

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSHB 140 cont thru HB 144 . . . . . 278 278

DEPARTMENT OF LA.  
P.O. BOX K  
JUNEAU, ALASKA 99811  
PHONE: 465-3460

PREVIOUS ACTION

HB 140	DATE	PAGE	ACTION
	02/19/87 (H)	262	READ THE FIRST TIME - REFERRALS HESS, JUDICIARY, FINANCE
	03/11/87	463	HES RPT CS(HESS) 6DP 1NR ZERO FISCAL NOTE PUBLISHED ZERO FISCAL NOTE/ANALYSIS

COMMITTEE ACTION: HB 140 FIRST HEARD BEFORE JUDICIARY TODAY.

ACTION NARRATIVE

HB 140  
HJUD, 3/25/87  
TAPE 35 SIDE 1

NUMBER 000

CHAIRMAN SUND CALLED THE MEETING OF THE HOUSE JUDICIARY COMMITTEE TO ORDER AT 1:38 P.M. AND CALLED ROLL, WITH ALL MEMBERS PRESENT.

HE ANNOUNCED HB 140 WOULD BE HEARD TODAY AND INVITED THE SPONSOR TO TESTIFY.

NUMBER 022

REPRESENTATIVE SWACKHAMMER DISCUSSED THE PURPOSE OF HB 140. HE SAID IT WOULD HELP STREAMLINE THE CRIMINAL JUSTICE SYSTEM WHILE MAINTAINING PUBLIC SAFETY. HE SAID IT WOULD REDUCE THE NUMBER OF PAROLE/PROBATION SUPERVISED OFFENDERS BY DELETING THE MISDEMEANOR OR SHORT-TERM OFFENDERS FROM MANDATORY PAROLE SUPERVISION. HE EXPLAINED THAT THE BILL INCREASES THE CURRENT MINIMUM PAROLE OF 180 DAYS TO TWO YEARS TO ALLOW FOR CLOSER SUPERVISION OF MORE SERIOUS PAROLEES. HE SAID THE TWO YEAR TERM IS DERIVED FROM THE SHORTEST PRESUMPTIVE SENTENCE WHICH IS THE SAME, SO THAT ALL PRESUMPTIVELY SENTENCED FELONS AS WELL AS OTHER OFFENDERS WHO HAVE LONGER SENTENCES WOULD STILL RECEIVE NEEDED SUPERVISION. HE SAID HB 140 WOULD REDUCE PAROLE SUPERVISED OFFENDERS BY 139. HE SAID 56 OF THOSE COMMITTED MISDEMEANOR OFFENSES, AND THE REMAINDER ARE SHORT-TERM FELONS WHO USUALLY FALL UNDER COURT-ORDERED PROBATION SUPERVISION. HE NOTED THAT BY REDUCING THE NUMBER OF MANDATORY PAROLEES, CLOSER SUPERVISION CAN BE PROVIDED FOR THOSE WHO REQUIRE IT. HB 140 ALSO MAKES A CLASS A OFFENDER ELIGIBLE FOR DISCRETIONARY PAROLE AFTER SERVING ONE-THIRD OF THE IMPOSED SENTENCE RATHER THAN SERVING ONE-QUARTER AS IN CURRENT LAW. HE NOTED THE INTENT OF THE LEGISLATURE WHEN PASSING THE CURRENT PAROLE REGULATIONS IN 1985, WAS TO REDUCE PAROLE ELIGIBILITY FROM ONE-THIRD TO ONE-FOURTH FOR FIRST-TIME, NONPRESUMPTIVE CLASS B AND CLASS C OFFENDERS. HE SAID HB 140 WOULD ALLOW OFFENDERS WHO HAVE BOTH MANDATORY PAROLE TIME AND PROBATION SUPERVISION TO SERVE BOTH CONCURRENTLY RATHER THAN THE CURRENT CONSECUTIVE FORMAT. HE SAID

THE PAROLE BOARD IN RELEASE A PERSON TO MANDATORY PAROLE/PROBATION IF THE OFFENDER EXHIBITS GOOD BEHAVIOR AND IF THE TERM OF PROBATION IS EQUAL TO OR EXCEEDS THE MANDATORY PAROLE TERM. AN OFFENDER WHO HAS RECEIVED DISCRETIONARY PAROLE AND HAS A PROBATION TERM, MAY BE RELEASED TO PROBATION AFTER SERVING TWO YEARS OF PAROLE. THE BILL REDUCES THE WORKLOAD OF THE OVERBURDENED PROBATION AND PAROLE SYSTEM AND ALLOWS FOR BETTER UTILIZATION OF RESOURCES AND TIME FOR THOSE OFFENDERS WHICH NEED CLOSER SUPERVISION TO MAKE IT ON THE OUTSIDE. HE NOTED THAT SAM TRIVETTE, OF THE PAROLE BOARD, WAS PRESENT TO DISCUSS IMPLEMENTATION.

REPRESENTATIVE ULMER ARRIVED AT 1:40 P.M.

NUMBER 123

REPRESENTATIVE TAYLOR ASKED IF INCREASING THE TERM FROM ONE-FOURTH TO ONE-THIRD WOULD INCREASE THE COSTS FOR CORRECTIONS.

REPRESENTATIVE SWACKHAMMER SAID THE PAROLE BOARD HAS NOT RELEASED ANYONE ON A CLASS A FELONY WHEN THEY'VE SERVED ONLY A QUARTER OF THEIR TERM. HE SAID THE SYSTEM IS BEING CLOGGED BY LETTING PEOPLE APPLY FOR PAROLE.

REPRESENTATIVE BARNES ARRIVED AT 1:45 P.M.

NUMBER 148

CHAIRMAN SUND, IN ORDER TO CLARIFY, STATED THAT STATUTORILY THERE IS A ONE-QUARTER MANDATORY TERM AND THE PAROLE BOARD MAY NOT BE FOLLOWING THE LAW AND ARE MAKING THEIR OWN JUDGMENTS.

REPRESENTATIVE SWACKHAMMER RESPONDED THAT IT WAS AN OVERSIGHT AND NOT THE INTENT OF THE LEGISLATURE TO MAKE CLASS A FELONS ELIGIBLE AFTER ONE-QUARTER OF THEIR SENTENCE. CHAIRMAN SUND ASKED IF EVERYONE WAS ON ONE-QUARTER TIME. REPRESENTATIVE SWACKHAMMER SAID THAT UNCLASSIFIED FELONS ARE NOT. HE NOTED THAT CLASS A WAS EXCLUDED FROM THE LANGUAGE OF PAST LEGISLATION. IN DISCUSSING THE SECOND PORTION OF THE BILL, HE SAID THE SITUATION NOW IS WHERE THERE IS MANDATORY PAROLE TIME AND PROBATION BEING SERVED CONCURRENTLY AND CAUSES DUAL SUPERVISION.

NUMBER 200

SAM TRIVETTE, OF THE PAROLE BOARD, IN RESPONSE TO REPRESENTATIVE TAYLOR'S EARLIER QUESTION, POINTED OUT THAT THE REASON RAISING THE TERM TO ONE-THIRD WILL HAVE MINIMAL FISCAL IMPACT IS THAT THE ONLY CLASS A FELONS WHICH ARE ELIGIBLE FOR PAROLE ANYWAY ARE JUST A HANDFUL OF PEOPLE, WHICH HAVE EITHER AN AGGRAVATED PRESUMPTIVE SENTENCE, CONSECUTIVE PRESUMPTIVE SENTENCES, OR HAVE BEEN SENTENCED BY A THREE JUDGE PANEL. HE STATED IT WAS A POLICY ISSUE AND THE REASON THE PAROLE BOARD SUPPORTS IT IS BECAUSE THEY FELT THE LEGISLATURE'S INTENT WAS TO LEAVE IT AT ONE-THIRD FOR CLASS A'S AND UNCLASSIFIEDS. MR. TRIVETTE SAID THE OTHER ISSUE IS THAT THERE ARE MANY PEOPLE ON DUAL SUPERVISION AND MANY SHORT-TERMS THAT HAVE TO GO UNDER PROBATION WHEN THEY GET OUT. HE EXPLAINED THAT PAROLE IS UNDER THE EXECUTIVE BRANCH AND PROBATION IS UNDER THE COURT SYSTEM.

HE SAID THE INTE. IS TO ELIMINATE DUPLICATI BECAUSE MANY WILL BE ON BOTH PROBATION AND MANDATORY PAROLE.

NUMBER 269

CHAIRMAN SUND ASKED FOR AN EXAMPLE OF HOW A CASE MAY WORK. MR. TRIVETTE USED THAT OF FIRST DEGREE BURGLARY, FIRST OFFENSE, A NONPRESUMPTIVE CASE, WHICH WOULD TYPICALLY GET A ONE YEAR JAIL TERM. UNDER THE CURRENT LAW, THE INDIVIDUAL WOULD SERVE EIGHT MONTHS IN JAIL, FOUR MONTHS OF MANDATORY PAROLE, AND FIVE YEARS OF PROBATION. UNDER HB 140, THE INDIVIDUAL WOULD SERVE EIGHT MONTHS IN JAIL AND GO DIRECTLY ON TO FIVE YEARS PROBATION, SO THE FOUR MONTHS OF MANDATORY PAROLE WOULD BE ELIMINATED.

NUMBER 286

REPRESENTATIVE TAYLOR INQUIRED IF THE FOUR MONTH PAROLE WAS MORE DIRECTLY SUPERVISED AND MORE CONTACT WAS MADE THAN DURING THE PROBATION PERIOD. MR. TRIVETTE SAID THAT BASICALLY THE FIRST SIX MONTHS OF PROBATION OR PAROLE IS MORE CLOSELY SUPERVISED.

REPRESENTATIVE TAYLOR ASKED HOW HB 140 WOULD FREE UP THE PERSONNEL. MR. TRIVETTE SAID IF THE PERSON IN THE EXAMPLE IS ON PAROLE AS WELL AS PROBATION AND GETS IN TROUBLE, THE PROBATION OFFICER HAS TO INFORM BOTH THE COURT AND THE PAROLE BOARD, BECAUSE IN MOST CASES THE PROBATION AND MANDATORY PAROLE TIME ARE CONCURRENT BY COURT ORDER, SO EFFORTS ARE DUPLICATED BY THE PROBATION OFFICER. HB 140 WOULD FREE UP THE PROBATION OFFICER TO WORK WITH THE MORE LONG-TERM CASES. HE SAID ANYONE SERVING TWO YEARS OR LONGER WOULD HAVE MANDATORY PAROLE.

NUMBER 327

REPRESENTATIVE BARNES ASKED WHAT THE RECIDIVISM RATES ARE FOR PEOPLE ON PROBATION. MR. TRIVETTE REPLIED THAT THEY DO NOT HAVE RECIDIVISM INFORMATION FOR THOSE ON PROBATION AS THAT IS NOT THEIR RESPONSIBILITY, AND THEY DON'T HAVE ANY INFORMATION ON MANDATORY PAROLEES BECAUSE THEY DON'T HAVE STAFF TO DO IT. THEY DO HAVE RATES ON PEOPLE THEY RELEASE AT A HEARING AS THEY DO A ONE YEAR FOLLOW-UP. HE SAID OF THOSE, IN 1985 IT WAS ONE PERCENT FOR FELONY BEHAVIOR, FIVE PERCENT FOR ABSCOND RATES, AND ZERO FOR NEW MISDEMEANOR OFFENSES. HE NOTED THERE WAS FREQUENTLY CONFUSION BETWEEN PAROLEES, MANDATORY PAROLEES, AND DISCRETIONARY PAROLEES. REPRESENTATIVE BARNES ASKED FOR INFORMATION ON THE DIFFERENT CATEGORIES. MR. TRIVETTE INDICATED THAT SUSAN KNIGHTON, OF THE DEPARTMENT OF CORRECTIONS, COULD PROVIDE IT.

NUMBER 383

MR. TRIVETTE POINTED OUT THAT THE PAROLE BOARD SUBMITTED TO THE COMMITTEE A POSITION PAPER AND ZERO FISCAL NOTE, WHICH DENOTED COSTS SAVINGS. REPRESENTATIVE COTTEN ASKED HOW LONG MR. TRIVETTE HAD BEEN EXECUTIVE DIRECTOR OF THE PAROLE BOARD. MR. TRIVETTE SAID HE WAS GOING ON THIRTEEN YEARS. REPRESENTATIVE SWACKHAMMER STATED THE APPROXIMATE SAVINGS WOULD BE \$790,000 PER YEAR. REPRESENTATIVE TAYLOR SAID THAT WOULD NOT BE ACTUAL DOLLAR SAVINGS, BUT RESOURCE

SAVINGS. MR. TRIVETTE VERIFIED THAT,

NUMBER 413

CHAIRMAN SUND ASKED IF THERE HAS BEEN ANY PREVIOUS TESTIMONY FROM THE OTHER SIDE AND REFERRED TO TIM STERNS, AN ATTORNEY INVOLVED WITH THE CLEARY CASE. REPRESENTATIVE GRUENBERG SAID NO TESTIMONY HAD BEEN HEARD AS SUCH IN THE HESS COMMITTEE. REPRESENTATIVE ULMER ASKED ABOUT THE SIGNIFICANCE OF THE CLEARY CASE TO HB 140. CHAIRMAN SUND SAID IT WAS A MATTER OF CURIOSITY, AS THE ATTORNEYS IN THE CASE DISPUTED SEVERAL ISSUES OF THE PREVIOUS REWRITE OF THIS AREA OF LAW.

NUMBER 443

REPRESENTATIVE GRUENBERG POINTED OUT THE COMBINED POSITION PAPER FROM THE PUBLIC DEFENDERS AND THE OFFICE OF PUBLIC ADVOCACY IN THE COMMITTEE PACKETS, WHICH INDICATES A VIEW FROM THE OTHER SIDE.

MR. TRIVETTE, FOR CLARIFICATION, STATED THE CLEARY LAWSUIT DID NOT DEAL WITH PROBATION/PAROLE MATTERS, BUT WERE INVOLVED IN HB 141 AND HB 85, AND THE GOOD TIME ISSUE OF LAST YEAR. HE WENT ON TO SAY THE PAROLE BOARD SUPPORTS HB 140 AND ASSISTED IN DRAFTING.

NUMBER 497

REPRESENTATIVE GRUENBERG BROUGHT UP THE ISSUE RAISED BY THE PUBLIC DEFENDERS REGARDING SECTION 3 (C) AND (I), FROM AS 12.55.125. HE ASKED IF (C) RELATED TO UNCLASSIFIEDS AND (I) RELATED TO CLASS A'S. MR. TRIVETTE SAID IT WAS THE OTHER WAY AROUND. REPRESENTATIVE GRUENBERG CLARIFIED THAT THEY HAD A PROBLEM WITH INCLUDING (C) IN THAT SECTION. AND WHAT THEY ARE SAYING IS THAT THERE IS GENERALLY NO ELIGIBILITY IN CLASS A'S FOR ANY DISCRETIONARY PAROLE, BUT MAY DESIRE TO ALLOW CLASS A'S ELIGIBLE AFTER ONE-QUARTER, SO THEY WOULDN'T WANT TO USE (C), BECAUSE IT WOULD MAKE THEM ELIGIBLE AFTER ONE-THIRD. HE ASKED IF THEY WERE WILLING TO GO WITH ONE-THIRD FOR UNCLASSIFIEDS, WHY WOULD THEY WANT TO GO ALL THE WAY FROM ZERO TO ONE-QUARTER WITH RESPECT TO CLASS A'S. HE SAID IT SEEMED THAT THE ONE-THIRD LANGUAGE WAS A COMPROMISE POSITION. MR. TRIVETTE SAID TYPICALLY CLASS A'S ARE INELIGIBLE FOR PAROLE PERIOD, AND THE ONLY ONES EVER ELIGIBLE ARE AGGRAVATED PRESUMPTIVES, CONSECUTIVE PRESUMPTIVES, OR THREE-JUDGE PANELS, AND THIS WOULD CHANGE THE ELIGIBILITY FOR THOSE PEOPLE.

NUMBER 540

REPRESENTATIVE TAYLOR SAID THEY ARE TALKING ABOUT A VERY SMALL NUMBER OF PEOPLE AND THE PUBLIC DEFENDER IS ONLY SAYING THAT IF THE PAROLE BOARD DOES NOT WISH TO GRANT DISCRETIONARY PAROLE AFTER ONE-QUARTER OF A SENTENCE, NOTHING IN THE BILL WOULD DEPRIVE THE PAROLE BOARD OF THEIR DISCRETION TO DENY PAROLE APPLICATION. HE POINTED OUT THE TESTIMONY WHICH SAID THEY HAD NEVER GRANTED ONE, AND IT IS UNLIKELY THAT THEY WILL. HE NOTED THE PUBLIC DEFENDER SUPPORTS THE BILL OTHER THAN THAT AND IT IS A MINOR POINT. REPRESENTATIVE SWACKHAMMER NOTED THAT CURRENTLY PEOPLE CAN APPLY, AND IT TAKES TIME TO PREPARE THE CASES TO BE PRESENTED TO THE

PAROLE BOARD AND THAT IS WHERE THE IMPACT WOULD LIE. MR. TRIVETTE NOTED THAT THERE WERE ABOUT TWO TO FIVE CASES PER YEAR. REPRESENTATIVE ULMER AGREED WITH REPRESENTATIVE TAYLOR THAT IT IS A VERY MINOR ISSUE AND SHOULD BE OVERLOOKED.

NUMBER 574

REPRESENTATIVE GRUENBERG ASKED IF THE ONLY CHANGE MADE IN THE HESS COMMITTEE WAS THE ADDITION OF SUBSECTION (I) IN SECTION 3. MR. TRIVETTE CONFIRMED.

NUMBER 590

MIKE STARK, OF THE DEPARTMENT OF LAW, PRESENTED A PROPOSED AMENDMENT TO THE COMMITTEE. HE SAID IT WOULD NOT CHANGE THE INTENT OF HB 140, BUT WOULD AVOID A LOOPHOLE. HE SAID EXISTING LAW PERMITS THE PAROLE BOARD TO DISCHARGE SOMEONE WHO IS ON MANDATORY PAROLE AFTER THEY HAVE BEEN ON FOR TWO YEARS. HE SAID SOMEONE MAY ACTUALLY HAVE FOUR OR FIVE YEARS OF GOOD TIME GENERATED IN A LONG SENTENCE, AND AFTER THEY HAVE BEEN OUT TWO YEARS ON MANDATORY PAROLE, THE PAROLE BOARD CAN DISCHARGE THEM. THE NEW SUBSECTION IN SECTION 5, ON PAGE 2, LINES 4-10, WOULD ALLOW THE PAROLE BOARD TO DO IT EVEN SOONER IF THE PERSON HAS A RESIDUAL PERIOD OF PROBATION WHICH WOULD BE MADE CONCURRENT UNDER HB 140, AS LONG AS THE PERIOD OF PROBATION IS EQUAL TO OR EXCEEDS THE PERIOD OF MANDATORY PAROLE. HE SAID IT WASN'T ANTICIPATED WHEN HB 140 WAS DRAFTED THAT THE PERIOD OF MANDATORY PAROLE, WHATEVER THE LENGTH, WAS THE EXACT SAME PERIOD THAT CAN BE REVOKED BY THE PAROLE BOARD, SO IF SOMEONE HAS FIVE YEARS MANDATORY PAROLE, AND THEY MESS UP, THE PAROLE BOARD CAN REVOKE ALL FIVE YEARS. HE SAID COURTS WILL OFTEN PLACE SOMEONE ON PROBATION FOR UP TO A MAXIMUM FIVE YEARS, BUT WILL ONLY SUSPEND A LESSER PORTION OF IMPRISONMENT. FOR EXAMPLE, SOMEONE COULD HAVE A FOUR YEAR SENTENCE WITH ONE YEAR SUSPENDED AND BE PLACED ON PROBATION FOR FIVE YEARS, SO THEY WOULD ONLY HAVE ONE YEAR HANGING OVER THEIR HEAD AND BE PLACED ON PROBATION FOR FIVE YEARS. HE SAID THE SECTION WOULD ALLOW SOMEONE WITH FIVE-YEAR PROBATION ALSO TO HAVE FOUR-YEAR MANDATORY PAROLE; WITH ONLY ONE YEAR HANGING OVER THEIR HEAD, IT WOULD ALLOW THE PAROLE BOARD TO DISCHARGE THEM. SUBSEQUENTLY, IF THE PERSON VIOLATED IT, ONLY THE SUSPENDED PORTION OF TIME WOULD BE HANGING OVER THEIR HEAD, NOT THE PERIOD OF PROBATION. HE SAID THAT WAS THE DIFFERENCE BETWEEN PROBATION AND MANDATORY PAROLE.

NUMBER 657

CHAIRMAN SUND ASKED MR. STARK TO EXPLAIN THE AMENDMENT FURTHER USING AN EXAMPLE. MR. STARK USED A SENTENCING EXAMPLE OF SEVEN YEARS, WITH ONE YEAR SUSPENDED AND IS PLACED ON PROBATION FOR FIVE YEARS, AFTER SERVING SIX YEARS. HE SAID OF THE SIX YEAR SENTENCE, THE PRISONER WILL GET ONE-THIRD OFF FOR GOOD TIME WHICH WOULD BE TWO YEARS, THEREFORE THE PRISONER WOULD HAVE TWO YEARS OF MANDATORY PAROLE SUPERVISION FOLLOWING HIS RELEASE. UNDER THE BILL, SECTION 9 WOULD PROVIDE THAT BOTH THE FIVE YEAR PERIOD OF PROBATION AND THE TWO YEAR PERIOD OF MANDATORY PAROLE WOULD BECOME CONCURRENT INSTEAD OF CONSECUTIVE. HE SAID IF DURING THE FIRST TWO YEARS OF THAT TIME PERIOD, THE PRISONER VIOLATES THE CONDITIONS, THE PAROLE BOARD CAN

REVOKE THE ENTIRE PERIOD OF TWO YEARS OF MANDATORY PAROLE AND MAKE THE PRISONER SERVE THE TIME IN JAIL.

CHAIRMAN SUND ASKED IF THE PRISONER WOULD GET ANY GOOD TIME ON HIS SERVICE IF HE SERVED THE TWO YEARS MANDATORY PAROLE, AND IF SO COULD HE CONCEIVABLY NOT SERVE THE FULL TWO YEARS. MR. STARK SAID THAT WAS POSSIBLE. HE SAID UNDER THE FIVE YEARS PROBATION, WHICH UNDER HB 140 WOULD BE CONCURRENT, IF AT ANY TIME DURING THE FIVE YEAR PERIOD, THE PRISONER VIOLATES THE CONDITIONS, HE ONLY HAS ONE YEAR HANGING OVER HIS HEAD, SO THAT THE MOST THE COURT COULD DO IS TO JAIL HIM FOR UP TO ONE YEAR. HE SAID UNDER SECTION 5, IT SAYS FOR A PERSON WHO HAS A RESIDUAL PERIOD OF PROBATION THAT IS EQUAL TO OR EXCEEDS THE PERIOD OF MANDATORY PAROLE, THE PAROLE BOARD CAN DISCHARGE HIM BEFORE THE TWO YEARS. HE SAID, "IN THIS SCENARIO, THE PAROLE BOARD MAY SAY IF HE HAS FIVE YEARS PROBATION, 'WHY BOTHER WITH THE PAROLE,' AND DISCHARGE HIM AS THE COURT WILL HANDLE HIM FOR FIVE YEARS. BY DOING THAT, THEY LOSE THE HAMMER THEY HAVE OVER THE PRISONER, BECAUSE THE PAROLE BOARD HAS A HAMMER OVER HIM OF TWO YEARS, WHILE THE COURT ONLY HAS A HAMMER OF ONE YEAR. THE AMENDMENT IS SUGGESTING THAT NOT ONLY THE PERIOD OF PROBATION BE EQUAL TO OR EXCEED THE PERIOD OF MANDATORY PAROLE, BUT ANY PERIOD OF SUSPENDED IMPRISONMENT ALSO BE EQUAL TO OR EXCEED IT. SO IF IN THIS EXAMPLE, IT WERE TWO YEARS SUSPENDED TIME, EVEN THOUGH IT IS FIVE YEARS PROBATION, THERE IS NO PROBLEM WITH THE PAROLE BOARD DISCHARGING THE PERSON BECAUSE THERE IS THE SAME TWO YEARS WITH THE COURT.

"THERE CAN BE NO PROBATION UNLESS THERE IS SUSPENDED JAIL TIME, AND THE PERIOD OF TIME THAT'S SUSPENDED TIME IS THE KEY TIME, NOT THE PERIOD OF PROBATION, BECAUSE IN MANDATORY PAROLE THE PERIOD OF PAROLE IS ALWAYS THE EXACT AMOUNT OF TIME THAT'S HANGING OVER THE PRISONER'S HEAD, IT IS NOT THE SAME AS PROBATION. SO YOU HAVE TO NOT ONLY LOOK AT THE PERIOD OF PROBATION, BUT ALSO THE AMOUNT OF SUSPENDED TIME HANGING OVER THE PRISONER'S HEAD. I AM SUGGESTING WHAT WAS INTENDED, THAT THERE NOT BE ANY LESS SUPERVISION TIME IF A PERSON VIOLATES THE CONDITIONS. THEY WANT TO BE ABLE TO HAVE THE SAME HAMMER AS UNDER MANDATORY PAROLE TIME IN EXISTING LAW. THE SAME PEOPLE ARE SUPERVISING THE PRISONER, BUT IT IS A QUESTION OF WHO TAKES ACTION IF HE VIOLATES CONDITIONS, AND IF THE PAROLE BOARD DISCHARGES HIM, THE ONLY BODY THAT CAN TAKE ACTION AGAINST HIM IS THE COURT."

NUMBER 710

CHAIRMAN SUND ASKED WHERE THE SAVINGS CAME IN. MR. STARK REPLIED THAT IT IS IN THE FACT THAT THE TIME BECOMES CONCURRENT INSTEAD OF CONSECUTIVE. REPRESENTATIVE GRUENBERG ASKED IF MR. STARK'S AMENDMENT ACTUALLY CURES THE PROBLEM. HE READ THE LANGUAGE IN THE AMENDMENT AND WANTED TO BE SURE THE CONDITION AS PHRASED IS PRECISELY WHAT IS NEEDED. REPRESENTATIVE GRUENBERG POINTED OUT THE AMENDMENT LANGUAGE IN QUESTION WAS "EQUAL TO OR EXCEEDS THE PERIOD OF MANDATORY PAROLE." HE SAID HE HAD NO PROBLEM WITH THE INTENT BUT WANTED TO MAKE SURE THE LANGUAGE WAS CORRECT. MR. TRIVETTE SAID THE INTENT WAS CLEAR, BUT HE WANTED TO MAKE SURE IT WAS CORRECT. REPRESENTATIVE GRUENBERG SUGGESTED THAT STAFF AND LEGAL COUNSEL WORK ON THE AMENDMENT. HE SUGGESTED THE BILL TITLE SHOULD ALSO BE TIGHTENED. MR. STARK NOTED THAT THE AMENDMENT PROPOSES WHAT WAS

INTENDED IN SECTION 5, BUT THERE WAS A LOOPHOLE THAT HADN'T ANTICIPATED.

NUMBER 758

CHAIRMAN SUND CLARIFIED HIS UNDERSTANDING OF THE AMENDMENT OFFERED BY MR. STARK. HE SAID, "THERE IS A SITUATION OF A GUY ON MANDATORY PAROLE BECAUSE OF THE GOOD TIME HE ACCUMULATED, AND UNDER CURRENT LAW THAT RUNS BACK-TO-BACK WITH THE PROBATIONARY PERIOD WHEN HE GETS OUT, UNLESS THE JUDGE ORDERS THE PROBATION TO BE CONCURRENT WITH THE MANDATORY PAROLE, AND MR. STARK WANTS TO MAKE SURE THAT IS THE CASE AT ALL TIMES. IT IS PHYSICALLY THE SAME PEOPLE THAT ARE SUPERVISING."

MR. STARK AFFIRMED THAT THE PROBATION/PAROLE OFFICERS ARE THE SAME PEOPLE, BUT WHO THEY GO TO WHEN A PERSON VIOLATES THE CONDITIONS DIFFERS. PAROLEES ARE REPORTED TO THE PAROLE BOARD, PROBATIONERS ARE REPORTED TO THE COURT; IF A PERSON IS ON BOTH, THE OFFICER CAN GO TO EITHER OR BOTH, DEPENDING ON THE VIOLATION. IF IT IS SERIOUS, THEY MAY WANT THE PERSON TO SERVE THE REMAINDER OF THEIR SENTENCE AND HAVE WHATEVER SUSPENDED TIME WAS IMPOSED ADDITIONALLY IMPOSED. HE SAID THE COURT WOULD IMPOSE THE ADDITIONAL TIME AND THE PAROLE BOARD WOULD IMPOSE THE GOOD TIME THAT THE PERSON HAD EARNED PREVIOUSLY.

CHAIRMAN SUND SUMMARIZED THAT THIS WOULD RELIEVE THE TIME OF THE PAROLE BOARD. MR. TRIVETTE POINTED OUT THAT IN THE COMMITTEE PACKETS WAS A SUMMARY SHEET WHICH SHOWED THE NUMBER OF CASES THAT THEY SET SUPPLEMENTAL MANDATORY PAROLE CONDITIONS ON IN 1985 AND 1986. HE SAID IT WENT FROM AROUND 100 TO OVER 300 AND EVERY TIME THE PAROLE BOARD HAS TO SET CONDITIONS, THE BOARD HAS TO REVIEW THE ENTIRE FILE AND DISCUSS IT. HE SAID IF THEY HAD THE SHORT-TERMERS AND ESPECIALLY THE MISDEMEANORS THAT WERE GOING TO BE ON PROBATION ANYWAY, IT IS WASTEFUL FOR THE PAROLE BOARD TO SPEND THEIR TIME WHEN THE COURT HAS ALREADY DONE IT, IT'S A DUPLICATION OF EFFORTS.

NUMBER 789

MR. TRIVETTE SAID THE LEGAL ISSUE OF NOT SETTING THE CONDITIONS, IS THAT WHEN THEY ARE VIOLATED, THE STATE WILL BE LIABLE BECAUSE OF THE CURRENT LAW. HB 140 WOULD ALLOW THEM, IF THERE IS BOTH MANDATORY PAROLE AND PROBATION, TO DEFER TO THE COURT AS LONG AS THE PROBATION TIME IS AT LEAST AS GREAT AS THE PAROLE TIME. CHAIRMAN SUND SAID IT WOULD ALLOW THE PAROLE BOARD TO DISCHARGE THEIR RESPONSIBILITY TO SET MANDATORY PAROLE CONDITIONS IF PROBATION IS AT LEAST AS LONG. CHAIRMAN SUND SAID THAT HE DID NOT SEE WHERE THE LIABILITY TO STATE ARGUMENT AROSE. MR. TRIVETTE SAID THAT IF THEY DID DISCHARGE THEM, AND IT WAS AN INCORRECT DECISION, THERE WOULD BE A LIABILITY. HE SAID THAT CURRENTLY THEY HAVE A LEGAL OBLIGATION TO SET THEM OUT.

NUMBER 813

REPRESENTATIVE GRUENBERG REITERATED HIS REQUEST TO HAVE THE INVOLVED PARTIES WORK TOGETHER ON SECTION 5 AS WELL AS NARROWING

THE TITLE, AND BRING IT BACK BEFORE THE COMMITTEE TOMORROW.

NUMBER 825

REPRESENTATIVE ULMER DISCUSSED THE AMENDMENT LANGUAGE REGARDING "ANY PERIOD OF SUSPENDED IMPRISONMENT" AND ASKED FOR CLARIFICATION IF MR. STARK WAS SAYING THAT IT MAY BE LONGER THAN THE RESIDUAL PROBATION PERIOD. MR. STARK SAID THAT THE PERIOD OF SUSPENDED IMPRISONMENT COULD BE LONGER, THAT THERE IS NO REQUIREMENT THAT THE SUSPENDED TIME BE SHORTER THAN OR LONGER THAN THE PERIOD OF PROBATION. "THERE COULD BE FIVE YEARS HANGING OVER SOMEONE'S HEAD AND THEY COULD ONLY BE ON PROBATION FOR SIX MONTHS, AND ONCE PAST THE SIX MONTH PERIOD, THAT TIME CAN NEVER BE IMPOSED ON THE PERSON."

CHAIRMAN SUND POINTED OUT THAT IT WOULD BE A RARE OCCURRENCE. MR. STARK SAID TYPICALLY THE PERIOD OF PROBATION WOULD BE EQUAL TO OR LONGER THAN THE PERIOD OF SUSPENDED IMPRISONMENT. REPRESENTATIVE ULMER SAID THAT SHE WAS TRYING TO UNDERSTAND HOW THE PERIOD OF SUSPENDED IMPRISONMENT WAS DIFFERENT FROM WHAT WAS COVERED ON LINE 9, EITHER THE RESIDUAL PROBATION OR THE PERIOD OF MANDATORY PAROLE, BECAUSE SHE ASSUMED THAT IF SOMEONE WAS WITHIN THEIR PERIOD OF SUSPENDED IMPRISONMENT, THEY WOULD BE ON PROBATION OR PAROLE.

MR. STARK SAID THAT NORMALLY THAT WOULD BE THE CASE. HE GAVE AN EXAMPLE OF A PERSON WITH FOUR YEARS MANDATORY PAROLE UNDER THIS SECTION, WHO WAS ON PROBATION FOR FIVE YEARS. HE STATED THAT THE PAROLE BOARD COULD DISCHARGE HIM AT ANY TIME, BUT IF HE ONLY HAD TWO YEARS OF SUSPENDED TIME HANGING OVER HIS HEAD AND HE COMMITTED A SERIOUS VIOLATION, THE ONLY RECOURSE WOULD BE TO PUT HIM BACK IN JAIL FOR TWO YEARS, WHERE IF HE HAD DONE IT UNDER THE FOUR YEARS MANDATORY PAROLE BEFORE HE WAS DISCHARGED BY THE PAROLE BOARD, THEN FOUR YEARS COULD BE IMPOSED. HE EMPHASIZED THAT THE IDEA WAS NOT TO ALLOW THE INCENTIVE TO BEHAVE BE LESSENERED BY THIS LAW, BUT TO KEEP IT THE SAME.

NUMBER 855

REPRESENTATIVE TAYLOR MOVED THE AMENDMENT WITH THE UNDERSTANDING THAT IT WOULD COME BACK WITH AN OPINION. CHAIRMAN SUND SAID A MOTION WAS NOT NECESSARY AT THIS TIME AS THEY WOULD WORK ON THE LANGUAGE AND BRING IT BACK TOMORROW AS A COMMITTEE SUBSTITUTE.

TAPE 35 SIDE 2

NUMBER 000

CHAIRMAN SUND ANNOUNCED TO THE COMMITTEE THAT A PROPOSED BILL DRAFT SPONSORED BY THE COMMITTEE WAS BEFORE THEM FOR REVIEW. THE BILL WAS REQUESTED BY THE COURT SYSTEM AND WILL BE REDRAFTED BEFORE INTRODUCTION. HE ADJOURNED THE MEETING AT 2:27 P.M.

R0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

SEARCH - QUERY  
00002 HB ADJ 140

HES069AM DOCUMENT= 1 OF 2

CHAMBER = H  
DATE = 031087  
SOURCE = HHES  
TIME = 0830  
YEAR = 87  
DOC ID HHES 0310870830

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE  
MARCH 10, 1987  
8:30 A.M.

MEMBERS PRESENT

REP. NIILO KOPONEN, CO-CHAIR  
REP. JOHNNY ELLIS, CO-CHAIR  
REP. DAVE DONLEY  
REP. MAX GRUENBERG  
REP. ALYCE HANLEY  
REP. BILL HUDSON  
REP. RANDY PHILLIPS

COMMITTEE CALENDAR

SSHB 13: "AN ACT RELATING TO MEDICAL EXPENSES OF  
PRISONERS."

HB 129: "AN ACT RELATING TO CRIMINAL FINES."

HB 140: "AN ACT RELATING TO PAROLE."

WITNESS REGISTER

MICHAEL STARK  
DEPT. OF LAW  
P.O. BOX KC  
JUNEAU, AK 99811  
465-3428  
POSITION: GAVE INFORMATION ON HB 140.

SAM TRIVETTE  
DEPT. OF CORRECTIONS  
P.O. BOX T  
JUNEAU, AK 99811  
465-3384  
POSITION: GAVE INFORMATION ON HB 140.

SUSAN KNIGHTON  
DEPT. OF CORRECTIONS

P.O BOX T  
JUNEAU, AK 99811  
465-3376  
POSITION: GAVE INFORMATION ON HB 13 AND HB 129.  
LARRY BUSSONE  
AIDE TO REP. LARSON  
P.O. BOX V  
JUNEAU, AK 99811  
465-3727  
POSITION: FAVORED HB 13 AND HB 129.

ERVIN JONES  
DEPT. OF REVENUE  
P.O. BOX S  
JUNEAU, AK 99811  
465-2313  
POSITION: GAVE INFORMATION ON HB 13 AND HB 129.

KARLA FORSYTHE  
COURT SYSTEM  
303 "K" STREET  
ANCHORAGE, AK 99501  
264-8228  
POSITION: GAVE INFORMATION ON HB 13 AND HB 129.

REP. C.E. SWACKHAMMER  
P.O. BOX V  
JUNEAU, AK 99811  
465-2869  
POSITION: FAVORED HB 140.

PREVIOUS ACTION

SSHB 13:	DATE	PAGE	ACTION
	01/12/87 (H)		PREFILE RELEASED
	01/19/87 (H)	21	READ THE FIRST TIME WITH REFERRAL(S)
	01/19/87 (H)	21	HESS, JUDICIARY, FINANCE
	02/20/87 (H)	278	SPONSOR SUBSTITUTE INTRODUCED
	02/20/87 (H)	278	HESS, JUDICIARY, FINANCE
HB 129:	DATE	PAGE	ACTION
	02/13/87 (H)	220	READ THE FIRST TIME WITH REFERRAL(S)
	02/13/87 (H)	220	HESS, JUDICIARY, FINANCE
HB 140:	DATE	PAGE	ACTION
	02/18/87 (H)	262	READ THE FIRST TIME WITH REFERRAL(S)
	02/18/87 (H)	263	HESS, JUDICIARY, FINANCE

ACTION NARRATIVE  
TAPE ONE SIDE ONE  
NUMBER 000

THE MEETING OF THE HOUSE HEALTH, EDUCATION, AND SOCIAL SERVICES COMMITTEE WAS CALLED TO ORDER AT 8:35 A.M. BY REP. ELLIS. MEMBERS PRESENT WERE REPRESENTATIVES KOPONEN, ELLIS, DONLEY AND PHILLIPS.

REP. ELLIS ASKS THE COMMITTEE MEMBERS TO SIGN THE LETTER REGARDING APPOINTMENTS TO BOARDS AND COMMISSIONS.

HB 140

HSES, 03/10/87

REP. ELLIS REQUESTS REP. SWACKHAMMER TO PRESENT HIS BILL, HB 140.

NUMBER 018

REP. SWACKHAMMER STATES THAT THE PURPOSE OF HB 140 IS TO REDUCE THE NUMBER OF PAROLE/PROBATION SUPERVISED OFFENDERS BY DELETING THOSE MISDEMEANOR OR SHORT TERM FELONY OFFENDERS FROM MANDATORY PAROLE SUPERVISION. AT THE CURRENT COUNT, HB 140 WOULD REDUCE THE NUMBER OF PAROLE SUPERVISED OFFENDERS BY 139, 56 OF WHICH COMMITTED MISDEMEANOR OFFENSES. REP. SWACKHAMMER NOTES THAT BY REDUCING THE NUMBER OF MANDATORY PAROLEES, CLOSER SUPERVISION CAN BE PROVIDED FOR THOSE OFFENDERS WHO REQUIRE CLOSER SUPERVISION.

REP. SWACKHAMMER STATES THAT HB 140 WOULD ALSO MAKE A CLASS A OFFENDER ELIGIBLE FOR DISCRETIONARY PAROLE AFTER SERVING ONE-THIRD OF THE IMPOSED SENTENCE RATHER THAN SERVING ONE-QUARTER AS IS NOW THE CASE. FURTHERMORE, HB 140 WOULD ALLOW AN OFFENDER, WHO HAS BOTH MANDATORY PAROLE TIME AND PROBATION SUPERVISION, TO SERVE BOTH CONCURRENTLY RATHER THAN CONSECUTIVELY. IT ALLOWS OFFENDERS TO GO TO PROBATION FROM PAROLE MORE QUICKLY UNDER CERTAIN CIRCUMSTANCES.

REP. SWACKHAMMER CONCLUDES THAT THE DEPT. OF CORRECTIONS HAS ESTIMATED THAT HB 140 WILL SAVE THEM \$780,000 A YEAR IN TERMS OF TIME. ALASKA'S RECIDIVISM IS CURRENTLY 4% OR LESS COMPARED TO A NATIONAL AVERAGE OF 12% WHICH SPEAKS WELL FOR OUR SYSTEM, AND HB 140 WILL ALLOW THAT TO CONTINUE BECAUSE THE SYSTEM WILL NOT GET OVERBURDENED.

NUMBER 083

MR. MICHAEL STARK ADDRESSES TWO POINTS IN THE BILL THAT THE COMMITTEE MIGHT WANT TO CHANGE. THE FIRST IS IN SECTION 3. SECTION 3 ADDS IN ANOTHER CLASS OF FELON WHO MUST SERVE AT LEAST ONE THIRD OF THE ENHANCED OR AGGRAVATED TERM BEFORE BEING RELEASED ON DISCRETIONARY PAROLE. MR. STARK SUGGESTS THAT SUBSECTION (I) IN AS 12.55.125 SHOULD BE ADDED TO SUBSECTION 3 IN ORDER TO BE CONSISTENT AS TO THE TYPES OF FELONIES BEING AFFECTED. THIS WAS INADVERTENTLY LEFT OUT WHEN THE BILL WAS BEING DRAFTED.

NUMBER 129

REP. HUDSON ASKS REP. SWACKHAMMER TO RESPOND TO MR. STARK'S SUGGESTION. REP. SWACKHAMMER CONCURS WITH THE SUGGESTION.

NUMBER 152

REP. PHILLIPS MOVES THAT ON PAGE 1, LINES 20 AND 22, THE FIRST "OR" IS DELETED AND AFTER THE (C) ADD "OR (I)." SEEING NO OBJECTION, REP. ELLIS STATES THAT THE TECHNICAL AMENDMENT IS ADOPTED.

NUMBER 160

MR. STARK THEN ADDRESSES THE SECOND ISSUE WHICH IS ON PAGE 2, SECTION 5. MR. STARK NOTES THAT PRESENTLY A PAROLE BOARD MAY TERMINATE SUPERVISION OF A MANDATORY PAROLEE AFTER THE PRISONER HAS BEEN ON SUPERVISION FOR TWO YEARS. IN SECTION 5, IF THE PROBATIONARY PERIOD WAS EQUAL TO OR GREATER THAN THE MANDATORY SUPERVISION PERIOD THEN THE TWO COULD BE SERVED CONCURRENTLY. THE PERIOD OF TIME UNDER SUPERVISION WOULD BE REDUCED, BUT WOULD STILL BE SUBSTANTIAL. MR. STARK SUGGESTS THAT ANY PERIOD OF SUSPENDED IMPRISONMENT AND THE PERIOD OF RESIDUAL PROBATION HAS TO BE EQUAL TO OR EXCEEDS THE PERIOD OF MANDATORY PAROLE.

NUMBER 242

REP. DONLEY ASKS IF THERE IS A LIMIT ON THE NUMBER OF YEARS OF PROBATION. MR. STARK REPLIES THAT THERE IS A FIVE YEAR MAXIMUM ON PROBATION. REP. DONLEY THEN QUERIES IF MR. STARK'S SUGGESTION WOULD TAKE SENTENCING DISCRETION AWAY FROM THE JUDGES. MR. STARK RESPONDS THAT HE DOES NOT THINK HIS SUGGESTION TAKES AWAY ANYTHING FROM THE JUDGE, IT MERELY REDUCES THE TIME A PRISONER IS UNDER SUPERVISION. REP. DONLEY COMMENTS THAT FROM THE VIEW POINT OF THE VICTIM IT DOES REMOVE OPTIONS FROM THE JUDGE BECAUSE IT REDUCES THE AMOUNT OF TIME OF STATE SUPERVISION OVER THE PRISONER WHICH REMOVES CERTAINTY FROM THE VICTIM WHEN SENTENCING. REP. DONLEY DOES NOT WANT TO REDUCE ANY CERTAINTY FOR THE VICTIMS ABOUT THE AMOUNT OF TIME THEY WILL BE PROTECTED. REP DONLEY AND MR. STARK DISCUSS THIS POINT AND CONCLUDE THAT THE AMOUNT OF TIME A PRISONER IS UNDER STATE SUPERVISION WILL BE LESSENED BY THE BILL BUT THAT THE TIME WILL BE A DEFINITE, CERTAIN PERIOD.

NUMBER 417

REP. ELLIS NOTES FOR THE RECORD THAT REPRESENTATIVES HUDSON AND HANLEY HAVE JOINED THE COMMITTEE.

NUMBER 419

REP. KOPONEN ASKS IF MR. STARK'S SUGGESTION WOULD RESULT IN A SIGNIFICANT DIFFERENCE IN TIME SERVED. MR. STARK REPLIES THAT THE BILL WOULD MOST BENEFIT THE PAROLE BOARD AND THEIR

RESOURCES AND THE USE OF PAROLE OFFICERS.

NUMBER 506

REP. ELLIS NOTES THAT HE HAS NEGLECTED TO SAY THAT REP. GRUENBERG HAS JOINED THE COMMITTEE AND HAS BEEN PRESENT FOR SOME TIME.

NUMBER 511

REP. GRUENBERG ASKS ABOUT THE FIRST TECHNICAL AMENDMENT IN THAT IT WOULD REDUCE THE PRESUMPTIVE SENTENCE AND NOT MAKE THE OFFENDER ELIGIBLE FOR DISCRETIONARY PAROLE. MR. STARK EXPLAINS THAT SECTION 3 DEALS ONLY WITH ENHANCED OR CONSECUTIVE SENTENCES AND MAKES THE PERIOD LONGER BEFORE DISCRETIONARY PAROLE CAN BE GIVEN. REP. GRUENBERG ASKS IF THAT WOULD MAKE FOR A LARGER FISCAL NOTE. MR. STARK REPLIES THAT HE DOES NOT BELIEVE SO, BUT THAT THE DEPT. OF CORRECTIONS CAN ANSWER THAT BETTER.

NUMBER 589

REP. GRUENBERG ASKS SINCE SECTION 9 RELATES TO PROBATION IF THE TITLE SHOULD BE CHANGED TO INCLUDE BOTH PAROLE AND PROBATION. REP. ELLIS ASKS REP. SWACKHAMMER IF HE HAS EXPLORED THAT, AND REP. SWACKHAMMER ANSWERS NO BUT IF A TITLE CHANGE WOULD HELP THE BILL OUT OF COMMITTEE TO GO AHEAD. REP. ELLIS ASKS COMMITTEE STAFF TO FIND OUT IF THE TITLE NEEDS TO BE CHANGED.

NUMBER 625

MR. SAM TREVITT RESPONDS TO SEVERAL PREVIOUS CONCERNS. HE REITERATES MR. STARK'S STATEMENT THAT THE BILL WILL NOT CHANGE THE CERTAINTY OF SENTENCING. HE ALSO STATES THAT THERE WOULD BE MINIMAL FISCAL IMPACT FOR ADDING THE COMMITTEE'S TECHNICAL AMENDMENT TO THE BILL.

TAPE ONE SIDE TWO  
NUMBER 000

MR. TREVITT STATES THAT 15-18% OF THE CASES ARE REVOCATIONS.

NUMBER 050

REP. ELLIS STATES THAT TAMARA COOK FROM LEGAL SERVICES IS LOOKING INTO THE TITLE QUESTION. HE ASKS REP. GRUENBERG IF HE WANTS A NEW FISCAL NOTE, AND REP. GRUENBERG REPLIES NO.

NUMBER 057

REP. GRUENBERG ASKS AGAIN ABOUT THE TECHNICAL AMENDMENT. HE STATES THAT BOTH MR. STARK AND MR. TREVITT HAVE STATED THAT THE SECTION ONLY AFFECTS AN ENHANCED SENTENCE, BUT THAT IS NOT HOW HE READS IT. MR. STARK RESPONDS THAT THE

SECTION IN THE BILL MUST BE READ IN CONJUNCTION WITH THE EXISTING STATUTE WHICH MAKES CLEAR THAT IT IS DEALING WITH ENHANCED SENTENCES.

NUMBER 092

REP. ELLIS REPORTS THAT TAM COOK'S OPINION ABOUT THE BILL'S TITLE IS THAT THE TITLE IS OKAY UNLESS THE DESIRE IS TO KEEP SECTION 9 OR ANY OTHER SECTION DEALING WITH PROBATION. THUS ADDING PROBATION WOULD TIGHTEN UP THE TITLE. REP. KOPONEN MOVES THAT THE TITLE READS "AN ACT RELATING TO PAROLE AND PROBATION." REP. PHILLIPS CLARIFIES TAM COOK'S STATEMENT THAT ADDING PROBATION WOULD TIGHTEN UP THE BILL; AND THEN DISAGREES. HE SAYS ADDING IT WOULD BE AN INVITATION TO THE SENATE TO ADD THINGS TO THE BILL. REP. GRUENBERG STATES THAT PROBATION IS DIFFERENT FROM PAROLE AND THAT SECTION 9 DEALS WITH PROBATION. REP. KOPONEN WITHDRAWS THE MOTION TO CHANGE THE TITLE SINCE THE NEXT COMMITTEE OF REFERRAL IS JUDICIARY. REP. KOPONEN THEN MOVES THAT THE COMMITTEE SUBSTITUTE FOR HB 140 BE PASSED WITH INDIVIDUAL RECOMMENDATIONS. SEEING NO OBJECTIONS, REP. ELLIS SO ORDERS.

NUMBER 154

HB 13

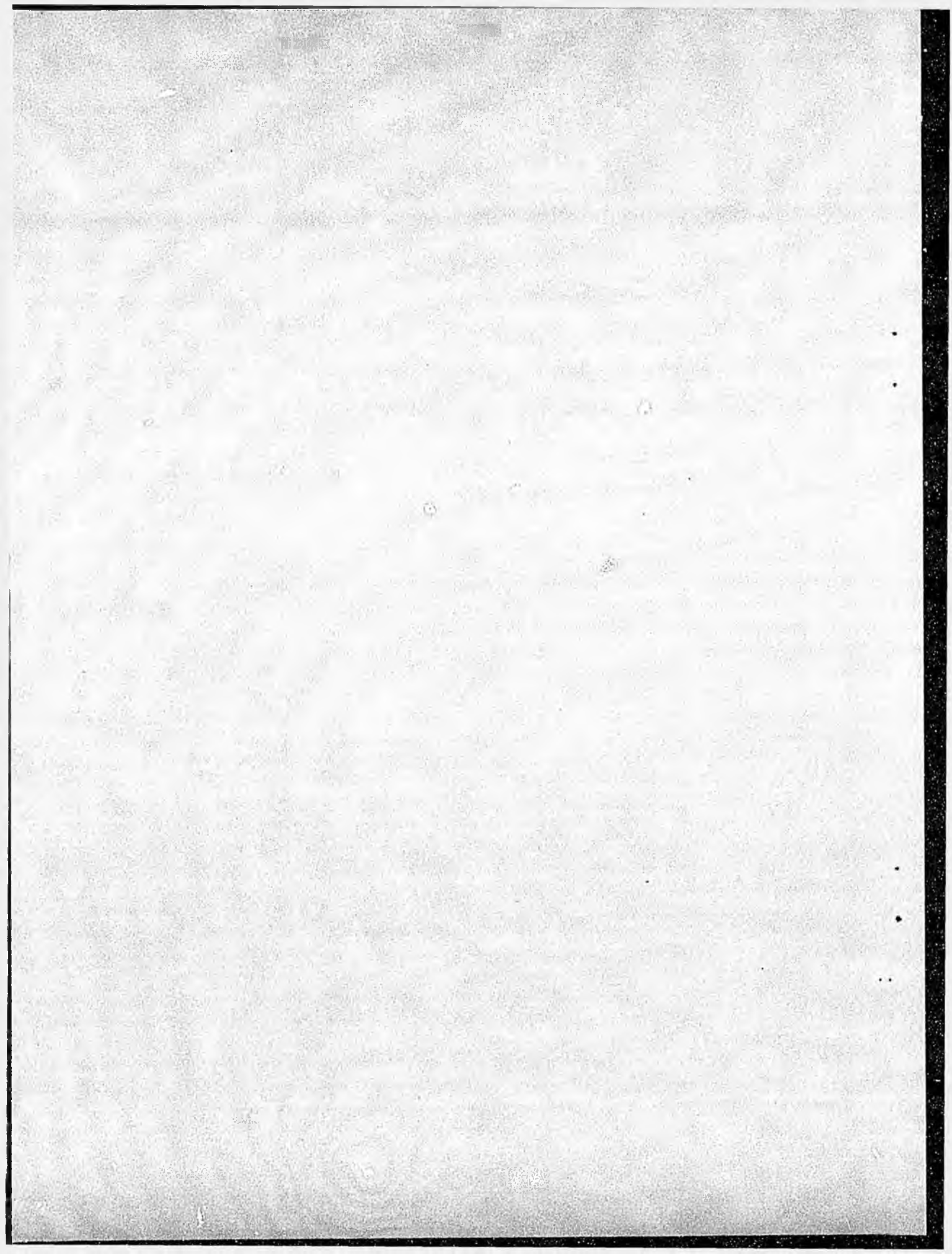
HB 129

HRES, 03/10/87

REP. ELLIS BRINGS HB 13 AND HB 129 BEFORE THE COMMITTEE. HE ASKS LARRY BUSSONE FROM REP. LARSON'S OFFICE TO GIVE HIS PRESENTATION.

MR. BUSSONE STATES THAT THE SPONSOR SUBSTITUTE FOR HB 13 DOES THREE THINGS. FIRST IT ALLOWS THE STATE TO GARNISH THE PERMANENT FUND DIVIDEND CHECK OF AN INMATE FOR THE MEDICAL COST INCURRED. SECONDLY, IT ALLOWS THE DEPT. OF CORRECTIONS TO APPLY ON BEHALF OF THE INMATE WHO IS ELIGIBLE FOR THE DIVIDEND CHECK BUT CHOOSES NOT TO APPLY. MR. BUSSONE EXPLAINS THAT THIS WAS THE PRIMARY ADDITION TO THE SPONSOR SUBSTITUTE. THIRDLY, HB 13 MANDATES THAT PERMANENT FUND DIVIDENDS CLAIMED BY THE STATE MUST BE DEPOSITED INTO THE GENERAL FUND. MR. BUSSONE FURTHER EXPLAINS THAT THE BILL'S INTENTIONS ARE TWOFOLD. ONE, TO SAVE THE STATE MONEY IN THE AREA OF MEDICAL COSTS FOR INMATES, AND TWO, TO ENCOURAGE INMATES NOT TO OVERUSE OR ABUSE THE MEDICAL SERVICES THAT ARE PROVIDED. MR. BUSSONE REPORTS THAT THE DEPT. OF CORRECTIONS ESTIMATES THAT THE AVERAGE DAILY MEDICAL COST FOR AN INMATE IS \$6, OR \$2,190 PER YEAR. THIS ADDS UP TO FIVE AND HALF MILLION DOLLARS A YEAR FOR ALL THE INMATES. HB 13 WOULD PROVIDE THE DEPT. OF CORRECTIONS A TOOL TO RECOUP SOME OF THAT \$5 1/2 MILLION.

NUMBER 193



information on that prisoner may come to the board's attention. For example, a prospective employment plan may no longer be possible, or the prisoner is unable to immediately enter a residential treatment program upon release, or the prisoner is subsequently involved in a major disciplinary action. With this provision the board can change conditions or decide that the prisoner is not appropriate for discretionary parole, and rescind its previous action or merely delay the prisoner's release date. Due process safeguards are built in to protect the prisoner's liberty interest.

Subsections (c) and (d) set out the minimum amount of a sentence a prisoner must serve before being eligible for discretionary parole. For discretionary parole eligible prisoners, the minimum term is decreased from one-third of the sentence under current law to one-fourth of the sentence, except for an individual convicted of first or second degree murder, kidnapping, or misconduct involving a controlled substance in the first degree. With this latter group, the minimum term remains one-third or the mandatory minimum, whichever is greater. The sentencing court may further restrict parole eligibility under AS 12.55.115. Parole eligibility is reduced by this bill only for first-time non-presumptive Class B or C felony offenders and for misdemeanants.

AS 33.16.110 codifies existing practice by setting out the information which the board must consider when determining a prisoner's suitability for discretionary parole.

AS 33.16.120 was enacted in 1984 as a portion of the Victim's Rights Legislation and gives a victim the right to comment in writing on a pending discretionary parole decision. The board is required to consider those comments. The board also has a duty to notify a victim if a prisoner is released on either discretionary or mandatory parole.

AS 33.16.130 places the responsibility for requesting discretionary parole on the prisoner rather than making the board responsible for reviewing all potentially eligible prisoners. Working with institutional staff, the prisoner would prepare a parole release plan, including the prisoner's plans for employment, treatment, residence and other relevant material, for presentation to the board. A hearing on the granting of parole is required. If the board denies an application for discretionary parole, a written decision must be issued and provided to the prisoner. This section mirrors current practice, but the procedural safeguards are made more specific.

ALASKA PAROLE BOARD  
MANDATORY PAROLE INFORMATION

1985 - 1986

	<u>Supplemental Conditions Set</u>	<u>Mandatory Parole Revocation Hearings</u>
1985	179 Cases	25
1986	373 Cases	57

# MEMORANDUM

# State of Alaska

TO: Tom Wright  
Legislation Aide  
Rep. Swackhammer's Office


DATE: March 9, 1987

FILE NO.:

THRU:

TELEPHONE NO.: 907-465-3384

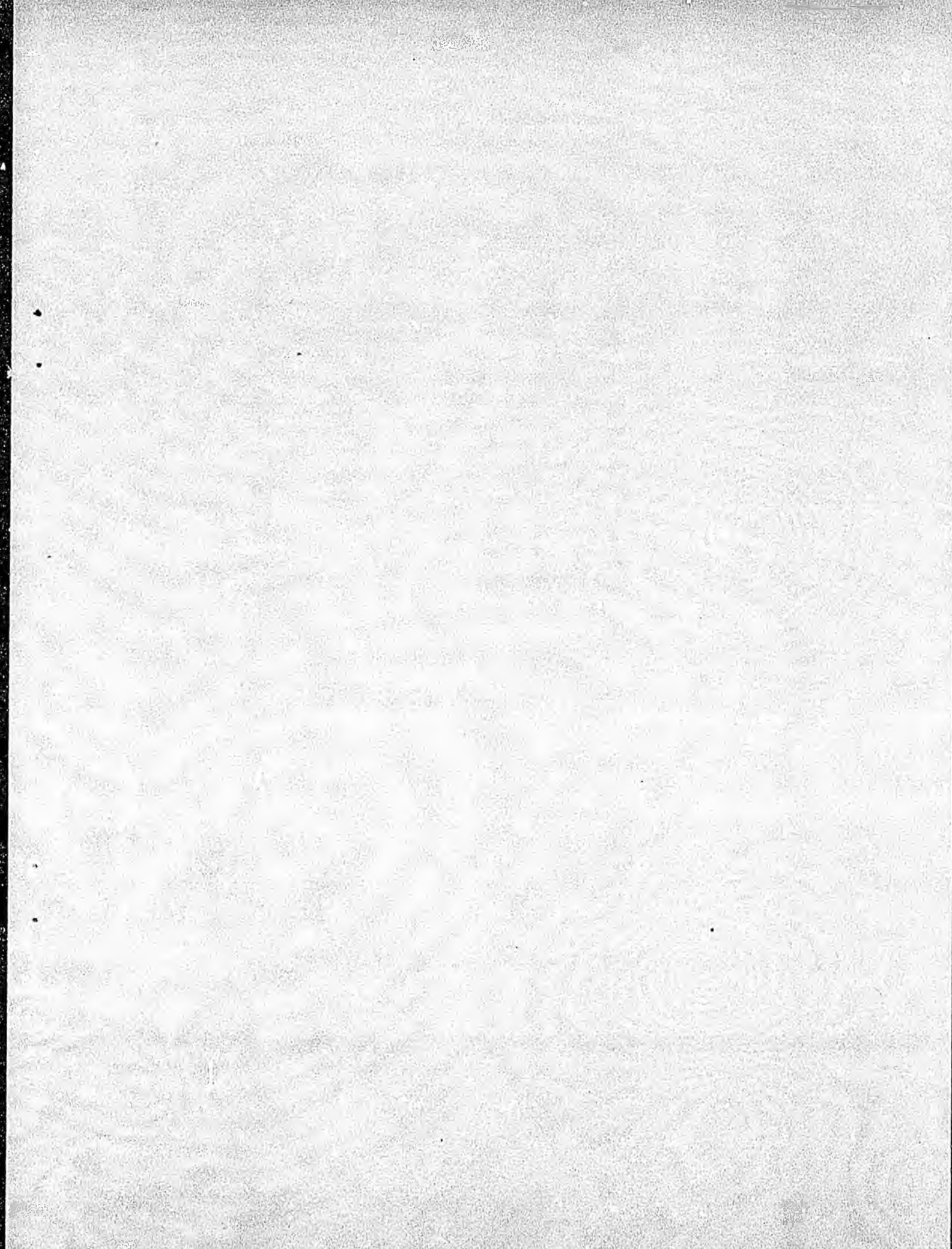
SUBJECT: Mandatory Parole

FROM: Samuel H. Trivette  
Executive Director  
Parole Board 

Per your request of March 7, 1987, I researched out files and also contacted the National Institute of Corrections Information Center to obtain additional information on mandatory parole in other jurisdictions. Unfortunately no national data is being gathered on mandatory parole. However, I did discuss this issue at length with Brian Bemus at the Information Center. He has extensive knowledge in this area. He only knows of two states that have abolished mandatory parole supervision. Some other states require the Parole Board to parole prisoners prior to "flat-time" dates but don't call it mandatory parole.

Mr. Bemus stated that most states have a system similar to ours. That is, prisoners with only longer sentences go on supervision subject to conditions set by the Parole Board. At least one state has the supervision lengths tied to the seriousness of the crime. So he agrees House Bill 140 is fairly typical of mandatory parole laws.

Another point I think is important. Alaska is fairly unique in having "split sentences", that is a prison sentence with probation to follow. In most states a judge can impose only a short county jail sentence as a condition of probation. Otherwise the judge sends the offender to prison, and there is no probation to follow. I checked two of our larger correctional facilities today and over 95% of the felons sentenced for classified felony crimes have split sentences, i.e.; have jail time and probation to follow. The importance is most felons will be supervised on probation without mandatory parole, so the public will be protected.



3691), 578 P.2d 971 (1978); Putnam v. State, Sup. Ct. Op. No. 2251 (File No. 3475), 629 P.2d 35 (1980); State v. Brinkley, Ct. App. Op. No. 361 (File No. A-164), P.2d (1984); Cleary v. State, Sup. Ct. Op. No. 1257 (File No. 2623), 548 P.2d 952 (1976); Salazar v. State, Sup. Ct. Op. No. 1404 (File No. 2567), 562 P.2d 694 (1977); Cleary v. State, Sup. Ct. Op. No. 1431 (File No. 3059), 564 P.2d 374 (1977); Amidon v. State, Sup. Ct. Op. No. 1434 (File Nos. 2511, 2512), 565 P.2d 1248 (1977); Black v. State, Sup. Ct. Op. No. 1506 (File No. 3327), 569 P.2d 804 (1977); Sumabat v. State, Sup. Ct. Op. No. 1648 (File No. 3739), 580 P.2d 323 (1978); Hansen v. State, Sup. Ct. Op. No. 1689 (File No. 3412), 582 P.2d 1041 (1978); Kanipe v. State, Sup. Ct. Op. No. 2242 (File No. 4993), 620 P.2d 678 (1980); Hintz v. State, Sup. Ct. Op. No. 2334 (File No. 3541), 627 P.2d 207 (1981).

Inclusion of improper reference to unverified police contacts did not require remand for resentencing before different judge. — See Parks v. State, Sup. Ct. Op. No. 1529 (File No. 209), 571 P.2d 1003 (1977).

Reference to unverified police contacts in a presentence report does not require a remand for resentencing where the record

indicates that the sentencing judge was not unduly or improperly influenced by reference to the unverified police contacts. Pascoe v. State, Sup. Ct. Op. No. 2249 (File No. 4290), 628 P.2d 547 (1980).

Case remanded for resentencing. — See Neal v. State, Sup. Ct. Op. No. 2341 (File No. 4787), 628 P.2d 19 (1981).

Case remanded for sentence review. — Although a sentence of 15 years' imprisonment with eligibility for parole at the discretion of the parole board upon conviction of manslaughter was not excessive, since the trial court had sentenced defendant as if his conviction had been obtained within one year of the crime and therefore substantially ignored his subsequent history of steady employment, his meritorious service in the army, and his lack of involvement in any criminal activity other than a few traffic offenses in the 12 years since the commission of the crime, the case was remanded for the purpose of permitting the trial court to review the sentence it imposed, in light of all available information concerning defendant without excluding the time period commencing one year from the time of the killing until the present. Padie v. State, Sup. Ct. Op. No. 1843 (File No. 3564), 594 P.2d 50 (1979).

**Sec. 12.55.125. Sentences of imprisonment for felonies. (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years.**

**(b) A defendant convicted of murder in the second degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.**

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

**(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;**

**(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;**

- (3) if the offense is a second felony conviction, 10 years;
  - (4) if the offense is a third felony conviction, 15 years.
- (d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:
- (1) if the offense is a second felony conviction, four years;
  - (2) if the offense is a third felony conviction, six years;
  - (3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, two years.
- (e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:
- (1) if the offense is a second felony conviction, two years;
  - (2) if the offense is a third felony conviction, three years;
  - (3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, one year.
- (f) If a defendant is sentenced under (a) or (b) of this section,
- (1) imprisonment for the prescribed minimum term may not be suspended under AS 12.55.080;
  - (2) imposition of sentence may not be suspended under AS 12.55.085;
  - (3) imprisonment for the prescribed minimum term may not be otherwise reduced.
- (g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (f) of this section, except to the extent permitted under AS 12.55.155 — 12.55.175,
- (1) imprisonment may not be suspended under AS 12.55.080;
  - (2) imposition of sentence may not be suspended under AS 12.55.085;
  - (3) terms of imprisonment may not be otherwise reduced.
- (h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided.
- (i) A defendant convicted of sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

SELECT = QUERY  
00001 ALL SECTION EG 33.16.010

AS33.16.010 DOCUMENT# 1 OF 1

CHAPTER = 33.16  
SECTION = 33.16.010  
TITLE = 33  
HEADINGS TITLE 33.  
PROBATION, PRISONS, AND PRISONERS.  
CHAPTER 16.  
PAROLE ADMINISTRATION.

CITATION SEC. 33.16.010.

CATCH LINE

PAROLE.

TEXT (A) A PRISONER WHO IS SERVING A TERM OR TERMS OF AT LEAST 181  
DAYS IS ELIGIBLE FOR EITHER DISCRETIONARY OR MANDATORY PAROLE.

(B) A PRISONER WHO IS ELIGIBLE UNDER AS 33.16.090 MAY BE  
GRANTED DISCRETIONARY PAROLE BY THE BOARD OF PAROLE.

(C) A PRISONER WHO IS NOT ELIGIBLE FOR DISCRETIONARY  
PAROLE, OR WHO IS NOT RELEASED ON DISCRETIONARY PAROLE, SHALL BE  
RELEASED ON MANDATORY PAROLE FOR THE TERM OF GOOD TIME DEDUCTIONS  
CREDITED UNDER AS 33.20, IF THE TERM OR TERMS OF IMPRISONMENT  
EXCEED 180 DAYS.

(D) A PRISONER RELEASED ON DISCRETIONARY OR MANDATORY  
PAROLE IS SUBJECT TO THE CONDITIONS OF PAROLE IMPOSED UNDER AS  
33.16.150. PAROLE MAY BE REVOKED UNDER AS 33.16.220.

HISTORY (SEC. 2 CH 88 SLA 1985)

ANNOTATIONS

LEGISLATIVE HISTORY REPORTS. - FOR HOUSE LETTER OF INTENT  
RELATED TO THIS SECTION, SEE 1985 HOUSE JOURNAL, P. 921.

R0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

AS33.16.100 DOCUMENT# 1 OF 1

CHAPTER = 33.16  
SECTION = 33.16.100  
TITLE = 33  
HEADINGS TITLE 33.  
PROBATION, PRISONS, AND PRISONERS.  
CHAPTER 16.  
PAROLE ADMINISTRATION.

CITATION SEC. 33.16.100.

CATCH LINE

GRANTING OF DISCRETIONARY PAROLE.

TEXT

(A) THE BOARD MAY AUTHORIZE THE RELEASE OF A PRISONER ON DISCRETIONARY PAROLE IF IT DETERMINES A REASONABLE PROBABILITY EXISTS THAT

(1) THE PRISONER WILL LIVE AND REMAIN AT LIBERTY WITHOUT VIOLATING ANY LAWS OR CONDITIONS IMPOSED BY THE BOARD;

(2) THE PRISONER'S REHABILITATION AND REINTEGRATION INTO SOCIETY WILL BE FURTHERED BY RELEASE ON PAROLE;

(3) THE PRISONER WILL NOT POSE A THREAT OF HARM TO THE PUBLIC IF RELEASED ON PAROLE; AND

(4) RELEASE OF THE PRISONER ON PAROLE WOULD NOT DIMINISH THE SERIOUSNESS OF THE CRIME.

(B) IF THE BOARD FINDS A CHANGE IN CIRCUMSTANCES IN A PRISONER'S PAROLE RELEASE PLAN SUBMITTED UNDER AS 33.16.130(A), OR DISCOVERS NEW INFORMATION CONCERNING A PRISONER WHO HAS BEEN GRANTED A PAROLE RELEASE DATE, THE BOARD MAY RESCIND OR REVISE THE PREVIOUSLY GRANTED PAROLE RELEASE DATE. IN RECONSIDERING THE RELEASE DATE, THE PROCEDURES SET OUT IN AS 33.16.130(B) AND (C) SHALL BE FOLLOWED.

(C) EXCEPT AS PROVIDED IN (D) OF THIS SECTION, A PRISONER MAY NOT BE RELEASED ON DISCRETIONARY PAROLE UNTIL THE PRISONER HAS SERVED AT LEAST ONE-FOURTH OF THE PERIOD OF CONFINEMENT IMPOSED, ONE-FOURTH OF AN ENHANCED PERIOD OF CONFINEMENT IMPOSED UNDER AS 12.55.155(A), OR ANY MINIMUM TERM SET UNDER AS 12.55.115 AT SENTENCING, WHICHEVER IS GREATER.

(D) A PRISONER WHO IS SENTENCED FOR A TERM UNDER AS 12.55.125(A) OR (B) MAY NOT BE RELEASED ON DISCRETIONARY PAROLE UNTIL THE PRISONER HAS SERVED THE MANDATORY MINIMUM TERM UNDER AS 12.55.125(A) OR (B), AT LEAST ONE-THIRD OF THE PERIOD OF CONFINEMENT IMPOSED, OR ANY MINIMUM TERM SET UNDER AS 12.55.115 AT SENTENCING, WHICHEVER IS GREATER.

HISTORY

DECISIONS

(SEC. 2 CH 88 SLA 1985)

NOTES TO DECISIONS THE TRIAL COURT IS NOT REQUIRED TO ADVISE OF PAROLE MINIMUMS, OR OF ITS AUTHORITY TO FIX PAROLE ELIGIBILITY, UNDER THE TERMS OF CR. R. 11; BUT IT IS PREFERABLE FOR THE COURT TO INFORM THE DEFENDANT. MORGAN V. STATE, SUP. CT. OP. NO. 1663 (FILE NO. 2894), 582 P.2D 1017 (1979), DECIDED UNDER FORMER AS 33.15.080. AN INCREASE IN THE MINIMUM PERIOD OF INCARCERATION REQUIRED BEFORE BECOMING ELIGIBLE FOR PAROLE IS AN INCREASE IN THE SENTENCE. NELSON V. STATE, SUP. CT. OP. NO. 2260 (FILE NO. 4092), 617 P.2D 502 (1981), DECIDED UNDER FORMER AS 33.15.080.

SELECT - QUERY  
9060: ALL SECTION EQ 33.16.210

AC33.16.210 DOCUMENT# 1 OF :

CHAPTER = 33.16  
SECTION = 33.16.210  
TITLE = 33  
HEADING: TITLE 33.  
PROBATION, PRISONS, AND PRISONERS.  
CHAPTER 16.  
PAROLE ADMINISTRATION.  
CITATION SEC. 33.16.210.

CATCH LINE

DISCHARGE OF PAROLEE.

TEXT THE BOARD MAY UNCONDITIONALLY DISCHARGE A PAROLEE FROM THE  
JURISDICTION AND CUSTODY OF THE BOARD AFTER THE PAROLEE HAS  
COMPLETED TWO YEARS OF PAROLE, IF THE SENTENCE OF THE PAROLEE  
DOES NOT INCLUDE A RESIDUAL PERIOD OF PROBATION. A PAROLEE WITH  
A RESIDUAL PERIOD OF PROBATION MAY, AFTER TWO YEARS OF PAROLE, BE  
DISCHARGED BY THE BOARD TO IMMEDIATELY BEGIN SERVING THE RESIDUAL  
PERIOD OF PROBATION.

HISTORY (SEC. 2 CH 98 SLA 1985)

90601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

SELECT - QUERY  
0001: ALL SECTION 33.16.900

33.16.900 DOCUMENT# 1 OF

CHAPTER = 33.16  
SECTION = 33.16.900  
TITLE = 33  
HEADINGS TITLE 33.  
PROBATION, PRISONS, AND PRISONERS.  
... CHAPTER 16.  
PAROLE ADMINISTRATION.

CITATION SEC. 33.16.900.

CATCH LINE

DEFINITIONS.  
TEXT IN THIS CHAPTER

- (1) "BOARD" MEANS THE BOARD OF PAROLE;
- (2) "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTIONS;
- (3) "CONTROLLED SUBSTANCE" MEANS A DRUG, SUBSTANCE, OR IMMEDIATE PRECURSOR INCLUDED IN THE SCHEDULES SET OUT IN AS 11.71.140 - 11.71.190;
- (4) "CRIME AGAINST A PERSON" HAS THE MEANING GIVEN IN AS 33.30.900;
- (5) "DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS;
- (6) "DISCRETIONARY PAROLE" MEANS THE RELEASE OF A PRISONER BY THE BOARD BEFORE THE EXPIRATION OF A TERM, SUBJECT TO CONDITIONS IMPOSED BY THE BOARD AND SUBJECT TO ITS CUSTODY AND JURISDICTION;
- (7) "MANDATORY PAROLE" MEANS THE RELEASE OF A PRISONER WHO WAS SENTENCED TO ONE OR MORE TERMS OF IMPRISONMENT EXCEEDING 180 DAYS, FOR THE PERIOD OF GOOD TIME CREDITED UNDER AS 33.20, SUBJECT TO CONDITIONS IMPOSED BY THE BOARD AND SUBJECT TO ITS CUSTODY AND JURISDICTION;
- (8) "PAROLEE" MEANS A PRISONER, SENTENCE TO ONE OR MORE TERMS OF IMPRISONMENT EXCEEDING 180 DAYS, RELEASED BY THE BOARD OR BY OPERATION OF LAW BEFORE THE EXPIRATION OF THE TERM, SUBJECT TO THE CUSTODY AND JURISDICTION OF THE BOARD;
- (9) "PRISONER" MEANS AN OFFENDER CONFINED FOR A VIOLATION OF STATE LAW, BUT DOES NOT INCLUDE A PERSON CONFINED UNDER AS 47;
- (10) "VICTIM" HAS THE MEANING GIVEN IN AS 12.55.185.

HISTORY (SEC. 2 CH 88 SLA 1985)

ANNOTATIONS

REVISOR'S NOTES FORMERLY AS 33.16.260. RENUMBERED IN 1986.

0001 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

A733.20.040 DOCUMENT# 1 OF 1

CHAPTER = 33.20  
SECTION = 33.20.040  
TITLE = 33  
HEADLINE = CHAPTER TITLE 33.

PROBATION, PRISONS, AND PRISONERS.  
CHAPTER 20.  
REMISSION OF SENTENCES AND EXECUTIVE PARDONS AND CLEMENCY.  
ARTICLE :.  
REMISSION OF SENTENCES.

CITATION SEC. 33.20.040.

CATCH LINE

RELEASED PRISONER.

TEXT (A) A PRISONER RELEASED UNDER AS 33.20.030 SHALL BE RELEASED ON MANDATORY PAROLE TO THE CUSTODY AND JURISDICTION OF THE PAROLE BOARD UNDER AS 33.16, UNTIL THE EXPIRATION OF THE MAXIMUM TERM TO WHICH THE PRISONER WAS SENTENCED, IF THE TERM OR TERMS OF IMPRISONMENT EXCEEDED 180 DAYS. HOWEVER, A PRISONER RELEASED ON MANDATORY PAROLE MAY BE DISCHARGED UNDER AS 33.16.210 BEFORE THE EXPIRATION OF THE TERM. A PRISONER WHO WAS SENTENCED TO AN IMPRISONMENT OF 180 DAYS OR LESS SHALL BE UNCONDITIONALLY DISCHARGED, EXCEPT AS PROVIDED IN (C) OF THIS SECTION.

(B) THIS SECTION DOES NOT PREVENT DELIVERY OF A PRISONER TO THE AUTHORITIES OF A STATE OR THE UNITED STATES ENTITLED TO THE CUSTODY OF THE PRISONER.

(C) IF A PRISONER'S SENTENCE INCLUDES A RESIDUAL PERIOD OF PROBATION, A PRISONER RELEASED UNDER AS 33.20.030 SHALL IMMEDIATELY BEGIN SERVING THE RESIDUAL PROBATIONARY PERIOD, EXCEPT THAT IF MANDATORY PAROLE IS REQUIRED UNDER (A) OF THIS SECTION, SERVING THE PROBATIONARY PERIOD SHALL IMMEDIATELY FOLLOW DISCHARGE FROM PAROLE.

HISTORY (SEC. 4 CH 107 SLA 1980; AM SECS. 3, 4 CH 88 SLA 1985)

AMENDMENT NOTES

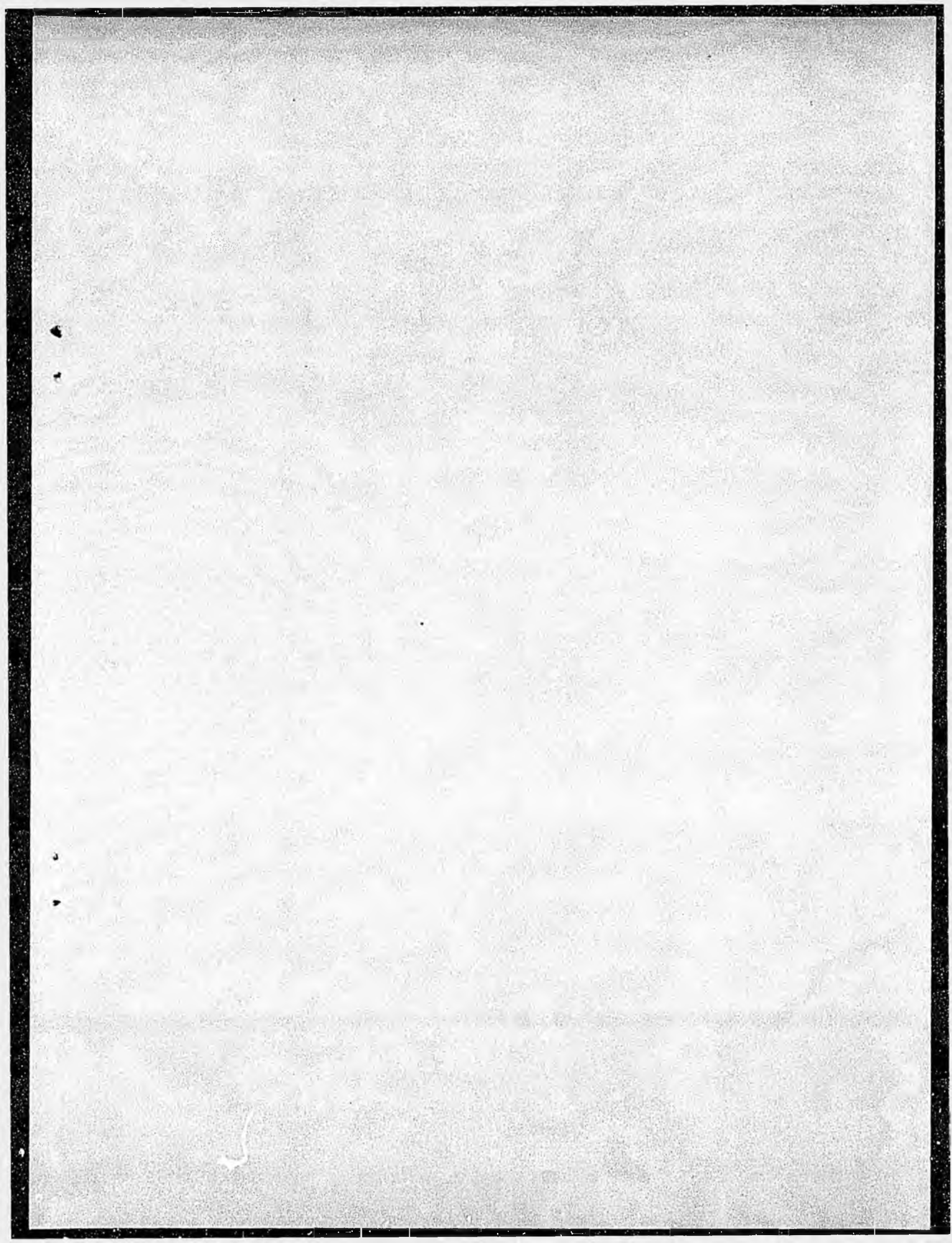
EFFECT OF AMENDMENTS THE 1985 AMENDMENT REWROTE SUBSECTION (A) AND ADDED SUBSECTION (C).

DECISIONS

NOTES TO DECISIONS THE WORDING OF 18 U.S.C. & SEC 4164 IS VERY CLOSE TO THAT OF SUBSECTION (A). MORTON V. HAMMOND, SUP. CT. OP. NO. 1982 (FILE NO. 4882), 604 P.2D 1 (1979), DECIDED PRIOR TO 1985 AMENDMENT. PAROLE BOARD AUTHORITY. - PRISONERS WHO ARE RELEASED MANDATORILY UNDER THE PROVISIONS OF SUBSECTION (A) WITH GREATER THAN 180 DAYS TO SERVE UNDER THEIR SENTENCES ARE RELEASED AS IF RELEASED ON PAROLE, WHICH MEANS THAT THE PAROLE BOARD HAS THE AUTHORITY TO SET SPECIAL CONDITIONS OF RELEASE ON PAROLE WHICH ARE THE SAME AS THE SPECIAL CONDITIONS WHICH THE PAROLE BOARD SETS FOR PRISONERS WHICH IT RELEASES BY EXERCISING ITS DISCRETION, AND THE PAROLE BOARD CAN REVOKE THE PAROLE OF A PERSON ON MANDATORY RELEASE WHO VIOLATES THESE SPECIAL CONDITIONS, EVEN THOUGH THE VIOLATIONS ARE NOT VIOLATIONS OF STATUTORY CONDITIONS OF PAROLE. BRAHAM V. BIERNE, CT. APP. OP. NO. 337 (FILE NO. 7739), 675 P.2D 1297 (1984), DECIDED PRIOR TO 1985 AMENDMENT. RELEASE OF PRESUMPTIVELY SENTENCED PRISONER. - A PRESUMPTIVELY SENTENCED PRISON WHO IS

MANDATORILY HELD 3 WITH 90 DAYS OR LESS REMAINING ON HIS  
SENTENCE CANNOT BE RELEASED UNCONDITIONALLY. STATE V. FRAZIER,  
SUP. CT. OP. NO. 3981 (FILE NO. S-972), 719 P.2D 261 (1986),  
REVERSING CT. APP. OP. NO. 450 (FILE NO. A-415), 598 P.2D 1312  
(1985). CITED IN GANT V. STATE, CT. APP. OP. NO. 171 (FILE  
NO. 6161), 654 P.2D 1325 (1982). IN HLKAPICAK V. STATE, CT.  
APP. OP. NO. 90 (FILE NO. 5820), 645 P.2D 215 (1982).

80601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.



Original sponsors: Swackhammer, Gruenberg,  
Navarre, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 140 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mandatory and discretionary  
7 parole and residual probation."

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

9 \* Section 1. AS 33.16.010(a) is amended to read:

10 (a) A prisoner who is serving a term or terms of two years or  
11 more [AT LEAST 181 DAYS] is eligible for [EITHER DISCRETIONARY OR]  
12 mandatory parole.

13 \* Sec. 2. AS 33.16.010 (c) is amended to read:

14 (c) A prisoner who is not eligible for discretionary parole, or  
15 who is not released on discretionary parole, shall be released on  
16 mandatory parole for the term of good time deductions credited under  
17 AS 33.20, if the term or terms of imprisonment are two years or more  
18 [EXCEED 180 DAYS].

19 \* Sec. 3. AS 33.16.100(d) is amended to read:

20 (d) A prisoner who is sentenced for a term under AS 12.55.-  
21 125(a), [OR] (b), (c), or (i) may not be released on discretionary  
22 parole until the prisoner has served the mandatory minimum term under  
23 AS 12.55.125(a), [OR] (b), (c), or (i), at least one-third of the  
24 period of confinement imposed, or any minimum term set under AS 12.-  
25 55.115 at sentencing, whichever is greater.

26 \* Sec. 4. AS 33.16.210 is amended to read:

27 Sec. 33.16.210. DISCHARGE OF PAROLEE. The board may uncondi-  
28 tionally discharge a parolee from the jurisdiction and custody of the  
29 board after the parolee has completed two years of parole [, IF THE

1 SENTENCE OF THE PAROLEE DOES NOT INCLUDE A RESIDUAL PERIOD OF PRO-  
2 BATION]. A discretionary parolee with a residual period of probation  
3 may, after two years of parole, be discharged by the board to immedi-  
4 ately begin serving the residual period of probation.

5 \* Sec. 5. AS 33.16.210 is amended by adding a new subsection to read:

6 (b) Notwithstanding (a) of this section, the board may uncondi-  
7 tionally discharge a mandatory parolee before the parolee has com-  
8 pleted two years of parole if the parolee is serving a concurrent  
9 period of residual probation under AS 33.20.040(c), and the period of  
10 residual probation and the period of suspended imprisonment each equal  
11 or exceed the period of mandatory parole.

12 \* Sec. 6. AS 33.16.900(7) is amended to read:

13 (7) "mandatory parole" means the release of a prisoner who  
14 was sentenced to one or more terms of imprisonment of two years or  
15 more [EXCEEDING 180 DAYS], for the period of good time credited under  
16 AS 33.20, subject to conditions imposed by the board and subject to  
17 its custody and jurisdiction;

18 \* Sec. 7. AS 33.16.900(8) is amended to read:

19 (8) "parolee" means a prisoner, sentenced to one or more  
20 terms of imprisonment exceeding 180 days in the case of discretionary  
21 parole and of two years or more in the case of mandatory parole, re-  
22 leased by the board or by operation of law before the expiration of  
23 the term, subject to the custody and jurisdiction of the board;

24 \* Sec. 8. AS 33.20.040(a) is amended to read:

25 (a) Except as provided in (c) of this section, a [A] prisoner  
26 released under AS 33.20.030 shall be released on mandatory parole to  
27 the custody and jurisdiction of the parole board under AS 33.16, until  
28 the expiration of the maximum term to which the prisoner was sen-  
29 tenced, if the term or terms of imprisonment are two years or more

1 [EXCEEDED 180 DAYS]. However, a prisoner released on mandatory parole  
2 may be ~~discharged~~ discharged under AS 33.16.210 before the expiration of the  
3 term. A prisoner who was sentenced to a term or terms of [AN] impris-  
4 onment of less than two years [180 DAYS OR LESS] shall be uncondition-  
5 ally discharged from mandatory parole [, EXCEPT AS PROVIDED IN (c) OF  
6 THIS SECTION].

7 \* Sec. 9. AS 33.20.040(c) is amended to read:

8 (c) If a prisoner's sentence includes a residual period of  
9 probation, the probationary period shall run concurrently with a  
10 period of mandatory parole for that sentence and the prisoner shall be  
11 under the concurrent jurisdiction of the court and the parole board.  
12 Nothing in this section precludes both the court and the parole board  
13 from revoking the prisoner's probation and mandatory parole for the  
14 same conduct. A period of imprisonment resulting from the revocation  
15 of probation or mandatory parole may be imposed consecutively in the  
16 discretion of the court or the parole board [A PRISONER RELEASED UNDER  
17 AS 33.20.030 SHALL IMMEDIATELY BEGIN SERVING THE RESIDUAL PROBATIONARY  
18 PERIOD, EXCEPT THAT IF MANDATORY PAROLE IS REQUIRED UNDER (a) OF THIS  
19 SECTION, SERVING THE PROBATIONARY PERIOD SHALL IMMEDIATELY FOLLOW  
20 DISCHARGE FROM PAROLE].

SENATE COMMITTEE REPORT

FURTHER: FINANCE

5/11/87

DATE TURNED INTO OFFICE

5/14/87

Mr. President:

JUDICIARY Committee considered CSHB 140(Jud)

mandatory and discretionary parole and residual probation.

and recommended:

[ ] replace with CS FOR [ ] same title
[ ] or adopt CS FOR ~~HE 140 (JUD)~~ [ ] new title

[ ] attached amendment(s) and

[ ] do pass

[ ] do not pass

[ ] no recommendation

[X] individual recommendations

[ ] further referral to

[ ] letter of intent adopted

Committee [ ] attached or [ ] adopted fiscal note(s)

[ ] new [ ] updated or [X] previous
[X] zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

Joe P. Josephson
[ ]
[ ]
[ ]
[ ]
[ ]

OTHER RECOMMENDATIONS

William Sturgis
[ ]
[ ]
[ ]
[ ]
[ ]

Chairman signature and recommendation
[ ]

[ ] Committee Backup Attached

SENATE COMMITTEE REPORT

FURTHER: JUDICIARY  
FINANCE

4/13/87

DATE TURNED INTO OFFICE 5/11/87

Mr. President:

HESS Committee considered CSHB 140(Jud)

mandatory and discretionary parole and residual probation.

and recommended:

[ ] replace with CS FOR \_\_\_\_\_ ) [ ] same title  
[ ] or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ ) [ ] new title

[ ] attached amendment(s) and

[X] <sup>all</sup> do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted \_\_\_\_\_

Committee [X] attached or [ ] adopted fiscal note(s)

[ ] new [ ] updated or [X] previous  
[X] zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Rich Hagford  
Joe Josephson  
J. Kuttel  
Stan Green  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Paul Frick Do Pass  
Chairman signature and recommendation

[ ] Committee Backup Attached

HB

143

# HOUSE COMMITTEE REPORT

(11)

Date referred: 4/8/87

FURTHER REFERRALS:

DATE: 4/27/87

The Finance Committee has considered HB 143

"An Act relating to the assessment of civil penalties under the Alaska Securities Act; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB 143 (L.C.)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact
- zero fiscal note
- zero with analysis
- same as previous fiscal note published \_\_\_\_\_
- same as previous zero fiscal note published 2/20/87

**SIGNING DO PASS:**

DAVIS Mike Davis

BROWN Ray Brown

FRANK Frank

BOYER Mark Boyer

SWACK-HAMMER Swack-Hammer

GILL Gill

LARSON Ronald L. Larson

ADAMS Albert Adams

POURCHOT Pat Pourchot

**SIGNING OTHER RECOMMENDATIONS:**

There is No Recommendation

Albert Adams  
Chairman's signature

DATE Reported out 4/27/87  
 DATE Reported in 1/27/88

STATE OF ALASKA  
 1988 LEGISLATIVE SESSION

BILL VERSION: CS HB 143  
 PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
 Title: Act relating the assessment of civil penalties under the Alaska Securities Act BRU: \_\_\_\_\_  
 Sponsor: Rules Committee Components: Banking & Securities  
 Requester: \_\_\_\_\_

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of dollars)

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

POSITIONS:

FULLTIME	-0-	-0-	-0-	-0-	-0-	-0-
PARTTIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Willis F. Kirkpatrick, Director Phone: 465-2521  
 Division: Banking, Securities and Corporations Date: \_\_\_\_\_  
 Approved by Commissioner: J. Anthony Smith, Commissioner Date: 1/22/88  
 Agency: Department of Commerce and Economic Development

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)  
 0644D-2/11988a

RECEIVED  
 JAN 26 1988

LEGISLATIVE FINANCE

CS HB 143

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: CS HB 143 (LTC)  
Publish Date: HOUSE 2/20/87

REQUEST

Bill/Resolution No. : \_\_\_\_\_  
Title : An Act assessing civil penalties under the Alaska Securities Act.  
Sponsor : Rules Committee  
Requestor : Governor  
Date of Request : \_\_\_\_\_

FISCAL DETAIL

Agency Affected : Commerce & Econ. Dev.  
BRU : Banking, Securities & Corporations  
Components : Consumer Protection

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	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by: Edward C. Watkins  
Division : Banking, Securities & Corporations

Phone : 465-2521  
Date : November 20, 1986

Approved by Commissioner : \_\_\_\_\_  
Agency : Commerce & Economic Development

Date : 11/19/86

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  
2 CS FOR HOUSE BILL NO. 143 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the Alaska Securities Act; and  
7 providing for an effective date."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 45.55.140(a)(5) is amended to read:  
10 (5) a security [AN INVESTMENT CONTRACT] issued in connec-  
11 tion with an employee's stock purchase, savings, pension, profit-  
12 sharing, or similar employee's benefit plan [IF THE ADMINISTRATOR IS  
13 NOTIFIED IN WRITING 30 DAYS BEFORE THE INCEPTION OF THE PLAN OR, WITH  
14 RESPECT TO PLANS WHICH ARE IN EFFECT ON MAY 9, 1959, WITHIN 60 DAYS  
15 THEREAFTER, OR WITHIN 30 DAYS BEFORE THEY ARE REOPENED IF THEY ARE  
16 CLOSED ON MAY 9, 1959];  
17 \* Sec. 2. AS 45.55.200 is repealed and reenacted to read:  
18 Sec. 45.55.200. ORDERS, INJUNCTIONS, AND CIVIL PENALTIES. (a)  
19 If it appears to the administrator that a person has engaged or is  
20 about to engage in an act or practice in violation of a provision of  
21 this chapter or regulation or order under this chapter, the adminis-  
22 trator may  
23 (1) in the public interest or for the protection of inves-  
24 tors, issue an order  
25 (A) directing the person to cease and desist from  
26 continuing the act or practice;  
27 (B) directing the person, for a period not to exceed  
28 three years, to file the annual reports, proxies, consents or  
29 authorizations, proxy statements, or other materials relating to

1 proxy solicitations required under AS 45.55.139 with the adminis-  
2 trator for examination and review 10 working days before a dis-  
3 tribution to shareholders; and

4 (C) voiding the proxies obtained by a person required  
5 to file under AS 45.55.139, including their future exercise or  
6 actions resulting from their past exercise, if the proxies were  
7 solicited by means of an untrue or misleading statement pro-  
8 hibited under AS 45.55.160; or

9 (2) bring an action in the superior court to enjoin the  
10 acts or practices and to enforce compliance with this chapter or  
11 regulation or order under this chapter, and upon a proper showing, the  
12 appropriate remedy must be granted and a receiver or conservator may  
13 be appointed for the defendant or the defendant's assets; the court  
14 may not require the administrator to post a bond.

15 (b) The administrator may issue an order against an applicant,  
16 registered person, or other person who knowingly or intentionally vio-  
17 lates this chapter or a regulation or order of the administrator under  
18 this chapter, imposing a civil penalty of not more than \$2,500 for a  
19 single violation, or not more than \$25,000 for multiple violations, in  
20 a single proceeding or a series of related proceedings.

21 (c) For violations not covered by (b) of this section, the  
22 administrator may issue an order against an applicant, registered per-  
23 son, or other person who violates this chapter or a regulation or  
24 order of the administrator under this chapter, imposing a civil  
25 penalty of not more than \$500 for a single violation, or not more than  
26 \$5,000 for multiple violations, in a single proceeding or a series of  
27 related proceedings.

28 (d) Before issuing an order under (a)(1), (b), or (c) of this  
29 section, the administrator shall give reasonable notice of and an

1 opportunity for a hearing. However, the administrator may issue a  
2 temporary order under (a)(1) of this section pending the hearing,  
3 which remains in effect until 10 days after the hearing is held and  
4 which becomes final if the person to whom notice is addressed does not  
5 request a hearing within 15 days after the receipt of notice.

6 \* Sec. 3. AS 45.55.210(a) is amended to read:

7 (a) In addition to the civil penalties assessed under AS 45.55.-  
8 200, a [A] person who wilfully violates a provision of this chapter  
9 except AS 45.55.160, or who wilfully violates a regulation or order  
10 under this chapter, or who wilfully violates AS 45.55.160 knowing the  
11 statement made to be false or misleading in a material respect or the  
12 omission to be misleading by any material respect, upon conviction, is  
13 punishable by a fine of not more than \$5,000, or by imprisonment for  
14 not less than one year nor more than five years, or both. Upon con-  
15 viction of an individual for a felony under this chapter, imprisonment  
16 for not less than one year is mandatory. However, an individual may  
17 not be imprisoned for the violation of a regulation or order if the  
18 individual proves that the individual had no knowledge of the regu-  
19 lation or order. An indictment or information may not be returned  
20 under this chapter more than five years after the alleged violation.

21 \* Sec. 4. AS 45.55.260(c) is amended to read:

22 (c) For the purpose of this section, an offer to sell or to buy  
23 is made in this state, whether or not either party is then present in  
24 this state, when the offer

25 (1) originates from this state; [OR]

26 (2) is directed by the offeror to this state and received at  
27 the place to which it is directed, or at a post office in this state  
28 in the case of a mailed offer;

29 (3) is for an interest or participation in an oil, gas, or

1 mining right, title, or lease on land in the state, including sub-  
2 merged land, regardless of where the offer is made;

3 (4) is for an interest or participation in payments out of  
4 production under an oil, gas, or mining right, title or lease on land  
5 in the state, including submerged land, regardless of where the offer  
6 is made; or

7 (5) is for an interest or participation in real property  
8 located in the state, or in a domestic corporation or a domestic  
9 limited partnership; jurisdiction under this paragraph may be ex-  
10 ercised only when the exercise is not inconsistent with the consti-  
11 tution of this state or of the United States.

12 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

# State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
HOUSE JUDICIARY  
HOUSE RULES



Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3718  
465-4968/4986

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

## MEMORANDUM

April 6, 1987

TO: Members of the House Judiciary Committee

FROM: Max F. Gruenberg, Jr. *MFG*

RE: *(LTC)* HB 143, "An Act relating to the Alaska Securities Act;  
and providing for an effective date."

### Section 1

AS 45.55.140(a)(5) Exempts securities issued in connection with an employee benefit plan from the registration requirements of the Alaska Securities Act.

### Section 2

AS 45.55.200 Allows the state to assess civil penalties for violations of the Alaska Securities Act in addition to the present civil sanctions which may be imposed.

### Section 3

AS 45.55.210(a) Allows the state to impose civil penalties in addition to the criminal penalties which can presently be imposed for violations of the Alaska Securities Act.

### Section 4

AS 45.55.260(c) Allows the state to prosecute fraudulent out-of-state sales of Alaskan oil, gas, mining rights and other interest in Alaskan land or mineral production rights.

### Section 5

Provides for an immediate effective date.

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 18, 1987

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 to amend the penalty provisions of the Alaska Securities Act.

The bill provides that the administrator of securities, generally known as the director of the division of banking, securities and corporations, Department of Commerce and Economic Development, may assess civil fines of up to \$5,000 against a person who violates the Alaska Securities Act, and up to \$25,000 if the violations are done knowingly or intentionally. These provisions of the bill are based on sec. 602(b)(4) of the Revised Uniform Securities Act, promulgated in 1985 by the National Conference of Commissioners on Uniform State Laws.

Although current Alaska law permits criminal prosecution of individuals who wilfully violate the Act (AS 45.55.210), by authorizing the department to assess civil penalties the state will be able to avoid the substantial time and expense of criminal investigation and prosecution in many cases. On a number of occasions, individuals have wilfully violated the Act and then ignored orders issued by the administrator to stop the practice, because these individuals recognized that the administrator has no authority to enforce his or her own orders. Passage of this bill would correct this problem.

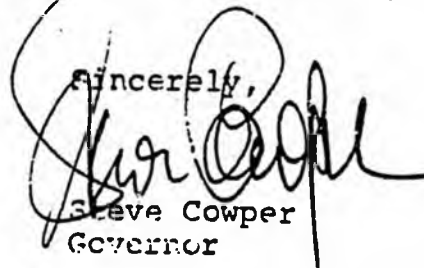
It should be noted that the assessment of civil fines is not without precedent in Alaska. For example, AS 21.09.260 and AS 21.36.320 provide that the director of the division of insurance may assess civil fines of up to \$25,000 for violations of the Alaska Insurance Code. Similarly, I am proposing legislation to provide that the commissioner of the Department of Revenue may assess a civil fine against a person who attempts to obtain permanent fund dividends by means of fraud.

Hon. Ben Grussendorf

Page 2

This bill represents a valuable tool for the Department of Commerce and Economic Development to prevent willful violations of the Alaska Securities Act, and I urge your support of it.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name below.

Steve Cowper  
Governor

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 143

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the assessment of civil penalties  
7 under the Alaska Securities Act; and providing for an  
8 effective date."

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

10 \* Section 1. AS 45.55.200 is amended to read:

11 Sec. 45.55.200. ORDERS, [AND] INJUNCTIONS, AND CIVIL PENALTIES.

12 (a) If [WHENEVER] it appears to the administrator that a person has  
13 engaged or is about to engage in an act or practice in violation of  
14 any provision of this chapter or rule or order under this chapter, the  
15 administrator may

16 (1) in the public interest or for the protection of inves-  
17 tors, issue an order (A) directing the person to cease and desist from  
18 continuing the act or practice, (B) directing the person, for a period  
19 not to exceed three years, to file the annual reports, proxies, con-  
20 sents or authorizations, proxy statements, or other materials relating  
21 to proxy solicitations required under AS 45.55.139 with the adminis-  
22 trator for examination and review 10 working days before a distribu-  
23 tion to shareholders, and (C) voiding any proxies obtained by a person  
24 required to file under AS 45.55.139, including their future exercise  
25 or actions resulting from their past exercise, if the proxies were  
26 solicited by means of an untrue or misleading statement prohibited  
27 under AS 45.55.160; or

28 (2) bring an action in the superior court to enjoin the  
29 acts or practices and to enforce compliance with this chapter or rule

1 or order under this chapter, and upon a proper showing, the appropri-  
2 ate remedy must [SHALL] be granted and a receiver or conservator may  
3 be appointed for the defendant or the defendant's assets; the court  
4 may not require the administrator to post a bond.

5 (b) The administrator may issue an order against an applicant,  
6 licensed person, or other person who knowingly or intentionally vio-  
7 lates this chapter or a rule or order of the administrator under this  
8 chapter, imposing a civil penalty of not more than \$2,500 for a single  
9 violation, or not more than \$25,000 for multiple violations, in a  
10 single proceeding or a series of related proceedings.

11 (c) For violations not covered by (b) of this section, the  
12 administrator may issue an order against an applicant, licensed per-  
13 son, or other person who violates this chapter or a rule or order of  
14 the administrator under this chapter, imposing a civil penalty of not  
15 more than \$500 for a single violation, or not more than \$5,000 for  
16 multiple violations, in a single proceeding or a series of related  
17 proceedings.

18 (d) Before issuing an order under (a)(1), (b), or (c) of this  
19 section, the administrator shall give reasonable notice of and an  
20 opportunity for a hearing. However, the administrator may issue a  
21 temporary order under (a)(1) of this section pending the hearing,  
22 which remains [ORDER SHALL REMAIN] in effect until 10 days after the  
23 hearing is held and which becomes [SHALL BECOME] final if the person  
24 to whom notice is addressed does not request a hearing within 15 days  
25 after the receipt of notice.

26 \* Sec. 2. AS 45.55.210(a) is amended to read:

27 (a) In addition to any civil penalties assessed under AS 45.55.-  
28 200, a [A] person who wilfully violates a provision of this chapter  
29 except AS 45.55.160, or who wilfully violates a rule or order under

1       this chapter, or who wilfully violates AS 45.55.160 knowing the state-  
2       ment made to be false or misleading in a material respect or the  
3       omission to be misleading by any material respect, upon conviction, is  
4       punishable by a fine of not more than \$5,000, or by imprisonment for  
5       not less than one year nor more than five years, or both. Upon con-  
6       viction of an individual for a felony under this chapter, imprisonment  
7       for not less than one year is mandatory. However, no individual may  
8       be imprisoned for the violation of a rule or order if he proves that  
9       he had no knowledge of the rule or order. No indictment or informa-  
10      tion may be returned under this chapter more than five years after the  
11      alleged violation.

12      \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

CSHB

143

SENATE COMMITTEE REPORT

FURTHER:

5/15/87

DATE TURNED INTO OFFICE 5/5/88

Mr. President:

FINANCE Committee considered CSHB 143(L&C)

Alaska Securities; efd.

and recommended:

replace with \_\_\_\_\_ CS FOR \_\_\_\_\_ )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Gene Duncan*  
*Paul Trish*  
*Pinky Uel*  
*W. Hernd*  
*John*  
*Paul & Sherry*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Richard Lopez*  
Chairman signature and recommendation

Committee Backup Attached

No. 1

# STATE OF ALASKA 1986 LEGISLATIVE SESSION

## FISCAL NOTE

Bill Version: HB 143  
 Publish Date: HOUSE 2/20/87

**REQUEST**

Bill/Resolution No. : \_\_\_\_\_  
 Title : An Act assessing civil penalties under the Alaska Securities Act.  
 Sponsor : Rules Committee  
 Requestor : Governor  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Commerce & Econ. Dev.  
 BRU: Banking, Securities & Corporations  
 Components : Consumer Protection

**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						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS :**

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

**ANALYSIS :** Attach a separate page if necessary

Prepared by: Edward C. Watkins  
 Division: Banking, Securities & Corporations

Phone: 465-2521  
 Date: November 20, 1986

Approved by Commissioner: \_\_\_\_\_  
 Agency: Commerce & Economic Development

Date: 11/19/86

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 LABOR AND  
COMMERCE COMMITTEE

2

CS FOR HOUSE BILL NO. 143 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska Securities Act; and  
7 providing for an effective date."

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

9 \* Section 1. AS 45.55.140(a)(5) is amended to read:

10 (5) a security [AN INVESTMENT CONTRACT] issued in connec-  
11 tion with an employee's stock purchase, savings, pension, profit-  
12 sharing, or similar employee's benefit plan [IF THE ADMINISTRATOR IS  
13 NOTIFIED IN WRITING 30 DAYS BEFORE THE INCEPTION OF THE PLAN OR, WITH  
14 RESPECT TO PLANS WHICH ARE IN EFFECT ON MAY 9, 1959, WITHIN 60 DAYS  
15 THEREAFTER, OR WITHIN 30 DAYS BEFORE THEY ARE REOPENED IF THEY ARE  
16 CLOSED ON MAY 9, 1959];

17 \* Sec. 2. AS 45.55.200 is repealed and reenacted to read:

18 Sec. 45.55.200. ORDERS, INJUNCTIONS, AND CIVIL PENALTIES. (a)  
19 If it appears to the administrator that a person has engaged or is  
20 about to engage in an act or practice in violation of a provision of  
21 this chapter or regulation or order under this chapter, the adminis-  
22 trator may

23 (1) in the public interest or for the protection of inves-  
24 tors, issue an order

25 (A) directing the person to cease and desist from  
26 continuing the act or practice;

27 (B) directing the person, for a period not to exceed  
28 three years, to file the annual reports, proxies, consents or  
29 authorizations, proxy statements, or other materials relating to

1 proxy solicitations required under AS 45.55.139 with the adminis-  
2 trator for examination and review 10 working days before a dis-  
3 tribution to shareholders; and

4 (C) voiding the proxies obtained by a person required  
5 to file under AS 45.55.139, including their future exercise or  
6 actions resulting from their past exercise, if the proxies were  
7 solicited by means of an untrue or misleading statement pro-  
8 hibited under AS 45.55.160; or

9 (2) bring an action in the superior court to enjoin the  
10 acts or practices and to enforce compliance with this chapter or  
11 regulation or order under this chapter, and upon a proper showing, the  
12 appropriate remedy must be granted and a receiver or conservator may  
13 be appointed for the defendant or the defendant's assets; the court  
14 may not require the administrator to post a bond.

15 (b) The administrator may issue an order against an applicant,  
16 registered person, or other person who knowingly or intentionally vio-  
17 lates this chapter or a regulation or order of the administrator under  
18 this chapter, imposing a civil penalty of not more than \$2,500 for a  
19 single violation, or not more than \$25,000 for multiple violations, in  
20 a single proceeding or a series of related proceedings.

21 (c) For violations not covered by (b) of this section, the  
22 administrator may issue an order against an applicant, registered per-  
23 son, or other person who violates this chapter or a regulation or  
24 order of the administrator under this chapter, imposing a civil  
25 penalty of not more than \$500 for a single violation, or not more than  
26 \$5,000 for multiple violations, in a single proceeding or a series of  
27 related proceedings.

28 (d) Before issuing an order under (a)(1), (b), or (c) of this  
29 section, the administrator shall give reasonable notice of and an

1 opportunity for a hearing. However, the administrator may issue a  
2 temporary order under (a)(1) of this section pending the hearing,  
3 which remains in effect until 10 days after the hearing is held and  
4 which becomes final if the person to whom notice is addressed does not  
5 request a hearing within 15 days after the receipt of notice.

6 \* Sec. 3. AS 45.55.210(a) is amended to read:

7 (a) In addition to the civil penalties assessed under AS 45.55.-  
8 200, a [A] person who wilfully violates a provision of this chapter  
9 except AS 45.55.160, or who wilfully violates a regulation or order  
10 under this chapter, or who wilfully violates AS 45.55.160 knowing the  
11 statement made to be false or misleading in a material respect or the  
12 omission to be misleading by any material respect, upon conviction, is  
13 punishable by a fine of not more than \$5,000, or by imprisonment for  
14 not less than one year nor more than five years, or both. Upon con-  
15 viction of an individual for a felony under this chapter, imprisonment  
16 for not less than one year is mandatory. However, an individual may  
17 not be imprisoned for the violation of a regulation or order if the  
18 individual proves that the individual had no knowledge of the regu-  
19 lation or order. An indictment or information may not be returned  
20 under this chapter more than five years after the alleged violation.

21 \* Sec. 4. AS 45.55.260(c) is amended to read:

22 (c) For the purpose of this section, an offer to sell or to buy  
23 is made in this state, whether or not either party is then present in  
24 this state, when the offer

25 (1) originates from this state; [OR]

26 (2) is directed by the offeror to this state and received at  
27 the place to which it is directed, or at a post office in this state  
28 in the case of a mailed offer;

29 (3) is for an interest or participation in an oil, gas, or

1 mining right, title, or lease on land in the state, including sub-  
2 merged land, regardless of where the offer is made;

3 (4) is for an interest or participation in payments out of  
4 production under an oil, gas, or mining right, title or lease on land  
5 in the state, including submerged land, regardless of where the offer  
6 is made; or

7 (5) is for an interest or participation in real property  
8 located in the state, or in a domestic corporation or a domestic  
9 limited partnership; jurisdiction under this paragraph may be ex-  
10 ercised only when the exercise is not inconsistent with the consti-  
11 tution of this state or of the United States.

12 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

# STATE OF ALASKA

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**  
DIVISION OF BANKING, SECURITIES & CORPORATIONS

RECEIVED APR 27 1988  
STEVE COWPER, GOVERNOR

P.O. BOX D  
JUNEAU, ALASKA 99801-0800  
Banking & Securities (907) 465-2521  
Corporation Section (907) 465-2530  
ANCHORAGE  
Corporation Information (907) 563-2161

April 27, 1988

Honorable Rick Halford  
Co-Chairman, Senate Finance  
Committee  
Alaska State Senate  
P.O. Box V  
Juneau, AK 99811

Dear Senator Halford:

Re: CS for HB 143 Amending the Alaska Securities Act

The amendments to the Alaska Securities Act found in CSHB 143 are measures we need now to enhance public investor protection and to instill confidence in Alaska as a safe environment for outside investment.

Since the market "break" in October 1987, we've been experiencing substantial increases in client complaints regarding their inability to obtain records from broker/dealers. The ability to impose civil fines for failing to maintain proper records and for failing to respond to clients' requests will enhance compliance while precluding the necessity of us having to threaten hearing and closure to get broker/dealers' attention and compliance with these requests. This provision is contained in Section 2 of the Committee Substitute for HB 143.

With respect to the "long reach" provisions found in Section 4 involving oil, gas, mining, and other real property offerings where the leasehold interest and/or mining site is located in Alaska, we are experiencing continued abuses. While care is being taken to avoid offering these fraudulent investments to Alaskans, nonetheless, it will become increasingly difficult to raise legitimate capital for bona fide ventures located in Alaska if these frauds are permitted to go unchallenged by us. The latest example is the Trinity Island mining scam which is being perpetrated on the public in the Lower 48, raising the investment funds for a mining operation located on an island off Kodiak where, in fact, no mining has taken place nor any permits have been obtained.

Honorable Rick Halford

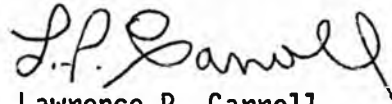
-2-

April 27, 1988

Anything you can do to move CSHB 143 out of the Senate Finance Committee to Rules for calendaring will most certainly be appreciated.

We remain at your disposal should you have any further questions concerning this matter.

Yours very truly,



Lawrence P. Carroll  
Senior Securities Examiner

LPC/sa4159s  
42788b

cc: Willis F. Kirkpatrick

HB

1444

# HOUSE COMMITTEE REPORT

(11.)

'Date referred: 3/18/87

FURTHER REFERRALS:

DATE: 4/30/88

The Finance Committee has considered HB 144

"An Act relating to charges for services providing by the state library and state museum; and providing for an effective date."

**RECOMMENDS:**

- replace with CSHB 144 (Fin.)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

ADAMS [Signature]

LARSON [Signature]

GALT [Signature]

SWACK [Signature]

BOYER [Signature]

RIEGER [Signature]

BROWN [Signature]

DAVIS [Signature]

POURCHOT [Signature]

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

[Signature]  
Chairman's signature

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: GSHB 144 (Fin)  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Relating to Rural Alaska  
Television Network  
Sponsor: Rules  
Requestor: House Finance

Agency Affected: Administration  
BRU: Telecommunications

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The bill makes no changes in the number of members or meetings of the Rural Alaska Television Network Council and thus has no fiscal impact.

Prepared by: Al Adams Phone: 465-3706  
Division: Chairman, House Finance Committee Date: April 27, 1988

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by preparer) :  
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 CS FOR HOUSE BILL NO. 144 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Rural Alaska Television  
7 Network Council and the Alaska Public Broadcasting  
8 Commission."

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

10 \* Section 1. AS 44.21.320(c) is amended to read:

11 (c) Decisions and policies relating to programming under the  
12 satellite television project, including scheduling and allocation  
13 policies, may not be made by the department, but may only be made by  
14 the Rural Alaska Television Network Council established under AS 44.-  
15 21.500 [A NETWORK THAT IS REPRESENTATIVE OF PARTICIPATING RURAL TELE-  
16 VISION USERS, BY COMMERCIAL BROADCAST USERS OR BY OTHER AFFECTED  
17 PARTICIPATING USER GROUPS AND ENTITIES UNDER PROCEDURES PROVIDED BY  
18 STATUTE OR, IF NO STATUTE APPLIES, THEN BY AGREEMENT OF THE AFFECTED  
19 USER NETWORKS OR GROUPS. THE DEPARTMENT SHALL ASSIST USERS IN PREPAR-  
20 ING AGREEMENTS THAT MAY BE REQUIRED UNDER THIS SUBSECTION].

21 \* Sec. 2. AS 44.21 is amended by adding a new section to read:

22 ARTICLE 9. RURAL ALASKA TELEVISION NETWORK COUNCIL.

23 Sec. 44.21.500. RURAL ALASKA TELEVISION NETWORK COUNCIL. (a)

24 There is established in the Department of Administration the Rural  
25 Alaska Television Network Council. The council consists of 17 mem-  
26 bers, including a consumer representative from each of the 12 areas in  
27 the state served by the regional Native corporations organized under  
28 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act) appointed by  
29 the governor, two representatives of the public appointed by the

1 governor, one representative appointed by the president of the  
2 University of Alaska, one representative appointed by the commissioner  
3 of education, and one representative appointed by the chair of the  
4 Alaska Public Broadcasting Commission.

5 (b) Except for the representatives of the University of Alaska  
6 and of the Department of Education, members serve for staggered terms  
7 of three years. A member may not serve more than two consecutive full  
8 terms.

9 (c) Council members serve without compensation but are entitled  
10 to receive per diem and travel expenses authorized by law for members  
11 of boards and commissions under AS 39.20.180.

12 (d) The council shall

13 (1) establish procedures for its operation; and

14 (2) set policy and make programming decisions for the  
15 satellite television project under AS 44.21.320(c).

16 (e) In this section "council" means the Rural Alaska Television  
17 Network Council.

18 \* Sec. 3. AS 44.66.010(a) is amended by adding new paragraphs to read:

19 (15) Rural Alaska Television Network Council (AS 44.21.-  
20 500) -- June 30, 1991;

21 (16) Alaska Public Broadcasting Commission (AS 44.21.256) --  
22 June 30, 1991.

23 \* Sec. 4. EXISTING MEMBERSHIP OF RATNET. The members currently serving  
24 on the Rural Alaska Television Network Council shall continue to serve  
25 until their terms terminate. The current members, other than the represen-  
26 tatives of the University of Alaska and of the Department of Education,  
27 shall draw lots at the next council meeting to determine which five members  
28 will serve until June 30, 1989, which five members will serve until  
29 June 30, 1990, and which five members will serve until June 30, 1991. The

1 terms ending in 1989 and 1990 are not full terms for purposes of AS 44.-  
2 21.500(b), enacted by sec. 2 of this Act.

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go0077hB  
Cramer  
4/27/88

*approved*

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 144 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Rural Alaska Television  
7 Network Council."

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

9 \* Section 1. AS 44.21.320(c) is amended to read:

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11 satellite television project, including scheduling and allocation  
12 policies, may not be made by the department, but may only be made by  
13 the Rural Alaska Television Network Council established under AS 44.-  
14 21.500 [A NETWORK THAT IS REPRESENTATIVE OF PARTICIPATING RURAL TELE-  
15 VISION USERS, BY COMMERCIAL BROADCAST USERS OR BY OTHER AFFECTED  
16 PARTICIPATING USER GROUPS AND ENTITIES UNDER PROCEDURES PROVIDED BY  
17 STATUTE OR, IF NO STATUTE APPLIES, THEN BY AGREEMENT OF THE AFFECTED  
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23 There is established in the Department of Administration the Rural  
24 Alaska Television Network Council. The council consists of 17 mem-  
25 bers, including a consumer representative from each of the 12 areas in  
26 the state served by the regional Native corporations organized under  
27 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act) appointed by  
28 the governor, two representatives of the public appointed by the  
29 governor, one representative appointed by the president of the

1 University of Alaska, one representative appointed by the commissioner  
2 of education, and one representative appointed by the chair of the  
3 Alaska Public Broadcasting Commission.

4 (b) Except for the representatives of the University of Alaska  
5 and of the Department of Education, members serve for staggered terms  
6 of three years. A member may not serve more than two consecutive full  
7 terms.

8 (c) Council members serve without compensation but are entitled  
9 to receive per diem and travel expenses authorized by law for members  
10 of boards and commissions under AS 39.20.180.

11 (d) The council shall

12 (1) establish procedures for its operation; and

13 (2) set policy and make programming decisions for the  
14 satellite television project under AS 44.21.320(c).

15 (e) In this section "council" means the Rural Alaska Television  
16 Network Council.

17 \* Sec. 3. AS 44.66.010(a) is amended by adding a new paragraph to read:

18 (15) Rural Alaska Television Network Council -- June 30,  
19 1991.

20 \* Sec. 4. EXISTING MEMBERSHIP OF RATNET. The members currently serving  
21 on the Rural Alaska Television Network Council shall continue to serve  
22 until their terms terminate. The current members, other than the represen-  
23 tatives of the University of Alaska and of the Department of Education,  
24 shall draw lots at the next council meeting to determine which five members  
25 will serve until June 30, 1989, which five members will serve until  
26 June 30, 1990, and which five members will serve until June 30, 1991. The  
27 terms ending in 1989 and 1990 are not full terms for purposes of AS 44.-  
28 21.500(b), enacted by sec. 2 of this Act.

POSITION PAPER

CS HB144 (Work Draft)

This bill would create the Rural Alaska Television Network Council as a statutory body, establish a sunset review time, define terms of office, restructure the appointment process and require the development of policy and procedures by the council.

The current council was established in 1981 pursuant to legislative intent accompanying FCCS HB50 (SLA 81, Chapter 82) and (SLA 86, Chapter 129). This bill will essentially formalize and limit the existing structure of the council.

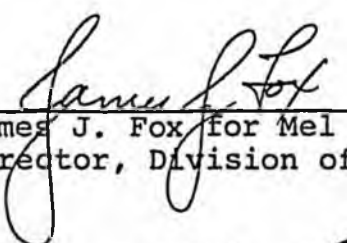
This bill calls for 14 members to be appointed by the governor, one to be appointed by the president of the University of Alaska, one by the commissioner of education and one by the chair of the Alaska Public Broadcasting Commission.

Current membership is 17 including 12 consumer representatives, one appointed by each of the 12 regional nonprofit Native associations, two members of the general public appointed by the governor and one member representing the University of Alaska, one member representing the Department of Education and one member representing the Alaska Public Broadcasting Commission.

This would change to twelve consumer representatives, one from each of the areas represented by the twelve regional Native corporations. Other representation would continue current practice with the bill designating appointment authorities and terms of office for all the members.

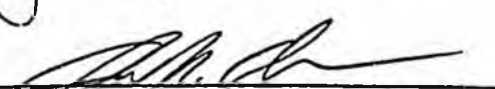
The council already has adopted policies and bylaws. Other powers and duties remain as is.

I am supportive of formalizing the structure of the Rural Alaska Television Network Council, clarifying an appointment mechanism, and establishing terms of office for members.



James J. Fox for Mel Hoversten  
Director, Division of Telecommunications

April 28, 1988



Commissioner John M. Andrews  
Department of Administration

April 28, 1988



# Alaska State Legislature

Representative Mike Davis

District 19

P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4930/4941

Interim Office  
P.O. Box 81435  
Fairbanks, Alaska 99708  
(907) 456-8161

## MEMORANDUM

TO: Members of the House Finance Committee

FROM: Rep. Mike Davis *Mike*

DATE: April 26, 1988

RE: RATNET Council

During discussion of an intent language report on Telecommunications in the Department of Administration subcommittee of the House Finance Committee, members discovered that the Rural Alaska Television Network Council was created and continues to exist only in intent language.

The council was created in intent language in HB 50 in 1981 and modified in intent language in HB 500 in 1986 (copies of both attached).

Sheila Gottehrer, director of boards and commissions in the Office of the Governor, informed me that this is the only board or commission that is not established in statute and for which terms are not specified.

The committee endorsed intent language essentially the same as the proposed statute. After an opinion from Legal Affairs, the committee chair decided to seek this legislation as a better way to establish the council in statute.

Hb 50 cont'd

<u>Department</u>	<u>Amount</u>
Education, p. 10, line 26	\$ 719,600
University of Alaska, p. 19, line 16	6,028,100
Environmental Conservation, p. 47, line 26	825,200
Fish and Game, p. 45, line 8	1,495,300
Health & Social Services, p. 40, line 5	812,100
Labor, p. 31, line 17	656,300
Law, p. 60, line 16	6,685,700
Natural Resources, p. 41, line 23	1,033,200
Revenues, p. 81, line 18	1,089,400
Transportation, p. 66, line 18	895,100

Letter of Intent on FCCS SB 50 follows:

Letter of Intent

For

FCCS HB 50

The following policy applies to television services provided by the State of Alaska through the Division of Telecommunications Systems Operations:

A channel for instructional television and a channel for the state satellite television project may be provided to communities, which want this service, with at least 25 year-round residents, including at least 8 students attending school there, or taking correspondence courses. This is not intended to prevent use of state funds for additional television channels.

Although the the allocations in paragraphs (1) - (5) and (10) are based on the cost of purchasing and installing small earth stations, and one mini-transmitter per channel, it is intended that engineering designs be site specific to provide television signal at least as good as the specified equipment would provide, in the most cost effective manner.

Hb 50 cont'd

It is intended that a new rural Alaska television users network be formed to serve as the policy committee for programming the state satellite television project, with one consumer member selected by each regional nonprofit native association, in Alaska, and two members selected at large by the Governor.

The following distribution of funds shall guide the Department of Administration in allocating line 08 of the budget component Telecommunications Systems Operations:

Circle Hot Springs, Trapper Creek and Matanuska-Knik Area purchase, installation and maintenance of earth stations and transmitters, and the allocations below for equipment for Sikta, have priority within this appropriation.

The sum of \$7,465,050

appropriation to the Division of Telecommunications Systems Operations is to be distributed for the purposes and d amounts listed in this intent:

(1) \$3,036,000 is funded for purchase and installation of equipment, extend Instructional Television and, if comparable commercial broadcast service is not available, extend the satellite television project to:

Anderson, Bettles, Birch Creek, Chignik Bay, Clarks Point, Ekuak, Eek, Elfin Cove, English Bay, Ernestine, Gakona, Girdwood, Goodnews Bay, Gustavus, Halibut Cove, Hope, Uuder, Kasigluk, Kasilof, Klawock, Kokhanok, Kwethluk, Levelock, Lower Kalskag, Manokotak, Metlakatla, Meyers Chuck, Moose Pass, Naknek, Napaskiak, Newhalen, Paxson, Pitkas Point, Port Moller, Port Protection, Portage Creek, Quinhagak, Scammon Bay, Sheldon Point, Tuluksak, Tuntutuliak, Wales, White Mountain, and Wiseman.

(2) \$715,000 is funded for purchase and installation of equipment to extend instruction television to Anchor Point, Big Lake Eagle River, Homer, Houston, Kenny Lake, Minilchik, Palmer, Seldovia, Sterling, Sutton, Wasilla, and Willow.

(3) \$636,000 is funded for purchase and installation of equipment to extend instructional television and, if comparable commercial broadcast service is not available, to extend the satellite television project to Adak, Alakanuk, Chefornak, Chignik Lagoon, Chignik Lake, Central, Circle, Ekwok, Igiugig, Ivanoff Bay, Kasaan, Kotlik, Koyukuk, Kwigilliin-gok, Manley Hot Springs, Minchumina, Newtok, Nightmute, Peedro Bay, Point Baker, Port Alsworth, Stevens Village, Sjarrevohn, and Tununak.

1 DEPARTMENT OF ADMINISTRATION (CONT.)		APPROPRIATION		APPROPRIATION FUND SOURCES	
2		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
3	TELECOMMUNICATIONS OPERATIONS				
4	RURAL ALASKA TELEVISION NETWORK (6 POSITIONS)	3,550,000			
5	IT IS THE INTENT OF THE LEGISLATURE THAT THE				
6	STATE-PROVIDED TELEVISION SERVICES, RATHER AND				
7	LEARN/ALASKA, BE COMBINED ON ONE STATEWIDE NETWORK				
8	MANAGED BY THE DEPARTMENT OF ADMINISTRATION.				
9	THE DIVISION OF TELECOMMUNICATIONS OPERATIONS WILL				
10	BE RESPONSIBLE FOR NETWORK PROGRAMMING MANAGEMENT AND				
11	ADMINISTRATION, THE NETWORK TECHNICAL OPERATIONS CENTER,				
12	SYSTEM MAINTENANCE, TRANSMISSION AND DISTRIBUTION				
13	CHARGES AND LICENSING.				
14	ALL FUNDS ASSOCIATED WITH NETWORK TRANSMISSION,				
15	DISTRIBUTION, MANAGEMENT AND ADMINISTRATION WILL BE IN A				
16	SEPARATE COMPONENT OF THIS RPH. FUNDING FOR				
17	TRANSMISSION AND DISTRIBUTION WILL INCLUDE UPLINKS FROM				
18	ANCHORAGE, JUNEAU AND KOTZEBUE, ONE SATELLITE				
19	PROGRAMMING AND STATEWIDE DOWNLINKS.				
20	PROGRAMMING DECISIONS WILL BE MADE BY				
21	REPRESENTATIVES OF EACH USER GROUP. THE RURAL ALASKA				
22	TELEVISION NETWORK COUNCIL WILL BE EXPANDED FROM ITS				
23	COMPOSITION OF 12 REGIONAL, NON-PROFIT NATIVE				
24	COMMUNITY REPRESENTATIVES AND TWO GOVERNOR-APPOINTED				
25	STATEWIDE REPRESENTATIVES TO INCLUDE ONE REPRESENTATIVE				
26	FROM THE DEPARTMENT OF EDUCATION, ONE FROM THE UNIVERSITY OF				
27	Chapter 129				



1 DEPARTMENT OF ADMINISTRATION (CONT.)		APPROPRIATION		APPROPRIATION FUND SOURCES	
2		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
3	ALASKA AND ONE FROM THE ALASKA PUBLIC BROADCASTING				
4	COMMISSION. APEC REPRESENTATION WILL BE DELEGATED TO A				
5	MEMBER OF THE PUBLIC TELEVISION NETWORK OF ALASKA.				
6	THE EFFECTIVE DATE OF THE COMBINED TELEVISION				
7	A NETWORK WILL BE JULY 1, 1986.				
8	TELECOMMUNICATIONS SERVICES (7 POSITIONS)	713,400			
9	AS 44.21 STATES THAT THE DEPARTMENT OF ADMINISTRATION IS				
10	STATUTORILY ACCOUNTABLE FOR STUDYING, DESIGNING,				
11	IMPLEMENTING AND MANAGING THE TELECOMMUNICATIONS SYSTEMS				
12	AND SERVICES OF THE STATE. IN ORDER TO INTELLIGENTLY				
13	PLAN OUT TELECOMMUNICATIONS INFRASTRUCTURE, ESPECIALLY				
14	IN A TIME OF DECLINING OIL REVENUES, IT IS REQUESTED THAT				
15	THE DEPARTMENT DEVELOP A COMPREHENSIVE PLAN ON				
16	INFORMATION RESOURCES MANAGEMENT WHICH INCORPORATES				
17	STATEWIDE ACCESSIBILITY AND ACCOUNTABILITY TO THE USERS				
18	OF THE TELECOMMUNICATION SYSTEMS AND SERVICES.				
19	WITH THE RAPID CHANGE IN TECHNOLOGY AND THE				
20	UPHEAVAL IN THE TELECOMMUNICATIONS INDUSTRY, IT IS				
21	IMPERATIVE THAT THE STATE OF ALASKA DEVELOP A				
22	COST-EFFECTIVE INFORMATION RESOURCE MANAGEMENT PLAN.				
23	RATHER THAN REDEVELOPING AN EXISTANT TELECOMMUNICATIONS				
24	INFRASTRUCTURE MERELY IN RESPONSE TO ECONOMIC SIGNALS,				
25	THE STATE MUST CREATE AN EFFICIENT INFORMATION RESOURCE				
26	MANAGEMENT PLAN. TECHNOLOGY, ABOVE ALL, SHOULD STRIVE				
27	Chapter 129				

1985 KWH SALES  
REGULATED ELECTRIC UTILITIES

	KWH SALES		
	Residential	Commercial and Other	Total
Alaska Electric Light & Power Company	113,014,000	110,775,000	223,789,000
Alaska Power & Telephone Company	5,486,000	11,465,000	16,951,000
Alaska Village Electric Cooperative, Inc.	10,344,399	17,510,974	27,855,373
Andreanof Electric Corporation	140,900	152,921	293,821
Aniak Light and Power Company	533,501	1,023,582	1,557,083
Arctic Utilities, Inc.	-0-	16,400,000	16,400,000
Barrow Utilities and Electric Cooperative, Inc.	(Not Reported)		
Bethel Utilities Corporation, Inc.	6,968,784	17,232,804	24,201,588
Bettles Light & Power, Inc.	122,960	724,614	847,574
Chugach Electric Association, Inc.	510,026,000	1,363,924,000	1,873,950,000
Copper Valley Electric Association, Inc.	12,240,000	33,161,000	45,401,000
Egegik Light and Power Homer Lee Leonard d/b/a	175,767	128,737	304,504
G & K, Inc.	(Not Reported)		
Golden Valley Electric Association, Inc.	179,514,000	263,579,000	443,093,000
Gwitchyaa Zhea Utility Company(1)	383,098	1,461,922	1,845,020
Haines Light & Power Company, Inc.	3,033,467	4,859,917	7,893,384
Homer Electric Association, Inc.	142,011,000	240,970,000	382,981,000
I-N-N Electric Cooperative, Inc.	518,079	1,021,280	1,539,359
Kodiak Electric Association, Inc.	18,495,000	60,390,000	78,885,000
Kotzebue Electric Association, Inc.	(Not Reported)		
Levelock Electric Cooperative, Inc.	(Not Reported)		
Manley Utility Company, Inc. <sup>(2)</sup>	143,667	66,712	210,379
Manokotak Power Company	(Not Reported)		
Matanuska Electric Association, Inc.	288,942,000	147,321,000	436,263,000
McGrath Light & Power Company	(Not Reported)		
Municipal Light & Power Department Municipality of Anchorage d/b/a	186,518,000	794,262,000	980,780,000
Napakiak Ircinaq Power Company	(Not Reported)		
Northway Power & Light, Inc.	214,074	986,465	1,200,539
Nushagak Electric Cooperative, Inc.	3,745,000	7,263,000	11,008,000
Pelican Utility Company	(Not Reported)		

(1) Information present for 9 months - 7/1/84 - 4/30/85.

(2) On November 1, 1985, United Companies, Inc., acquired a controlling interest in Manley Utility Company, Inc.

1985 KWH SALES  
REGULATED ELECTRIC UTILITIES (CONT.)

	KWH SALES		
	Residential	Commercial and Other	Total
Sand Point Electric Company, Inc. <sup>(3)</sup>	(Not Reported)		
Tanana Power Company, Inc.	795,731	913,121	1,708,852
Teller Power Company Helen M. and Robert R. Blodgett d/b/a	(Not Reported)		
Tlingit-Haida Regional Electrical Authority	3,805,000	4,326,000	8,131,000
Yakutat Power, Inc.	1,667,839	2,629,555	4,297,394

<sup>(3)</sup> Certificate No. 230 was transferred from Pelican Utility Company to Sand Point Electric Company, Inc., in 1986.

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO.144

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to charges for services provided by  
7 the state library and state museum; and providing for  
8 an effective date."

9

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

10

\* Section 1. AS 14.56.030(10) is amended to read:

11

(10) establishing and charging fees for reproduction, [OR]

12

printing, and handling costs, [AND] for mailing and distributing state

13

publications and research data, and for other services authorized by

14

this chapter.

15

\* Sec. 2. AS 14.56.035 is amended to read:

16

Sec. 14.56.035. ACCOUNTING AND DISPOSITION OF FEES. The commis-

17

sioner of administration shall separately account for [PUBLICATION AND

18

DISTRIBUTION] fees received under AS 14.56.030(10) and that the de-

19

partment deposits in the general fund. The annual estimated balance

20

in the account may be used by the legislature to make appropriations

21

to the department to carry out the purposes of AS 14.56.030.

22

\* Sec. 3. AS 14.57.010 is amended by adding a new subsection to read:

23

(c) The department may establish by regulation, and collect,

24

reasonable user fees and other fees for services provided by the

25

department under AS 14.57.

26

\* Sec. 4. AS 14.57.015 is amended to read:

27

Sec. 14.57.015. ACCOUNTING AND DISPOSITION OF RECEIPTS. The

28

commissioner of administration shall separately account for each

29

endowment, [OR] grant, or gift from a private donor received under

1        AS 14.57.010(b)(4), and for fees collected under AS 14.57.010(c). and  
2        deposited by the department in the general fund. The annual estimated  
3        balance in the account may be used by the legislature to make appro-  
4        priations to the department to carry out the purposes of AS 14.57.010.  
5        \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).