

HOUSE FINANCE COMMITTEE  
April 13, 2013  
9:27 a.m.

[9:27:32 AM](#)

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:27 a.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair  
Representative Bill Stoltze, Co-Chair  
Representative Mark Neuman, Vice-Chair  
Representative Mia Costello  
Representative Bryce Edgmon  
Representative Les Gara  
Representative Lindsey Holmes  
Representative Scott Kawasaki, Alternate  
Representative Cathy Munoz  
Representative Steve Thompson  
Representative Tammie Wilson

MEMBERS ABSENT

Representative David Guttenberg

ALSO PRESENT

Chuck Kopp, Staff, Senator Fred Dyson; Senator Fred Dyson, Sponsor; Forest Dunbar, Attorney, Juneau; Richard Svobodny, Deputy Attorney General, Criminal Division, Department of Law; Tim Lamkin, Staff, Senator Gary Stevens; Bruce Johnson, Executive Director, Alaska Council of School Administrators; Senator John Coghill, Sponsor, Senator Mike Dunleavy.

PRESENT VIA TELECONFERENCE

Sidney Billingslea, Self, Anchorage; Walt Monegan, Alaska Native Justice Center, Anchorage; Niesja Steinkruger, Self, Fairbanks; Carmen Gutierrez, Prisoner Re-Entry Task Force, Anchorage; Scott Sterling, Office of Public Advocacy,

Anchorage; Quinlan Steiner, Public Defender, Public Defender's Office, Anchorage.

SUMMARY

HB 192 PAYMENT OF FISHERY RESOURCE LANDING TAX

HB 192 was SCHEDULED but not HEARD.

HR 8 TASK FORCE ON SUSTAINABLE EDUCATION

HR 8 was REPORTED out of committee with a "do pass" recommendation and with one new fiscal note from the legislature.

[Note: The meeting was recessed until 12:00 p.m. on April 14, 2013 and HR 8 was reported from committee at that time. See April 14, 2013 minutes for detail.]

CSSB 18(FIN)am

BUDGET: CAPITAL

HCS CSSB 18(FIN) was REPORTED out of committee with a "do pass" recommendation.

[Note: The meeting was recessed until 12:00 p.m. on April 14, 2013 and HCS CSSB 18(FIN) was reported from committee at that time. See April 14, 2013 minutes for detail.]

SSSB 49 am

MEDICAID PAYMENT FOR ABORTIONS; TERMS

SSSB 49 am was HEARD and HELD in committee for further consideration.

CSSB 56(JUD)

RECLASSIFYING CERTAIN DRUG OFFENSES

CSSB 56 (JUD) was HEARD and HELD in committee for further consideration.

CSSB 57(FIN)

LITERACY, PUPIL TRANSP, TEACHER NOTICES

HCS CSSB 57 was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from Department of Education and Early Development; one previously published fiscal impact note: FN2(EED); and one previously published zero note: FN4(EED).

9:27:49 AM

Co-Chair Stoltze relayed that the capital budget would be heard later in the day. He discussed bills before the committee and his intent for the meeting.

#sb56

CS FOR SENATE BILL NO. 56(JUD)

"An Act relating to certain crimes involving controlled substances; and providing for an effective date."

9:30:29 AM

CHUCK KOPP, STAFF, SENATOR FRED DYSON, communicated that the bill was part of a national reform movement being led by conservative states; he referred the "Right on Crime" movement in Texas, Oklahoma, Arkansas, and other. The movement addressed the spiraling correctional costs and existing policies that were causing prison systems to dramatically increase. He relayed that the Alaska prison system was growing at the fourth fastest rate in the nation; the state had one of the highest incarceration rates in the country. He believed it was unfortunate that an earlier prediction that a new prison would be necessary had come to fruition. He communicated that it may be necessary to build another prison in 2016. As a result, the sponsor had begun looking at the primary growth drivers of the state's prison population.

Mr. Kopp relayed that a considerable amount of evidence had come from various groups including the Department of Corrections (DOC) and the Criminal Justice Working Group (made up of leaders in DOC, the Department of Public Safety (DPS), the Attorney General's office, and other drug and substance abuse groups); the groups had identified that the primary growth drivers were simple possession drug offences, theft, and petition to revoke probation. The

sponsor had addressed reasons for incarceration and whether it was viable to have a prison population that in 10 years had gone from 40 percent nonviolent to 64 percent nonviolent with an annual cost of \$54,000 per prisoner. The bill aimed to correct an incongruity in existing law specifying that any amount of a schedule IA or IIA drug was a felony offence. The law specifically stated that drug quantity did not have to be usable (e.g. a shaving of an oxycodone pill); it only had to be sufficient enough to be identified in a narcotics test.

Mr. Kopp relayed that the existing law had caught a significant number of youths up in a felony conviction status; the felony was never dropped from an individual's record. Consequences included the inability to qualify for a student loan, affordable housing, and a job in many cases. He relayed that the bill made no changes to the felony offence for the distribution and sale of drugs. The bill impacted initial, small quantity possession for simple drug amounts. He relayed that under the current law it was a class C felony to possess any amount of a schedule IA controlled substance (e.g. opium, morphine, and pain killer drugs) or a schedule IIA controlled substance (e.g. cocaine).

[9:34:47 AM](#)

Mr. Kopp explained that the bill would make possession of the controlled substances a class C felony only if the defendant in the seven years preceding the offence had been convicted two or more times of misconduct involving a controlled substance in the first through fifth degree; misconduct included unclassified felonies (such as selling schedule I drugs to a child) down to a class A misdemeanor offence. He pointed to driving under the influence (DUI) offences as another example of a third-strike law; DUI offenders were subject to a felony on their third offence. He emphasized that DUI is lethal behavior and the law treated the first two offences as misdemeanors. He looked at domestic violence, assault, and theft where the first two offences were treated as misdemeanors and the third offence was a felony. He stressed that the three-strike policy worked; 70 percent of the people arrested for DUI never reoffend. He stated that one-third of individuals sent to jail never reoffended.

Mr. Kopp addressed a second element of the bill related to a felony threshold for the drug amount possessed on the first offence. The sponsor had looked to 14 states that had implemented the approach; the states had received positive results in the rate of violence and person crime. The bill set the felony threshold at 15 or more pills of a schedule IA or IIA substance; likewise, 3 or more grams would be a felony. Due to the lethal and addictive nature of heroin the threshold was 0.5 grams or 500 milligrams; similarly, an exception had also been made for LSD at 300 milligrams. Any amount exceeding the thresholds would be a felony for the first offence. He noted that Legislative Research Services estimated that the change would save the state approximately \$14 million per year; departments including the Department of Law (DOL) estimated that savings would occur. He noted that the committee would hear from researcher Forest Dunbar who had studied at Harvard and Yale.

Co-Chair Stoltze welcomed the bill sponsor Senator Fred Dyson to the committee room.

FOREST DUNBAR, ATTORNEY, JUNEAU, provided a PowerPoint presentation titled "Reclassifying Nonviolent, Small Quantity Possession Potential Impact on Alaska's Budget and Society" (copy on file). He noted that the research had involved the Office of Public Advocacy; however, his testimony was not affiliated with any state or public agency.

Mr. Dunbar pointed to slide 1 titled "Reclassification of Drug Possession." He stressed that the bill would not prevent DOL from prosecuting drug distribution as a felony; the crime was a felony if a person was caught with evidence to distribute drugs of any quantity. He believed the bill would lead to a reduction in costs for the state in a variety of ways, which he would discuss. He moved to slide 2 titled "Alaska's Prison Population Growth"; the graph had been presented by DOC to multiple committees during the current legislative session. The red line represented the number of prison beds; the number spiked in 2012/2013 with the opening of Goose Creek Correctional Center. The blue line represented the total prison population; the graph indicated that in 2016 the number of prisoners would outnumber the number of prison beds. He discussed that the state would need to decide whether it would construct another prison or begin exporting prisoners out of state.

He communicated that the state's incarceration [growth] rate was approximately 3 percent, which was double the general population growth.

Mr. Dunbar turned to slide 3 titled "Drivers of Alaska's Prison Population Growth." He relayed that the information came from an internal DOC memo dated August 24, 2012. The memo identified three primary drivers including increased felony theft in the second degree; a rise in prison admission related to drug offences (nonviolent offences in particular); and an increase in Petitions to Revoke Probation (PTRP). He stated that the bill addressed the second and third points on the slide; it would reduce the number of people on felony probation, which should reduce the number of people subject to a PTRP.

9:42:30 AM

Mr. Dunbar addressed a chart titled "Cases Filed in Alaska Court System with MICS-4 Charges, by Year (2008-2012)" (slide 4). He explained that Misconduct Involving a Controlled Substance in the fourth degree (MICS-4) was the state's lowest level drug felony and related to possession of any schedule IA or IIA substance. A graph on slide 4 showed that in the past five years the number of MICS-4 cases filed had increased dramatically; the growth coincided with an increase in incarcerated prisoners with the charge and with a felony record.

Mr. Dunbar moved to slide 5 titled "Collateral Consequences from Small-quantity Drug Felonies." He communicated that the most significant consequence was providing a barrier to employment; other potential factors included a loss of federal benefits, affordable housing, and more. He shared that certain consequences related to employment went beyond Alaska statutes. For example, an individual with a drug felony of any kind prohibited work in a facility receiving Medicare or Medicaid funds; he believed the prohibition was too broad. Additionally, the Anchorage School District and the North Slope would not hire an individual with a drug felony for a period of 10 years. He communicated that the inability to find employment was a recidivism driver. He explained that when people serve or avoid time on a Suspending Imposition of Sentence (SIS) it did not provide them with a clean record. He noted that an SIS was the most common way people were adjudicated on first time drug felony offences.

Mr. Dunbar directed attention to slide 6 titled "Reduced Legal and Adjudication Costs." He highlighted that it took close to twice as long to reach disposition in a felony case compared to a misdemeanor case in Anchorage courts. He stated that people fought felonies much harder due to the repercussions. He pointed to slide 7 titled "Annual Savings from Reduced Legal and Adjudication Costs." He explained that the reduction in the number of days to disposition had a direct impact on cost. Additionally, other cost savers included that a grand jury was not required for misdemeanor cases, fewer jurors were required if the case went to trial (6 instead of 12), defense agencies and DOL used less expensive attorneys for processing misdemeanors versus felonies. As a result, he projected between \$400,000 and \$800,000 in annual savings to the Alaska Court System and the legal agencies combined. He pointed out that the estimate did not include any potential DOL savings. He noted that DOL had been unable to provide data when the estimates had been done in the fall of 2012.

[9:46:19 AM](#)

Mr. Dunbar turned to slide 8 titled "Projected Range of Annual Savings to DOC from Reduced Incarcerated Population." He shared that the projections were based on estimates done on a similar reform in Colorado and California; Colorado had passed the reform, but California had not. He had used the California and Colorado data on hard-bed impact and had changed it for Alaska's cost structure to reach estimates used on slide 8. He estimated between \$1.5 million and \$2 million in annual savings to DOC within 3 or 4 years. He noted that the Legislative Legal Services report estimated that current law resulted in costs of approximately \$14 million per year; the report had not stated that the amount could all be captured as savings if the law was changed. However, he believed the findings were indicative that millions to tens of millions of dollars could be saved through the reform.

Mr. Dunbar addressed slide 9 titled "Public Safety: Map of Lower-48 States Where Drug Possession is a Misdemeanor." The map showed 14 states where drug possession was a misdemeanor. Slide 10 illustrated that there was not a variable skewing the data towards the 14 states; the group included poor states like Mississippi, rich states like New York, urban liberal states like Massachusetts, and rural

conservative states like Wyoming. He relayed that the bill had been most closely drafted after Wyoming's law; the state had 3 gram drug limit with a 300 milligram exception for liquid heroin. The slide showed a comparison between states where possession was a felony and states where possession was a misdemeanor. He was not claiming that the reform would lead to the listed outcomes, but it was the case in states where possession was a misdemeanor that lower rates existed for violent crime, property crime, incarceration, illicit drug use, rape, physical violence, stalking, and other kinds of domestic violence and higher rates of drug treatment existed. He stated that there had been some argument that reform would prevent the state from administering drug treatment; however, there was evidence of higher levels of drug treatment in states where drug possession was a misdemeanor. He noted that date rape drugs would be excluded from the reform.

Mr. Dunbar provided conclusions on slide 11. He did not predict that the reform would have a significant impact on public safety. The reform would reduce the number of individuals with felony records, which would hopefully lead to a reduction in unemployment rates and help drive some of the positive outcomes witnessed in other states. He noted that the data did show that the reform caused the positive outcomes in other states; he surmised that the outcomes were connected to employment. Additionally, the bill would reduce DOC probation officer caseloads. He relayed that offenders would not go unsupervised. Alaska and Wyoming did not have misdemeanor probation officers. He communicated that under the legislation every person convicted of a MICS-5 offence would be screened and sent to treatment if they were found to have a drug addiction. The individuals would be monitored through informal misdemeanor probation and by Department of Health and Social Services (DHSS) probation officers if in treatment. He concluded that the reform would save the state up to tens of millions of dollars over the upcoming decade. He emphasized that real savings would come to the state by decreasing the prison population growth curve and delaying the need for another \$250 million prison like Goose Creek.

[9:51:51 AM](#)

Co-Chair Stoltze discussed that questions would not be addressed during the meeting. He relayed that the issue would be examined over the interim. He invited DOL to

testify regarding their concerns. He wanted to set the framework for issues that the committee would try to address regarding the legislation.

RICHARD SVOBODNY, DEPUTY ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW, stated that any revision to criminal law in the state was establishing public policy. He detailed that the legislature was responsible for policy decisions whether the police or a prosecutor in any local community had a like or dislike for the current drug possession law. He acknowledged that the bill had merit as part of a general review of sentencing criteria, policies, and costs in Alaska; however, it did not mean that the police community or the district attorney offices did not have concerns that may not be readily apparent. He shared that the Alaska Peace Officers Association and the Juneau and Anchorage Police Departments had spoken against the bill in other committees. He noted that the sponsor had allowed the department to make amendments to the legislation; DOL had been very concerned that the initial bill would have made it a misdemeanor to possess common date rape drugs. He relayed that the sponsor had quickly agreed to amend the portion of the bill. He discussed certain areas the sponsor did not want amended such as weight thresholds for particular types of drugs. He explained that in some instances such as LSD, weight was meaningless; commercial transaction dosages of the drug were minimal. The department had suggested using a threshold of five blotter pieces of paper; however, the crime lab had relayed that it could be distributed in items such as Jell-O shots.

Mr. Svobodny communicated that DOL's primary concern was dealing with treatment. He understood that the legislation did not do away with treatment, but he addressed collateral consequences. He stated that one reason the possession of heroin, methamphetamine, cocaine, and LSD had been a felony since before statehood was to guarantee that a certified felony probation officer would be assigned to the individuals. He noted the distinction between a certified probation officer and a DHSS probation officer; a felony probation officer was certified by the Police Standards Council and could conduct searches and carry firearms. He stressed that the certified officers would not be available in misdemeanor possession cases.

[9:57:40 AM](#)

Mr. Svobodny stated that in misdemeanor cases a probation officer would not be available to monitor whether an offender had gone to treatment. He relayed that felony probation officers were necessary for two reasons: (1) to ensure offenders with addiction problems are attending treatment and (2) to ensure that offenders are not burglarizing homes or other to feed an addiction. He emphasized that most possession cases for small amounts of drugs were really distribution cases that had been reduced to possession. He pointed to a considerable problem statewide with drugs such as Oxycotton [OxyContin] which was a schedule IA controlled substance (the most dangerous type of drug). There had been an epidemic of youths selling Oxycotton (three pills cost approximately \$150 in Anchorage and \$300 in Juneau); in recognition that the youths were not likely to reoffend, prosecutors had tended to drop the charge to possession, which reduced the charge from a class A to a class C felony. He stated that changing the offence from a class A felony to a class A misdemeanor was a substantial drop. He was concerned that prosecutors would be willing to cut breaks to young kids.

[10:00:03 AM](#)

AT EASE

[10:00:54 AM](#)

RECONVENED

Vice-Chair Neuman took over as meeting chair.

Mr. Svobodny communicated that DOL's primary concern was that the bill did not deal with treatment for drug addicts.

[10:01:36 AM](#)

AT EASE

[10:02:20 AM](#)

RECONVENED

Mr. Svobodny continued to discuss the department's concern that the bill would have unforeseen consequences related to drug rehabilitation. The concern was that there would not be sufficient motivation for people to be in the programs. For example, currently in Anchorage people preferred to go to jail on a class C felony offence rather than to therapeutic court. He stated that with the proposed reform

people would not go to therapeutic courts. He cautioned about the use of models and statistics from other states. He relayed that Wyoming had a lifetime look-back compared to the seven-year look-back used in the bill [related to the three-strike rule]. He noted that the difference was substantial. The bill had originally included a three-year look-back; the department had requested an amendment to ten years and the sponsor had compromised with a seven-year period.

Mr. Svobodny advised the committee to be cautious when reviewing the number data provided. He stated that crimes against people were listed in AS 11.41 and under some municipality ordinances; the list did not include items such as arson or blowing up a pipeline. The numbers cited in support of the legislation counted a group of individuals who should be in jail; people who had committed multiple burglaries or other.

[10:05:09 AM](#)

Mr. Svobodny agreed that it sounded like a waste of state money that offenders were in jail for crimes that were not crimes against people; however, he pointed to a current court of appeals decision related to a person with 50 prior convictions. He stated that the individual deserved to be in jail. He reiterated his words of caution about what the numbers provided in support of the legislation meant. He emphasized that the department's concerns about the legislation did not mean there should not be a holistic review of the state's correctional system. He detailed that the U.S. had a higher incarceration rate than almost any other nation, which meant that something the country was doing was not right. He referred to a current bill that would create a sentencing commission to look at the issues holistically rather than looking only at certain drugs. He credited Kelly Howell with DOC [corrected to DPS below] for catching that the bill would have made the most commonly used date rape drug a misdemeanor. He emphasized that further review and something like a sentencing commission was needed.

Representative Edgmon corrected that Kelly Howell was the legislative liaison for DPS. Mr. Svobodny agreed.

[10:07:39 AM](#)

Representative Holmes shared the concern that the legislation would effectively remove probation officers for offenders and that treatment would not be as readily available. She wondered if the answer was to either maintain the felony charge or to extend probation and treatment to the class of offences whether they were misdemeanors or felonies.

Mr. Svobodny did not know whether either of the options was the right answer. He noted that the state had used both kinds of systems. He opined that people with drug addictions should be treated before getting to the criminal justice system.

10:08:50 AM

SIDNEY BILLINGSLEA, SELF, ANCHORAGE (via teleconference), spoke in support of the bill. She provided her background as a private criminal defense attorney. She pointed to a letter of support she had provided (copy on file). She believed the production of possession crimes from a felony to a misdemeanor for the first two offences within the look-back period was a humane and honest way of dealing with the problem that was criminal, but also addiction driven. She stated that there was a need for treatment of individuals with addiction problems or an illegal use problem. She detailed that the existing model was dependent on discretion of individual prosecutors throughout the state and of the defense attorney (many class C felonies could be reduced to a misdemeanor for possession of a controlled substance); the conviction depended on the prosecutor, the day of the week, and the person appearing before the court. She reiterated her belief that reducing the crime to a misdemeanor would be an honest way of dealing with the system.

Ms. Billingslea believed the savings over time could result in an allocation of resources to treatment programs and facilities. She pointed to the multitude of failures that occurred when individuals did not receive adequate treatment. She respectfully disagreed with earlier statements that the bill would result in a lack of oversight for offenders. She expounded that there was significant oversight for community work service and alcohol safety action program participants; people did get misdemeanant petitions to revoke probation when they did not do their community service and other. She stated that

most people did not reoffend. She acknowledged that addicts may offend a couple of times and she believed the statute addressed the issue. She pointed to 1988 when sentencing guidelines had gone into effect; federal statutes provided for misdemeanor possession of controlled substances.

10:14:10 AM

WALT MONEGAN, ALASKA NATIVE JUSTICE CENTER, ANCHORAGE (via teleconference), testified in support of the legislation. He spoke to his law enforcement background in Alaska. He discussed the necessity of conceiving a strategy when fighting crime in order to be the most effective in addressing the issue. He stated that under the current law individuals had been put in jail in record numbers for drug possession. He spoke to the importance of reviewing the strategy. He stated that although the existing law had removed people from the streets, it had caused an imbalance within the criminal justice system. He asked the committee to support the bill in order to reevaluate the current strategy. He discussed that the three-strike rule worked for DUI cases. He believed the bill presented a better strategy; he noted that if it was unsuccessful the system could revert to the current law. He emphasized that the U.S. had a higher incarceration rate than any other country. He believed the bill provided a better way to move forward.

10:17:29 AM

NIESJA STEINKRUGER, SELF, FAIRBANKS (via teleconference), testified in support of the legislation. She provided her background as a former superior court judge in Fairbanks. She spoke to costs related to felonies versus misdemeanors. She observed that the state had gone through a 25-year period where a belief existed that a crime was not taken seriously unless it was a felony. She discussed what she called the "felony machine" in Alaska; the machine used the top flight resources including the most experienced district attorneys and public defenders. Felons also received probation officers and cases were handled in the superior court versus the district court. She stated that drug crimes were competing to get on the superior court schedule with domestic violence, sexual assault, child abuse, and crimes of violence.

Ms. Steinkruger stated that her primary concern was related to the use of the grand jury system particularly in rural Alaska. She explained that each felony crime required an indictment by the grand jury; it required that police officers and witnesses sit in a hallway waiting to get in front of the grand jury. Additionally, 60 citizens were called in to fill 18 slots and anywhere from 4 to 12 alternate slots. In rural Alaska the state paid to bring in potential jurors by airplane, snow machine and boat. The state also paid for the individuals' hotel. The individuals missed work, could not find child care, and had to travel. She communicated that a number of Alaskans did respond to the summonses and the jury pool had been worn out. She relayed that the number of felonies continued to grow until an indictment was required.

Ms. Steinkruger furthered that the state was not always receiving a positive percentage return on grand jury and the expense was substantial. She explained that grand jurors in rural Alaska sat for 1 to 3 months and were required to come in every week. She urged the committee to take the human cost of the system into account. She observed that consequences and treatment were desired for drug possession cases. She stressed that treatment programs were lacking in Alaska, but similarly to DUI they could be provided if focus was given to the issue. She assured the committee that the legislature's examination of the issue would remind judges that misdemeanors were serious crimes as well. She urged the committee to consider saving the felony machine for the worst offenders and in cases when intervention was not successful.

[10:22:53 AM](#)

Representative Wilson wondered if the necessary treatment would still be available for offenders or if the proposed reform would increase the level of repeat offenders. Ms. Steinkruger replied that treatment was a serious problem in the state whether the offense was classified as a felony or misdemeanor; however, the largest drug in Alaska was alcohol and she believed the state was slowly beginning to address alcohol treatment and statutes. She elaborated that a focus on treatment was beginning to effect change in the state. She did not believe there was a magic answer, but she did believe that intervention with treatment was necessary. She stated that felonies did not guarantee treatment.

Representative Edgmon thanked Ms. Steinkruger for her comments. He appreciated her clarity and emphasis on how the issue was impacting rural Alaska.

Vice-Chair Neuman relayed Co-Chair Stoltze's intent to refer the bill to a subcommittee for further review. He noted that testimony during the meeting had been invited and public testimony would occur at a later time.

10:25:10 AM

CARMEN GUTIERREZ, PRISONER RE-ENTRY TASK FORCE, ANCHORAGE (via teleconference), voiced support for the legislation. She spoke to her background as a criminal law attorney. She discussed the annual prison population growth of 3 percent and the continued growth of the DOC budget. In 2002 42 percent of the prison population had been considered nonviolent; the number had grown to 62 percent in 2011. She believed it was important to look at the number of admissions that DOC received for felony drug offences. She relayed that from 2002 to 2012 admissions for felony drug offences had risen by over 81 percent. She stated that it was important to note who the offenders were. For example, in 2011 348 admissions for felony drug offences were for individuals between the ages of 18 and 29. She emphasized that the individuals would remain convicted felons for their entire lives; they would be required to report the information whenever applying for employment. She stressed that the felony conviction had substantial lasting consequences on an individual in terms of their ability to receive school loans and employment.

Ms. Gutierrez communicated that over the past 10 years the length of stay for felony offenders had increased by an additional year. She asked the committee to consider that the DOC budget, length of prison stay, and the number of individuals convicted as felons all continued to increase. She stated that the statistics would be acceptable if the items were effective in reducing recidivism; however, that was not the case. She referenced a 2011 Alaska Judicial Council finding that two out of three Alaskans returned to prison for a probation violation or arrest within the first three years of their release. She stressed that the state was not receiving good value for money spent on the prison system. She applauded the committee for its attention to the important issue.

Ms. Gutierrez continued that the state had effectively dealt with DUI crime by making the third offence a felony. She stated that the recidivism rate for first-time DUI offenders was low because the individuals were required to go to the Alcohol Safety Action program for screening and to follow through with treatment. She emphasized that individuals under the legislation would be required to do the same. She stated that an individual would be designated a felony offender if they could not come to terms with their addiction. She believed the individuals should be given the opportunity to deal with an issue that was predominately addiction related versus criminal activity.

10:31:21 AM

SCOTT STERLING, OFFICE OF PUBLIC ADVOCACY, ANCHORAGE (via teleconference), spoke in support of the bill. The Office of Public Advocacy (OPA) believed the bill would benefit its clients who would be labeled as misdemeanants as opposed to felons, which would enable them to reintegrate, help to reduce recidivism, and to find employment. He relayed that the two primary deterrents to crime were a stable family environment and employment. The office believed that the bill may help keep families together because incarcerated parents had a very negative effect on children and family members. He referred to research reporting that an incarcerated parent had the same negative effect as domestic violence. He furthered that children of incarcerated parents were more likely to end up in the juvenile justice system. He stated that the bill would reduce agency expenses because misdemeanor cases were typically less expensive to handle. He agreed with earlier testimony that top flight personnel including attorneys and courts tended to focus on felonies.

10:33:50 AM

QUINLAN STEINER, PUBLIC DEFENDER, PUBLIC DEFENDER'S OFFICE, ANCHORAGE (via teleconference), voiced support for the bill. He stated that the bill would primarily have an impact on young people in the state. He observed that youths tended to make decisions that were not fully thought through; youths ended up in the situation prior to when true addictions developed, but were then labeled as felons for their entire lives. He stated that the label prevented the individuals from an ability to be productive. The

proposal would allow individuals to take personal responsibility for their decisions and to correct their behavior. He stated that misdemeanors were an effective penalty and the alcohol screening and treatment referral was a robust process that ensured a person was matched up with the appropriate program. He pointed to a concern of over supervision in felony cases, which could have a negative impact on a person's ability to rehabilitate themselves. He believed the bill would allow the system to differentiate between people who could be diverted by one interaction with the criminal justice system and others who had developed true addictions needing more active supervision.

10:36:08 AM

Representative Wilson wondered about felonies for juveniles; she thought that juvenile records were sealed.

Mr. Steiner replied that a felony was part of a juvenile's record, but it was confidential; however, it could be used against an individual later. He stated that youths over the age of 18 would have felony records for the rest of their lives. He noted that significant research existed showing that brain development and decision making did not fully mature until a person's mid-20s.

10:37:12 AM

Vice-Chair Neuman CLOSED invited testimony.

Senator Dunleavy joined the room.

Mr. Kopp spoke to recognition by prior testifiers of a need for reform. The sponsor's goal was to address the brokenness of the system. He pointed to his background in law enforcement. He recalled many years of arresting individuals for the possession of minimal amounts of drugs; after 20 years it had begun to bother him. He pointed to the cycle of brokenness in families with incarcerated parents. He emphasized that the incarceration approach was not solving the problem. He contended that the bill's treatment amendment was very robust. He pointed to 15 alcohol safety action programs in the state and multiple drug treatment programs. He relayed that the amendment had been done at DOL's request; he was surprised to receive pushback from the department. He shared that the look-back

period had been extended; if an individual did have an addiction problem they would quickly earn a felony label. He communicated that the date rape drug GHB had been excluded from the proposed reform; following the amendment, the Alaska Network on Domestic Violence and Sexual Assault had expressed support for the legislation.

Vice-Chair Neuman CLOSED public testimony.

CSSB 56(JUD) was HEARD and HELD in committee for further consideration.

[10:41:12 AM](#)

AT EASE

[10:43:10 AM](#)

RECONVENED

#sb57

CS FOR SENATE BILL NO. 57(FIN)

"An Act relating to parental involvement in education; adjusting pupil transportation funding; amending the time required for employers to give tenured teachers notification of their nonretention; and providing for an effective date."

[10:43:15 AM](#)

Representative Costello moved HCS CSSB 57(EDC) before the committee.

TIM LAMKIN, STAFF, SENATOR GARY STEVENS, communicated that the bill did three things. First, there was an increasing body of evidence that it was critical for children to be proficient in reading by the third grade. He shared that many states had policies to address the issue including identification in the form of assessments; intervention with programs such as summer school or home reading programs; and retention (holding students back a grade level). He noted that identification, intervention, and retention all fell under local control. The bill would allow for the state to take action by providing information to parents about the importance of reading proficiency by grade 3. Pamphlets including the information would be provided to districts to inform parents of the importance

of their involvement including reading at home. The bill also required the department to establish a media campaign.

Mr. Lamkin addressed the second component of the bill related to layoff notifications for tenured teachers. He detailed that March 16 had been established as the date as early as 1949. He communicated that the legislature rarely knew what the budget would look like by March 16. Subsequently requiring districts to provide notification to teachers by March 16 without knowing the next year's budget caused unnecessary angst. The bill would change the date to May 15 in order to accommodate the legislative session schedule and to provide districts with flexibility.

Mr. Lamkin addressed the third component of the legislation related to pupil transportation. He discussed that the legislature had come close to passing an annual Consumer Price Index adjustment for pupil transportation contracts. He explained that districts had the pupil transportation adjustments built into their contracts; therefore, the money would ultimately come out of classrooms if funding was not provided. The provision would provide a three-year funding mechanism for an adjustment in inflation, which would sunset with the anticipation of a statewide contract.

[10:47:04 AM](#)

Representative Wilson referred to a literacy blue print that had been funded the prior year. She wondered whether the item fell into the K-3 parent information. Mr. Lamkin deferred the question to the department.

Vice-Chair Neuman OPENED public testimony.

BRUCE JOHNSON, EXECUTIVE DIRECTOR, ALASKA COUNCIL OF SCHOOL ADMINISTRATORS, spoke in support of the bill. He stated that early literacy was critically important for future school and life success. He relayed that the layoff provision would provide increased flexibility in the issuance of pink slips and layoffs under consideration. The change would also provide more time for a teacher under review to show improvement. He relayed that most contracts were issued beginning in February in rural districts as they prepared for the following year and attending the job fair that was currently underway in Anchorage. He detailed that many teachers were offered contracts as soon as the district knew it was in the clear financially. He relayed

that the districts would not be waiting until May 15 to offer contracts. He spoke to the importance of the pupil transportation issue; the transportation was costly and money would be taken from classrooms if the legislature did not provide funding.

[10:49:37 AM](#)

Representative Wilson asked whether there were districts that did not provide information on the importance of reading. Mr. Johnson believed every district did address the issue, but perhaps not in a formal or written way.

Vice-Chair Neuman CLOSED public testimony.

Representative Costello spoke to the three fiscal notes. Fiscal Note 2 from the Department of Education and Early Development had a zero impact. A new fiscal note from the Department of Education and Early Development had an impact of \$736,300 in FY 14, \$1,502,000 in FY 15, \$3,435,800 in FY 16 through FY 19. Fiscal Note 4 from the Department of Education and Early Development had an impact of \$45,400 in FY 14 through FY 19.

Representative Wilson added that the legislature had increased funding for literacy in the budget for the upcoming year. She hoped the department would work with the districts on utilizing the funds.

Representative Wilson MOVED to REPORT HCS CSSB 57 out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CSSB 57 was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from Department of Education and Early Development; one previously published fiscal note: FN2(EED); and one previously published zero note: FN4(EED).

[10:52:47 AM](#)

AT EASE

[10:56:18 AM](#)

RECONVENED

Co-Chair Stoltze resumed as meeting chair.

10:56:28 AM

AT EASE

11:00:33 AM

RECONVENED

#sb49

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 49 am

"An Act relating to women's health services and defining 'medically necessary abortion' for purposes of making payments under the state Medicaid program."

Representative Wilson MOVED to ADOPT the proposed committee substitute for SSSB 49(FIN), Work Draft 28-LS0410\Y (Mischel, 4/13/13).

Representative Costello OBJECTED.

A roll call began and was voided by Co-Chair Stoltze prior to its completion.

11:02:10 AM

AT EASE

11:02:29 AM

RECONVENED

Co-Chair Stoltze referred to the previous motion to adopt the CS. He asked the bill sponsor to explain his preference and the substantive differences between the CS and the prior bill version.

SENATOR JOHN COGHILL, SPONSOR, spoke in favor of the bill version that removed a family planning mandate; he believed the cost would be approximately \$1 million per year. He relayed that much of the provision would do something that was already done in the state. He believed the current operating budget had addressed some of the issues. He relayed that there were 18 core services under the component for women, children, and family services. He listed some of the services including school nursing, school health consultation, technical assistance for optimal health and safety, and educational achievement growth and development for school-aged children (AS 10 related to child health; AS 5 related to reproductive health services). Additional services included a prenatal

health program aimed at safeguarding and promoting the health of Alaskan mothers and babies through leadership and partnering and promoting professional standards.

Senator Coghill listed additional core services under the women, children, and family component including a women's health program that promoted resources and was essentially about healthy living. He stated the program was at the core of what the amendment had requested. The fifth core service related to an adolescence health team, out of wedlock prevention program to promote healthy relationships and strategies to prevent "mistimed" pregnancies. Another core service related to emergency and disaster preparedness for pregnant and postpartum women, children, and adolescents (particularly for individuals with special health care needs). He discussed a data analysis resulting from surveys on pregnancy risk assessment and monitoring. Additionally, a maternal, infant, and child death review was conducted. He stated that the amendment directed the state to do a "health care plan rewrite."

Senator Coghill mentioned a request from the current year and budgetary struggles. The request would add federal and state funds into the program on top of current funding. He read from component challenges related to the Department of Health and Social Services (DHSS) budget: "continued lack of access to family planning providers in many areas of the state contribute to the persistently high mistimed out of wedlock teen births." He relayed that help had been requested. He encouraged that "if we really want to do this, we can do it much more measured rather than doing it under this, what I would consider a rather large mandate." The mandate would require a rewrite of the entire health plan to be submitted to the U.S. Department of Health and Human Services for approval. He relayed that approval already existed and the issue was talked about in the existing DHSS budget.

[11:06:23 AM](#)

Representative Edgmon stressed that the bill focused on a "hugely controversial" issue. He requested to come back to the bill after the House floor session.

Senator Coghill offered to make the information available to committee members.

Co-Chair Stoltze deferred to Representative Edgmon's request. He expressed his desire to vote on the adoption of the CS prior to recessing. He expected that a vigorous debate would occur at a later time. He wanted to have the discussion with the "member's" bill before the committee.

Representative Edgmon requested to defer action on the adoption of the CS. Co-Chair Stoltze agreed to defer action.

Representative Edgmon requested an opportunity to contemplate the adoption of the CS.

[11:07:45 AM](#)

RECESSED

[7:21:09 PM](#)

RECONVENED

#sb18

CS FOR SENATE BILL NO. 18(FIN) am

"An Act making, amending, and repealing appropriations, including capital appropriations, supplemental appropriations, reappropriations, and other appropriations; making appropriations to capitalize funds; and providing for an effective date."

[7:21:35 PM](#)

Co-Chair Stoltze discussed a workdraft for CSSB 18(FIN) am and relayed that it contained several errors that would be corrected following its adoption.

Representative Costello MOVED to ADOPT the proposed committee substitute for CSSB 18(FIN) am, Work Draft 28-GS1798\H (Martin, 4/13/13). There being NO OBJECTION, it was so ordered.

Co-Chair Stoltze RECESSED the meeting until the following day.

#hb192

HOUSE BILL NO. 192

"An Act relating to the filing date for the final quarterly payment of, and to the assessment of penalties under, the fishery resource landing tax."

HB 192 was SCHEDULED but not HEARD.

[7:23:22 PM](#)

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RECESSED UNTIL 12:16 PM, APRIL 14, 2013.