

HOUSE FINANCE COMMITTEE  
March 16, 2018  
1:34 p.m.

1:34:05 PM

CALL TO ORDER

Co-Chair Seaton called the House Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Les Gara, Vice-Chair  
Representative Jason Grenn  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Dan Ortiz  
Representative Lance Pruitt  
Representative Cathy Tilton  
Representative Tammie Wilson

MEMBERS ABSENT

Representative Steve Thompson

ALSO PRESENT

Representative Sam Kito, Sponsor; Caitlyn Ellis, Staff,  
Representative Sam Kito; David Logan, DDS, Executive  
Director, Alaska Dental Society; Representative Chris Tuck,  
Sponsor; Kendra Kloster, Staff, Representative Chris Tuck;  
Deborah Kelly, Director, Division of Labor Standards and  
Safety, Department of Labor and Workforce Development.

PRESENT VIA TELECONFERENCE

Will Harlan, Section Chief, Mechanical Inspection Section,  
Division of Labor Standards and Safety, Department of Labor  
and Workforce Development.

SUMMARY

HB 255 PLUMBING/ELECTRIC CERTIFICATE OF FITNESS

HB 255 was HEARD and HELD in committee for further consideration.

HB 285 APPROP: MENTAL HEALTH BUDGET

CSHB 285(FIN) was REPORTED out of committee with four "do pass" recommendations, one "no recommendation" recommendation, and five "amend" recommendations.

HB 286 APPROP: OPERATING BUDGET/LOANS/FUNDS

CSHB 286(FIN) was REPORTED out of committee with four "do pass" recommendations, one "no recommendation" recommendation, and five "amend" recommendations.

HB 346 DENTIST: TEMPORARY PERMIT

HB 346 was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal impact note: FN1 (CED).

Co-Chair Seaton reviewed the meeting agenda.

#hb285

#hb286

HOUSE BILL NO. 285

"An Act making appropriations for the operating and capital expenses of the state's integrated comprehensive mental health program; and providing for an effective date."

HOUSE BILL NO. 286

"An Act making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; amending appropriations; making supplemental appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date."

[1:35:04 PM](#)

Co-Chair Seaton relayed the committee had finished with amendments to the bills the previous day. He reported that the Legislative Finance Division (LFD) and Legislative Legal Services had developed two new committee substitutes (CS) based on adopted amendments. He noted that an error had been discovered during review and had been corrected in the new CS for the operating budget (HB 286). He read from an explanation:

A subsection reference was inadvertently omitted in the Permanent Fund inflation proofing amendment that was H SAP 24. The beginning of the amendment on line 23 read 'the amount calculated under AS 37.13.145(c) after the appropriations made in (c) of this section, estimated to be \$942 million.' It should have read 'the amount calculated under AS 37.13.145(c) after the appropriations made in (c) and (d) of this section, estimated to be \$942 million.' Subsection (c) is the earnings reserve account draw to the General Fund and subsection (d) is the ERA draw to the Permanent Fund Dividend (PFD). Legal Services corrected the subsection 8(e) phrase so that it now reads as intended 'after the appropriations made in (c) and (d) of this section.'

There were three Legislative Finance Reports. They are stapled together in members' packets and will be posted on the Legislative Finance website once the new committee substitutes are adopted. In addition to these reports, Legislative Finance will also post their usual array of department reports.

The budget's general funds totals \$5.35 billion and all funds total \$10.44 billion. You'll note the general fund report shows an increase of \$170.8 million from the FY 18 management plan budget for agency and statewide operations. The larger unrestricted general fund changes that the committee made include the addition of \$19 million for the University of Alaska; the temporary addition of \$18 million for K-12 to replace the \$18 million of Public School Trust Funds until legislation is adopted; the temporary deletion of \$20 million from the senior benefits payment program, until the reauthorization legislation is adopted (we also adopted intent to fully fund the program), the addition of \$49 million to capitalize the Oil and Gas Tax Credit Fund and the

deletion of the \$27 million for the governor's oil and gas tax credit financing legislation, as the \$27 million should come forward as a fiscal note; the addition \$1 million for four attorneys and one support staff in the Public Defender Agency; and the addition of nearly \$500,000 for four additional guardians ad litem to represent children including Child in Need of Aid cases.

HB 286 includes a 4.75 percent of market value draw from the Permanent Fund Earnings Reserve Account; 67 percent of the draw or \$1.65 billion would be deposited into the General Fund and 33 percent of the draw or \$813 million would be deposited into the dividend fund, resulting in an estimated PFD of \$1,258. We added the estimate of \$942 million to inflation proof the Permanent Fund in FY 19 and we added \$1 billion of expenditure authority to the Alaska Gasline Development Corporation in FY 18 and FY 19 to help advance the development of the gas pipeline. We added one-time fund balances to the disaster relief fund, so the state is better prepared to respond to disasters.

[1:39:05 PM](#)

Co-Chair Seaton continued to read from a statement:

This budget fully funds the community assistance fund so that the communities can plan for the \$30 million distribution in FY 20. We added one-time funds to both the Department of Health and Social Services and Department of Fish and Game to be able to receive more of the federal funds that the state had previously had to revert to the federal government or simply had not been able to claim due to a lack in matching funds. In this budget the Constitutional Budget Reserve fund would contribute \$1 billion to filling the budget deficit plus \$100 million for possible FY 19 supplementals. Those are some of the larger amendments we've adopted.

[1:39:59 PM](#)

Co-Chair Foster MOVED to ADOPT the proposed committee substitute for HB 286, Work Draft 30-GH2564\R (Wallace, 3/16/18).

Representative Wilson OBJECTED. She did not support a \$170 million increase at a time when the state did not have the money.

Co-Chair Seaton pointed out that \$100 million of the total was for Medicaid, \$19 million was for the University of Alaska, and \$43 million was for transportation.

[1:41:13 PM](#)

Vice-Chair Gara supported the budget. He stated that for the past five years the legislature had been cutting the budget repeatedly. He cautioned that the next round of cuts would mean larger class sizes. He spoke about the safety net that provided stability for people and enabled them to work. He stressed that the unrestricted general fund (UGF) budget was currently \$560 million lower than 2015. Cuts had resulted in the loss of over 1,000 teachers and support staff since 2013. He did not believe it was something to be proud of. In prior years there had been a fight against individuals who wanted to cut education further. He pointed to a proposal the preceding year to cut education by \$70 million more. He was glad the cut had been staved off. Even a flat-funded education budget would likely mean the loss of another 200 teachers and support staff.

Vice-Chair Gara underscored the current budget was not a luxury budget. Cutting over \$500 million since 2015 had not been without impacts. In the current budget cycle, he had been alarmed to learn that there was still a revolving door at the Alaska Psychiatric Institute (API). He detailed that patients returned to API because there were not follow up services to help the individuals stand on their own. He reported that 30 percent of the people discharged from API were back within six months.

Vice-Chair Gara discussed Medicaid and explained that the way federal and state law was written, the lower a person's income, the more likely they were to qualify for Medicaid. He continued that all the state had done on Medicaid was find efficiencies and cut costs paid to providers. With 33,000 more people on Medicaid since 2015, the Medicaid budget was lower than it had been in 2015. He did not believe the legislature had come together in a way to deal with the current recession. As long as the state remained in recession, the Medicaid budget would increase because

every time someone lost their job or had lower income, they were more likely to qualify for Medicaid. He underscored that the state could not deny individuals medical coverage when statute specified individuals were entitled to Medicaid coverage at low incomes. He noted that the vast majority of Medicaid recipients were seniors, children, and people with disabilities. He did not support cutting their services. The remaining majority of Medicaid recipients had lower income given the recession. The state had not added Medicaid services. He stated it was a tough budget to deal with, but it was not a luxury when 200 additional teachers would be lost in the coming year and API was acting as a revolving door.

[1:45:35 PM](#)

Representative Pruitt opposed the budget. He emphasized that the issue facing the committee was about whether the legislature was willing to manage what it was facing. He stated that Republican Minority amendments that had been offered in committee had not made drastic cuts. He pointed out that they had not touched the education budget and had agreed with other members about the amount. He recalled that in 2017 he and his colleagues had been denied proposed cuts they had based off of previous years. In the current process they had looked at years like FY 17 for reference but had not proposed reducing the budget to that level. He reported that their amendments had proposed slight reductions, but they had all been denied.

Representative Pruitt stated that whatever the administration said had been treated like gospel. Yet research by their competent staff had initiated realistic discussions on how to manage the situation. He believed if the public was asked to participate via a PFD reduction or tax, it would be necessary to prove the legislature would analyze every line of the budget. He did not believe the committee had done that. He thought the committee had merely "said no to say no." He detailed that during the process the committee had heard from people on why a cut should not be made. He opined that many times the individuals had not been able to give justifiable reasons the cuts should not be made. He stated that amendments had been turned down anyway.

Representative Pruitt stated it was necessary to continually analyze how things were delivered across the

scope of government agencies in order to prevent larger class sizes and reductions to Medicaid and other things. He did not believe it was tenable to turn down everything that was offered. He thought the legislature should have a dynamic process that could be adjusted based on what it was facing. He stressed it was the difference between the government and the private sector. He stated that something would collapse and cease to exist if it was not innovative. He shared that he had previously worked for two Fortune 500 companies - one was innovative and continued to grow, while the other was not innovative and was faltering. He thought the legislature was acting like it should not be innovative when it failed to consider making spending changes. His concern with the budget was that the committee had just decided it was done with cuts, despite strategically crafted amendments that had been done with a scalpel, which had all been turned down.

Representative Pruitt did not believe the legislature would gain the public's trust if it could not prove the public's contribution would be spent appropriately. He believed the committee needed to consider whether it wanted to tell the public it was satisfied with the current budget. He opined the public would vocalize that it still did not trust the legislature. He thought they should take time to rethink some of the things that had been offered.

[1:50:44 PM](#)

Representative Tilton expressed opposition to the budget. She echoed comments of her colleagues. She stressed the budget had increased by \$170 million. She pointed out there was a travel freeze, but the committee had increased travel. Additionally, there was a hiring freeze, but PCNs [position control numbers] and employees had been increased. She stated the budget had not been increased higher than \$170 million because the legislature had used some money from other funds. She characterized the move as creative and clarified that it was not always bad but would leave some holes in the next budget cycle. She stated it was one of the reasons for the current situation - some holes had been left from the last budget cycle. She stressed that her constituents did not want an increase in government spending. She was opposed to the current budget because it gave more money to government.

[1:52:07 PM](#)

Representative Guttenberg spoke in support of the budget. He believed the amendment process demonstrated how difficult it was to strategically strike and cut the budget. He stated there had been proposed cuts that were below the typical level. He reasoned that if some of the cuts had been accepted they would hinder economic development through the Department of Natural Resources related to permitting and public information on the state's resources. He believed the committee had illustrated significant restraint. He stressed that the money going to the University associated with Arctic research was important in terms of Alaska's global position. He mentioned a recently published Alaska Gasline Development Corporation (AGDC) report showing the perspective on Alaska was closer to 80 percent of the industrial world than any other location. He believed the distance would close; Alaska was centrally located, and it was important to ensure the state was prepared. He remarked that the state had not gone far enough "in those economic development things," but he did not believe it was currently poised to get there.

Representative Guttenberg continued that if the budget had not addressed issues pertaining to public defenders, the state's criminal justice and courts would have been incapacitated because a balance was needed. When he had considered the overall budget cuts and actions that had been taken he recognized how difficult it had been to make the cuts. Many of the people the committee had heard from who had discussed the size of government and what they wanted to do, clearly illustrated the services were needed. He noted that some people merely say government is government, but he countered that government provided services to the people of Alaska including education, criminal justice, and Medicaid coverage. There were many things the state needed to be doing that it was not doing, but he acknowledged the fiscal crisis and reasoned it was not possible to do everything that was needed.

Representative Guttenberg looked forward to the day the state could dig itself out of its deficit and he reasoned the problem would be solved by filling the hole in, not by digging deeper. He spoke about roads that were not being plowed on time - the priority of roads was slow in the Interior. He noted the region had experienced one of its snowiest winters during the current year. While people

wanted to see government cut, they also wanted the services. He detailed that individuals wanted their children in school, a college education, plowed roads, and industrial services (i.e. permits granted for resource development, projects, and jobs). He reported that residents on the North Slope were losing jobs faster than nonresidents. The budget was tight and would likely remain tight for some time. He thought the state had done an economic job of suppressing budget growth because it happened whether the legislature did anything or not.

[1:56:19 PM](#)

Co-Chair Seaton responded to some of the points made by Minority members. He referenced the general funds chart [provided by the Legislative Finance Division titled "Multi-year Agency Summary - Operating Budget - FY 2019 House Structure" dated March 16, 2018 (copy on file)] showing all UGF and designated general funds (DGF). The right column, compared to the governor's budget, showed five line items with reductions and six line items with increases. The chart identified all of the agencies that received either reductions or increases. The second column showed \$21 million in the Department of Corrections (DOC). He explained there had been a \$21 million hole in the budget because it had been left for a supplemental. The current budget filled the hole, which should eliminate the supplemental the following year. He explained that they had tried to use the process throughout the entire budget. They had capitalized funds for disaster relief and fire suppression to avoid supplementals in the coming year. He acknowledged the items made the budget look heavier, but the approach was more honest.

Co-Chair Seaton pointed to the far right column showing all general funds, which included \$18 million for K-12 and \$19 million for the University. He explained the importance of the numbers that compared the FY 19 governor's amended budget to the House Finance Committee final budget. He acknowledged the hard work put in by finance subcommittees. He noted that there had been almost as many reductions to agencies as there had been additions. He hoped to ensure as much transparency as possible in the budgeting process. He appreciated all of the comments made by the Minority and Majority during the process. He hoped there would be better ways to get down to appropriation and allocation lines in the future, which would result in a more strategic

conversation. He thanked all committee members for their participation in the process.

[1:59:42 PM](#)

Representative Wilson pointed to page 2, line 1 of the LFD multi-year agency summary. She referenced the negative \$5.913 million associated with the Permanent Fund under the FY 19 governor amended column. She asked if the POMV [percent of market value] and the 33 percent [for the PFD] meant there would be \$5.913 million less to be allocated toward the PFD. She was trying to understand where the 0.7 percent decrease [shown in the last column on the right] came from.

[2:00:25 PM](#)

AT EASE

[2:01:17 PM](#)

RECONVENED

Co-Chair Seaton pointed to the FY 19 governor's amended budget under the third column on page 2 showing \$818,876.5 million. He explained the figure had been based on a higher number of participants in the PFD, even though the PFD calculation was lower. The legislature had received an updated number of estimated participants. He pointed to the fourth column showing \$812,963.0 million that reflected a slightly higher dividend and a lower number of participants due to some outmigration.

Representative Wilson thought that because the POMV was in the budget, 66 percent would go to the government and 33 percent went to the people. She did not believe the money shown in the chart should change based on the number of participants. She detailed the amount was set and no longer used a formula like in the past. She did not understand how participants had anything to do with it. She thought it appeared they were lowering the individual share, which she did not believe made sense because the amount should be set.

[2:03:15 PM](#)

Representative Pruitt explained that the governor had included 5 percent with the 30 percent. One of the changes made by the co-chair was a 4.75 percent [POMV draw] with 33

percent directed to the PFD. While there was less money, the figure reflecting fewer people resulted in a higher PFD, but it was the reason for the reduction of \$6 million (it was the change in the structure for the POMV draw and where it went).

Co-Chair Seaton agreed that the governor's proposed budget included a 5 percent POMV, and the House Finance Committee CS included a 4.75 percent draw. The change accounted for the difference in the gross amount of money.

Representative Wilson asked for verification the difference [in the third and fourth column on page 2] was related to the draw percentage, not to the participants.

Co-Chair Seaton agreed.

Vice-Chair Gara remarked that there was no agreement in the legislature on what the dividend amount should be. He recalled the current Republican Minority leader had proposed \$1,000 dividends two years back. There were also others in both parties who were on the opposite end. The House Finance Committee had determined the \$1,000 dividend was too small. He elaborated that the committee had worked for a \$1,200 dividend in 2017, but the Senate had not agreed and a dividend of \$1,100 had been decided on. He highlighted that the current budget included a \$1,250 PFD. He reiterated there was huge disagreement among legislators within their own parties on what the amount should be.

Co-Chair Seaton pointed out that the current discussion had been about the gross amount taken for the dividend. He corrected his earlier statements pertaining to the difference between the two columns [columns 3 and 4 on page 2 of the LFD multi-year agency summary]. He explained that Representative Pruitt was correct the difference between the two columns was a 5 percent draw and a 4.75 percent draw. He detailed that a 5 percent POMV draw would take more out of the Permanent Fund than a 4.75 percent POMV draw.

Representative Wilson clarified the money would come out of the Permanent Fund Earnings Reserve Account (ERA); the legislature could not draw from the Permanent Fund corpus. She believed they needed to be careful with terminology. She underscored that the proposed budget did not guarantee \$1,250 PFDs. She detailed the budget included a 66/33

percent cut [directed to government spending and the PFD respectively] of the 4.75 percent [POMV draw from the ERA]. The number of individuals eligible for the PFD would determine the dividend amount (the calculation would be whatever the 33 percent came out to be divided by the number of eligible recipients). She emphasized that the proposed budget may result in PFDs of \$1,250, but they may be a little more or less. She did not think it was prudent to discuss what the other body would or would not do. She wanted to keep the conversation to the details of the bill.

[2:07:37 PM](#)

Co-Chair Seaton corrected that the POMV was calculated on the average value of the five years preceding the current year, which was on the total average value of the Permanent Fund. The draw would come from the ERA, but the average value calculation included the ERA and the corpus.

Representative Wilson wanted to ensure the public knew something "was still sacred in this world."

Co-Chair Seaton agreed.

Representative Wilson MAINTAINED her OBJECTION.

A roll call vote was taken on the motion to adopt the CS for HB 286.

IN FAVOR: Gara, Grenn, Guttenberg, Kawasaki, Ortiz, Foster, Seaton

OPPOSED: Wilson, Tilton, Pruitt

Representative Thompson was absent from the vote.

The MOTION PASSED (7/3). There being NO further OBJECTION, Work Draft 30-GH2564\R for HB 286 was ADOPTED.

Co-Chair Foster MOVED to ADOPT the proposed committee substitute for HB 285, Work Draft 30-GH2566\U (Wallace, 3/16/18).

Representative Wilson OBJECTED for discussion. She believed the committee needed to mature. She did not support removing a project so the other body could remove a project in order to take the bill to conference committee. She believed the legislature had better things to do. She

elaborated that the Alaska Mental Health Trust Authority (AMHTA) went through its budget very closely and decisions were made by the board. She thought it was time to change the practice of continuing something because it was the way it had always been done. She WITHDREW her OBJECTION.

There being NO further OBJECTION, Work Draft 30-GH2566\U for HB 285 was ADOPTED.

[2:10:13 PM](#)

Co-Chair Foster MOVED to REPORT CSHB 286(FIN) out of committee with individual recommendations.

Representative Wilson OBJECTED.

[2:10:33 PM](#)

AT EASE

[2:10:51 PM](#)

RECONVENED

Representative Wilson MAINTAINED her OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Grenn, Guttenberg, Kawasaki, Ortiz, Gara, Seaton, Foster

OPPOSED: Pruitt, Tilton, Wilson

Representative Thompson was absent from the vote.

The MOTION PASSED (7/3).

There being NO further OBJECTION, CSHB 286(FIN) was REPORTED out of committee with four "do pass" recommendations, one "no recommendation" recommendation, and five "amend" recommendations.

[2:11:52 PM](#)

AT EASE

[2:14:34 PM](#)

RECONVENED

Co-Chair Foster MOVED to REPORT CSHB 285(FIN) out of committee with individual recommendations.

There being NO OBJECTION, CSHB 285(FIN) was REPORTED out of committee with four "do pass" recommendations, one "no recommendation" recommendation, and five "amend" recommendations.

[2:15:11 PM](#)

AT EASE

[2:16:32 PM](#)

RECONVENED

Co-Chair Seaton thanked members and staff for their work on the budget. Additionally, he thanked Legislative Legal Service, LFD, and his staff.

#hb346

HOUSE BILL NO. 346

"An Act relating to the licensure of dentists."

[2:17:17 PM](#)

REPRESENTATIVE SAM KITO, SPONSOR, shared that he was the chair of the House Labor and Commerce Committee, which had introduced the bill. He asked his staff to provide a bill introduction.

CAITLYN ELLIS, STAFF, REPRESENTATIVE SAM KITO, provided detail on the bill. The bill would allow the Board of Dental Examiners to grant temporary licenses for an emergency replacement of a dental specialist or dentist serving in a community without additional dentists. There were only 136 dental specialists covering eight different specialties in Alaska. The numbers were slim in small communities making it difficult to get care. The bill would open up dental licenses to be determined by the board. The licenses would be granted for 90 days with the option for a couple of extensions. The bill would open additional opportunities for care by addressing the gap in coverage in small communities where dental specialists were difficult to reach.

Representative Kito added the bill aimed to cover temporary emergency situations where a dentist was unable to perform a service and was unable to find someone to perform the service. The bill would allow the dentist to draw from a

pool of dentists licensed from other states to help on an emergency and temporary basis. If the dentists were not licensed and were interested in providing more regular service in Alaska, they would be responsible for becoming licensed. The bill only provided for temporary and emergency situations.

Representative Wilson asked if the Alaska Mission of Mercy that brought dentists in to work in Fairbanks, Anchorage, and other locations fell under different licensing than the licensing in the bill.

Representative Kito deferred the question to the Alaska Dental Society.

DAVID LOGAN, DDS, EXECUTIVE DIRECTOR, ALASKA DENTAL SOCIETY, answered there were two separate licenses. The Mission of Mercy used a courtesy license that allowed people to work for pro bono events. The temporary license [used in the bill] would allow someone to come in and work in a private office or salaried position for compensation.

[2:20:59 PM](#)

Representative Guttenberg shared that a number of years ago a friend had married a dentist from New Zealand. The dentist had not been able to get licensed in Alaska by the board despite his work as a licensed dentist in New Zealand. He wondered if the temporary license allowed by the bill would apply to an international person. He asked if a person had to be already licensed in Alaska or could be licensed somewhere else within the United States.

Mr. Logan responded that the bill would not change the particular situation highlighted by Representative Guttenberg. There was now an avenue for someone licensed in another country to gain a license. The bill would require a dentist to be licensed in the U.S. in order to obtain a temporary permit.

Representative Guttenberg asked if there was currently a national shortage of specialists. He wondered if there would be specialists available from other states to come to Alaska in the event of a shortage.

Mr. Logan responded that Alaska did not have a shortage of specialists, but it had just enough. If one specialist was

suddenly incapacitated there was no room in the system to pick up the slack, especially if they were practicing outside of Anchorage. He speculated that Anchorage could perhaps pick up the slack, but the workforce was unavailable anywhere else in Alaska. There was not a large pool of specialists to pull from in Alaska.

Representative Guttenberg asked whether the national specialist pool was tight or loose. He wondered what it would take to entice a specialist to work under a temporary permit in Alaska.

Mr. Logan replied that bill attempted to tap into the national pool. The bill would allow someone licensed and practicing in another state to come to Alaska to help in a temporary situation. There was an abundance of specialists in the larger urban areas of the U.S. There was not a lack of dentists in the U.S.; however, they were over centered in urban areas and under centered in rural areas - Alaska was no exception.

[2:23:39 PM](#)

Representative Guttenberg stated that years back a friend had started Mushing Magazine and the hospital had thanked him because it had been their best recruitment tool. He elaborated that many doctors had come up from Minnesota and northern areas. He asked what it would take to entice people to come up to Alaska.

Mr. Logan replied that if a dentist was incapacitated they would likely reach out to classmates they had gone to specialty school with or people they know through professional organizations. He provided a hypothetical scenario where a dentist broke a hand and could not work for several months. More than likely they would find someone to come up and help by working evenings and weekends. He explained it would be a sacrifice on the part of the specialist, but communities that would otherwise not receive care would have an avenue towards care.

Representative Guttenberg asked if there was a chart showing the pay differential between specialists in Alaska and specialists in other states. He added he was supportive of the bill.

Mr. Logan replied not to his knowledge. He had seen a pay differential chart for general dentists, but not specialists.

Vice-Chair Gara stated that he had initially misunderstood the bill. He asked for verification that the bill would enable individuals licensed in another state to work temporarily in Alaska.

Mr. Logan answered in the affirmative. He clarified that someone trained in one specialty would not have the ability to work in another specialty, given an absence of training in the other specialty. The bill would be an avenue to allow out-of-state dentists to work in Alaska under a temporary permit. He explained that if a dentist was already licensed in Alaska, they had no need for the legislation and could move around the state at will.

[2:26:49 PM](#)

Co-Chair Foster OPENED and CLOSED public testimony. He provided the House Finance Committee email address for written comments.

Vice-Chair Gara addressed the one fiscal impact note from the Department of Commerce, Community and Economic Development. The note showed \$2,600 in receipt services to be paid for by licensees for the cost of potentially amending regulations.

Co-Chair Seaton MOVED to REPORT CSHB 346(L&C) out of committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, CSHB 346(L&C) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

[2:28:53 PM](#)

AT EASE

[2:29:23 PM](#)

RECONVENED

#hb255

HOUSE BILL NO. 255

"An Act relating to individuals and employees who must have certificates of fitness to perform certain plumbing and electrical work; and relating to civil penalties and violations for not having required certificates of fitness."

[2:29:55 PM](#)

REPRESENTATIVE CHRIS TUCK, SPONSOR, introduced himself and his staff.

KENDRA KLOSTER, STAFF, REPRESENTATIVE CHRIS TUCK, provided detail on the bill. The bill would change the penalties for performing plumbing and electrical work without a license, which was called a certificate of fitness. The bill would replace the existing criminal penalty with a nonviolent penalty. Currently, the penalty was a \$500 fine and a misdemeanor. The bill would change the penalty to an administrative fine and a violation. She explained that the original bill made several changes to the way things worked. She detailed that the bill would reduce the penalty to \$125 [for an individual] and \$250 [for an employer] for a first offense. A second offense would mean a fine of \$250 for an individual and \$500 for an employer.

Ms. Kloster addressed changes made in the House Labor and Commerce Committee. There had been concerns about a violation going on an employee's record; therefore, the provision had been changed. She provided an example of an employee without a certificate of fitness being instructed by an employer to conduct plumbing or electrical work. Under the circumstance, the sponsor wanted to ensure the employee was not given a violation on their record; however, the individual could be charged a fine by the Department of Labor and Workforce Development (DLWD) for conducting the work without the certificate. She elaborated that the violation would show up on the record of the employer if they continued to practice without a license. The bill had been brought forward during work with DLWD to provide the department with better enforcement tools. The current penalties went through the Department of Law (DOL) and the process was cumbersome. She explained they did not necessarily want to charge individuals with misdemeanors. The bill would provide the state with better enforcement tools to ensure the law was effective.

[2:32:44 PM](#)

Representative Ortiz asked for verification that a certificate of fitness was the lone license electricians and plumbers had in Alaska.

Representative Tuck replied in the affirmative. He detailed the term certificate of fitness meant an individual was fit to perform the work once they had gone through an apprenticeship program, passed a test, and had demonstrated the required hours. He confirmed that the certificate equated to a license.

Representative Ortiz asked about the need for the bill. He wondered if there was significant work taking place that was unlicensed. He asked if the perception was anecdotal or based on statistics.

Representative Tuck answered that primarily there were numerous people doing site jobs in people's places without an electrical license. He explained it was difficult to keep track of the occurrences and to enforce the law. Currently, the offense was a misdemeanor and a fine up to \$500. It was costly to go to DOL to get a prosecutor to do a cease and desist order and prosecute for a misdemeanor conviction. The bill would allow a simple fine for DLWD to enforce. Additionally, there was no ability to enforce when people let their licenses expire and continued to work.

DEBORAH KELLY, DIRECTOR, DIVISION OF LABOR STANDARDS AND SAFETY, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, pointed to the department's fiscal note [OMB Component Number 346]. The department had used a three-year average of its cease and desist orders for people found working without a certificate of fitness [shown on page 2 of the fiscal note]:

- 46 individuals engaging in work without a valid certificate
- 5 individuals engaging in work without a valid certificate
- 22 employers using workers without a valid certificate
- 9 employers using workers without a valid certificate

Ms. Kelly added that the bill would address repeat offenders who realize the department gave cease and desist

orders but did not typically follow through on misdemeanors because the court system district attorneys had other priorities. Once an offender saw the piece of paper did not have much force, some of the repeat offenders refused to come into compliance.

Representative Ortiz asked for a brief overview of how enforcement happened. He wondered how a person got caught and cited for working without a certificate.

Ms. Kelly replied that DLWD had multiple employees in the field including a full-time contractor licensing investigator, several plumbing inspectors, and several electrical inspectors. The employees were on construction sites constantly as part of their job. The department also had wage and hour investigators who were able to detect people doing unlicensed work. The employees knew how to identify the work and what was subject to the code and they performed enforcement.

Representative Ortiz asked how the bill gave DLWD more ability to enforce the certificate requirement.

Ms. Kelly answered that the bill enabled DLWD the ability to issue an administrative fine and violation for first and subsequent offenses. Currently, the department could issue a cease and desist on a piece of paper. She explained that if a person continued to violate the law, the misdemeanor penalty was "pretty toothless" because DLWD had to request a district attorney to prosecute.

[2:38:12 PM](#)

Representative Wilson asked if there was one certificate for a plumber and one for an electrician. Alternatively, she asked if there were multiple certificates for some trades.

Representative Tuck replied there was a certificate for electricians, linemen, and plumbing code. For example, an electrician could be an "inside wireman" with a full commercial license that required an 8,000-hour apprenticeship program. There were also residential electricians that were required to complete a 4000-hour program. An apprentice could also get a certificate of fitness in one of the two categories. Additionally, there

was a certificate of fitness for power linemen and another for plumbers.

Representative Wilson asked if the state had always been able to impose a misdemeanor penalty on employees and employers.

Representative Tuck responded in the affirmative and cited AS 18.62.080. The definition in statute referred to "a person" who could be an employer and employee or anyone performing work under the jurisdictions. He read from statute:

A person, either an employer or employee, who violates a provision of this chapter or of a regulation adopted under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$500.

Representative Wilson thought it appeared that Section 3 of the bill opened it up more than in the past. She pointed to page 2, lines 14 through 17, pertaining to penalties. She observed that the bill would remove employer [from line 14] and would add the words "other than" to read as follows: "A person, other than an employee, who violates a provision of this chapter..." She asked about the reason for the language change. She wondered who else would be included.

Representative Tuck answered that within the provision, the bill would separate the difference between an employer and someone other than an employer because the bill would split up the fines. He did not believe an employee should receive the same fine as an employer. He explained that a first offense for an employer was \$250 and each following offense was \$500. Whereas, the first offense for an employee is \$125 and each following offense was \$250. He elaborated that the section recognized that a person, other than an employee, who violated the provision was guilty of a violation rather than a misdemeanor. He cited that the person would be punished as prescribed under AS 12.55 by a fine of not more than \$500.

[2:41:44 PM](#)

Representative Wilson provided a scenario where an employee with a certificate of fitness was asked to do a job by their employer that the employee believed was covered by

their certificate. She used an example of installing and covering up conduit. She wondered if there was a chance DLWD may claim the employee was doing work not covered by the certificate and could subsequently fine the employee.

Representative Tuck replied that as long as an employee had a certificate of fitness they could do all provisions of the electrical code, which included back fillings (as in Representative Wilson's example).

Representative Wilson asked for verification there would never be a situation where an employee would have to check their certificate of fitness to ensure the employer was not asking them to do something that could be a violation. She had no problem with the [bill's provision pertaining to the] employer. She believed an employer should know all of the rules associated with a job. She considered that perhaps there were nuances where one union could do one thing, and another could do something else. She wanted to avoid someone being fired because they were uncertain they could do the work legally or being fined for doing was what their boss asked.

Representative Tuck clarified that a certificate of fitness was not a document that gave an employer the ability or jurisdiction to do the work. A certificate of fitness was a license for and owned by the individual. Typically, people licensed in a field knew what they could and could not do. An employer was required to have an administrator's license to do the work. He explained that contractors could not all perform electrical work. He elaborated that a contractor was required to have an administrator's license. Before a contractor could obtain the license, they were required to have a certificate of fitness for a designated amount of time. They were also required to get three people with an administrator's license to sponsor them to be able to take the test to become a contractor.

Representative Tuck confirmed that under current law an employee and employer would get in trouble if a contractor who was or was not an administrator instructed an employee without a certificate of fitness to perform work. He detailed both individuals could be charged with a misdemeanor under current law. He believed the employee should not be punished as severely as the employer. He explained it was no different than an employer telling an employee without a commercial driver's license to drive a

tractor and trailer across town to deliver materials. He reiterated his understanding of Representative Wilson's question.

[2:45:47 PM](#)

Representative Wilson explained that her question was about someone with a certificate of fitness who performed work they believed to be covered by their certificate, but it was not. She referenced Representative Tuck's example and noted there was a project administrator, employee, and perhaps the administrator's boss overseeing the whole project. She asked if all three individuals would get in trouble if one person was doing the wrong thing.

Representative Tuck replied that only the employer and the person who performed the work [would get in trouble].

Representative Wilson asked if the administrator had no responsibility.

Representative Tuck answered that the administrator had the authority to do the work; therefore, they would not receive a violation.

Ms. Kelly elucidated that an electrical administrator could be the employer, employee, or could hire the employer. She clarified that being an administrator required an extra license. She explained that the administrator's job was to ensure the electrical work or plumbing work had integrity. The administrator was not necessarily telling people what to do or directing the work. She elaborated they could be conducting site inspections or reviewing plans to ensure the work was sound. Administrators were generally journeymen certificate holders who took an additional step to pass additional qualifications, which were administered by the Department of Commerce, Community and Economic Development (DCCED). She added that DLWD would not look at the administrator when conducting certificate of fitness enforcement.

[2:47:56 PM](#)

Representative Grenn asked for detail on what happened to an employee when a violation was discovered.

Representative Tuck agreed and noted the process was the same for hairdressers and other individuals when they were found to be working outside their license.

Ms. Kelly deferred to a colleague.

WILL HARLAN, SECTION CHIEF, MECHANICAL INSPECTION SECTION, DIVISION OF LABOR STANDARDS AND SAFETY, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT (via teleconference), asked Representative Grenn to restate the question.

Representative Grenn asked what happened to an employee when a violation was discovered. He wondered about the citation procedure and the civil penalty.

Mr. Harlan replied that it was similar to the current contractor licensing enforcement programs. He explained there were a couple of things that happen including administrative fines, which had already been discussed. He detailed that when an inspector visited a job site and saw someone performing code work requiring a certificate of fitness, they would ask to see the license. If the individual did not have a license, under HB 255, DLWD would have the ability to write an administrative fine of \$125 to the person performing the work. Additionally, the department would seek out and fine the employer. Both of the fines would go through the same due process that any other administrative fine went through. The individuals would have the chance to appeal the fine, a hearing officer could be appointed, and the individuals could choose to appeal the decision. The individuals could pay the fine or appeal. He noted there were some other legal things that would take place.

Mr. Harlan explained that the violation was the same process as a traffic ticket. He provided an example where a person performing the work was known to the department and had ignored previous administrative fines. At that point, the inspector could write an Alaska uniform citation to be filed with the court system in traffic court; the company would also receive a citation. The individual would then proceed through traffic court and would have the same kind of hearing that took place for a speeding ticket. If convicted, the judge would set the fine up to a maximum of \$500.

Representative Grenn referenced Mr. Harlan's example of a person committing the offense multiple times. He asked if the offenses went on their record.

Mr. Harlan replied that a violation appeared on CourtView. He elaborated that a citation issued to an employee or employer also appeared on CourtView like any other traffic citation. The administrative fine did not appear on any permanent record. He detailed that the document was not published on a website, but it was public and was retrievable under the public records request system.

[2:53:00 PM](#)

Ms. Kelly corrected that under HB 255 an employee would not be subject to a citation and violation; therefore, the offense would not go on a record in CourtView under any circumstances (if they were an employee).

Representative Tuck explained the reason for the provision identifying "a person, other than an employee." He detailed there were individuals performing work who were not necessarily employed by someone else. Those individuals would receive a violation, which would enable someone to look up whether the person was reputable. Someone would have the ability to determine whether the employer or any individual performing work on their own was adhering to the law. The bill changed the provision, so the employee would not have the record.

Representative Grenn spoke to how the process was handled for an employee. He referenced a letter in members' packets from the International Union of Operating Engineers in opposition to the bill (copy on file). Pertaining to an employee, the letter suggested a stern warning for the first violation and a \$50 citation for the second violation. He asked for comment from the bill sponsor.

Representative Tuck replied the bill would reduce the fine [for an employee] from \$500 and a misdemeanor to \$125 and no record. The bill also encapsulated people with an expired certificate of fitness who were continuing to work.

Representative Grenn surmised that given the bill would drop the fine from \$500 to \$125, the suggestion in the letter would be a further drop and would perhaps fail to act as a deterrent.

Representative Tuck answered that if the committee wanted to eliminate any violations it would be up to the will of the committee, but it was not his desire. He wanted to allow DLWD to enforce and issue quick fines due to numerous repeat offenders. He referenced other professional licenses issued by the state. He detailed that the penalty was a Class B misdemeanor and a fine of up to \$2,000 for an individual practicing hairdressing, aesthetics, tattooing, or body piercing. He referred to the provision in HB 255 and did not know how much looser it could get. Electrical work was in Article 18 of the state's code, pertaining to health, safety, and housing. Chapter 60 pertained to safety and its Articles 6 through 8 dealt with electricians, linemen, and plumbing codes. The bill did not pertain to those sections of law; it only pertained to Chapter 62 related to the need for a certificate of fitness to perform work.

[2:56:25 PM](#)

Vice-Chair Gara reviewed his understanding of the bill. He discussed that the bill addressed contractors working for themselves without a certificate of fitness and employees who were told by an employer to do work beyond their license skills. He asked for verification that contractors working for themselves would receive a fine and violation, which would be visible on CourtView.

Representative Tuck answered in the affirmative.

Vice-Chair Gara remarked that the bill would eliminate the misdemeanor penalty for both types of workers [highlighted in his previous question] without proper licensing. He asked for verification that the initial and any subsequent fines for an independent contractor was a maximum of \$500.

Representative Tuck agreed but corrected that the first offense was a fine of \$250.

Vice-Chair Gara asked for verification that the first offense for an independent contractor was \$250 and any subsequent offenses were \$500.

Representative Tuck replied in the affirmative.

Vice-Chair Gara asked for verification that the first offense for an employee was a fine of \$125 and any subsequent offenses were \$250.

Representative Tuck responded in the affirmative.

Vice-Chair Gara spoke to his one concern. He agreed the offense should not be a misdemeanor. He was concerned that a \$500 fine would not be a sufficient incentive to deter a contractor from operating without a license. He asked if he was assuming something wrong.

Representative Tuck answered that the bill addressed the issue. He deferred the question to Ms. Kelly for detail.

Ms. Kelly pointed out that an independent contractor operating without the proper certifications would be subject to a violation and contractor licensing fines. She noted that Mr. Harlan could answer detailed questions about contractor licensing. She added that the penalties were quite a bit higher.

Vice-Chair Gara stated that his primary concern was not about punishing an employee for doing work outside their purview when they were instructed to do so by their employer. His real concern was the extent of the fine for a person who advertised themselves as an electrician when they did not have the training and repeatedly violated the law.

Mr. Harlan addressed the example of a person representing themselves as an electrician and working in people's homes without a license. He stated aside from the certificate of fitness, there would be a violation for contractor licensing, which began at a \$1,000 administrative fine. The fine for the second offense was \$1,500. The fines also triggered the withholding of the issuance of a contractor's license until they were paid. Additionally, there were citations, which capped out at \$500 per citation (\$500 was the statutory limit on minor offense citations). However, the fines began at \$25,000 when the offender was a corporation or incorporated business potentially for a contractor business. He noted the fine would be set by a judge at the time of sentencing.

[3:02:00 PM](#)

Representative Guttenberg stated that if a person was working on a commercial contract, they were in violation if they were working without an electrical contractor's license. He continued that in order to do the work, an administrator's license was needed. He wondered why an administrator would hire people without a certificate of fitness to work as electricians.

Representative Tuck responded that under the scenario provided by Representative Guttenberg a contractor would probably not hire employees without a license. However, sometimes there may be a material handler or yard hand fabricating and doing things that were against the law. Under the scenario, the employer would be in violation. He spoke to the need for employers to ensure employees continued with their education. Employees were required to complete 16 hours of continued education every two years to maintain their license. He detailed that if someone did not maintain their continued education it could be a violation. He stated a person could have initially been hired with a license and may no longer have a license.

Representative Guttenberg spoke about doing electrical work (including working with hot wires and ensuring the connections were correct in order to avoid a fire or damage), which required an administrator to sign off on. Provided a hypothetical scenario where an argument took place over whose jurisdiction specific work fell under. He asked who set the parameters to determine whose work it was.

Representative Tuck replied that the bill did not address the subject. He elaborated that the issue was addressed in different sections of statute and was defined in Article 18, Sections 6 through 8. The bill only pertained to fines.

[3:06:16 PM](#)

Ms. Kelly replied that jurisdiction was determined through plumbing and electrical statutes that adopt the state's minimum plumbing and electrical code. She explained that the codes had been adopted for a public safety mission. The department began with the code and considered what was important to the safety and integrity of the installations made under the code. There were some exceptions. The department did not draw a hard line on classifying something as certificate of fitness work if it was under

the code. There may be exceptions made if something presented a minimal public safety risk or minimal risk to the integrity of the installation. Ultimately, in gray areas, the department decided where something lay.

Representative Guttenberg disagreed and stated that was not where it was decided. He stated there was a large gray area in the work field. He believed that part of the problem was put on the material handler who may work for a general contractor. He elaborated on the scenario.

Ms. Kelly understood there were many jurisdictional battles that took place. She clarified that the scenario provided by Representative Guttenberg related to the handling of materials, was not certificate of fitness work. The department tried its best to stay out of jurisdictional battles, but because of the nature of the certificate of fitness being a certification for certain types of work, DLWD ended up in the middle sometimes. The department tried to look at what installation work was subject to the code and comported with the public safety mission of the statutes.

Representative Guttenberg continued with the scenario and discussed associated fines. He had a problem with the gray area related to the jurisdiction of the handling of materials.

Representative Tuck replied that the issue did not pertain to the bill or statute. He underscored that the statutes in the bill dealt with installations, not moving material. He stated there may be a dispute between contractors on whose work something was, but that pertained to whatever was written in someone's contract. Nothing in statute specified that a worker could not move material around. There was no way for anyone to be fined in the scenario provided by Representative Guttenberg because the code and statutes dealt with installations. However, someone would get in trouble if the scenario involved mounting something on a wall.

[3:11:17 PM](#)

Representative Guttenberg shared that he was trying to get the Department of Transportation and Public Facilities (DOT) to put conduit in every time it opened a road. He stated that at some point someone may string some

fiberoptic cable. He wondered why they should open the road twice. He provided a hypothetical scenario where a person could not do something because they did not have a certificate of fitness. He wondered about the relevance of his example in terms of the bill.

Representative Tuck answered that most electrical installations were dealing with vertical construction for high voltage power alignment, including hospitals, residential housing, and commercial buildings. He noted the importance of maintaining the integrity of the systems. He reasoned there may be a unique situation where there may be a dispute between two contractors on whose work it was. However, the bill did not address the issue. He was happy to work with Representative Guttenberg on the topic later on. The bill would change a penalty from a misdemeanor to a citation [for working without a certificate of fitness].

[3:12:54 PM](#)

Co-Chair Seaton wanted to make sure the bill did not contain anything that would change the ability of a private property owner to do their own work.

Representative Tuck replied that the bill did not address any jurisdiction at all or current statutes allowing people to perform or not perform work. The bill only dealt with offenses.

Representative Tilton referenced the analysis on page 2 of the fiscal note that specified FY 13 to FY 17 data had been used. She was trying to gage the size of the challenge. She asked how many inspections the department did and what triggered the inspection.

Ms. Kelly responded that the checks by DLWD were in the thousands per year and were done primarily by the contractor licensing investigator, the three plumbing inspectors, and the three electrical inspectors. She deferred to Mr. Harlan for information on how staff determined where to do an inspection.

Mr. Harlan answered that in FY 17 his office conducted 797 electrical inspections, 734 plumbing inspections, and performed well over 1,000 individual construction site visits statewide. The department identified individuals working without a certificate or with an expired

certificate through its inspections and site visits. The department also responded to complaints statewide from owners who had encountered unlicensed individuals.

[3:15:47 PM](#)

Representative Tilton surmised that responding to complaints triggered inspections. She asked if Mr. Harlan had stated that the department also looked at an expired list of licenses.

Mr. Harlan replied that the department did not know where individuals were working at any given time - there was not a state plumbing and electrical permit system actively in place. Some inspections were found through random chance. Additionally, the department reviewed building permits published by local jurisdictions to discover new installation work. A great deal of time was spent driving around looking for construction. The department was also directed to construction sites by complaints. He explained that because the department did not know where specific contractors were working at any given time, the process did not involve identifying someone beforehand and going to get them. He stated that when the department found an offender it was a matter of stumbling across them.

[3:17:06 PM](#)

Representative Pruitt returned to Representative Guttenberg's earlier questions. He asked if the tasks assigned to an electrician, an operator, or other, were in black and white.

Representative Tuck answered that it depended on the project. Title 36 related to work being performed under state contracts was pretty black and white. He stated that it was usually spelled out for a private contractor. Additionally, subcontractors who bid work usually spelled out exclusions or inclusions on their scope of work. He explained what a contractor was responsible for was usually defined in a contract. Often times a when a person was doing electrical or plumbing work it was spelled off to the side because a general contractor did not have an administrator's license to be able to do the work.

Representative Pruitt surmised the contractor had the ability to determine certain things that may fall within a gray area.

Representative Tuck thought Representative Pruitt had been referring to a scenario provided by Representative Guttenberg. Material handling was not under the jurisdiction of DLWD - there was nothing in statute. The issue was between the general contractor and the contractor because a license was not required.

Representative Pruitt replied that his question was primarily related to the tone of Representative Guttenberg's scenario and not specific examples. He stated that the bill had obviously arisen from something. The committee had heard earlier that the department would play a role in determining jurisdiction. He did not see there was any way the department did not play a role if the goal was to go in and fine people and enforce the law. He did not know how the department would not get in the middle of determining jurisdiction. If some of the things were potentially determined by the contract or the contractor, he wondered if the state was interjecting itself into something that may become complex and problematic. He considered that bureaucrats could be determining the particular things as opposed to the experts or those out in the field doing the work.

Representative Tuck answered that all of the work performed in the electrical industry by commercial electricians was under the jurisdiction of the National Fire Protection Association (NFPA), Section 70. There were 19 panels that reviewed the code, which was updated every three years. Alaska was currently under the 2014 code; the 2017 code had not yet been adopted. The 2017 code would be the jurisdiction once adopted. He relayed it was based on national standards.

[3:20:55 PM](#)

Ms. Kelly responded that DLWD had been conducting the enforcement for over 30 years. She relayed that the enforcement tools were not what the department would like them to be, but they had been determining how to best enforce the codes and where to draw the lines for requiring a certificate of fitness for many years. The department did not want to get involved in jurisdictional battles, but it

sometimes ended up there by the nature of the occupational licenses. She stated that just like contractor licensing enforcement or wage and hour law enforcement, DLWD could just happen to get into the blurry lines that could sometimes happen between an independent contractor and an employee. The department did its best to draw lines well, follow the statutes, and follow its public safety mission. The department had not interest in getting involved in jurisdictional contractor or other labor disputes.

Representative Pruitt stated that changing from a misdemeanor approach to citations would mean all it would take was the department's time to write down a citation compared to going through a process of filing a misdemeanor. He thought changing the process meant DLWD would be more active and engaged in determining and separating what was what. He believed it meant there would be more people concerned with the decision made by the department.

Ms. Kelly answered that she would love for people to be more concerned with the decisions made by the department and for it to be more of a process in the future. She explained that when DLWD went into jurisdictional battles, individuals involved followed the department's cease and desist orders. She understood the concern, but stressed it was not an area the department saw repeat offenders. The repeat violators were generally people operating as plumbers or electricians with the knowledge they did not have the training or licensure. She added the issue typically occurred in residential and small commercial operations.

[3:23:46 PM](#)

Representative Tuck cited ophthalmologists and optometrists as an example of another field where there was probably a blending of some work performances. He believed enforcement probably went back to code licensing requirements. The bill did not interfere with requirements to obtain a certificate of fitness under existing statute. The bill only pertained to a citation. He understood that Representative Pruitt was concerned with the process. He believed the committee would have to determine whether it wanted an administrative process or a court process. He referenced public testimony from the House Labor and Commerce Committee where the committee had heard from a contractor who had come from

Texas to retrofit numerous Walmart stores and had used electricians who were not licensed in Alaska. The individuals had performed all of the work and there was nothing the state could do. The bill aimed to provide opportunities to get after illegitimate businesses that were repeat offenders.

Representative Pruitt pointed to a letter from the Association of General Contractors of Alaska in members' packets (copy on file). The letter highlighted that the department had made some determination of what equipment operators were able to do compared to licensed electricians. It seemed to him it may be the department making a determination beyond what the code may be and injecting itself in a jurisdictional discussion. He reasoned that if the department was more active in the engagement, it could potentially be determining a jurisdictional decision five times per day as opposed to one time per day. He thought it would mean the department would have to start considering certain regulations and write new things that could start to blur the lines and pit certain people against each other. Whereas, previously, the gray area had been determined by the contractor.

Ms. Kelly replied that contractors and workers were passionate about their jurisdiction. However, DLWD would not increase the number of checks or the number of sanctions placed. The nature would change, referenced the letter highlighted by Representative Pruitt and reiterated that those individuals followed cease and desist orders and did not repeat violations. The department was already having to take those things into consideration on a daily basis. The bill would not change jurisdiction or how the department addressed jurisdiction.

Representative Pruitt asked for the purpose of the bill.

Ms. Kelly responded that the problem was not the contractors and the other contractors deciding who was doing the work. The problem was the "fly by night" individuals who were operating illegitimate businesses who were presenting themselves as licensed plumbers and electricians and refusing to come into compliance with the law.

Representative Pruitt thought the state would want to send the individuals to the court system. Ms. Kelly answered

that it would be great, but in the past the district attorney did not have the resources to dedicate to something as small as a minor misdemeanor.

Representative Pruitt referenced a man in a criminal case, (who was unrelated to the current issue) who owed \$3 million in fines to the court system. If the concern was an unlicensed individual, he wondered what would stop a person from racking up thousands of dollars in fines if they did not have to go to court.

Ms. Kelly replied that if a misdemeanor was not effective, she was not sure that a violation would be any more or less effective. The department believed the violation would be a tool to fit the vast majority of cases.

[3:28:32 PM](#)

Representative Wilson read from page 2, lines 20 to 21 of the bill related to issues of citations: "If the department has probable cause to believe that a person has violated a provision of this chapter or a regulation adopted..." She remarked that the bill involved setting regulation. She wondered why the language read "probable cause to believe." She thought that based on the scenario provided by Representative Tuck that when the department asked to see someone's license, the individual either had it or did not. She thought the language on page 2 was much broader. She thought the language meant the department did not have to ask for the person's license and could write a citation.

Representative Tuck answered that a person was supposed to carry their license, but they may have left it at home. He stated that if a person was not carrying their license it was probable cause that they did not have a license.

Representative Wilson asked who a certificate of fitness was recorded with when an individual obtained the license.

Representative Tuck answered that DLWD kept track of who did or did not have a certificate of fitness.

Representative Wilson asked whether the DLWD staff in the field checking the license could call DLWD to determine whether a person had a license instead of writing them a ticket.

Representative Tuck answered that he imagined the answer was yes if the department had the resources available to do so.

Representative Wilson hoped the resources were there before a ticket was issued. She was concerned about what kind of regulation the department expected to go on top of statute. She stated the statute was clear that a person had or did not have a certificate.

Ms. Kelly replied that the language had been taken from current statute and had been moved around to add a new section. The regulations defined the scope of each type of certificate of fitness (e.g. trainee plumber, journeyman plumber, and plumber utility). The department was not intending to pass new regulations. The language ensured the department could hold people accountable for holding the correct certificate. She explained that if a person was doing electrical work and held a plumbing certificate, it was in regulation, not statute.

Representative Wilson thought it seemed odd. She was concerned the bill did not appear to do just one thing. She did not want [the state] to get involved in a fight between trade unions.

HB 255 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the schedule for the following week.

#  
ADJOURNMENT

[3:32:18 PM](#)

The meeting was adjourned at 3:32 p.m.