

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

January 28, 2014

8:04 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Wes Keller, Vice Chair  
Representative Lynn Gattis  
Representative Shelley Hughes  
Representative Doug Isaacson  
Representative Jonathan Kreiss-Tomkins

**MEMBERS ABSENT**

Representative Charisse Millett

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 23

Proclaiming March 27, 2014, as Good Friday Earthquake Remembrance Day.

- MOVED CSHJR 23(STA) OUT OF COMMITTEE

HOUSE BILL NO. 255

"An Act relating to unmanned aircraft systems; and relating to images captured by an unmanned aircraft system."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 23

SHORT TITLE: GOOD FRIDAY EARTHQUAKE REMEMBRANCE DAY

SPONSOR(S): REPRESENTATIVE(S) MILLETT

01/21/14	(H)	READ THE FIRST TIME - REFERRALS
01/21/14	(H)	STA
01/28/14	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 255

SHORT TITLE: UNMANNED AIRCRAFT SYSTEMS

SPONSOR(S): REPRESENTATIVE(S) HUGHES, HIGGINS, THOMPSON, PRUITT

01/21/14	(H)	PREFILE RELEASED 1/17/14
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01/21/14 (H) READ THE FIRST TIME - REFERRALS  
01/21/14 (H) STA, JUD  
01/28/14 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

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

**POSITION STATEMENT:** Presented HJR 23 on behalf of Representative Millett, sponsor.

CHUCK VOLANTI  
Olympia, Washington

**POSITION STATEMENT:** Testified as the instigator of the idea behind HJR 23.

ROBERT "BUZZ" SCHER, Chair  
Alaska Seismic Hazards Safety Commission (ASHSC)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HJR 23.

DEAN DAWSON, State Archivist  
Alaska State Archives/Records & Information Management Service  
Department of Education and Early Development (EED)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 255.

RODNEY DIAL, Lieutenant  
Division of Alaska State Troopers  
Department of Public Safety (DPS)  
Ketchikan, Alaska

**POSITION STATEMENT:** Testified in support of the image retention requirements proposed in HB 255.

GREGORY WALKER, Director  
Alaska Center for Unmanned Aircraft Systems Integration  
University of Alaska, Fairbanks (UAF);  
Member

Legislative Task Force on Unmanned Aircraft Systems  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 255.

LUKE HOPKINS, Mayor  
Fairbanks North Star Borough (FNSB)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 255.

ANNE CARPINETI, Assistant Attorney General  
Legal Services Section  
Criminal Division  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 255.

BARBARA JOHNSON, Special Assistant  
Mayor Luke Hopkins  
Fairbanks North Star Borough (FNSB)  
Fairbanks, Alaska

**POSITION STATEMENT:** Offered some statistics regarding the economic development opportunity of unmanned aircraft systems during the hearing on HB 255.

**ACTION NARRATIVE**

[8:04:18 AM](#)

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:04 a.m. Representatives Keller, Gattis, Isaacson, Hughes, Kreiss-Tomkins, and Lynn were present at the call to order.

**HJR 23-GOOD FRIDAY EARTHQUAKE REMEMBRANCE DAY**

[8:05:07 AM](#)

CHAIR LYNN announced that the first order of business was HOUSE JOINT RESOLUTION NO. 23, Proclaiming March 27, 2014, as Good Friday Earthquake Remembrance Day.

[8:05:38 AM](#)

JEFF TURNER, Staff, Representative Charisse Millett, Alaska State Legislature, presented HJR 23 on behalf of Representative Millett, sponsor. He stated that March 27, 2014, will be the fiftieth anniversary of the "Good Friday Earthquake," a 9.2 magnitude quake, which tore apart 50,000 square miles of Southcentral Alaska, leveling entire communities and triggering massive tsunamis that brought more devastation to coastal areas. He explained that the purpose of the proposed joint resolution is not to highlight the earthquake itself, but to honor the thousands of Alaskans who put the needs of others before their own, including first responders, medical personnel, the Alaska

Army and Air National Guards, the U.S. Army Corps of Engineers, government employees, and everyday Alaskans. Those people conducted search and rescue operations, provided medical care, food, shelter, and the restoration of vital services and infrastructure, and saved many lives. He said the proposed legislation would recognize how a great disaster brought out the best of all Alaskans.

MR. TURNER said the bill sponsor asks that the committee support HJR 23, so that it can be included in the events that will be marking the fiftieth anniversary of the earthquake in Anchorage and other Southcentral communities. Mr. Turner noted that Chuck Volanti, one of the upcoming testifiers, is not only an Alaska Air National Guard who brought the idea for the proposed joint resolution to Representative Millett, but also served at Kulis Air National Guard Base during the earthquake and would be one of the people honored under HJR 23.

[8:07:47 AM](#)

CHAIR LYNN related that at the time of the earthquake, he was in the U.S. Air Force, on his way to be stationed in Kotzebue, Alaska, and landed on route at Elmendorf Air Force Base for Arctic Training. He recalled that "the place was still shaking with all the aftershock," and said, "You'd be talking to somebody and all of a sudden everybody would be under the desk." He said he saw the buildings on Fourth Avenue, where there was almost total devastation. He said it was a blessing [the effects] were not worse, and he suggested that the proposed joint legislation may be an appropriate one to consider.

[8:08:45 AM](#)

REPRESENTATIVE GATTIS said she remembers "a lot of great Alaskans helping other Alaskans that were in need." She said she was age seven at the time of the earthquake and remembers her mother telling her that she would give some of her clothes and toys to children who lost everything in Valdez. She said as the oldest child in her family, she was allowed to go with her father to the power plant to help return the power to Anchorage, and she saw [the destruction of] Fourth Avenue. She remarked that Alaskans put politics aside to help each other during an emergency situation.

[8:10:17 AM](#)

CHAIR LYNN, in response, offered his understanding that at the time of [the terrorist attacks of September 11, 2001], members of U.S. Congress stood together and sang "God Bless America."

8:11:02 AM

CHUCK VOLANTI indicated that the inspiration to bring the idea for HJR 23 to the legislature was his love of Alaska, its unparalleled beauty and people, and his experience serving in the Alaska Air National Guard. He continued as follows:

I believe the time has come to commemorate the tragic events of fifty years ago. I believe history unwritten is history forgotten. This legislation, when passed, will ensure its rightful place in Alaska state history.

On Good Friday, March 27, 1964, at 5:36 p.m., Alaska was ravaged with by a 9.2 magnitude earthquake - the largest recorded earthquake in U.S. history. It cast a pall of death and destruction covering thousands of square miles of pristine landscapes and lasting over four minutes, where seconds seemed like hours. Within an hour, I arrived at Kulis Air National Guard Base ..., then proceeded with flight dispatch responsibilities, organizing flight crews, coordinating the airlifts of supplies, equipment, and personnel, all of which was intended to alleviate the suffering of many citizens.

Nothing of this magnitude has had more impact on Alaska or its people; all were forever changed. The towns of Valdez, Seward, Portage, Girdwood, and Chenega Village were destroyed. Anchorage and the Anchorage Borough suffered deadly and severe devastation. The Good Friday Earthquake destroyed hundreds of dwellings and businesses and created numerous landslides, one of which cascaded several residential blocks of Turnagain by the Sea onto the mudflats of Turnagain Arm and Cook Inlet. The quake and tsunamis, with no respect for borders or boundaries, ... continued a path of death and destruction down the Pacific Coast all the way to Crescent City, California. The people who were displaced and suffered great loss number in the thousands.

It is time to recognize the quake's horrific impact on the state and the selfless rendering of humanitarian aid by first responders represented by thousands of Alaskan people coming from all walks of life, including countless military personnel. In the face of danger and uncertain circumstances, their display of selflessness, courage, and compassion proved the difference for many lives, even their own, as one life often affects another. The outcome of their efforts impacted not only their generation, but the generations that would follow - even those yet to be born. Their legacy remains intact.

As a former member of the Alaska Air National Guard, I dedicate the efforts I have expended to those mentioned in this resolution; for those who made the ultimate sacrifice - true patriots and heroes and the families they left behind. [It is] time to pay tribute and give memorials of all the lost souls of this tragic event, to acknowledge the thousands who served, to honor their memory, and to give them their rightful place in Alaska state history.

[8:14:20 AM](#)

REPRESENTATIVE ISAACSON thanked Mr. Volanti for his role in bringing forward HJR 23 and for his service in the Air National Guard and role in showing what that entity provides to the country. He also expressed thanks to the bill sponsor's staff. He said he grew up in the Seattle, Washington, area, and he remembers the tremors caused by earthquakes, in general. He opined that honoring those who lost their lives and those who sacrificed their time in the service of others is "fitting for all Alaskans." He pointed out that he was wearing a hat that was made by Mrs. Volanti in commemoration of the fiftieth anniversary of the Good Friday Earthquake. He stated his support of HJR 23.

[8:16:05 AM](#)

MR. VOLANTI indicated that [his role in bringing this proposed legislation to light] has been a privilege. He emphasized, "I have felt very strongly about this for many years."

[8:16:18 AM](#)

REPRESENTATIVE HUGHES said she is glad HJR 23 is being proposed for the fiftieth anniversary of the earthquake instead of waiting for the one hundredth, because those who would be honored may still be alive now. She said she thinks the proposed joint resolution is a reminder of how important it is for communities to pull together. Further, she said HJR 23 underlines the issue of emergency preparedness, which she said is a passion of hers. She said the Department of Military & Veterans Affairs (DMVA) has contacted her office, and she offered her understanding that the state is going to be conducting exercises in March, whereas exercises will occur nationally in October. She acknowledged that there are people who helped during the earthquake at a young age who, therefore, are not yet seniors.

[8:18:23 AM](#)

REPRESENTATIVE KELLER thanked the bill sponsor for bringing the joint resolution forward. He recounted that at the time of the earthquake, he was a high school student who lived in the Turnagain area. He said the event pained him, and he uses it as a marker of when he became an Alaskan.

[8:19:20 AM](#)

ROBERT "BUZZ" SCHER, Chair, Alaska Seismic Hazards Safety Commission (ASHSC), testified in support of HJR 23. He emphasized the importance of public education, awareness, and preparedness as an appropriate and direct means to mitigate the earthquake hazard [Alaska] faces. He said Alaska is one of the most seismically active locales, not only in the nation, but worldwide. He reported that just last year, over 28,000 earthquakes were instrumented in the state, including over 40 that were over magnitude 5 or larger - the size at which an earthquake can do damage, subject to how close the earthquake occurred.

[8:22:31 AM](#)

MR. SCHER said the commission fully supports HJR 23, but has suggestions regarding its language. First, he said although the earthquake goes by many names, including the Good Friday Earthquake, its formal name given by the U.S. Department of Geological Surveys is "The 1964 Great Alaska Earthquake." Next, he directed attention to "a comment about the area that was affected," on [page 1], line 4, and he said it is difficult to capture how large and significant the event was. He explained

that ground shaking was felt as far off as Barrow; it was felt 700-800 miles away from the epicenter in Prince William Sound. He then pointed out language in [lines 5 and 6], which mention "the largest earthquake in the history of North America." He said it would be more accurate to say "the largest instrumented earthquake in North America." He noted that it was also the second largest instrumented earthquake in the world - ever. Mr. Scher stated that the earthquake of 1964 was probably one of two or three defining moments of Alaska, Alaska becoming a state being another. He said the earthquake went a long way in proving geologic, engineering, and plate tectonic theories. It also brought to light the need for better building codes and land use planning.

[8:25:09 AM](#)

MR. SCHER recommended that the committee consider changing the proposed legislation to make March 17 an official day of remembrance in perpetuity, rather than acknowledging the day just on its fiftieth anniversary.

[8:25:46 AM](#)

REPRESENTATIVE ISAACSON reviewed Mr. Scher's aforementioned amendment suggestions.

MR. SCHER confirmed those were his recommendations.

[8:27:23 AM](#)

The committee took an at-ease from 8:27 a.m. to 8:29 a.m.

8:29:22 AM

CHAIR LYNN said the committee had a short conversation with Mr. Turner during the at-ease.

[8:29:30 AM](#)

REPRESENTATIVE KELLER moved to adopt Conceptual Amendment 1, to proclaim March 27 Good Friday Earthquake Remembrance Day in perpetuity. There being no objection, Conceptual Amendment 1 was adopted.

[8:30:08 AM](#)

CHAIR LYNN, after ascertaining that no one else wished to testify, closed public testimony.

[8:30:23 AM](#)

REPRESENTATIVE KELLER moved to report HJR 23, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 23(STA) was reported out of the House State Affairs Standing Committee.

[The committee revisited HJR 23 on 2/4/14.]

[8:30:51 AM](#)

The committee took an at-ease from 8:31 a.m. to 8:36 a.m.

#### **HB 255-UNMANNED AIRCRAFT SYSTEMS**

[8:35:52 AM](#)

CHAIR LYNN announced that the next order of business was HOUSE BILL NO. 255, "An Act relating to unmanned aircraft systems; and relating to images captured by an unmanned aircraft system."

[8:36:13 AM](#)

REPRESENTATIVE HUGHES introduced HB 255, as joint prime sponsor. She said the Legislative Task Force on Unmanned Aircraft Systems was created to study the issue [of unmanned aircraft systems], which is technology that will be seen in a wide variety of uses. She stated her number one concern is privacy. She said she also considered the Fourth Amendment as it relates to what government agencies are allowed to use. Representative Hughes talked about the benefits of harnessing unmanned aircraft use within Alaska for search and rescue missions, for monitoring pipelines, and for keeping watch for fires. She pointed out that with Alaska's lack of roads, it makes sense to use unmanned aircraft to save lives. Further, she indicated that the use of unmanned aircraft is cost effective.

REPRESENTATIVE HUGHES acknowledged that there have been concerns about the federal government's collecting of data over the last few years, including the keeping of phone records; therefore, she said the task force spent most of its time focusing on the issue of privacy. She indicated that there are two parts to the issue, and each had to be addressed "under two pieces." She said today she is discussing the piece that sets the parameters

for law enforcement use and allows the University of Alaska to establish a training program for unmanned aircraft systems operations.

[8:39:03 AM](#)

REPRESENTATIVE HUGHES stated that under HB 255, law enforcement would be allowed to use unmanned aircraft to gather evidence for a criminal investigation, under the express terms of a search warrant, as under AS 12.35, or in accordance with judicially recognized exception to the warrant requirement. She said the proposed legislation would set the parameters for the retention of images, limiting them to use in an investigation or prosecution, for training purposes, or if the image is required by federal or state law.

REPRESENTATIVE HUGHES brought attention to new language [in Section 1, beginning on page 1, line 13], which would: require a law enforcement agency to follow Federal Aviation Administration (FAA) training certification requirements; require the chief administrative officer of a law enforcement agency to approve each use of an unmanned aircraft; require a law enforcement agency to maintain records, establish an auditable flight record system, and establish a method of notifying the public, unless doing so would endanger a person's safety; and require that a law enforcement agency provide for community involvement in policy development. She mentioned police departments and state troopers around the country adopting procedures and guidelines specifically addressing privacy.

[8:40:39 AM](#)

REPRESENTATIVE HUGHES said it is sometimes difficult to take a balanced approach, because the application of technology will sometimes go beyond current laws. She noted that there were people available to testify.

[8:42:17 AM](#)

REPRESENTATIVE LYNN mentioned [surveillance] cameras taking photos of people on the street and unmanned aircraft. He asked, "Why are we concerned about one and not the other?"

[8:43:40 AM](#)

REPRESENTATIVE HUGHES opined that an unmanned aircraft, as a tool, is in itself neither evil nor good; the intention of the operator is key. She said the same type of camera can be used on a manned aircraft as well as on an unmanned aircraft; however, the unmanned aircraft is smaller, quieter, and able to access places that a manned aircraft cannot, "and so there is a concern." She said there have been technological advances, which extend the life of the batteries, so unmanned aircraft can be up for extended periods of time. She said the Fourth Amendment is part of the discussion when considering state use, and the First Amendment discussion falls under commercial use, which is increasing. She related that there is an application ("app") available that makes it possible to determine the location of drones and satellites. She said the drones being considered for use in Alaska are smaller than the ones used by the military. She further related that the FAA does not allow any weapons on unmanned aircraft. She indicated that that is one of the safety features that will bring peace of mind to the public.

[8:46:20 AM](#)

CHAIR LYNN asked if the proposed legislation would affect a private citizen who puts a video camera on a small aircraft.

REPRESENTATIVE HUGHES answered that HJR 22 would not affect that type of hobby use; it pertains to training and law enforcement use. She said whether [remote controlled] aircraft is considered a hobby model aircraft or an unmanned aircraft depends on the "purpose of use." She said hobby craft falls under the guidelines of the Academy of Model Aeronautics (AMA).

CHAIR LYNN observed that many kinds of airplanes can be controlled from the ground.

[8:47:56 AM](#)

REPRESENTATIVE KELLER directed attention to page 2, lines 24-26, which read as follows:

(b) In adopting procedures under (a) of this section, a law enforcement agency shall adopt the International Association of Chiefs of Police, Recommended Guidelines for the Use of Unmanned Aircraft.

REPRESENTATIVE KELLER said he would like the sponsor to describe the association. He mentioned the concerns of privacy, and thanked the sponsor for being willing to tackle the issue. In response to the chair, he pointed to a proposed requirement under HB 255, in paragraph (8), on page 2, lines 22-24, that the law enforcement agency would provide for public consideration, and he questioned the directive for the agency to adopt [the guidelines]. He said, "I still am wondering if the law enforcement agency shouldn't be required to take that into consideration at the same level as community input, as opposed to an international interest." He said Alaska is unique that it has a privacy clause in its constitution. He said, "There's a directive in there that legislators are to set guidelines for protecting the right to privacy. That's a tall order. I personally think that we have not done enough." He explained that he has trouble not customizing an international standard.

CHAIR LYNN said he shares Representative Keller's concern.

[8:51:30 AM](#)

REPRESENTATIVE HUGHES responded that she has "the same aversion ... to anything international," but realized when she read the document that "the guidelines would help protect Alaskans." She said the committee could choose which guidelines to adopt. She related that the Department of Public Safety (DPS) has adopted the guidelines. She said local governments may decide to employ unmanned aircraft in the future, and the task force was concerned that they offer the same privacy protections. She noted that the issue of community engagement is addressed within the guidelines and "being involved in the ... internal policy [making] for the agencies is part of the process." She deferred to Lieutenant Rodney Dial to speak about the guidelines.

[8:53:01 AM](#)

CHAIR LYNN said he has not read the guidelines. Notwithstanding that, he surmised that the guidelines are probably good, but he is not sure the bill language should state that "we must look at these guidelines."

[8:53:26 AM](#)

REPRESENTATIVE ISAACSON thanked Representative Hughes for the task force. He indicated that he had heard both cynical and favorable response from his community. He said it is known that Fort Wainwright may operate a military drone called, "Gray

Eagle." He said the military has expressed concern about finding a location where it can "immediately access restricted air space and not go over private residences, to allay the fear of government snooping." He said there are people in the Salcha area, on the eastern side of Fort Eielson, in the line of sight of the restricted area. He emphasized the need to define the public purpose, the training purpose, and the municipal ordinance. He said that as a former mayor, he can see the value of using unmanned aircraft to check out downed utility lines, for example. He indicated that public purpose could include parking, traffic control, animal control, speed traps, or searching for "old girlfriends." He questioned what the training purpose would be as it pertains to the retention of images. He relayed that retired Brigadier General Beau Daily (ph) had demonstrated how unmanned aircraft can be used to count marine mammals, without scaring the mammals. He reiterated that concern over unmanned aircraft revolves around the private citizen aspect.

[8:57:29 AM](#)

REPRESENTATIVE HUGHES offered her understanding that the same instances when a manned aircraft would be permitted would apply in use of unmanned aircraft, and that it would not include looking for old girlfriends. Regarding the capturing of images of private citizens, she said case law has shown that "if there is a reasonable expectation of privacy in that ... situation, then the images could not be retained and not be used and not be admissible." She deferred to state expert, Dean Dawson, for further comment on the issue.

[8:58:36 AM](#)

CHAIR LYNN remarked that he cannot imagine flying unmanned aircraft without going over someone's private residence - even inadvertently. Regarding the retention of images, he said the images captured by surveillance cameras in public areas are retained for a period of time. He said the bombers at the Boston Marathon were caught because of surveillance camera images that were retained. He surmised that those images could have been taken by an unmanned aircraft.

[8:59:30 AM](#)

REPRESENTATIVE ISAACSON responded that the other side of this is the public benefit. For example, he talked about "Google Earth," which captures "all sorts of stuff," but is relied upon

by many as a "base map." He questioned what the impact would be if a guideline is set different from that which is set for something else, for example, a satellite or shopkeeper's store [surveillance]. He questioned whether there would be unintended consequences from trying to keep people from abusing the system while using the unmanned aircraft for a good purpose, such as seeking out forest fires in order to extinguish them faster.

[9:00:47 AM](#)

REPRESENTATIVE HUGHES stated that there is economic opportunity for Alaska in this matter, and she warned that being overly restrictive with a tool could prevent it being harnessed for beneficial uses. She said there are issues unique to unmanned aircraft, such as their small size and quiet operation, and that, plus law enforcement use, is the reason for HB 255.

[9:01:46 AM](#)

REPRESENTATIVE KELLER mentioned a farmer in North Dakota, who was the first U.S. citizen to be thrown in jail for using unmanned aircraft in response to a situation where livestock crossed over property lines. Representative Keller said this is a "real issue" that must be addressed.

[9:03:09 AM](#)

REPRESENTATIVE HUGHES responded that that would not have played out the same in Alaska, because a search warrant would have been required.

REPRESENTATIVE KELLER said it concerns him that the farmer's defense had been that "there was no warrant for the drone surveillance."

[9:04:19 AM](#)

REPRESENTATIVE KELLER directed attention the proposed exemption on page 3, line 10, which would allow retention of images captured by unmanned aircraft if the image is required "by federal or state law or by municipal ordinance." He asked for examples. He questioned what kind of state law would be passed to allow those images to be kept in the context of law enforcement.

[9:05:22 AM](#)

REPRESENTATIVE HUGHES indicated that investigation, prosecution, and training purposes are being addressed. She said the task force did hear from DPS that current state retention policies do provide some challenges for them, and it's something that [the task force] decided not to address, because "it impacts more than this"; instead, it recommended the state look at the retention policies overall. She again deferred to Dean Dawson.

[9:06:27 AM](#)

REPRESENTATIVE KELLER indicated the need to have clear guidelines as to whether or not data can be retained, and he questioned whether Alaska wants "a blanket, wide open door for any state law that comes along that says they can retain" [images].

REPRESENTATIVE HUGHES suggested that it would also be beneficial for the committee to hear from Lieutenant Rodney Dial.

[9:08:18 AM](#)

DEAN DAWSON, State Archivist, Alaska State Archives/Records & Information Management Service, Department of Education and Early Development (EED), said the state records retention policies under AS 40.21 apply to the retention of images, and the state's general administrative retention schedule prescribes mandatory retention periods for all state records. He said, for example, there is a 30-day retention for video footage. He added, "And then, of course, the caveat is unless there is a pending litigation, audit investigation, or law enforcement activity." He said EED would recommend that DPS implement the records retention review and stipulate on its [records] retention schedule - which the attorney general also signs - exactly how long those images would be retained.

MR. DAWSON said in a situation where the state and a local government have differing retention periods, the general premise in a records and information management field is to retain for the longest period of time. He said those images would be confidential and privileged, pending a Freedom of Information Act request. He said DEED recommends that DPS prescribe procedures through policy development [outlining] exactly what the course of action for release of any potential privacy documents would be.

[9:10:15 AM](#)

CHAIR LYNN asked Mr. Dawson to confirm that "these would be ... for governmentally acquired images."

MR. DAWSON responded yes.

CHAIR LYNN asked if the retention of images recorded by private entities, such as Gavel to Gavel and all television stations, would be impacted.

MR. DAWSON answered no. He said the State Records Retention Act applies only to state government entities. He said, "We provide guidance to local governments upon request, but they're not bound by our statute."

[9:11:00 AM](#)

REPRESENTATIVE GATTIS questioned how current law differs for manned aircraft.

MR. DAWSON replied, "I'm not aware of any distinguishing parameter manned ... [vis-à-vis] unmanned."

[9:11:27 AM](#)

MR. DAWSON, in response to Representative Isaacson, expounded upon his previous statement regarding local governments, by explaining that the state consults and provides a general retention schedule to local governments, 95 percent of which follow the schedule.

[9:12:10 AM](#)

REPRESENTATIVE HUGHES echoed that the record retention policy pertains only to records required by state departments.

[9:12:20 AM](#)

REPRESENTATIVE ISAACSON ventured that municipalities defer to the aforementioned guidelines, because the archivists have already thought through all the issues.

MR. DAWSON said yes, and added, "In fact, we solicit the clerk's input for our retention schedules." In response to a follow-up question, he said generally speaking, the department does not engage the public in the development of its retention schedules.

[9:13:23 AM](#)

RODNEY DIAL, Lieutenant, Division of Alaska State Troopers, Department of Public Safety (DPS), stated that the Alaska State Troopers agency has no concerns regarding the image retention requirements proposed in HB 255 and believes they strike the right balance between privacy concerns and the operational needs of the department.

[9:14:00 AM](#)

GREGORY WALKER, Chief Technology Officer, Alaska Center for Unmanned Aircraft Systems Integration (ACUASI), University of Alaska, Fairbanks (UAF); Member, Legislative Task Force on Unmanned Aircraft Systems, relayed that he started the unmanned aircraft program at UAF ten years ago and still leads it from a technical perspective today. He said unmanned aircraft systems operations are used to observe wildlife, oil and gas operations, and climate change, and for emergency response.

MR. WALKER said there really is no new technology to consider; it is just a matter of how the technology for surveillance is being employed. For example, he said there are dashboard cameras in today's public vehicles that record imagery, and how those images are used is an ongoing concern involving consideration of retention length and the possible need for search warrants. He said he is part of the progressive task force, which is trying to protect Alaskans' constitutional rights for privacy, while at the same time putting out the message that Alaska is open for business with regard to unmanned aircraft technology, which can help in terms of the state's climate diversity and large land masses. Mr. Walker concluded by stating that the task force wanted to ensure there is a clear position on public use of unmanned aircraft and how other agencies manage the technology.

[9:17:34 AM](#)

LUKE HOPKINS, Mayor, Fairbanks North Star Borough (FNSB), opined that Section 1 of the bill is not only important to the FNSB, but to the entire state, because it would give the University of Alaska the ability to establish a training program in unmanned aircraft systems operations. He stated that this is important to the state's economic development. He said the University of Alaska has been designated to be the lead in the FAA test site for developing the ability for unmanned vehicles to be operated in commercial air space at some point in the future. He emphasized the importance of the University of Alaska to advance

research development and the use of technology to benefit citizens with the safe use of unmanned aerial systems. He said citizens demand that privacy and the transparency of law enforcement are upheld, which is why "the major piece of this legislation is so important for our citizens, with the proposed amendments that should provide proper oversight within the judicial parameters of our law enforcement agencies."

[9:19:55 AM](#)

MAYOR HOPKINS said the importance of gathering information by a law enforcement agency is understood, and the procedures proposed under HB 255 "set forth a fair and reasonable activity concerning law enforcement oversight." He warned against losing the aspect of the economic development of unmanned aerial systems. He said he thinks the task force "has done incredible work on establishing those."

MAYOR HOPKINS stated that as mayor, he understands Section 4, which would amend Title 29 so that "a municipality may not adopt an ordinance that permits the release of images captured" by [an unmanned aircraft system]. He said he is certain that any future assemblies will understand: "It'll be law." Mayor Hopkins reiterated that there are many benefits that unmanned aerial systems can have for Alaska, and he asked the committee to keep in mind, "While we have to regulate, we also don't want to regulate out of existence this new technology."

[9:22:00 AM](#)

REPRESENTATIVE ISAACSON noted that "this allows law enforcement applications," but the FNSB is "second class" and has not been given law enforcement powers. Nevertheless, he asked Mayor Hopkins if he thinks the proposed legislation would help in addressing issues related to the drug trade in outlying areas of the borough. He asked, "Do you have any particular concerns or do you feel that this is being adequately addressed through reference to these other statutes?"

MR. HOPKINS indicated that the borough is already in communication with DPS's detachment in the Interior. He said he thinks what law enforcement would be allowed to do and not allowed to do is clear in the proposed legislation. He echoed Representative Hughes' remark that this is a starting point, and changes can be made in the future.

[9:24:45 AM](#)

REPRESENTATIVE KELLER noted that Section 29 makes a reference back to a section of the law that is dealing with law enforcement, and said he is trying to figure out "if there's any implication here of anything to do with technology, data collected, that's outside of that narrow .903."

[9:25:52 AM](#)

REPRESENTATIVE HUGHES deferred to Anne Carpeneti.

[9:26:38 AM](#)

ANNE CARPINETI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), to the question from Representative Keller, said there are state statutes that do put constraints on law enforcement on retention of evidence. She said that in 2010, the legislature passed a retention of evidence law, which requires, in homicide investigations, that the evidence be retained for up to 50 years or the length of time the case is unsolved - whichever is longer. She said, for example, in some sexual assault cases, the deoxyribonucleic acid (DNA) has to be kept for as long as the defendant is required to register as a sex offender, and if that is sexual assault or sexual abuse in the first degree, that is for the duration of his/her life. She said there are statutes, and they bind municipal and state law enforcement agencies.

[9:28:31 AM](#)

CHAIR LYNN announced that he would keep public testimony open.

[9:28:47 AM](#)

REPRESENTATIVE ISAACSON, regarding public purpose, training, and municipal ordinance, asked Ms. Carpeneti, "What is currently on the books, and how does that ... play into this bill from [a] legal standpoint?"

[9:29:07 AM](#)

MS. CARPENETI answered that generally law enforcement keeps records in an investigation as directed in statute and according to the seriousness of the case. She stated that when the legislature debated the issue of record retention, it tried to adopt laws that took into account the size of the law

enforcement agency and its ability to preserve evidence. She said there is always tension between keeping the evidence and returning it to the owner. She related that a bill passed last session set up a procedure for a victim to be represented by the Office of Victims' Rights to bring an action in case that victim believes the police were retaining property that belonged to him/her unnecessarily. She noted that there is a provision in law that allows a law enforcement agency to take a cutting from a sofa for purposes of collecting DNA. She explained this is helpful for smaller agencies that may not have the ability to store the entire sofa.

REPRESENTATIVE ISAACSON recollected that [Mr. Dawson] had testified that municipalities do not have to follow state archiving schedules. He asked if municipal law enforcement officials have to follow the criminal laws established by the State of Alaska.

MS. CARPENETI answered yes.

REPRESENTATIVE ISAACSON ventured, then, that whatever the legislature does "on the state side" will govern "the municipal side."

MS. CARPENETI responded yes, if that is made clear in the proposed legislation.

REPRESENTATIVE ISAACSON directed attention to page 3, line 10, which lists one of the exceptions wherein a law enforcement agency could retain images as when the retention of the image is required "by federal or state law or by municipal ordinance". He asked, "At what point does municipal ordinance have more weight than state law, in law enforcement?"

MS. CARPENETI said she is not an expert in Title 29, but knows there are provisions in Title 9 that say state law rules. She said she could get back to Representative Isaacson with an answer.

REPRESENTATIVE ISAACSON suggested that if law enforcement is the purview of the state, then the committee should probably clarify the boundaries of municipal ordinance.

[9:34:03 AM](#)

REPRESENTATIVE KELLER asked if there are sections of law that govern non-law enforcement governmental retention of images.

[9:34:49 AM](#)

MS. CARPENETI replied that she is sure there are; she recalled that Mr. Dawson had testified that there are standards for retention of public records.

[9:35:17 AM](#)

BARBARA JOHNSON, Special Assistant, Mayor Luke Hopkins, Fairbanks North Star Borough (FNSB), related that she had attended several of the task force's meetings, where concerns were heard, other state's methods were studied, and opportunities to learn from missteps were taken. She stated, "We have worked really hard on the economic development side of this industry." She reported that an Association of Unmanned Vehicle Systems international 2013 study showed that in Alaska, direct jobs have the potential to bring in \$19 million, with 95 jobs, from 2015-2017, and increase from there to \$112 million, with 141 jobs to 2025. She thanked the University of Alaska for its work and participation with the task force, as well as in the community and around the state.

[9:37:22 AM](#)

CHAIR LYNN reiterated that he would keep public testimony open.

[9:37:55 AM](#)

CHAIR LYNN announced that HB 255 was held over.

[9:38:51 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:39 a.m.