

HOUSE FINANCE COMMITTEE  
March 30, 2018  
2:50 p.m.

2:50:44 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 2:50 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 Neal Foster, Sponsor; Jane Pierson, Staff, Representative Neal Foster; Tim Mearig, School Finance and Facilities, Department of Education and Early Development; Sylvan Robb, Deputy Commissioner, Department of Administration; Fate Putnam, Commissioner, Commercial Fisheries Entry Commission (CFEC), Department of Fish and Game; Patrick Fitzgerald, Staff, Representative Harriet Drummond; Nancy Meade, General Counsel, Alaska Court System; Representative Harriet Drummond, Sponsor. Katheryn Monfreda, Chief, Criminal Records and Identification Bureau, Department of Public Safety.

PRESENT VIA TELECONFERENCE

Kerry Boyd, Superintendent, Yukon Koyukuk School District, Eagle River; Tara Rich, Legal and Policy Director, American Civil Liberties Union (ACLU) of Alaska, Anchorage; Tim

Hinterberger, Self, Anchorage; Amy Jackman, Keep Cannabis Legal, Kenai.

SUMMARY

HB 212 REAA & SMALL MUNI SCHOOL DISTRICT FUND

CSHB 212(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (EED).

HB 231 CFEC: BD. SALARY;STAFF CLASSIFIED SERVICE

HB 231 was HEARD and HELD in committee for further consideration.

HB 316 RESTRICT ACCESS MARIJUANA CRIME RECORDS

HB 316 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the meeting agenda.

#hb212

HOUSE BILL NO. 212

"An Act relating to funding for school construction and major maintenance; and relating to the regional educational attendance area and small municipal school district fund."

[2:52:01 PM](#)

Co-Chair Foster passed the gavel to Co-Chair Seaton.

[2:52:23 PM](#)

AT EASE

[2:52:56 PM](#)

RECONVENED

REPRESENTATIVE NEAL FOSTER, SPONSOR, provided detail about the bill. He reported that HB 212 expanded the Regional Education Attendance Area (REAA)and small municipal school district fund to include major maintenance in addition to new school construction. The bill would save the state money by reducing the need for replacement. The bill was

supported by the Coalition for Education Equity, which was a coalition comprised of several school districts and was heavily involved in the Kasayulie decision. He asked his staff to continue.

JANE PIERSON, STAFF, REPRESENTATIVE NEAL FOSTER, provided an explanation of changes in the new Committee Substitute (CS).

Section 1 from version D is eliminated from version U - The new CS supports keeping the two lists for school construction and major maintenance as they are currently in statute.

Section 2 is new, amending AS 14.11.030(b) to add clarifying language that it is the unexpended and unobligated balance of the fund that may not exceed \$70,000,000.

Section 3 Adds a new subsection AS 14.11.030(e) that states that not more than 20 percent of the fund available for appropriation from the REAA and small municipal school district fund may be used for major maintenance projects.

Ms. Pierson cited the two spreadsheets that were included in members' files; "With School Debt Program Reinstated" and "Without School Debt Program Reinstated" (copy on file). She continued to address the bill with a prepared statement:

The school construction and major maintenance grant programs were the only significant programs that provided funding for new construction, renovation, or major maintenance without bonding capacity. A healthy and continued grant program for construction and major maintenance provided a vetted solution to the funding for high priority major maintenance needs such as boilers, roofs, and other important systems and safety measures in schools.

Ms. Pierson furthered that in 2010 the legislature passed SB 237 - School Construction & Costs [CHAPTER 93 SLA 10 - 06/21/2010], which established the REAA and in 2013, five small municipal districts were included in the fund. The program was a success and greatly reduced the number of schools on the school construction grant list. She

explained that the funding was based on the amount of debt outstanding for municipal schools adjusted by the amount of money spent on REAA schools and by the percent of student population. The method provided a consistent level of funding for REAA and small municipal school districts' school construction and addressed the concerns raised in the Kasayulie case. She furthered that in 2015 the legislature passed SB 64 - School Bond Debt Reimbursement [CHAPTER 3 SLA 15 - 04/24/2015], which placed a moratorium on school projects employing debt reimbursement as authorized by local voters until July 1, 2020. Currently due to an increase in applications for the major maintenance grant funding list the bill expanded the REAA funding which was beneficial for rural and urban Alaska. She elaborated that by including major maintenance to the REAA fund other non-REAA projects could take priority on the major maintenance list.

[2:57:52 PM](#)

Vice-Chair Gara MOVED to ADOPT the proposed committee substitute for HB 212, Work Draft 30-LS0741\U (Laffen, 3/29/18). There being NO OBJECTION, it was so ordered.

Co-Chair Foster summarized that the bill did not ask for additional funding, it merely changed how the pie was cut and how the funds were allocated. He explained that currently the funding was only authorized for school construction for REAA schools and the bill requested that the money could also fund major maintenance. He emphasized that the bill did not request more money.

Representative Wilson asked for the definition of major maintenance. Ms. Pierson replied that the definition was in AS 14.11.013. She read the following from the statute:

(A) avert imminent danger or correct life-threatening situations;

(B) house students who would otherwise be unhoused; for purposes of this subparagraph, students are considered unhoused if the students attend school in temporary facilities;

(C) protect the structure of existing school facilities;

(D) correct building code deficiencies that require major repair or rehabilitation in order

for the facility to continue to be used for the educational program;  
(E) achieve an operating cost savings;  
(F) modify or rehabilitate facilities for the purpose of improving the instructional program;  
(G) meet an educational need not specified in (A) - (F) of this paragraph, identified by the department;...

Ms. Pierson indicated that the projects had to cost over \$25 thousand. Representative Wilson asked whether the funding applied to any district or only REAA schools. Ms. Pierson replied that the funding applied to REAA schools and the small municipal districts. Representative Wilson spoke about the state's other project list for school major maintenance that included many urban schools. She stated that REAA schools on the state major maintenance list that were funded through the REAA fund would move off the list and allow other schools to advance on the list.

3:00:40 PM

Ms. Pierson replied that a major maintenance list existed and was included in members' packets (copy on file) titled "Attachment 4 Major Maintenance List FY 19 Final," which included the Department of Education and Early Development (DEED) Capital Improvement Projects (FY 2019) Major Maintenance Grant Fund. Representative Wilson was trying to connect the dots and understand the project list Ms. Pierson was referring to. She used an example with a top listed school being a REAA school and inquired whether it could use funding from the REAA fund versus using an Undesignated General Fund (UGF) only appropriation. Ms. Pierson replied in the affirmative.

Representative Tilton asked whether there was any prioritization of maintenance versus new school construction and if so, she wondered why. Ms. Pierson explained that the reason the CS included that not more than 20 percent of the fund available for appropriation from the REAA and small municipal school district fund may be used for major maintenance projects was to ensure the priority was new school construction. The provision specified "up to 20 percent" because at times of new school construction utilizing 20 percent might not be possible.

Representative Tilton asked for the average lifespan of a school building covered by the bill. Ms. Pierson deferred to the Department of Education and Early Development (DEED).

Vice-Chair Gara recalled that in some cases it had been easier to move up the major maintenance list if the school district had more resources to justify its need in the application, leaving districts with less funding at a disadvantage on the list. He asked whether the scenario had been a concern. Ms. Pierson responded that the Major Maintenance Grant Fund was a grant program requiring applications. She pointed to AS 14.11.011 that outlined application requirements. She agreed that a better application proposal could improve the chances of rising on the list. However, she pointed to the current major maintenance list and noted that the first, fifth, seventh, eighth, fourteenth, sixteenth, and seventeenth schools were all REAA.

[3:04:03 PM](#)

Vice-Chair Gara did not want a REAA school to not be included on the major maintenance list if REAA funds were diminished and guessed that was also the sponsors intention. He deduced that the bill's purpose was to find an "easier source of funding" for some major maintenance but not remove REAA schools from the list. Ms. Pierson answered in the affirmative and noted that was the reason the sponsor wanted only one list. She detailed that there was a cap on the REAA small municipal school fund of \$70 million. She indicated that in 2011 some funding was moved out of the fund and it would be "advantageous" to use funds for maintenance.

Representative Tilton restated her question regarding an average current building life span to help understand what the maintenance level was.

TIM MEARIG, SCHOOL FINANCE AND FACILITIES, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, answered that no standard life span for schools existed. The district used 50 years as an average. Representative Tilton asked whether the 50 years applied to all school districts. Mr. Mearig responded that it was difficult to speak to average life spans of individual buildings but overall the state strove to achieve 50 years of life for school facilities.

Co-Chair Seaton asked for clarification. He wondered whether the answer applied to REAA buildings. Mr. Mearig replied that he was speaking about the average lifespan of the buildings. He had details on the average age of schools but was referring to average lifespan.

Representative Guttenberg asked how the list was upgraded. He looked at the order of the list and asked why school number 4 that was at the cut off in the prior year was not always the first on the list the following year. He inquired how the ranking took place. Mr. Mearig answered that all the projects were ranked against a series of criteria by points, which determined priority. He furthered that if a project that was introduced in a given year had points exceeding other projects previously on the list it would out rank the prior year's priority schools. Representative Guttenberg noted that priorities changed from year to year. He asked if a school was given a chance to redo its grant application from one year to the next.

3:10:10 PM

Mr. Mearig responded that every year a district had an opportunity to apply for the grant. He reported that several years ago the department allowed districts to extend the previous year's application for an additional year, so they would not have to invest in a new application every year. The scores from the prior year were carried over for one additional year, but the district would be able to write a new application with better or different information in an attempt to elevate the project on the list.

Co-Chair Seaton OPENED public testimony.

KERRY BOYD, SUPERINTENDENT, YUKON KOYUKUK SCHOOL DISTRICT, EAGLE RIVER (via teleconference), spoke in support of the legislation and believed it would help her school district. The bill would potentially allow for the backlog of major maintenance projects to be addressed. She stated the need for the major maintenance grants to be funded. She reported that the governor had requested \$70 million in HB 282 - Approp: Capital Budget Contingent on Tax. She asked whether the funding would be included in the capital budget and asked the committee to pass HB 212.

Representative Guttenberg asked Ms. Boyd to provide a geographic description of the Yukon Koyukuk school district. Ms. Boyd complied and noted that she was presently in the Eagle River office. She listed the districts that included six urban areas in Fairbanks, Wasilla, Delta Junction, and Juneau. The ten rural remote schools in the district were spread out over 70 thousand square miles; most were accessed by airplane and two were accessible via road. The district had some older schools and that were addressed through the major maintenance list.

Co-Chair Seaton CLOSED public testimony.

Representative Wilson MOVED to REPORT CSHB 212(FIN) out of committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, CSHB 212(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (EED).

[3:15:23 PM](#)

AT EASE

[3:18:21 PM](#)

RECONVENED

#hb231

HOUSE BILL NO. 231

"An Act relating to the Alaska Commercial Fisheries Entry Commission; and providing for an effective date."

[3:18:27 PM](#)

FATE PUTNAM, COMMISSIONER, COMMERCIAL FISHERIES ENTRY COMMISSION (CFEC), DEPARTMENT OF FISH AND GAME, provided a PowerPoint presentation titled "CSHB 231(FSH) Alaska Commercial Fisheries Entry Commission." dated March 30, 2018 (copy on file). He began on slide 2 Titled "Commercial Fisheries Entry Commission":

The Commercial Fisheries Entry Commission (CFEC) is a regulatory and quasi-judicial agency that is tasked to:

Limit entry of participants and vessels into the commercial fisheries

Issue and transfer annual commercial fishing permits and vessel licenses

Adjudicate appeals of actions including denials of applications and transfers

Study, analyze, and report on the economics and stability of commercial fisheries

Ensure reliable and timely access to fishery data; and

Promote the conservation and sustained yield management of Alaska's commercial fishery resource

Assess demerit points against or suspend fishing privileges of permit holders for convictions for violations of commercial fishing laws

Mr. Putnam explained that the CFEC licensed all commercial fisheries, whether limited or open. Limited fisheries amounted to 68 and open fisheries totaled approximately 200. The CFEC charged .04 percent per year of ex-vessel income on each licensee and was calculated retroactively. He noted that the CFED had not limited a fishery since 2004 but could, based on monitoring conservation and management data. The fisheries data the CFED collected was compiled into reports and shared with different various state and federal agencies such as the National Oceanic and Atmospheric Administration (NOAA) and the National Marine Fisheries Service (NMFS). He indicated that fisheries were a sustainable resource providing a return year after year and the CFEC monitored biomass data to ensure resources sustainability as mandated by the constitution. The directive to assess demerit points was adopted by the legislature in 1998 for salmon fisheries and the commission suspended other fisheries permit holders via court order. The court had the ability to suspend fishing licenses in all other areas.

[3:22:32 PM](#)

SYLVAN ROBB, DEPUTY COMMISSIONER, DEPARTMENT OF ADMINISTRATION, moved to slide 3 titled "What HB 231 Does" and addressed what the bill would do as follows:

- Reduces number of commissioners of the CFEC from three to two

- Changes compensation for commissioners:

Commissioner serving as chair retains a Range 27 (\$8789/month)

Pay for second commissioner is reduced to a Range 24 (\$7225/month)

- Removes the CFEC staff from exempt service and assigns them to classified service

Division of Personnel/Labor Relations will perform a classification study and place positions on appropriate classified pay scale

Current CFEC staff will not receive a reduction in pay—their pay will be “frozen” until the pay scale catches up to the newly classified position

New CFEC staff will start at the new Range/Step A

Staff will be represented by appropriate unions—Supervisors Union (SU) and General Government Unit (GGU) or Confidential Employees Association (CEA)

Ms. Robb advanced to slide 4 titled "Why is HB 231 Needed":

- Caseload is lighter

Decisions from the CFEC have declined over time

- Save money

Align commissioners to similar ranges of similar positions (OAH, Hearing Officers)

Align staff with similar positions in classified service

Ms. Robb mentioned the organizational chart on slide 5 titled "Current CFEC Organizational Chart".

Vice-Chair Gara asked whether there were decisions commissioners had to make that involved a tie breaking vote.

Mr. Putman directed attention to page 2, Section 6 of the legislation:

Sec. 6. AS 16.43.110 is amended by adding a new subsection to read:

(f) In case of a tie vote between commissioners in an adjudicatory proceeding, the decision of the hearing officer is the final administrative decision of the commission subject to review by a superior court under AS 44.62 (Administrative 22 Procedure Act).

Mr. Putman elaborated that adjudicatory decisions were initially made by hearing officers. In the event the current commissioner Dale Kelly and he could not arrive at consensus the decision of the hearing officer would stand subject to appeal by the Superior Court and possibly the Supreme Court. Historically, hundreds of cases were appealed to the Superior Court and 70 cases moved on to the Supreme Court.

[3:27:36 PM](#)

Vice-Chair Gara asked if there was a reason for two commissioners instead of one. Mr. Putman replied that he had been on the commission for four months; there was a tremendous amount of work and he was very pleased there was a second commissioner. He spoke to the balance made between the two commissioners due to their backgrounds; Ms. Kelly with extensive fisheries experience and Mr. Putnam who was an attorney. He believed reducing the number from three to two was feasible. He related that the transfer decisions the commissioners made were difficult and it was best to utilize "two minds".

Representative Wilson asked how many cases historically had been overturned by the commissioners from the hearing officer's administrative decisions and how many cases had the court overturned. Mr. Putman did not have the data. He detailed that 2 or 3 cases out of the 70 Supreme Court cases were overturned. In addition, the Superior Court often remanded decisions back to the commission and the commission could make a redetermination of its decision that went back to the Superior Court. Representative Wilson

asked if the commission was necessary when ultimately a licensee could use the courts. Mr. Putman responded that the legislature had initially determined that three commissioners were necessary to weigh and balance the important decisions that were derived from a multimillion-dollar industry.

[3:32:12 PM](#)

Representative Wilson referred to page 2 of the bill. The bill specified that without two commissioners a single commissioner may exercise all the powers and perform all the duties of the commission. Mr. Putman replied she was referencing Section 2 beginning on page 1, lines 1 through 3. He elucidated that the intent of the provision was only on condition of a vacancy. The section allowed the commission to continue to function.

Representative Wilson thought the interpretation was concerning. She deduced that a commissioner may not be appointed, and it would not be the fault of the commission. She spoke to the salary ranges listed in the bill. She wondered if pay increases applied. Ms. Robb answered that the pay would increase over time due to step increases. Representative Wilson asked if the commissioner designee was currently employed by the state and would the starting salary be commensurate with the individual's current salary. Ms. Robb believed she was asking if the person would retain their current step if their range was higher than the starting salary listed. She answered in the affirmative. Representative Wilson wondered why they were unionizing employees. She had heard the only reason for unions were because of bad employers. She wondered why the staff would be unionized. She wondered if there was a problem. Ms. Robb replied in the negative. She detailed that the reason for the classification was the positions were similar to jobs that currently existed in the classified service and the change was appropriate based on the principle of "like pay for like work".

[3:36:06 PM](#)

Representative Wilson requested a chart to further understand the pay scale for non-unionized individuals. She wanted to compare the current pay and how it would increase over time. She also requested the information on appeals.

Co-Chair Seaton spoke to the testimony about a person retaining their steps when transferring to a commissioner position. He thought that if a person was currently working at a lower range the starting salary would begin at a step A of Range 24. Ms. Robb answered in the affirmative.

Representative Ortiz asked for a summary of the bill's impact. Ms. Robb answered that the bill reduced the number of commissioners from three to two. In addition, HB 231 reduced the pay range of the commissioner who was not the chair and moved the commission's staff from the exempt service to the classified service. Representative Ortiz asked if the net impact would drive down the cost at CFEC. Ms. Robb responded in the affirmative. She reiterated that the current staff would be held harmless in terms of pay.

[3:38:40 PM](#)

Representative Pruitt asked for the current number of positions. Mr. Putman referred to the organizational chart on slide 5. He answered that there were 22 positions however, one of the three commissioners were vacant, a legal specialist, executive secretary, clerk, and the research department was vacant. Currently, 15 employees remained. He expected the commission to operate at the reduced level except for possibly hiring one research assistant.

Representative Pruitt asked if employees had asked to have their status changed. Ms. Robb answered that there had been some interest from current employees.

Co-Chair Foster OPENED public testimony.

Co-Chair Foster CLOSED public testimony.

Co-Chair Foster announced that amendments were due by 5:00 p.m. on Tuesday April 3, 2018.

HB 231 was HEARD and HELD in committee for further consideration.

#hb316

HOUSE BILL NO. 316

"An Act relating to the sealing of certain court records; restricting the publication of certain

records of convictions on a publicly available website; relating to public records; and amending Rule 37.6, Alaska Rules of Administration."

3:41:00 PM

PATRICK FITZGERALD, STAFF, REPRESENTATIVE HARRIET DRUMMOND, explained the bill. The legislation was designed to seal the court records of people who were convicted of simple possession of marijuana prior to legalization. He voiced that the burden of a lifelong criminal record for persons convicted of a crime that was currently legal kept them from achieving their full potential. The intent of the bill did not remove the records of serious criminal offenders. The purpose of the bill was to eliminate restrictions and barriers that may be keeping Alaskans from gaining employment, finding housing, qualify for schooling, advancing in certifications, or reaching a higher quality of life. He characterized the legislation as a "jobs bill". He furthered that the voter initiative to legalize marijuana had been in effect for three years. Legalization created prosperous small business owners and generated millions in revenue for the state. Many Alaskans had benefited from legalization and the bill would eliminate the barriers for some Alaskans from becoming "productive" and "contributing members of society".

Mr. Fitzgerald reviewed the sectional analysis (copy on file):

Sec. 1 - AS 12.62.160

Stating that an agency may not release records of a criminal case to the public if the defendant was charged with possession of a controlled substance schedule VIA.

Schedule VIA definition: AS 11.71.190 (a) a substance shall be placed in schedule VIA if it is found under AS 11.71.120 to have the lowest degree of danger or probable danger to the person or public.

(b) marijuana is a schedule VIA controlled substance. Person had to have been 21 years or older at time of offense.

Sec. 2 - AS 22.35(040)

Is amended by adding: AS 22.35.040 Confidential court records. A court record of a criminal case is will be made confidential if defendant was convicted of VIA

possession through state or local ordinance as a stand-alone charge.

Sec. 3 - AS 40.25.120

Every person has a right to inspect a public record in the state, including public records in recorders offices except: (18) Records of a schedule VIA possession for less than once ounce if it was a stand-alone charge. Defines that a person must have been 21 or older for the confidentiality to apply.

Sec. 4

Alters indirect court rule amendment "Alaska Rules of Administration" by limiting public access to certain case records.

Sec. 5

States that because of section four of this act must receive 2/3 majority vote in each house because of Article IV Sec. 15 of the Alaska State Constitution.

Sec. 6

Provides effective date for 120 after bill signing.

[3:45:24 PM](#)

Co-Chair Seaton did not see the words "standalone" in the bill but noted that Mr. Fitzgerald had mentioned them. He cited page 4 of the bill, subparagraph (18), lines 19 through 23 as the new provision the bill was adding to existing statute. Mr. Fitzgerald pointed to the language in lines 22 through 23 "was not convicted of any other charge in that case."

Representative Wilson provided the scenario of someone who initially received higher charges but was convicted of the lower offense in a plea bargain. She asked whether the conviction of simple possession would completely seal the record. Mr. Fitzgerald replied that if the courts plead down to a simple possession only charge there was a reason for doing so and the individual should not be discriminated against. Representative Wilson provided an example where a person received a driving under the influence (DUI) and a marijuana charge. She asked if the DUI charge was dropped and the person was convicted of simple possession the DUI would also be removed. Mr. Fitzgerald replied in the negative. Representative Wilson did not believe that was

what the bill language said. She read from the bill [page 4, subparagraph (18), lines 19 through 23]:

(18) records of a conviction under AS 11.71.060, or a municipal ordinance with similar elements, for possession of less than one ounce of a schedule VIA controlled substance if the defendant was 21 years of age or older at the time of commission of the offense and was not convicted of any other charges in that case.

Representative Wilson surmised that in the case of a combined charge where the person was only convicted of the marijuana charge both the charge and conviction would be sealed. Mr. Fitzgerald responded that it was rare for a DUI charge to plea down to simple possession of marijuana. Representative Wilson did not care what rarely occurred. She deduced that there could be five charges and everything else would be sealed along with the simple possession conviction.

[3:49:33 PM](#)

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, answered that Section 2, which applied to the court record worked the same way as Representative Wilson's hypothetical scenario. The bill applied to a conviction and not charges.

Representative Wilson used a domestic violence charge in place of the DUI example and deduced that the domestic violence charge would disappear because there were no exemptions regarding other charges. Ms. Mead replied in the affirmative and added that the conviction related to all the charges in the case and maintained that all would become confidential. She was unaware of how often the scenario occurred. Representative Wilson wondered if the idea for the legislation was because marijuana was now legal.

REPRESENTATIVE HARRIET DRUMMOND, SPONSOR, replied that when the marijuana initiative had been brought forward it had been decided not to include the expungement feature in the bill. She noted that other states had legalized marijuana had adopted the measure in HB 316 and believed that the governor of Vermont had expunged the records of 200 people when marijuana became legal and California was beginning the expungement process.

Representative Wilson thought that the same argument could apply to felony crimes that were lowered to misdemeanors in prior criminal reform legislation.

Representative Drummond believed that they were covering new territory with the legalization of marijuana. She stated that it had always been illegal to steal. She elaborated that marijuana had been legal for three years and many were profiting from the industry. She had heard of situations where minors with simple possession charges were applying to military academies but could never remove the charge from their records that created a permanent impediment to their lives. The bill applied only to adults with simple possession. Representative Wilson understood the goal of the bill, but she was concerned there could be other charges accompanying a marijuana conviction. She maintained her belief that the bill did not apply equally to other charges that were lowered. She thought there may be other safety issues in the current bill language but would consider amendments to correct the issues.

Co-Chair Foster asked if there were additional items Mr. Fitzgerald wanted to cover.

Mr. Fitzgerald addressed the changes contained in the House Judiciary Committee version of the bill. He indicated that the CS eliminated the date of convictions prior to the legalization date of February 24, 2015 and included that "all charges had been encompassed" in the provision. Additionally, the legislation specified that the provisions applied to individuals 21 years of age or older. Co-Chair Foster OPENED public testimony.

[3:55:52 PM](#)

TARA RICH, LEGAL AND POLICY DIRECTOR, AMERICAN CIVIL LIBERTIES UNION (ACLU) OF ALASKA, ANCHORAGE (via teleconference), shared that she had submitted written comments to the committee (copy on file). She spoke in support of the bill. She related that she had not heard any discussion regarding what sectors of the population the bill would apply to. The ACLU had performed research based on the arrest rate for simple marijuana possession but was not able to discern the data for conviction rates. The data showed that from 2008 through 2013 African Americans were twice as likely to be arrested for marijuana possession and Alaska Native and American Indians were more than 1.5

times as likely to be arrested for marijuana possession than whites. She concluded that marijuana possession laws were routinely enforced disproportionately against people of color and was systematized in the war on drugs. The bill sought to achieve equity in an unjust system.

Representative Wilson questioned why the person that "pleaded out" or was convicted of simple possession that was illegal at the time "should have no more punishment because of that." Ms. Rich replied with an explanation about the distinction between pleading guilty and a conviction and noted that the state did not have to prove guilt in a plea agreement. She indicated that particularly with low level offences such as simple possession, it was easier for people to plead guilty to avoid the disruption in people's lives through incarceration. She noted that there was evidence-based data that demonstrated plea agreements effectuated the same harm as a conviction for people of color without asking the state to fulfill its duty of proving guilt. Representative Wilson restated her question and emphasized that the person with the conviction broke the law at the time. Ms. Rich pointed to the disproportionate level of policing against minority communities, which was well documented. She added that on a national level, despite marijuana use at about the same rate as Caucasians, African Americans were nearly four times more likely to be arrested for marijuana possession. She voiced that the people of Alaska decided that the activity was not criminal and coupled with systemic discriminatory enforcement, she believed that the provision was appropriate. Representative Wilson did not believe police officers in Alaska were targeting anyone and were merely trying to uphold the state's laws.

[4:02:14 PM](#)

TIM HINTERBERGER, SELF, ANCHORAGE (via teleconference), reported that he had been chair of the campaign to legalize marijuana. He supported the bill. He relayed that the original initiative was drafted as straight forward as possible to maximize the chance of passage of the initiative. Currently, other stated that legalized marijuana adopted measures that sealed the record of individuals with prior marijuana convictions. He believed that the bill was "entirely consistent with ballot measure two."

Vice-Chair Gara thanked Mr. Hinterberger for his work. He warned that currently in Alaska law a student in possession of marijuana on school grounds was subject to a Class A felony and suggested that Mr. Hinterberger consider acting to endorse statutory change in the future.

[4:04:32 PM](#)

AMY JACKMAN KEEP CANNABIS LEGAL, KENAI (via teleconference), testified in support of the legislation. She shared that she had been the campaign manager for the Keep Cannabis Legal campaign the previous year. She thanked the committee for the opportunity to testify. She hoped that the committee would consider the wellbeing of everyone in the state and keep an open mind. She spoke about a divided society focused on differences that created fear and judgement. She believed that historically cannabis had been falsely demonized. She voiced issues regarding corporations and did not consider them equal to people. She favored a society built on love and acceptance of marijuana use. She listed the medical and pleasurable benefits of marijuana consumption and termed it a "miracle plant." She strongly favored permanently sealing the records of non-violent convictions based on cannabis.

Co-Chair Foster CLOSED public testimony.

Representative Wilson asked if a representative from the Department of Public Safety was online. She referred to the fiscal note and wondered whether the bill sealed the records from the Department of Public Safety (DPS).

KATHERYN MONFREDA, CHIEF, CRIMINAL RECORDS AND IDENTIFICATION BUREAU, DEPARTMENT OF PUBLIC SAFETY, responded that the department still questioned whether it would receive the sealed records from the Court System for criminal justice and law enforcement purposes.

Representative Wilson thought that the fiscal note indicated that the records would be removed from the DPS system. She asked for clarification. Ms. Monfreda answered that the records would be removed from release for the limited purpose of AS 12.62.160 (b)8 related to employment or licensing purposes. The records would remain available for law enforcement and other purposes.

[4:14:28 PM](#)

Representative Wilson asked for further information about who had access to the information.

Co-Chair Foster gave an amendment deadline of the following Tuesday at 5:00 p.m.

HB 316 was HEARD and HELD in committee for further consideration.

[4:16:46 PM](#)

AT EASE

[4:17:05 PM](#)

RECONVENED

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

#

ADJOURNMENT

[4:17:34 PM](#)

The meeting was adjourned at 4:17 p.m.