	302	327	353	381

A person currently serving a 10 year presumptive sentence will generally serve 7.5 years in prison at a cost of \$219,000 (7.5 years x 365 days x \$80 day). If the presumptive sentence was reduced to 9 years, the prisoner will serve 6.75 years in jail at a total cost of \$197,000. Thus, the reduction in sentence length would result in a savings of \$21,900 in the seventh year.

The cumulative savings associated with the reduction in prisoner-years in the table above which would be theoretically realized over a 10-15 year period amounts to \$47,975,600, assuming no other changes in sentencing laws and a stable population base.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST Page 1 of 2

Bill/Resolution No.: HB 554 # 5

Title: "An Act relating to sentencing."

Sponsor: Representative Clocksin

Requestor: House Judiciary

Date of Request: February 20 1986

FISCAL DETAIL

Agency Affected: Department of Administration

BRU: Public Defender Agency

Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLADS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

The Alaska Public Defender Agency's caseload is rapidly becoming out of control for the number of attorneys authorized for that Agency. National caseload statistics for the maximum number of

Prepared by: Dana Fabe, Public Defender

Division: Public Defender Agency

Phone: 279-7541

Date: February 20, 1986

Approved by Commissioner: [Signature]

Agency: ADMINISTRATION

Date: 2/24/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 554 # 5 Page 2 of 2

cases to be handled by a public defender during a year indicate that this Agency is 7.5 attorneys short of the minimum number required to handle its caseload. Furthermore, drastic increases in the number of jury trials in felony cases has caused greater stress on the attorneys, resulting in delays in processing of cases through the court system.

Because the Public Defender Agency is already operating without the recommended minimum number of attorneys to handle its caseload, this Agency cannot give up positions based on this legislation. However, this legislation will allow the attorneys in this Agency to handle the assigned caseload more quickly and efficiently and to absorb future increases in felony caseloads without the requirement of additional funding. This is due to the fact that the number of jury trials will certainly decrease if presumptive sentencing is not required for first offenders. Currently, a first time felony offender charged with a Class A felony is subject to a five-year presumptive term regardless of whether he demands a jury trial or pleads guilty to the charge. If presumptive terms are removed for first offenders, many offenders now electing a trial will plead guilty in the hope that their cooperation and demonstrative remorse will be reflected in their sentence. If the number of trials decreases for the Public Defender Agency, the number of felony appeals decreases as well, since there is no right to an appeal after a defendant has pled guilty to the charge. Similarly, the number of post-conviction relief actions handled by the Public Defender Agency should decrease.

For the above reasons, a zero fiscal note is anticipated for this legislation.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

REQUEST

Bill/Resolution No.: HB554 # 6
 Title: An Act relating to sentencing...
 Sponsor: Rep. Clocksin
 Requestor: Judiciary
 Date of Request: 2/13/86

FISCAL DETAIL

Agency Affected: Dept. of Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-0-	-0-				
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-				

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	-0-				
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-				

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by: Brant McGee, Public Advocate *BMG* Phone: 274-1684
 Division: Office of Public Advocacy Date: 2/21/86

Approved by Commissioner: Eleanor Andrews *E Andrews* Date: _____
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

ALASKA STATE LEGISLATURE

14th Legislature SECOND Session

HOUSE BILL NO. 554

By CLOCKSIN, ADAMS, DUNCAN, GOLL, HERRMANN, KOPONEN, M.M. MILLER, SUND, TAYLOR, WALLIS

"An Act relating to sentencing."

Sentencing

Introduced in the House .. 2/7....., 19. 86

HISTORY IN THE HOUSE

19 86	Feb 7	Read first time and referred to Committee on JUDICIARY AND FINANCE												
		Reported back with recommendation that												
		Read second time and												
		Read third time and												
		<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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Yeas	Yeas													
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Reconsideration														
PASS	Effective Date													
Yeas	Yeas													
Nays	Nays													
Absent	Absent													
Excused	Excused													
		Reported correctly engrossed Signed by Speaker Sent to Senate												
CHIEF CLERK OF THE HOUSE														

HISTORY IN THE SENATE

19		Read first time and referred to Committee on												
		Reported back with recommendation that												
		Read second time and												
		Read third time and												
		<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
PASS	Effective Date													
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Nays	Nays													
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Excused	Excused													
		<table border="0"> <tr> <td colspan="2">Reconsideration</td> </tr> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
Reconsideration														
PASS	Effective Date													
Yeas	Yeas													
Nays	Nays													
Absent	Absent													
Excused	Excused													
		Reported correctly engrossed Signed by President Returned to House												
SECRETARY OF THE SENATE														

HISTORY IN THE HOUSE

19		Received from Senate
		Concurred in Senate amendment thus adopting: VOTE
		Failed to concur in Senate amendment; asked Senate to recede VOTE
		Senate receded from amendment VOTE
		Senate failed to recede from amendment VOTE
		CC appointed by House
		CC appointed by Senate
		CC adopted by House VOTE
		CC adopted by Senate VOTE
		To enrolling Reported correctly enrolled Sent to Governor by Governor
		Filed with Lt. Governor
		Chapter No.

Offered: 5/1/96
Referred: Finance

Original sponsors: Clocksin, Adams,
Duncan, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 554 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to sentencing and discretionary
7 parole."

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

9 * Section 1. AS 12.55.015(d) is repealed and reenacted to read:

10 (d) The court, in imposing sentence on a defendant convicted of
11 (1) sexual assault or sexual abuse of a minor; (2) misconduct involv-
12 ing a controlled substance in the first, second, third, fourth, fifth
13 or sixth degree; or (3) a felony involving the abuse of alcohol, may,
14 in addition to a sentence required by law, order the defendant to
15 participate in a treatment program for persons who are sex offenders
16 or a program for treatment of drug or alcohol abusers, if the court
17 determines that the treatment is appropriate. Participation may be
18 required as a condition of probation, a condition of suspended exe-
19 cution of sentence, or a condition of suspended imposition of sen-
20 tence. This subsection may not be construed to reduce a mandatory
21 minimum or presumptive sentence.

22 * Sec. 2. AS 12.55.125(c) is amended to read:

23 (c) A defendant convicted of a class A felony may be sentenced
24 to a definite term of imprisonment of not more than 20 years, and
25 shall be sentenced to the following presumptive terms, subject to
26 adjustment as provided in AS 12.55.155 - 12.55.175:

27 (1) [IF THE OFFENSE IS A FIRST FELONY CONVICTION AND DOES
28 NOT INVOLVE CIRCUMSTANCES DESCRIBED IN (2) OF THIS SUBSECTION, FIVE
29 YEARS;]

1 (2) if the offense is a first felony conviction, other than
2 for manslaughter, and the defendant possessed a firearm, used a dan-
3 gerous instrument, or caused serious physical injury during the com-
4 mission of the offense, or knowingly directed the conduct constituting
5 the offense at a uniformed or otherwise clearly identified peace
6 officer, fire fighter, correctional officer, emergency medical techni-
7 cian, paramedic, ambulance attendant, or other emergency responder who
8 was engaged in the performance of official duties at the time of the
9 offense, five [SEVEN] years;

10 (3) if the offense is a second felony conviction, 10 years;

11 (4) if the offense is a third felony conviction, 15 years.

12 * Sec. 3. AS 12.55.155(a) is amended to read:

13 (a) If a defendant is convicted of an offense and is subject to
14 sentencing under AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), or
15 (i) and

16 (1) the presumptive term is four years or less, the court
17 may decrease the presumptive term by an amount as great as the pre-
18 sumptive term for factors in mitigation or may increase the presump-
19 tive term up to the maximum term of imprisonment for factors in aggra-
20 vation;

21 (2) the presumptive term of imprisonment is more than four
22 years, the court may decrease the presumptive term by an amount as
23 great as 75 [50] percent of the presumptive term for factors in miti-
24 gation or may increase the presumptive term up to the maximum term of
25 imprisonment for factors in aggravation.

26 * Sec. 4. AS 12.55.155(d) is amended by adding new paragraphs to read:

27 (17) the defendant is under the age of 25;

28 (18) the defendant has demonstrated good potential for
29 rehabilitation;

1 (19) the offense was isolated and not premeditated;

2 (20) the defendant, before apprehension, notified law en-
3 forcement authorities of the defendant's involvement in the criminal
4 conduct.

5 * Sec. 5. AS 33.16.090(b) is amended to read:

6 (b) Unless a prisoner is serving a term for the prisoner's first
7 conviction of an offense subject to a presumptive sentence, a [A]
8 prisoner is not eligible for discretionary parole during the term of a
9 presumptive sentence; however, a prisoner is eligible for
10 discretionary parole during a term of sentence enhancement imposed
11 under AS 12.55.155(a) or during the term of a consecutive or partially
12 consecutive presumptive sentence imposed under AS 12.55.025(e) or (g).

Introduced: 2/7/86
Referred: Judiciary
and Finance

BY CLOCKSIN, ADAMS, DUNCAN,
GOLL, HERRMAN, KOPONEN,
M.M. MILLER, SUND, TAYLOR
AND WALLIS

1 IN THE HOUSE

2

HOUSE BILL NO. 554

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to sentencing."

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

8 * Section 1. AS 12.55.125(c) is amended to read:

9 (c) A defendant convicted of a class A felony may be sentenced
10 to a definite term of imprisonment of not more than 20 years, and
11 shall be sentenced to the following presumptive terms, subject to
12 adjustment as provided in AS 12.55.155 - 12.55.175:

13 (1) [IF THE OFFENSE IS A FIRST FELONY CONVICTION AND DOES
14 NOT INVOLVE CIRCUMSTANCES DESCRIBED IN (2) OF THIS SUBSECTION, FIVE
15 YEARS;

16 (2) IF THE OFFENSE IS A FIRST FELONY CONVICTION, OTHER THAN
17 FOR MANSLAUGHTER, AND THE DEFENDANT POSSESSED A FIREARM, USED A DAN-
18 GEROUS INSTRUMENT, OR CAUSED SERIOUS PHYSICAL INJURY DURING THE COM-
19 MISSION OF THE OFFENSE, OR KNOWINGLY DIRECTED THE CONDUCT CONSTITUTING
20 THE OFFENSE AT A UNIFORMED OR OTHERWISE CLEARLY IDENTIFIED PEACE
21 OFFICER, FIRE FIGHTER, CORRECTIONAL OFFICER, EMERGENCY MEDICAL TECHNI-
22 CIAN, PARAMEDIC, AMBULANCE ATTENDANT, OR OTHER EMERGENCY RESPONDER WHO
23 WAS ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES AT THE TIME OF THE
24 OFFENSE, SEVEN YEARS;

25 (3)] if the offense is a second felony conviction, nine
26 [10] years;

27 (2) [(4)] if the offense is a third felony conviction, (14)
28 [15] years.

29 * Sec. 2. AS 12.55.125(d) is amended to read:

1 (d) A defendant convicted of a class B felony may be sentenced
2 to a definite term of imprisonment of not more than 10 years, and
3 shall be sentenced to the following presumptive terms, subject to
4 adjustment as provided in AS 12.55.155 - 12.55.175:

5 (1) if the offense is a second felony conviction, three
6 [FOUR] years;

7 (2) if the offense is a third felony conviction, five [SIX]
8 years [;

9 (3) IF THE OFFENSE IS A FIRST FELONY CONVICTION, AND THE
10 DEFENDANT KNOWINGLY DIRECTED THE CONDUCT CONSTITUTING THE OFFENSE AT A
11 UNIFORMED OR OTHERWISE CLEARLY IDENTIFIED PEACE OFFICER, FIRE FIGHTER,
12 CORRECTIONAL OFFICER, EMERGENCY MEDICAL TECHNICIAN, PARAMEDIC, AMBU-
13 LANCE ATTENDANT, OR OTHER EMERGENCY RESPONDER WHO WAS ENGAGED IN THE
14 PERFORMANCE OF OFFICIAL DUTIES AT THE TIME OF THE OFFENSE, TWO YEARS].

15 * Sec. 3. AS 12.55.125(e) is amended to read:

16 (e) A defendant convicted of a class C felony may be sentenced
17 to a definite term of imprisonment of not more than five years, and
18 shall be sentenced to the following presumptive terms, subject to
19 adjustment as provided in AS 12.55.155 - 12.55.175:

20 (1) if the offense is a second felony conviction, one year
21 [TWO YEARS];

22 (2) if the offense is a third felony conviction, two
23 [THREE] years [;

24 (3) IF THE OFFENSE IS A FIRST FELONY CONVICTION, AND THE
25 DEFENDANT KNOWINGLY DIRECTED THE CONDUCT CONSTITUTING THE OFFENSE AT A
26 UNIFORMED OR OTHERWISE CLEARLY IDENTIFIED PEACE OFFICER, FIRE FIGHTER,
27 CORRECTIONAL OFFICER, EMERGENCY MEDICAL TECHNICIAN, PARAMEDIC, AMBU-
28 LANCE ATTENDANT, OR OTHER EMERGENCY RESPONDER WHO WAS ENGAGED IN THE
29 PERFORMANCE OF OFFICIAL DUTIES AT THE TIME OF THE OFFENSE, ONE YEAR].

1 * Sec. 4. AS 12.55.125(g) is amended to read:

2 (g) If a defendant is sentenced to a presumptive term under (c)
3 [, (d)(1), (d)(2), (e)(1), (e)(2),] or (i) of this section, except to
4 the extent permitted under AS 12.55.155 - 12.55.175,

5 (1) imprisonment may not be suspended under AS 12.55.080;

6 (2) imposition of sentence may not be suspended under
7 AS 12.55.085;

8 (3) terms of imprisonment may not be otherwise reduced.

9 * Sec. 5. AS 12.55.125(i) is amended to read:

10 (i) A defendant convicted of sexual assault in the first degree
11 or sexual abuse of a minor in the first degree may be sentenced to a
12 definite term of imprisonment of not more than 30 years, and shall be
13 sentenced to the following presumptive terms, subject to adjustment as
14 provided in AS 12.55.155 - 12.55.175:

15 (1) [IF THE OFFENSE IS A FIRST FELONY CONVICTION AND DOES
16 NOT INVOLVE CIRCUMSTANCES DESCRIBED IN (2) OF THIS SUBSECTION, EIGHT
17 YEARS;

18 (2) IF THE OFFENSE IS A FIRST FELONY CONVICTION, AND THE
19 DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS INSTRUMENT, OR CAUSED
20 SERIOUS PHYSICAL INJURY DURING THE COMMISSION OF THE OFFENSE, 10
21 YEARS;

22 (3)] if the offense is a second felony conviction, 14 [15]
23 years;

24 (2) [(4)] if the offense is a third felony conviction,
25 (24) [25] years.

26 * Sec. 6. AS 12.55.155(c)(4) is amended to read:

27 (4) the defendant possessed a firearm or employed a
28 dangerous instrument in furtherance of the offense;

29 * Sec. 7. AS 12.55.155(d) is amended by adding new paragraphs to read:

- 1 (17) the defendant is under the age of 25;
- 2 (18) the defendant has demonstrated good potential for
3 rehabilitation;
- 4 (19) the defendant has no record of criminal law violations;
- 5 (20) the defendant has demonstrated sincere remorse for the
6 offense;
- 7 (21) the offense was isolated and not premeditated;
- 8 (22) the defendant's capacity to formulate the requisite
9 culpable mental state for the offense was diminished to a degree
10 insufficient to constitute a complete defense;
- 11 (23) the defendant sought counseling or other mental health
12 treatment for the conduct underlying the criminal offense before
13 discovery of the offense or apprehension of the defendant;
- 14 (24) the defendant, before apprehension, notified law en-
15 forcement authorities of the defendant's involvement in the criminal
16 conduct.

17 * Sec. 8. AS 12.55.155(e) is amended to read:

18 (e) If a factor in aggravation is a necessary element of the
19 present offense, [OR REQUIRES THE IMPOSITION OF A PRESUMPTIVE TERM
20 UNDER AS 12.55.125(c)(2), (d)(3) OR (e)(3),] that factor may not be
21 used to aggravate the presumptive term. If a factor in mitigation is
22 raised at trial as a defense reducing the offense charged to a lesser
23 included offense, that factor may not be used to mitigate the presump-
24 tive term.

25 * Sec. 9. AS 12.55.165 is amended to read:

26 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant
27 is subject to sentencing under AS 12.55.125(c)(1), (c)(2) [AS 12.55.-
28 125(c)], (d)(1), (d)(2), (e)(1), (e)(2), (i)(1), or (i)(2) [(i)] and
29 the court finds by clear and convincing evidence that the ends of

1 justice and the best interest of the public as well as the defendant
2 require consideration of [MANIFEST INJUSTICE WOULD RESULT FROM FAILURE
3 TO CONSIDER] relevant aggravating or mitigating factors not specif-
4 ically included in AS 12.55.155 or a deviation from imposition of the
5 presumptive term, whether or not adjusted for aggravating or mitigat-
6 ing factors, the court shall enter findings and conclusions and cause
7 a record of the proceedings to be transmitted to a three-judge panel
8 for sentencing under AS 12.55.175.

9 * Sec. 10. AS 12.55.175(b) is amended to read:

10 (b) Upon receipt of a record of proceedings under AS 12.55.165,
11 the three-judge panel shall consider all pertinent files, records, and
12 transcripts, including the findings and conclusions of the judge who
13 originally heard the matter. The panel may hear oral testimony to
14 supplement the record before it. If the panel finds that the ends of
15 justice and the best interest of the public as well as the defendant
16 require consideration of [MANIFEST INJUSTICE WOULD RESULT FROM FAILURE
17 TO CONSIDER] relevant aggravating or mitigating factors not specif-
18 ically included in AS 12.55.155 or a deviation from imposition of the
19 presumptive term, whether or not adjusted for aggravating or mitigat-
20 ing factors, it shall sentence the defendant in accordance with this
21 section. If the panel does not so find, [FIND THAT MANIFEST INJUSTICE
22 WOULD RESULT,] it shall remand the case to the sentencing court, with
23 a written statement of its findings and conclusions, for sentencing
24 under AS 12.55.125.

25 * Sec. 11. AS 33.15.180(a) is amended to read:

26 (a) A state prisoner other than a juvenile delinquent, wherever
27 confined and serving a definite term of over 180 days or a term the
28 minimum of which is at least 181 days, [AND WHO IS NOT IMPRISONED IN
29 ACCORDANCE WITH AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), OR

1 (i),] whose record shows that the prisoner has observed the rules of
2 the institution in which the prisoner is confined, may, in the dis-
3 cretion of the board, be released on parole, subject to the limitation
4 prescribed in AS 33.15.080 and 33.15.230(a)(1).

HOUSE
COMMITTEE REPORT

3/7

(7)

Date referred: 2/10/86

FURTHER REFERRALS: FINANCE

DATE: _____

The TRANSPORTATION Committee has considered HB 555

"An Act relating to state toll facilities."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ same title
- replace with _____ new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

first
Bete Cat

Adelheid Herrman

W. Furnace

Mike Dan

Maquie

SIGNING OTHER RECOMMENDATIONS:

Bete Cat

Chairman

Cook

Introduced: 2/10/86
Referred: transportation
and Finance

1 IN THE HOUSE

BY CATO AND SZYMANSKI

2 HOUSE BILL NO. 555

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state toll facilities."

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

8 * Section 1. AS 19.05.040(11) is amended to read:

9 (11) establish, levy, and collect tolls, fees, charges, and
10 rentals for the use of state roads, highways, bridges, tunnels, cross-
11 ings, and causeways; and

12 * Sec. 2. AS 37.15.720 is amended to read:

13 Sec. 37.15.726. STATE TOLL FACILITIES. The state is authorized
14 to acquire, construct, equip, and maintain toll bridges, tunnels,
15 highways, roads, crossings, and causeways found to be necessary by the
16 commissioner of transportation and public facilities.

17 * Sec. 3. AS 37.15.730 is amended to read:

18 Sec. 37.15.730. KNIK ARM CROSSING AND WHITTIER TOLL ROAD. Not-
19 withstanding the provisions of AS 37.15.720 the first two state toll
20 facilities [FACILITY] to be financed under AS 37.15.610 - 37.15.760
21 are [IS] the Knik Arm Crossing and the Whittier Toll Road near
22 Anchorage if the following conditions are met:

23 (1) the department submits to the governor and the legisla-
24 ture a feasibility study for each project that finds that the project
25 [CROSSING] is financially feasible and able to produce revenue ade-
26 quate to repay the bonds with which it is financed;

27 (2) if financing in addition to revenue bonds is antici-
28 pated, the department submits to the governor and legislature a fi-
29 nance plan for each project that includes [TO INCLUDE] an estimate of

1 the total cost of each [THE] project and a description of the sources
2 of money that will be used to finance the total cost of each [THE]
3 project; and

4 (3) the office of management and budget reviews the fea-
5 sibility studies [STUDY] and the finance plans [PLAN], if required,
6 and reports its findings and recommendations to the governor and
7 legislature not later than 90 days after the studies [STUDY] and plans
8 [PLAN] are received by the office.

9 * Sec. 4. AS 37.15.750 is amended by adding a new subsection to read:

10 (b) If the conditions are met for only one of the listed facili-
11 ties, only that facility may be financed under (a) of this section.

12 * Sec. 5. AS 37.15.760(7) is amended to read:

13 (7) "toll facilities" means highways, roads, bridges,
14 tunnels, crossings, and causeways upon which tolls, charges, rentals,
15 or other user fees are placed by the commissioner of transportation
16 and public facilities.

CC
2/7

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 555
 Title : An Act Relating to State Toll Facilities
 Sponsor : Cato
 Requestor : House Transportation
 Date of Request : 2-26-86

FISCAL DETAIL

Agency Affected : DOT&PF
 BRU : Design and Construction
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0
CAPITAL		0.0	0.0	0.0	0.0	0.0
REVENUE		0.0	0.0	0.0	0.0	0.0

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0.0	0.0	0.0	0.0	0.0

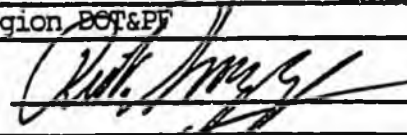
POSITIONS :

FULL-TIME		0.0	0.0	0.0	0.0	0.0
PART-TIME		0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0

ANALYSIS : Attach a separate page if necessary

There is no fiscal impact in adding tunnels to existing toll authority. The specific fiscal impacts of a Whittier Toll Road would be subject to AS 37.15.730.

Prepared by : William R. Snell, Deputy Commissioner (Signed) Phone : 266-1440
 Division : Central Region DOT&PF Date : _____

Approved by Commissioner :  Date : 2/1/86
 Agency : DOT&PF

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

ALASKA STATE LEGISLATURE

14th Legislature SECOND Session

HOUSEBILL..... NO. 555...

By ...GATO, SZYMANSKI.....

'An Act relating to state toll facilities.'

~~toll facilities~~

Introduced in the House ...2/10, 1966.

HISTORY IN THE HOUSE

19 86

Feb 10

Read first time and referred to Committee on

TRSP, FINANCE

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Received from Senate

Concurred in Senate amendment thus adopting:
VOTE

Failed to concur in Senate amendment; asked Senate to recede
VOTE

Senate receded from amendment
VOTE

Senate failed to recede from amendment
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House
VOTE

CC adopted by Senate
VOTE

To enrolling
Reported correctly enrolled
Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

Introduced: 2/10/86
Referred: Transportation
and Finance

1 IN THE HOUSE

BY CATO AND SZYMANSKI

2

HOUSE BILL NO. 555

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to state toll facilities."

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

8 * Section 1. AS 19.05.040(11) is amended to read:

9 (11) establish, levy, and collect tolls, fees, charges, and
10 rentals for the use of state roads, highways, bridges, tunnels, cross-
11 ings, and causeways; and

12 * Sec. 2. AS 37.15.720 is amended to read:

13 Sec. 37.15.720. STATE TOLL FACILITIES. The state is authorized
14 to acquire, construct, equip, and maintain toll bridges, tunnels,
15 highways, roads, crossings, and causeways found to be necessary by the
16 commissioner of transportation and public facilities.

17 * Sec. 3. AS 37.15.730 is amended to read:

18 Sec. 37.15.730. KNIK ARM CROSSING AND WHITTIER TOLL ROAD. Not-
19 withstanding the provisions of AS 37.15.720 the first two state toll
20 facilities [FACILITY] to be financed under AS 37.15.610 - 37.15.760
21 are [IS] the Knik Arm Crossing and the Whittier Toll Road near
22 Anchorage if the following conditions are met:

23 (1) the department submits to the governor and the legisla-
24 ture a feasibility study for each project that finds that the project
25 [CROSSING] is financially feasible and able to produce revenue ade-
26 quate to repay the bonds with which it is financed;

27 (2) if financing in addition to revenue bonds is antici-
28 pated, the department submits to the governor and legislature a fi-
29 nance plan for each project that includes [TO INCLUDE] an estimate of

1 the total cost of each [THE] project and a description of the sources
2 of money that will be used to finance the total cost of each [THE]
3 project; and

4 (3) the office of management and budget reviews the fea-
5 sibility studies [STUDY] and the finance plans [PLAN], if required,
6 and reports its findings and recommendations to the governor and
7 legislature not later than 90 days after the studies [STUDY] and plans
8 [PLAN] are received by the office.

9 * Sec. 4. AS 37.15.730 is amended by adding a new subsection to read:

10 (b) If the conditions are met for only one of the listed facil-
11 ities, only that facility may be financed under (a) of this section.

12 * Sec. 5. AS 37.15.760(7) is amended to read:

13 (7) "toll facilities" means highways, roads, bridges,
14 tunnels, crossings, and causeways upon which tolls, charges, rentals,
15 or other user fees are placed by the commissioner of transportation
16 and public facilities.

**HOUSE
COMMITTEE REPORT**

(11)

Date referred: 2/28/86

FURTHER REFERRALS:

DATE: 3-27-86

The FINANCE Committee has considered HB 558

"An Act relating to revenue sharing and municipal assistance; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 558 (Finance) same title
- new title

and recommends do pass

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

Robert P. Adams
John Dwyer
Ronald J. Perry
Pat Fouchet
Alvin King
John
John P. [unclear]

SIGNING OTHER RECOMMENDATIONS:

Mike Synodki
John [unclear] (NO REC)

Robert P. Adams
Chairman

Leg fin note - 093
BB HB558

STATE OF ALASKA 1986 LEGISLATIVE SESSION
 FISCAL NOTE

Revision Date: 2/6/86

REQUEST
 Bill/Resolution No.: HB558
 Title: An act relating to revenue sharing & municipal assistance; & providing for an effective date.
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL
 Agency Affected: _____
 BRU: Municipal Revenue Sharing

 Components: State Revenue Sharing & Municipal Assistance

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by: James H. Plasman *James H. Plasman*
 Division: Municipal & Regional Assistance

Phone: 465-4750
 Date: 2/6/86

Approved by Commissioner: *[Signature]*
 Agency: Community & Regional Affairs

Date: 2/6/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CE FOR HOUSE BILL NO. 558 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to time periods to be used for
7 administering the tax equalization program and the
8 municipal assistance program; and providing for an
9 effective date."

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

11 * Section 1. AS 29.60.010 is amended to read:

12 Sec. 29.60.010. STATE EQUALIZATION OF TAX RESOURCES FOR MUNICI-
13 PAL SERVICES. (a) During each fiscal year the department shall
14 compute an equalization entitlement for municipal services provided by
15 a taxing unit for payment the following fiscal year.

16 (b) The equalization entitlement computed for a taxing unit is
17 based on the population, relative ability to generate revenue, and
18 local tax burden of the taxing unit and is determined by the applica-
19 tion of the formula

20 Entitlement = P x R

21 where P = population, and

22 R = millage rate equivalent, determined by dividing the
23 sum of the locally generated revenue of the taxing unit by one-tenth
24 of one percent of the full and true value of assessed property of the
25 taxing unit determined under AS 29.60.030(d); however, the per capita
26 property value used under this subsection may not be less than 15
27 percent of the statewide average per capita full and true assessed
28 property value.

29 (c) For purposes of this section, locally generated revenue

1 (1) includes

2 (A) the actual revenue derived from the levy and
3 collection of local taxes in the taxing unit for municipal ser-
4 vices [DURING THE PRECEDING FISCAL YEAR OF THE TAXING UNIT];

5 (B) motor vehicle payments received by the municipal-
6 ity [DURING THE PRECEDING FISCAL YEAR] under AS 28.10.431;

7 (C) revenue from fees, rentals, leases, penalties,
8 licenses or permits received [DURING THE PRECEDING FISCAL YEAR]
9 by the municipality for a function or service over which it has
10 control, including revenues derived from parks and recreation
11 services, mass transit, offstreet parking, and garbage and solid
12 waste disposal services;

13 (D) special assessments received [DURING THE PRECEDING
14 FISCAL YEAR]; and

15 (E) payments received by a municipality from a utility
16 that are in place of taxes levied and collected by the municipal-
17 ity;

18 (2) excludes

19 (A) revenue derived from the levy and collection of
20 municipal taxes and appropriated for the operating expenses and
21 debt service of utilities;

22 (B) revenue from interest earned on investments and
23 from the sale and lease of land or equipment; and

24 (C) all other revenue from whatever service derived;

25 (3) is calculated on the basis of the actual revenue re-
26 ceived during the fiscal year of the taxing unit preceding the year in
27 which the department's determination of the millage rate equivalent is
28 made under AS 29.60.030.

29 * Sec. 2. AS 29.60.030(a) is amended to read:

1 (a) The department may require a municipality to return a certi-
2 fication, signed by the municipal treasurer or manager and the mayor,
3 that provides an estimate of the locally generated revenue received by
4 the municipality during the [PRECEDING] fiscal year preceding the year
5 in which the department's determination of the millage rate equivalent
6 is made under (c) of this section.

7 * Sec. 3. AS 29.60.030(c) is amended to read:

8 (c) As early as possible, but not later than January [DECEMBER]
9 15 of each year, the department shall make a [FINAL] determination of
10 the millage rate equivalent of each taxing unit to use to compute and
11 distribute equalization entitlements under AS 29.60.010 - 29.60.080
12 for the following state fiscal year. The department shall base the
13 determination on audits, financial statements, and other financial
14 reports prepared and submitted by a municipality. The department
15 shall adjust the locally generated revenue reported by a municipality
16 to exclude the municipal revenue claimed that does not qualify for
17 inclusion in or recognition as locally generated revenue for municipal
18 purposes under AS 29.60.010(c)(1). The adjustment shall be made by
19 deducting from total revenue claimed by the municipality the amount of
20 the department's estimate of revenue that is not recognized for munic-
21 ipal purposes.

22 * Sec. 4. AS 29.60.040 is amended to read:

23 Sec. 29.60.040. REPORTS. A payment of an equalization entitle-
24 ment may not be made to a municipality under AS 29.60.010 - 29.60.080
25 until the municipality has submitted its certificate of estimated
26 revenue and its financial report to the department for the fiscal year
27 preceding the year in [FOR] which the department's determination of
28 the millage rate equivalent is made under AS 29.60.30 [EQUALIZATION
29 ENTITLEMENT IS SOUGHT], together with the municipality's [A] budget

1 for the [MUNICIPALITY'S CURRENT] fiscal year for which an entitlement
2 is sought. The financial report must [SHALL] include a listing of
3 general revenue collected from taxes levied and assessed and any other
4 revenue that, in the opinion of the municipal officials, is eligible
5 for inclusion in computations of the locally generated revenue of the
6 taxing unit.

7 * Sec. 5. AS 29.60.290(a) is amended to read:

8 (a) A municipality qualifying for an entitlement under AS 29.-
9 60.010 - 29.60.080 or 29.60.100 - 29.60.180 shall receive a minimum
10 payment of \$25,000 plus an area cost-of-living differential for each
11 fiscal year if

12 (1) the municipality has conducted a regular election
13 during the fiscal year preceding the year in [FOR] which the depart-
14 ment's determination of the municipality's millage rate equivalent is
15 made under AS 29.60.030 [PAYMENT OF AN ENTITLEMENT IS AUTHORIZED BY
16 AS 29.60.010 - 29.60.080 OR 29.60.100 - 29.60.180] and has reported
17 the results of the election to the commissioner;

18 (2) regular meetings of the governing body are held in the
19 municipality during the fiscal year preceding the year in [FOR] which
20 the department's determination of the municipality's millage rate
21 equivalent is made under AS 29.60.030 [PAYMENT OF AN ENTITLEMENT IS
22 AUTHORIZED BY AS 29.60.010 - 29.60.080 OR 29.60.100 - 29.60.180] and a
23 record of the proceedings is maintained;

24 (3) a municipal budget has been adopted for the fiscal year
25 during which payment of an entitlement is authorized by AS 29.60.010 -
26 29.60.080 or 29.60.100 - 29.60.180 and an audit or financial statement
27 for the [PRECEDING] fiscal year preceding the year in which the de-
28 partment's determination of the municipality's millage rate equivalent
29 is made under AS 29.60.030 has been prepared and furnished to the

1 department in accordance with AS 29.20.540(a); and

2 (4) local ordinances adopted by the municipality have been
3 codified in accordance with AS 29.25.050.

4 * Sec. 6. AS 29.60 is amended by adding a new section to article 3 to
5 read:

6 Sec. 29.60.310. TIME OF PAYMENT. The department shall make
7 payments under AS 29.60.010 - 29.60.300 no later than July 31, based
8 upon the entitlement calculations made during the preceding fiscal
9 year.

10 * Sec. 7. AS 29.60.350(b) is amended to read:

11 (b) The department shall distribute money from the municipal
12 assistance fund to each municipality on an annual basis as provided in
13 AS 29.60.350 and 29.60.370. A municipality may not receive payment
14 until it submits to the department a resolution approved by the gov-
15 erning body of the municipality that requests the money. Distribution
16 of money from the municipal assistance fund to all municipalities [A
17 MUNICIPALITY WITH A FISCAL YEAR BEGINNING ON JANUARY 1] shall be made
18 on February 1 of the state fiscal year for which the appropriation to
19 the fund is made. [DISTRIBUTION OF MONEY FROM THE MUNICIPAL ASSIS-
20 TANCE FUND TO ALL OTHER MUNICIPALITIES SHALL BE MADE ON JUNE 1 OF THE
21 STATE FISCAL YEAR FOR WHICH THE APPROPRIATION TO THE FUND IS MADE.] A
22 municipality that incorporates after December 31 of a state fiscal
23 year is not eligible for a distribution under this section until the
24 following state fiscal year.

25 * Sec. 8. AS 29.60.030(b) is repealed.

26 * Sec. 9. Notwithstanding the provisions in secs. 1 - 3 of this Act,
27 the Department of Community and Regional Affairs and municipalities seeking
28 payments under AS 29.60.010 - 29.60.370 for the state fiscal year ending
29 June 30, 1987, shall follow the procedures set out in those sections before

1 amendment by this Act. The Department of Community and Regional Affairs
2 shall follow the deadlines and procedures established by this Act for the
3 state fiscal year ending June 30, 1988.

4 * Sec. 10. This Act takes effect July 1, 1986.
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12/27/83



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

Peter Goll

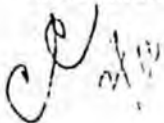
LETTER OF INTENT CSHB 558 (CRA)

It is the intent of the Community and Regional Affairs Committee that the House Finance Committee review and, if necessary, make amendments to provide predictability regarding the date on which revenue sharing funds are paid to a municipality.

Representative Peter Goll, Chair

*Amendment
takes care
of LOFI*

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to revenue sharing and municipal assistance. The bill amends sections of AS 29.60 to compute municipal revenue sharing entitlements, and to distribute revenue sharing and municipal assistance, on a new timetable.

Each year, the Alaska legislature appropriates money for municipal revenue sharing, known as "equalization entitlements," to be distributed in the following state fiscal year. Equalization entitlements are the product of multiplying a municipality's millage rate equivalent by the municipality's population. AS 29.60.010(b). Two factors used in determining the millage rate equivalent are the municipality's locally generated revenue and property values. AS 29.60.010(c). A municipality's locally generated revenue and full and true assessed property value in one year are the foundation for computing the municipality's equalization entitlement for the next state fiscal year. However, the current system for determining revenue sharing does not give municipalities sufficient opportunity to plan ahead; a municipality must plan its budget in advance without an accurate idea of its entitlement for the following fiscal year.

Two time periods underly the existing timetable for determining entitlements and distributing payments: (1) the municipal fiscal year from which the locally generated revenue and full and true assessed property value are

derived, and (2) the succeeding state fiscal year in which both the computation and distribution of entitlements takes place. In its December 9, 1985 report, the Governor's Task Force on State Shared Revenues requested that the latter functions be separated into two years, so that computation of entitlement is done in the state fiscal year before the distribution of payments. This is informally described as the "prior year data" basis for handling revenue sharing entitlements.

To implement the prior year system, this bill amends various sections of AS 29.60 to reflect three relevant time periods: the municipal fiscal year from which revenue and property value data is collected, the state fiscal year of entitlement computation, and the state fiscal year of entitlement payment. With the computation of entitlement occurring in the fiscal year before payment, the department will be able to distribute entitlements sooner each fiscal year.

Section 1 of the bill amends AS 29.60.010(a) to reflect that computation of an equalization entitlement occurs in the state fiscal year before the fiscal year of payment. AS 29.60.010(c) is amended to state that a municipality's locally generated revenue is calculated on the basis of revenue received during the municipal fiscal year preceding the year in which the department determines the millage rate equivalent. Section 2 makes a similar change to AS 29.60.030(a).

Because the prior year system splits computation and distribution of revenue sharing into two state fiscal years, there is no longer a need for municipalities to submit preliminary data by October 15. As a result, sec. 7 of the bill repeals AS 29.60.030(b).

In sec. 3 of the bill, the deadline for the department's determination of each municipality's millage rate equivalent is changed from December 15 to January 15 of each year. AS 29.60.030(c). That statute is also amended to state that distribution of equalization entitlements occurs the state fiscal year following the January 15 computation.

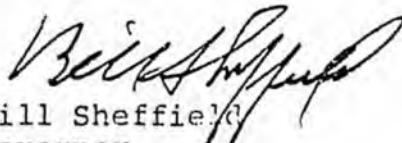
AS 29.60.040 sets out the municipal reports required before payment of an equalization entitlement. Section 4 of the bill amends the statute to reflect that a municipality's financial reports should cover the fiscal year preceding the state fiscal year in which the department computes the millage rate equivalent. The municipality must submit a budget for the fiscal year for which an entitlement is sought. AS 29.60.040.

Additional requirements are currently placed on a municipality in order to qualify for revenue sharing. AS 29.60.290. Section 5 of the bill amends AS 29.60.290(a)(1) and (2) to require that a regular election and regular meetings of the municipal governing body be held in the year preceding the year in which the department computes the millage rate equivalent. As current law requires, the municipal budget must cover the year that the entitlement will be paid, but the requisite audit or financial statement from the municipality covers the year before the department's determination of the millage rate equivalent. AS 29.60.290(a)(3).

Section 6 of the bill amends the timetable for payment of municipal assistance under AS 29.60.350. AS 29.60.350(b) currently provides two different deadlines for payment of municipal assistance depending on a municipality's fiscal year. The statute is amended to set a single date, February 1, as the deadline, instead of February 1 or June 1. AS 29.60.350(b).

Section 8 of the bill provides for a transition between the current system and the new prior year system. The existing timetable for computation and distribution would be followed in FY 1987, but the bill's new timetable would apply to FY 1988. The switch to a prior year system will require the use of the same locally generated revenue data in two consecutive fiscal years, which is unavoidable. Section 9 of the bill provides for a July 1, 1986 effective date, giving the department the authority to prepare in FY 1987 for implementation of the new system.

Sincerely,


Bill Sheffield
Governor

Offered: 2/28/86
Referred: Finance

Original sponsor: Rules/governor

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 558 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to time periods to be used for
7 administering the tax equalization program and the
8 municipal assistance program; and providing for an
9 effective date."

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

11 * Section 1. AS 29.60.010 is amended to read:

12 Sec. 29.60.010. STATE EQUALIZATION OF TAX RESOURCES FOR MUNICI-
13 PAL SERVICES. (a) During each fiscal year the department shall
14 compute an equalization entitlement for municipal services provided by
15 a taxing unit for payment the following fiscal year.

16 (b) The equalization entitlement computed for a taxing unit is
17 based on the population, relative ability to generate revenue, and
18 local tax burden of the taxing unit and is determined by the applica-
19 tion of the formula

20 Entitlement = P x R

21 where P = population, and

22 R = millage rate equivalent, determined by dividing the
23 sum of the locally generated revenue of the taxing unit by one-tenth
24 of one percent of the full and true value of assessed property of the
25 taxing unit determined under AS 29.60.030(d); however, the per capita
26 property value used under this subsection may not be less than 15
27 percent of the statewide average per capita full and true assessed
28 property value.

29 (c) For purposes of this section, locally generated revenue

1 (1) includes
2 (A) the actual revenue derived from the levy and
3 collection of local taxes in the taxing unit for municipal
4 services [DURING THE PRECEDING FISCAL YEAR OF THE TAXING UNIT];
5 (B) motor vehicle payments received by the municipal-
6 ity [DURING THE PRECEDING FISCAL YEAR] under AS 28.10.431;
7 (C) revenue from fees, rentals, leases, penalties,
8 licenses or permits received [DURING THE PRECEDING FISCAL YEAR]
9 by the municipality for a function or service over which it has
10 control, including revenues derived from parks and recreation
11 services, mass transit, offstreet parking, and garbage and solid
12 waste disposal services;
13 (D) special assessments received [DURING THE PRECEDING
14 FISCAL YEAR]; and
15 (E) payments received by a municipality from a utility
16 that are in place of taxes levied and collected by the municipal-
17 ity;
18 (2) excludes
19 (A) revenue derived from the levy and collection of
20 municipal taxes and appropriated for the operating expenses and
21 debt service of utilities;
22 (B) revenue from interest earned on investments and
23 from the sale and lease of land or equipment; and
24 (C) all other revenue from whatever service derived;
25 (3) is calculated on the basis of the actual revenue re-
26 ceived during the fiscal year of the taxing unit preceding the year in
27 which the department's determination of the millage rate equivalent is
28 made under AS 29.60.030.

29 * Sec. 2. AS 29.60.030(a) is amended to read:

1 (a) The department may require a municipality to return a certi-
2 fication, signed by the municipal treasurer or manager and the mayor,
3 that provides an estimate of the locally generated revenue received by
4 the municipality during the [PRECEDING] fiscal year preceding the year
5 in which the department's determination of the millage rate equivalent
6 is made under (c) of this section.

7 * Sec. 3. AS 29.60.030(c) is amended to read:

8 (c) As early as possible, but not later than January [DECEMBER]
9 15 of each year, the department shall make a [FINAL] determination of
10 the millage rate equivalent of each taxing unit to use to compute and
11 distribute equalization entitlements under AS 29.60.010 - 29.60.080
12 for the following state fiscal year. The department shall base the
13 determination on audits, financial statements, and other financial
14 reports prepared and submitted by a municipality. The department
15 shall adjust the locally generated revenue reported by a municipality
16 to exclude the municipal revenue claimed that does not qualify for
17 inclusion in or recognition as locally generated revenue for municipal
18 purposes under AS 29.60.010(c)(1). The adjustment shall be made by
19 deducting from total revenue claimed by the municipality the amount of
20 the department's estimate of revenue that is not recognized for munic-
21 ipal purposes.

22 * Sec. 4. AS 29.60.040 is amended to read:

23 Sec. 29.60.040. REPORTS. A payment of an equalization entitle-
24 ment may not be made to a municipality under AS 29.60.010 - 29.60.080
25 until the municipality has submitted its certificate of estimated
26 revenue and its financial report to the department for the fiscal year
27 preceding the year in [FOR] which the department's determination of
28 the millage rate equivalent is made under AS 29.60.30 [EQUALIZATION
29 ENTITLEMENT IS SOUGHT], together with the municipality's [A] budget

1 for the [MUNICIPALITY'S CURRENT] fiscal year for which an entitlement
2 is sought. The financial report must [SHALL] include a listing of
3 general revenue collected from taxes levied and assessed and any other
4 revenue that, in the opinion of the municipal officials, is eligible
5 for inclusion in computations of the locally generated revenue of the
6 taxing unit.

7 * Sec. 5. AS 29.60.290(a) is amended to read:

8 (a) A municipality qualifying for an entitlement under AS 29.-
9 60.010 - 29.60.080 or 29.60.100 - 29.60.180 shall receive a minimum
10 payment of \$25,000 plus an area cost-of-living differential for each
11 fiscal year if

12 (1) the municipality has conducted a regular election
13 during the fiscal year preceding the year in [FOR] which the depart-
14 ment's determination of the municipality's millage rate equivalent is
15 made under AS 29.60.030 [PAYMENT OF AN ENTITLEMENT IS AUTHORIZED BY
16 AS 29.60.010 - 29.60.080 OR 29.60.100 - 29.60.180] and has reported
17 the results of the election to the commissioner;

18 (2) regular meetings of the governing body are held in the
19 municipality during the fiscal year preceding the year in [FOR] which
20 the department's determination of the municipality's millage rate
21 equivalent is made under AS 29.60.030 [PAYMENT OF AN ENTITLEMENT IS
22 AUTHORIZED BY AS 29.60.010 - 29.60.080 OR 29.60.100 - 29.60.180] and a
23 record of the proceedings is maintained;

24 (3) a municipal budget has been adopted for the fiscal year
25 during which payment of an entitlement is authorized by AS 29.60.010 -
26 29.60.080 or 29.60.100 - 29.60.180 and an audit or financial statement
27 for the [PRECEDING] fiscal year preceding the year in which the de-
28 partment's determination of the municipality's millage rate equivalent
29 is made under AS 29.60.030 has been prepared and furnished to the

1 department in accordance with AS 29.20.640(a); and

2 (4) local ordinances adopted by the municipality have been
3 codified in accordance with AS 29.25.050.

4 * Sec. 6 AS 29.60.350(b) is amended to read:

5 (b) The department shall distribute money from the municipal
6 assistance fund to each municipality on an annual basis as provided in
7 AS 29.60.360 and 29.60.370. A municipality may not receive payment
8 until it submits to the department a resolution approved by the gov-
9 erning body of the municipality that requests the money. Distribution
10 of money from the municipal assistance fund to all municipalities [A
11 MUNICIPALITY WITH A FISCAL YEAR BEGINNING ON JANUARY 1] shall be made
12 on February 1 of the state fiscal year for which the appropriation to
13 the fund is made. [DISTRIBUTION OF MONEY FROM THE MUNICIPAL ASSIS-
14 TANCE FUND TO ALL OTHER MUNICIPALITIES SHALL BE MADE ON JUNE 1 OF THE
15 STATE FISCAL YEAR FOR WHICH THE APPROPRIATION TO THE FUND IS MADE.] A
16 municipality that incorporates after December 31 of a state fiscal
17 year is not eligible for a distribution under this section until the
18 following state fiscal year.

19 * Sec. 7. AS 29.60.030(b) is repealed.

20 * Sec. 8. Notwithstanding the provisions in secs. 1 - 7 of this Act,
21 the Department of Community and Regional Affairs and municipalities seeking
22 payment from the tax equalization account for the state fiscal year ending
23 June 30, 1987, shall follow the procedures set out in AS 29.60 before
24 amendment by this Act. The Department of Community and Regional Affairs
25 shall follow the deadlines and procedures established by this Act for the
26 state fiscal year ending June 30, 1988.

27 * Sec. 9. This Act takes effect July 1, 1986.

Introduced: 2/10/86
Referred: Community & Regional
Affairs and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 558

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to revenue sharing and municipal
7 assistance; and providing for an effective date."

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

9 * Section 1. AS 29.60.010 is amended to read:

10 Sec. 29.60.010. STATE EQUALIZATION OF TAX RESOURCES FOR MUNICI-
11 PAL SERVICES. (a) During each fiscal year the department shall com-
12 pute an equalization entitlement for municipal services provided by a
13 taxing unit for payment the following fiscal year.

14 (b) The equalization entitlement computed for a taxing unit is
15 based on the population, relative ability to generate revenue, and
16 local tax burden of the taxing unit and is determined by the applica-
17 tion of the formula

18 Entitlement = P x R

19 where P = population, and

20 R = millage rate equivalent, determined by dividing the sum
21 of the locally generated revenue of the taxing unit by one-tenth of
22 one percent of the full and true value of assessed property of the
23 taxing unit determined under AS 29.60.030(d); however, the per capita
24 property value used under this subsection may not be less than 15
25 percent of the statewide average per capita full and true assessed
26 property value.

27 (c) For purposes of this section, locally generated revenue

28 (1) includes

29 (A) the actual revenue derived from the levy and

1 collection of local taxes in the taxing unit for municipal ser-
2 vices [DURING THE PRECEDING FISCAL YEAR OF THE TAXING UNIT];

3 (B) motor vehicle payments received by the municipal-
4 ity [DURING THE PRECEDING FISCAL YEAR] under AS 28.10.431;

5 (C) revenue from fees, rentals, leases, penalties,
6 licenses or permits received [DURING THE PRECEDING FISCAL YEAR]
7 by the municipality for a function or service over which it has
8 control, including revenues derived from parks and recreation
9 services, mass transit, offstreet parking, and garbage and solid
10 waste disposal services;

11 (D) special assessments received [DURING THE PRECEDING
12 FISCAL YEAR]; and

13 (E) payments received by a municipality from a utility
14 that are in place of taxes levied and collected by the municipal-
15 ity;

16 (2) excludes

17 (A) revenue derived from the levy and collection of
18 municipal taxes and appropriated for the operating expenses and
19 debt service of utilities;

20 (B) revenue from interest earned on investments and
21 from the sale and lease of land or equipment; and

22 (C) all other revenue from whatever service derived;

23 (3) is calculated on the basis of the actual revenue re-
24 ceived during the fiscal year of the taxing unit preceding the year in
25 which the department's determination of the millage rate equivalent is
26 made under AS 29.60.030.

27 * Sec. 2. AS 29.60.030(a) is amended to read:

28 (a) The department may require a municipality to return a certi-
29 fication, signed by the municipal treasurer or manager and the mayor,

1 that provides an estimate of the locally generated revenue received by
2 the municipality during the [PRECEDING] fiscal year preceding the year
3 in which the department's determination of the millage rate equivalent
4 is made under (c) of this section.

5 * Sec. 3. AS 29.60.030(c) is amended to read:

6 (c) As early as possible, but not later than January [DECEMBER]
7 15 of each year, the department shall make a [FINAL] determination of
8 the millage rate equivalent of each taxing unit to use to compute and
9 distribute equalization entitlements under AS 29.60.010 -- 29.60.080
10 for the following state fiscal year. The department shall base the
11 determination on audits, financial statements, and other financial
12 reports prepared and submitted by a municipality. The department
13 shall adjust the locally generated revenue reported by a municipality
14 to exclude the municipal revenue claimed that does not qualify for
15 inclusion in or recognition as locally generated revenue for municipal
16 purposes under AS 29.60.010(c)(1). The adjustment must [SHALL] be
17 made by deducting from total revenue claimed by the municipality the
18 amount of the department's estimate of revenue that is not recognized
19 for municipal purposes.

20 * Sec. 4. AS 29.60.040 is amended to read:

21 Sec. 29.60.040. REPORTS. A payment of an equalization entitle-
22 ment may not be made to a municipality under AS 29.60.010 -- 29.60.080
23 until the municipality has submitted its certificate of estimated
24 revenue and its financial report to the department for the fiscal year
25 preceding the year in [FOR] which the department's determination of
26 the millage rate equivalent is made under AS 29.60.030 [EQUALIZATION
27 ENTITLEMENT IS SOUGHT], together with the municipality's [A] budget
28 for the [MUNICIPALITY'S CURRENT] fiscal year for which an entitlement
29 is sought. The financial report must [SHALL] include a listing of

1 general revenue collected from taxes levied and assessed and any other
2 revenue that, in the opinion of the municipal officials, is eligible
3 for inclusion in computations of the locally generated revenue of the
4 taxing unit.

5 * Sec. 5. AS 29.60.290(a) is amended to read:

6 (a) A municipality qualifying for an entitlement under AS 25.-
7 60.010 -- 29.60.080 or 29.60.100 -- 29.60.180 shall receive a minimum
8 payment of \$25,000 plus an area cost-of-living differential for each
9 fiscal year if

10 (1) the municipality has [BEEN] conducted a regular elec-
11 tion during the fiscal year preceding the year in [FOR] which the
12 department's determination of the municipality's millage rate equiva-
13 lent is made under AS 29.60.030 [PAYMENT OF AN ENTITLEMENT IS AUTHOR-
14 IZED BY AS 29.60.010 -- 29.60.080 or 29.60.100 -- 29.60.180] and has
15 reported the results of the election to the commissioner;

16 (2) regular meetings of the governing body are held in the
17 municipality during the fiscal year preceding the year in [FOR] which
18 the department's determination of the municipality's millage rate
19 equivalent is made under AS 29.60.030 [PAYMENT OF AN ENTITLEMENT IS
20 AUTHORIZED BY AS 29.60.010 -- 29.60.080 or 29.60.100 -- 29.60.180] and
21 a record of the proceedings is maintained;

22 (3) a municipal budget has been adopted for the fiscal year
23 during which payment of an entitlement is authorized by AS 29.60.-
24 010 -- 29.60.080 or 29.60.100 -- 29.60.180 and an audit or financial
25 statement for the [PRECEDING] fiscal year preceding the year in which
26 the department's determination of the municipality's millage rate
27 equivalent is made under AS 29.60.030 has been prepared and furnished
28 to the department in accordance with AS 29.20.640(a); and

29 (4) local ordinances adopted by the municipality have been

1 codified in accordance with AS 29.25.050.

2 * Sec. 6. AS 29.60.350(b) is amended to read:

3 (b) The department shall distribute money from the municipal
4 assistance fund to each municipality on [OR] an annual basis as pro-
5 vided in AS 29.60.360 and 29.60.370. A municipality may not receive
6 payment until it submits to the department a resolution approved by
7 the governing body of the municipality that requests the money. Dis-
8 tribution of money from the municipal assistance fund to all municipi-
9 palities must [A MUNICIPALITY WITH A FISCAL YEAR BEGINNING ON JANUARY
10 1 SHALL] be made on February 1 of the state fiscal year for which the
11 appropriation to the fund is made. [DISTRIBUTION OF MONEY FROM THE
12 MUNICIPAL ASSISTANCE FUND TO ALL OTHER MUNICIPALITIES SHALL BE MADE ON
13 JUNE 1 OF THE STATE FISCAL YEAR FOR WHICH THE APPROPRIATION TO THE
14 FUND IS MADE.] A municipality that incorporates after December 31 of
15 a state fiscal year is not eligible for a distribution under this
16 section until the following state fiscal year.

17 * Sec. 7. AS 29.60.030(b) is repealed.

18 * Sec. 8. Notwithstanding the provisions in secs. 1 -- 7 of this Act,
19 the Department of Community and Regional Affairs and municipalities seeking
20 payment from the tax equalization account for the state fiscal year ending
21 June 30, 1987 shall follow the procedures set out in AS 29.60 before amend-
22 ment by this Act. The Department of Community and Regional Affairs shall
23 follow the deadlines and procedures established by this Act for the state
24 fiscal year ending June 30, 1988.

25 * Sec. 9. This Act takes effect July 1, 1986.