

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 10, 2017

7:04 p.m.

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chris Tuck
Representative Adam Wool
Representative Chris Birch
Representative DeLena Johnson
Representative Gary Knopp

MEMBERS ABSENT

Representative Andy Josephson (alternate)
Representative Chuck Kopp (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 74

"An Act relating to the implementation of the federal REAL ID Act of 2005; and relating to issuance of identification cards and driver's licenses; and providing for an effective date."

- MOVED CSHB 74(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 74

SHORT TITLE: DRIVER'S LICENSE & ID CARDS & REAL ID ACT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/23/17	(H)	READ THE FIRST TIME - REFERRALS
01/23/17	(H)	STA, FIN
02/07/17	(H)	STA AT 3:00 PM GRUENBERG 120
02/07/17	(H)	Heard & Held
02/07/17	(H)	MINUTE(STA)
03/14/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/14/17	(H)	Heard & Held
03/14/17	(H)	MINUTE(STA)
03/14/17	(H)	STA AT 5:30 PM GRUENBERG 120
03/14/17	(H)	-- MEETING CANCELED --
03/21/17	(H)	STA AT 5:30 PM GRUENBERG 120
03/21/17	(H)	Heard & Held

03/21/17	(H)	MINUTE(STA)
03/28/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/28/17	(H)	Heard & Held
03/28/17	(H)	MINUTE(STA)
04/04/17	(H)	STA AT 5:30 PM GRUENBERG 120
04/04/17	(H)	Heard & Held
04/04/17	(H)	MINUTE(STA)
04/06/17	(H)	STA AT 3:00 PM GRUENBERG 120
04/06/17	(H)	Heard & Held
04/06/17	(H)	MINUTE(STA)
04/08/17	(H)	STA AT 8:30 AM GRUENBERG 120
04/08/17	(H)	Heard & Held
04/08/17	(H)	MINUTE(STA)
04/10/17	(H)	STA AT 7:00 PM GRUENBERG 120

WITNESS REGISTER

REID MAGDANZ, Staff
 Representative Jonathan Kreiss-Tomkins
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented the committee substitute (CS) to HB 74, labeled 30-GH1781\U, Martin, 4/10/17, on behalf of Representative Kreiss-Tomkins, prime sponsor.

MICHAEL STANKER, Assistant Attorney General
 Labor and State Affairs Section
 Civil Division (Anchorage)
 Department of Law (DOL)
 Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 74.

HILARY MARTIN, Attorney
 Legislative Legal Counsel
 Legislative Legal Services (LLS)
 Legislative Affairs Agency (LAA)
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 74.

MARLA THOMPSON, Director
 Division of Motor Vehicles (DMV)
 Department of Administration (DOA)
 Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 74.

BRIAN DUFFY, Director
Administrative Services Division
Department of Military & Veterans' Affairs (DMVA)
Joint Base Elmendorf-Richardson (JBER), Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 74.

LESLIE RIDLE, Deputy Commissioner
Department of Administration (DOA)
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 74.

EDWARD HASBROUCK
Identity Project
San Francisco, California
POSITION STATEMENT: Testified and answered questions during the hearing on HB 74.

DAN LOWDEN, Captain
Deputy Commander
Division of Alaska State Troopers (AST)
Department of Public Safety (DPS)
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 74.

ACTION NARRATIVE

[7:04: PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting back to order at 7:04 p.m. Representatives Kreiss-Tomkins, LeDoux, Tuck, Birch, Johnson, and Knopp were present at the call to order. Representative Wool arrived as the meeting was in progress.

HB 74-DRIVER'S LICENSE & ID CARDS & REAL ID ACT

[7:04:46 PM](#)

CHAIR KREISS-TOMKINS announced that the only order of business would be HOUSE BILL NO. 74, "An Act relating to the implementation of the federal REAL ID Act of 2005; and relating to issuance of identification cards and driver's licenses; and providing for an effective date." [Before the committee,

adopted as a work draft during the 4/4/17, 5:40 p.m., meeting, was the committee substitute (CS) for HB 74, Version 30-GH1781\J, Martin, 4/4/17, hereafter referred to as "Version J".]

7:06:01 PM

REID MAGDANZ, Staff, Representative Jonathan Kreiss Tomkins, Alaska State Legislature, on behalf of Representative Kreiss-Tomkins, prime sponsor of HB 74, presented the committee substitute (CS), labeled 30-GH1781\U, Martin, 4/10/17 [hereafter referred to as "Version U"], with the use of a handout, entitled "HB 74 Summary of Changes, ver J to ver U," included in the committee packet.

MR. MAGDANZ stated that in Section 1, the fee for a REAL ID compliant identification (ID) card is increased from \$10 to \$20, incorporating Amendment 3, adopted by the committee on 4/6/17, into the proposed legislation.

MR. MAGDANZ relayed that Amendment 1, adopted on 4/8/17, is incorporated into Section 2. [Amendment 1 refers to the inclusion of Department of Administration (DOA) information on the application for ID cards and driver's licenses to explain the options and require the applicant to indicate he/she understands the options and to select an option.]

MR. MAGDANZ relayed that Section 3 addresses the issuance of ID cards. Section 3, subsection (m), is amended to clarify that when DOA issues a REAL ID compliant ID card, it may retain only the minimum documents required by the REAL ID Act and no more; and it shall destroy any documents retained as soon as legally allowed to do so.

MR. MAGDANZ said that in Section 3, subsection (n), two sentences from the original version [Version A] of HB 74 are added. They are: The proposed legislation explicitly requires DOA to continue issuing noncompliant ID cards. It requires that the state and municipal government treat compliant and noncompliant ID cards the same.

MR. MAGDANZ related that Section 3, subsection (o), introduces new, but not substantive, language recommended by Legislative Legal and Research Services. Language from the Alaska Statutes, Title 28 - allowing DOA to issue a driver's license for less than eight years, if the applicant is legally allowed to be in the U.S. for less than eight years - is replicated in Title 18 as it pertains to ID cards.

MR. MAGDANZ stated that Section 3, subsection (p), is amended to address more generally the purposes for which REAL ID compliant ID cards will be required; the change relates to the public information DOA must share concerning the differences between compliant and noncompliant ID cards.

MR. MAGDANZ relayed that Section 3, subsection (q), is amended to clarify that the definition of "identification card that is federally compliant" applies to a state issued ID card only.

MR. MAGDANZ said that Section 4 is substantially changed. This section addresses the limitations on DOA for sharing data with interstate databases or pointer systems. Language objectionable to DOA, pertaining to data sharing outside the scope of REAL ID, is removed. Section 4 also is changed to clarify that DOA may convey, distribute, or communicate data only to the extent absolutely required by the REAL ID Act; that is, only to the extent necessary for the state to be certified as REAL ID compliant by the U.S. Department of Homeland Security (DHS).

[7:10:36 PM](#)

MR. MAGDANZ stated that the changes to Section 5 mirror the changes to Section 3 but apply to driver's licenses instead of ID cards.

MR. MAGDANZ indicated that new language is incorporated into Section 6, which is the language from Amendment 1, adopted 4/8/17.

MR. MAGDANZ relayed that there are no changes to Section 7. He said that "federally compliant" is removed from Section 8, which specifies that driver's licenses issued to people with limited authorization of standing in the U.S. must be federally compliant. He mentioned that on page 6, line 14, the word "shall" is replaced with "may".

MR. MAGDANZ offered that there are no changes to Section 9 and Section 10. He stated that in Section 11, the fee for a REAL ID compliant driver's license is increased from \$10 to \$20, incorporating Amendment 3, adopted by the committee on 4/6/17, into the proposed legislation.

MR. MAGDANZ said that in Section 12, the definition of "driver's license that is federally compliant" is amended to clarify that it applies to a state issued driver's license only.

7:13:09 PM

REPRESENTATIVE LEDOUX asked if under Version U, the issue brought to the committee by Representative Birch [during the 3/28/17, 3:08 p.m., meeting] would be resolved. [The wife of a constituent is a Japanese national with a green card without an expiration date; therefore, must renew her driver's license annually.]

MR. MAGDANZ replied that the problem would be resolved. With the change from "shall" to "may" on page 6, lines 14-15, DOA no longer would be required to issue a one-year license to anyone with an indefinite period of stay in the U.S. but may now issue it for the "full term."

REPRESENTATIVE LEDOUX responded that she interprets the passage as stating that DOA may or may not issue a license with a validity of one year. She suggested that the language could mean that DOA has the option of not issuing a license with a validity of one year. She opined that Version U does not address issuing a license for more than one year.

MR. MAGDANZ expressed his understanding that the inclusion of the word "shall" required DOA to issue a license for only one year to someone with a permanent green card. He said that DOA supports issuing those licenses for more than one year; it was prohibited from doing so by the current statute; and changing "shall" to "may" will permit DOA to issue licenses for a longer period. He added that DOA supports this change for this reason.

REPRESENTATIVE LEDOUX referred to the language on page 6, lines 14-15, of Version U, which read, "If the period of authorized stay is indefinite, the department may issue the license with a validity of one year." She maintained that under Version U, DOA may issue the license for one year or not at all; it does not address DOA issuing a license for eight or ten years.

7:16:51 PM

MICHAEL STANKER, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law (DOL), stated that the position of the Department of Law (DOL) is that changing the wording from "shall" to "may" on page 6, line 14, will allow DMV to issue licenses for a period greater than one year for a person with an authorized stay that is indefinite. He gave two reasons for its position: 1) the first

sentence of subsection (d) on Page 6, Section 8, specifies that a person may receive a driver's license with a duration of less than eight years, if that person's stay in the U.S. is less than eight years or indefinite, and 2) the DMV is authorized to adopt regulations, and through those regulations, DMV may specify the duration of licenses.

REPRESENTATIVE LEDOUX suggested that the bill language would be clearer if it read, "the department shall issue the license with a validity of up to eight years" instead of "the department may issue the license with a validity of one year".

MR. STANKER agreed that there are other ways of wording the sentence.

[7:21:19 PM](#)

HILARY MARTIN, Attorney, Legislative Legal Counsel, Legislative Legal Services (LLS), Legislative Affairs Agency (LAA), indicated that the sentence could be clearer; it was the result of trying to adapt the new language to existing law. She conceded that there could be ambiguity regarding whether the "may" in the sentence refers to the one-year validity or to issuing the license. She expressed her belief that a court would rule that DOA's interpretation of the language from DOL is reasonable; however, there are ways to draft it to make it clearer.

[7:22:30 PM](#)

REPRESENTATIVE BIRCH asked if the governor and his administration are satisfied with Version U, since the sponsor of the proposed legislation is the House Rules Committee by request of the Governor.

REPRESENTATIVE LEDOUX suggested the following language: if the period of the authorized stay is indefinite, the department shall issue the license with a validity of up to eight years. She maintained that is clearer.

MS. MARTIN responded that is an option. She said that to avow the flexibility, it could be worded "the department may issue the license with a validity set by regulation". She offered that including the word "shall" means that DOA must issue a license.

CHAIR KREISS-TOMKINS suggested the drafting of a conceptual amendment.

REPRESENTATIVE LEDOUX concurred.

[7:24:13 PM](#)

REPRESENTATIVE WOOL agreed with Representative LeDoux. He stated that under Version U, [page 6, Section 8,] subsection (d) states that a person authorized to stay in the U.S. for three years may get a license for three years. He maintained that for a person authorized to stay for an indefinite period, such as someone with a green card, the license should be issued for the full extent of the licensure period.

CHAIR KREISS-TOMKINS offered that other language may be equally workable. He asked if Ms. Thompson had any issues with the language suggested by Representatives LeDoux and Wool.

[7:25:13 PM](#)

MARLA THOMPSON, Director, Division of Motor Vehicles (DMV), Department of Administration (DOA), replied that she did not have a problem with a language change; the intent is to align the wording with that of the visa or paperwork of the [resident alien] and to ensure the licensure period does not exceed the authorized stay.

[7:26:02 PM](#)

REPRESENTATIVE KNOPP offered that the proposed legislation is ambiguous and lacks details. He asked, "Is this just another bill we're going to pass and then adopt the rules later?"

MS. MARTIN answered that she is familiar in "broad strokes" with the REAL ID requirements, and the proposed legislation allows DOA to adopt regulations to address the federal requirements for issuing compliant driver's licenses or ID cards.

[7:27:20 PM](#)

CHAIR KREISS-TOMKINS referred to the forthcoming Amendment 4, which would offer a "technical fix." He stated that if adopted, Amendment 4 would fix a typographical error ("typo") by deleting "served" on page 5, line 14, of Version U and replacing it with "serve". He asked Ms. Martin to address lines 7-8 of the

forthcoming Amendment 4, [which would delete a reference to federal regulations].

MS. MARTIN explained that staff tries not to refer to federal regulations in statute. She relayed that "as amended" language means that Alaska Statutes would change any time the federal regulations are changed, because the statutes are being incorporated by reference; therefore, a non-elected, non-legislative body may make changes causing Alaska Statutes to be changed. She referred to an Alaska Supreme Court decision [Northern Lights Motel, Inc. v. Sweaney], dealing with reference to technical electrical codes, which ruled that statutes by reference may allow statutes to be changed without action by the legislature.

[7:29:46 PM](#)

CHAIR KREISS-TOMKINS referred to questions brought forth in the 4/8/17 committee meeting. The first question was regarding access to [military] bases with a temporary REAL ID compliant card and whether access to bases varied with the different bases and under different branches of the military.

[7:30:46 PM](#)

BRIAN DUFFY, Director, Administrative Services Division, Department of Military & Veterans' Affairs (DMVA), relayed that he has reached out to the leadership of installations in Alaska and has not received a conclusive response. He commented that without REAL ID legislation, the presence or absence of a temporary driver's license would make no difference in an individual's ability to receive unescorted access to a base, because the license would be insufficient. He said that if REAL ID legislation passes, the state will be given an extension for implementation of REAL ID, which would offer people more time to secure or renew an alternate form of ID for unescorted access. He relayed that after a discussion with Ms. Thompson, his understanding is that if Alaska allows the issuance of REAL ID compliant driver's licenses, the temporary ID for the seven to ten-day period will be a photocopy of the REAL ID that will come in the mail. He maintained that in and of itself, that may be sufficient for the installations to grant unescorted access to bases; however, he is still trying to confirm that. He asserted that very few people will have base issued passes expiring near the implementation date and no other form of ID to access base.

[7:33:07 PM](#)

REPRESENTATIVE LEDOUX asked what a person would need to do if he/she has a job on a base but no REAL ID card; she asked if there was a [military] base card a person could get using a birth certificate as documentation.

MR. DUFFY answered yes. He said that for people needing regular access to an installation and who are without a U.S. Department of Defense (DoD) issued ID card, the installation issues a Defense Biometric Identification System (DBIDS) card. It is a base issued one-year pass. He maintained that to get such a pass, the current Alaska driver's license has been sufficient to date; however, after June 6, if the state has not passed REAL ID legislation, an Alaska driver's license will not be sufficient to renew that pass. He offered that not all the DBIDS card will expire on June 6.

REPRESENTATIVE LEDOUX asked what form of ID will be accepted for someone to renew or obtain for the first time a DoD base pass, if the proposed legislation has not passed.

MR. DUFFY responded that he is a State of Alaska (SOA) employee, therefore cannot speak on behalf of the installations. He said that he is part of an organization that is (indisc) and is speaking from that perspective. He said that the expectation will be for the individual to secure some other form of REAL ID compliant ID sufficient to be able to get the one-year base pass.

REPRESENTATIVE LEDOUX asked how the [military] base would function in the event the proposed legislation does not pass and needed workers cannot access the base.

MR. DUFFY replied that the long view is that the base will move on to vendors and people that can access the base.

[7:36:41 PM](#)

CHAIR KREISS-TOMKINS referred to Representative Johnson's question to DMV asked during the 4/8/17 meeting: Has the DMV received any federal grants to implement REAL ID?

REPRESENTATIVE TUCK mentioned that Mr. Duffy did not receive an answer from base commanders, who determine what constitutes authorization. He maintained that he has some questions for Mr. Duffy. He offered to submit his questions to Mr. Duffy in writing.

REPRESENTATIVE JOHNSON referred to page 2, Question 6, in the letter from Deputy Commissioner Leslie Ridle, DOA, to the committee chair, dated April 3, 2017, and included in the committee packet, which read, "Have any state resources been expended in outsourcing the manufacture of Alaskan IDs to Indiana?" She relayed that the response states that DMV received two grants from the federal government to cover the cost of new cameras and information technology (IT) development necessary to move to the central issuance: a \$684,804 grant from the Federal Emergency Management Agency (FEMA) and a \$1.5 million grant from the Federal Motor Carrier Safety Administration (FMCSA) for software development, camera equipment, and other productions costs.

[7:39:47 PM](#)

MS. THOMPSON confirmed that DMV did receive two grants from the federal government in 2012, but the grants were not REAL ID grants: one grant was from FEMA and the other from FMCSA. She relayed that the grants were regarding [the production of] secure cards.

REPRESENTATIVE JOHNSON asked why references to these grants were included in the letter and if the grants were intended to facilitate REAL ID production.

MS. THOMPSON answered that the letter was in response to the question, submitted by Representative Tuck. She said that the answer to that question was that DMV received two grants to cover the initial set up fees for producing driver's licenses. She maintained that the funds were used to reduce costs, upgrade technology, and improve customer service.

REPRESENTATIVE JOHNSON stated that she wanted to ensure that no grants were awarded to Alaska to comply with the REAL ID Act that required the state to fulfill any REAL ID obligations; she wanted to ensure that Alaska has not expended any funds for REAL ID, which the legislature prohibited [through the passage of Senate Bill 202 in the Twenty-Fifth Alaska State Legislature, 2007-2008].

CHAIR KREISS-TOMKINS asked Ms. Thompson if the State of Alaska has any obligations under the grants received that would require the implementation of REAL ID.

MS. THOMPSON responded no.

[7:42:54 PM](#)

CHAIR KREISS-TOMKINS referred to Representative Knopp's question asked during the 4/8/17 meeting: How long will it take to verify source documents to obtain a REAL ID?

MS. THOMPSON answered that the goal is to have the validation process completely integrated into the DMV data system so that validation can be done while the applicant is at DMV. She said if the request for a driver's license or ID can be processed, DMV will give the applicant a copy, and the applicant will receive the original in the mail in seven to ten days.

REPRESENTATIVE KNOPP asked if a birth certificate or passport would be validated "while I'm standing there."

MS. THOMPSON answered yes.

REPRESENTATIVE KNOPP asked if those documents would be scanned and kept on file.

MS. THOMPSON replied yes, that is correct; it would be required for REAL ID compliance.

REPRESENTATIVE KNOPP asked if the validation of just one document would be sufficient for obtaining a REAL ID.

MS. THOMPSON responded that other documents would be required, but the passport and the birth certificate are considered primary documents, and one or the other would be required. She said that if someone presented a visa or another document on the list [of acceptable documents], copies would have to be made. She said, "Same thing that we do today, it's just with REAL ID they require you to keep copies."

REPRESENTATIVE TUCK asked if any other documentation would be required besides a primary document.

MS. THOMPSON answered that both a primary document and a secondary document would be required, but the secondary document could be a driver's license.

[7:45:51 PM](#)

REPRESENTATIVE TUCK asked if a primary document could be a driver's license, a passport, or a birth certificate, and the secondary document would be another one of those three.

MS. THOMPSON replied that is correct.

REPRESENTATIVE TUCK asked if two documents would be needed.

MS. THOMPSON answered, "It depends on your situation." She suggested that a person might bring in a foreign passport and a visa allowing him/her to be in the U.S. She said, "Each ... situation requires the different documents depending on what the person brings in."

REPRESENTATIVE TUCK asked whether any two of the three documents he mentioned would work, if the applicant is an American citizen and nothing else is required.

MS. THOMPSON maintained that for an applicant applying for a brand-new driver's license, there are other documents that would verify residency in Alaska. She offered to give the committee the link to the website listing the other documents.

[7:47:34 PM](#)

CHAIR KREISS-TOMKINS referred to another question posed during the 4/8/17 committee meeting: Is there a list of requirements or an authoritative U.S. Department of Justice (DOJ) memorandum ("memo") from DOJ stating what constitutes compliance and non-compliance under the federal REAL ID Act? He stated that the DHS staff he contacted declined to participate during the hearing on HB 74. He offered his understanding, based on exchanged emails with DHS staff and Mr. Magdanz's reading of the REAL ID Act, that the REAL ID compliance of a state is adjudicated on a case-by-case basis.

MR. MAGDANZ confirmed that DHS staff indicated that there is no document of the type the committee had requested; the authoritative document [regarding REAL ID compliance] is the 6 Code of Federal Regulations (CFR) Part 37, which is about 16 pages in length.

CHAIR KREISS-TOMKINS reiterated the question being addressed: Is there some kind of authoritative document regarding REAL ID compliance that clearly states the requirements. He said that for the answer to that question, one must consult the

regulations, and DHS interprets the regulations to determine the compliance of a state.

REPRESENTATIVE TUCK asked if that question encapsulates the question on the minimum requirements for a two-year [REAL ID] waiver.

CHAIR KREISS-TOMKINS stated that the question on the waiver is a separate question but can be posed to DOA during the hearing.

7:50:19 PM

REPRESENTATIVE TUCK expressed his understanding that the base commander, not DHS or DoD, determines what IDs are required to access base. He asked what forms of ID are accepted on base currently. He relayed that four IDs were mentioned in the Joint Armed Services Committee meeting [3/23/17]. He stated that he assumed the passport and the DBIDS card were two of them but does not know the other two.

MR. DUFFY answered that installations do not determine on their own which forms of ID are sufficient or insufficient. He stated that installations comply with elements of the REAL ID Act; the REAL ID Act has a list of a dozen or more forms of ID: passports, passport cards, immigrations status cards, transportation worker ID cards, and others. He relayed that currently the IDs on the list are acceptable, and other forms of ID from states with an approved [REAL ID compliance] extension are acceptable through June 6, including the current Alaska driver's license.

REPRESENTATIVE TUCK expressed his understanding that a DBIDS card constitutes a one-year pass and card holders would be required to renew, if HB 74 passes. He asked whether a person could use an old DBIDS card as documentation to renew for another year, if HB 74 does not pass.

MR. DUFFY offered a scenario as explanation: An Anchorage School District (ASD) employee working at a school on base received a DBIDS card in September 2016 using his current Alaska driver's license as a form of ID, which is sufficient for a one-year pass. The DBIDS card will continue to be valid until September 2017, at which time he would need to renew it. If HB 74 passes, the June 6 expiration date will be extended to allow the state to implement REAL ID. If no action is taken on the bill by June 6, the employee would not be allowed to renew the DBIDS card with his current Alaska driver's license but would

need another form of ID - a passport, a passport card, or other REAL ID compliant ID. He would not be able to use an old DBIDS card as an ID to get a new DBIDS card.

[7:54:08 PM](#)

REPRESENTATIVE LEDOUX moved to adopt the committee substitute (CS) for HB 74, labeled 30-GH1781\U, Martin, 4/10/17, as the working document. There being no objection, Version U was before the committee as a work draft.

CHAIR KREISS-TOMKINS referred to the proposed Amendment 4 to Version U, which read:

Page 3, line 6, following "fee.":

Insert "An identification card may be renewed by mail or on the department's Internet website, except that an identification card may not be renewed by mail or on the department's Internet website if the most recent renewal of the applicant's identification card was by mail or on the department's Internet website."

Page 3, line 27:

Delete "and 6 C.F.R. Part 37, as amended"

Page 5, line 14:

Delete "served"
Insert "serve"

CHAIR KREISS-TOMKINS said that the proposed amendment would correct a typo and eliminate the reference to federal regulations, as recommended by LLS.

MR. MAGDANZ confirmed that the proposed amendment would delete the reference to federal regulations on page 3, line 27 and correct the typo on page 5, line 14. He stated that the language proposed in lines 1-5 of Amendment 4 constitutes a technical conforming change requested by Legislative Legal and Research Services. He explained that Version J had erroneously referred to "identification card" in the statutes addressing driver's licenses; in Version U the mention of "identification card" was moved from Title 28 to Title 18, but some of the necessary accompanying language was omitted. Amendment 4 would add that language back into Version U, [page 3, line 6, following "fee".]

[7:56:41 PM](#)

REPRESENTATIVE LEDOUX moved to adopt Amendment 4, [labeled 30-GH1781\U.4, Martin, 4/10/17]. There being no objection, Amendment 4 was adopted.

[7:57:34 PM](#)

MR. MAGDANZ referred to the proposed Amendment 1 [to Version U], which read:

Page 3, line 29, following "**sharing.**":
Insert "(a)"

Page 4, following line 6:
Insert new subsections to read:

"(b) The department shall take all steps necessary to obtain from the entity an agreement that the state need not convey, distribute, or communicate social security numbers, in whole or in part, to participate in the database, index, pointer system, or other system.

(c) The department shall submit an annual report on the results of the efforts required under (b) of this section to the senate secretary and chief clerk of the house of representatives on or before January 31 of each year and notify the legislature that the report is available."

Page 8, following line 15:
Insert a new bill section to read:

"* **Sec. 14.** AS 28.05.068(c) is repealed June 30, 2021."

Renumber the following bill sections accordingly.

Page 8, line 22:
Delete "Sections 13 and 14"
Insert "Sections 14 and 15"

Page 8, line 23:
Delete "sec. 15"
Insert "sec. 16"

MR. MAGDANZ stated that the amendment was drafted in response to concerns about the sharing of Social Security numbers (SSNs) with AAMVA. He relayed that subsection (b) would require DOA to take all steps necessary to obtain from the entity, referenced

in Section 4, an agreement that the state need not convey, distribute, or communicate SSNs, in whole or in part, to participate in the database, index, pointer system, or other system. He continued by saying that subsection (c) would require DOA to provide the legislature an annual report every year until 2021 of its progress toward meeting the goal [of an agreement]. By 2021, REAL ID would be fully implemented; if by 2021 Alaska has not been successful in convincing AAMVA that Alaska does not need to share SSNs, subsection (c) would be repealed in order that Alaska not continue to submit the annual reports.

REPRESENTATIVE TUCK expressed his understanding that DOA already shared Alaska SSNs in January 2017. He stated that he didn't understand how the system works - if there is or is not a database. He offered his understanding that there is an exchange of information between states. He said that he appreciates the proposed amendment because the Social Security Administration (SSA) has recommended that SSNs not be used for this purpose.

REPRESENTATIVE BIRCH asked if Amendment 1 has been reviewed by DOA, meets with its approval, and does not interfere with the intent of the proposed legislation.

[8:00:13 PM](#)

MR. STANKER expressed his concern that language in the proposed amendment could create unintended consequences in the future. He said his understanding is that the intent of the language is to direct DMV to use its best efforts to try and change its reporting of SSNs; however, if unsuccessful at effectuating the change, then the reporting would still occur. He maintained if that is the intent, there may be no reason for concern; if not the intent, there may be future consequences.

[8:02:17 PM](#)

REPRESENTATIVE KNOPP questioned why Alaska would be willing to provide SSNs, considering it is not a mandate of the REAL ID Act but of AAMVA.

MR. STANKER replied that the REAL ID Act specifies certain minimum information, such as name and address. He said that 6 CFR 37.33 is the [federal] regulation that requires DMV to maintain the state database, and the state database requires the SSN. He maintained that prior to REAL ID, DMV was still

required to retain the SSN. The Federal Child Support [Enforcement] Program (FCSEP), in which Alaska participates, requires the reporting of the SSN to obtain a driver's license, if the individual has an SSN. He reiterated that SSNs are required for the DMV database regardless of the state's compliance with REAL ID.

REPRESENTATIVE TUCK suggested that the reason SSNs are included in the DMV database is to enable FCSEP to track employment to garnish wages. He asked if DMV "holds" the database for FCSEP.

MR. STANKER replied yes, currently DMV is required to capture the SSN of an applicant for a driver's license and make that information available to FCSEP. He maintained that the requirement to report SSNs is not limited to driver's licenses, but many professional licenses require SSNs through those same FCSEP laws, such as a license to practice law.

REPRESENTATIVE TUCK expressed his concern that Alaska must allow other states access to information in DMV's database. He asked what other data other states can access and if Alaska can build a "firewall" allowing access to only certain data. He asked for the Alaska statute that requires DMV to hold information for FCSEP, and "what statutes it is for the ... Social Security and occupational licenses for child support?"

MR. STANKER replied that he would provide that information.

[8:06:50 PM](#)

REPRESENTATIVE LEDOUX moved to adopt Amendment 1, [labeled 30-GH1781\U.1, Martin, 4/10/17]. There being no objection, Amendment 1 was adopted.

[8:07:19 PM](#)

MR. MAGDANZ referred to the proposed Amendment 2 [to Version U], which read:

Page 3, line 29, following "**sharing.**":
Insert "(a)"

Page 4, following line 6:
Insert new subsections to read:
"(b) The department shall take all steps available to work with other states, the United States Department of Homeland Security, and any multistate

entities in which the state participates to secure a means of compliance with P.L. 109-13, Division B (REAL ID Act of 2005), including through an interstate compact, that does not involve the storage or sharing of social security numbers, in whole or in part, with an interstate database, index, pointer system, or other system.

(c) The department shall submit an annual report on the results of the efforts required under (b) of this section to the senate secretary and chief clerk of the house of representatives by January 31 of each year and notify the legislature that the report is available."

Page 8, following line 15:

Insert a new bill section to read:

"* **Sec. 14.** AS 28.05.068(c) is repealed June 30, 2021."

Renumber the following bill sections accordingly.

Page 8, line 22:

Delete "Sections 13 and 14"

Insert "Sections 14 and 15"

Page 8, line 23:

Delete "sec. 15"

Insert "sec. 16"

MR. MAGDANZ relayed that Amendment 2 would address similar issues as Amendment 1. The difference between the two is that Amendment 1 contemplates the interstate system - State to State (S2S) - currently being piloted by AAMVA, whereas Amendment 2 addresses a larger system and requests DOA to take all steps to work with other states, DHS, and any multistate entities in which the state participates to secure a means of compliance with the REAL ID Act that does not involve the storage or sharing of SSNs with an interstate database, index, pointer system, or other system. He maintained that the Amendment 2 has the same reporting requirement and the same repeal of the reporting requirement as does Amendment 1.

[8:08:55 PM](#)

REPRESENTATIVE TUCK asked if the annual report, referenced in Amendment 1 and the proposed Amendment 2, would be audited annually.

CHAIR KREISS-TOMKINS responded that the report would be delivered to the legislature and would be like statutorily mandated progress reports from other agencies.

[8:09:28 PM](#)

REPRESENTATIVE LEDOUX asked, "What does this do to the fiscal note?"

CHAIR KREISS-TOMKINS asked for comments from DOA and DOL on the proposed Amendment 2.

MR. STANKER stated that the proposed Amendment 2 is like Amendment 1 in purpose; therefore, his previous comment applies. If the intent is for DMV to use its best efforts to change the requirement for reporting SSNs but failing to do so results in no subsequent consequence for REAL ID compliance, then there would be no reason for concern; but if the intent is to hamper REAL ID compliance, then DMV failing to change the SSN sharing requirement would result in the amendment being problematic.

[8:10:47 PM](#)

LESLIE RIDLE, Deputy Commissioner, Department of Administration (DOA), asked for confirmation that the committee would adopt either Amendment 1 or Amendment 2, but not both.

CHAIR KREISS-TOMKINS replied no, it's both.

MS. RIDLE maintained that both amendments are to the same lines of Version U.

MR. MAGDANZ stated that Legislative Legal and Research Services relayed that both amendments could be adopted, and the chair could make a statement directing Legislative Legal and Research Services to make technical and conforming changes to the final version of the CS.

CHAIR KREISS-TOMKINS confirmed that is what he would do, if the committee decides to adopt both amendments.

REPRESENTATIVE BIRCH asked, "How does that work?" He asked if on page 4, line 6, there will be two subsections labeled (b) and two subsections labeled (c). He asserted that two identical paragraph descriptors would not make sense.

MR. MAGDANZ answered that if both amendments are adopted, asking for "conforming technical changes" would allow Legislative Legal and Research Services to rename the subsections; the additional subsection would become subsection (d) in the final version.

[8:12:54 PM](#)

REPRESENTATIVE KNOPP stated that if the proposed Amendment 2 is moved for adoption, he will object. He maintained that Amendment 1 is sufficient, and legislators do not need any more annual reports for "the recycle bin." He asserted that DOA does not need this report and it would not benefit legislators.

[8:13:42 PM](#)

REPRESENTATIVE WOOL asked if the major difference between the two amendments is that Amendment 1 addresses entities like AAMVA and Amendment 2 addresses entities like DHS. He maintained that AAMVA is the entity to which Alaska would prefer not to share SSNs.

CHAIR KREISS-TOMKINS relayed that Amendment 1 addresses the possibility of Alaska leveraging its position on the AAMVA governance board to reform the S2S system so that it would change its requirement for the last five digits of the SSN. He said that Amendment 2 addresses the fact that S2S is the only system that complies with the REAL ID Act. Amendment 2 suggests that Alaska join with other states to express interest in another system were it to exist. If the number of states expressing that interest reaches a critical mass, then all those states together could advocate for another system requiring less private data or information.

[8:15:32 PM](#)

REPRESENTATIVE JOHNSON asked for the perspective of the Identity Project on this issue, other ideas on an alternate system, and how states might form a compact on this issue.

[8:16:56 PM](#)

EDWARD HASBROUCK, Identity Project, relayed that AAMVA, the S2S system, and the State Pointer Exchange Services (SPEXS) database have been kept largely and deliberately out of the debate as it has occurred in state legislatures. He stated that DHS continues to say very publicly and prominently that the REAL ID Act is not creating a national database; yet, he maintained that

it is - in the form of the SPEXS database. He asserted that when DHS denies that there is a national database, it becomes difficult for legislators to scrutinize the nature of the SPEXS database. He relayed that to the extent there has been discussions within other state legislatures, his sense is that there is much skepticism and justifiable concern about what control the state will continue to exercise over the data once it is in the hands of a private third party; there is no guarantee that Alaska would even be aware of the FBI requesting the data. He asserted that there is concern in other states regarding the loss of control that this scenario entails.

MR. HASBROUCK, in response to the question about other options for a database system, reminded the committee of how difficult, costly, and slow the process [of creating the S2S database] has been. When the REAL ID Act was enacted, the expectation was that the system would be implemented in all states by 2008 - within three years. He stated that it took ten years - until 2015 - before the first state and the pilot program for S2S came online. Even now only about 15 percent of the country's residents are in the database, and it will be several more years until the rest of the residents are online. He asserted that the database system has already taken ten years longer than initially anticipated; anyone attempting to create an alternative system would need to commit a great deal of money to the effort and it would take a long time. He maintained that setting up a national database system is a major undertaking.

MR. HASBROUCK declared that if Alaska does not like the current database system, the realistic pathway is not to agree to comply; there is no realistic expectation that either AAMVA will change, given the time and expense already invested, or a third party would be able to invest the amount of money that DHS has invested in the system. He maintained that the total budget for the project is not readily known because the funding has been fragmented into block grants to states, then reassembled by AAMVA and paid to Clerus Solutions - the revolving door contractor founded by former AAMVA executives - to operate the system. He reiterated that the Identity Project does not know the total budget, but the funds are from DHS money and DHS has no reason or desire to fund an alternate system giving it less access to the data.

[8:20:54 PM](#)

REPRESENTATIVE TUCK declared that he supports Amendment 2, and the report required by the amendment could be added to the

report required under Amendment 1. He reiterated that if Amendment 2 is adopted, the subsections would be "re-lettered" accordingly.

CHAIR KREISS-TOMKINS concurred.

REPRESENTATIVE TUCK moved to adopt Amendment 2, [labeled 30-GH1781\U.2, Martin, 4/10/17].

[8:21:47 PM](#)

REPRESENTATIVE LEDOUX objected for the purpose of discussion. She asked to know when legislators would be advised of the additional fiscal cost under Amendment 1 and Amendment 2. She asked if there will be a revised fiscal note with the proposed legislation for the next committee of referral.

MS. RIDLE opined that there would not be much cost to implementing the amendments; the DOA would be asked to make efforts to change the data system [requirements] and prepare a report to the legislature. She mentioned that she did not expect the report to expend many resources, but she maintained that if the committee moves Version U, with Amendment 1 and Amendment 2, out of committee, DOA would include a new fiscal note for the House Finance Standing Committee, if necessary.

[8:23:09 PM](#)

REPRESENTATIVE KNOPP asked if Amendment 2 would constitute a one-time effort or a continuing effort to create a compact with other states.

MS. RIDLE answered that she views the effort under Amendment 2 to be a continuing effort and would involve working with the AAMVA governance board to change the system.

REPRESENTATIVE KNOPP suggested that the AAMVA governance board is not the entity with which to work for changing or replacing the database system through a compact with other states.

[8:24:02 PM](#)

REPRESENTATIVE WOOL referred to the scenario in which two people had the same name and date of birth; the last five digits of their SSNs would differentiate the two people. He asked what could be used if not the SSN for that verification.

MS. RIDLE offered that the verification would most likely involve a review of other identifying data over the phone with another state, and it would most likely slow the process.

REPRESENTATIVE WOOL suggested that other identifying data could include city of birth, mother's maiden name, and other identifying factors which could be verified without access to the other state's database.

MS. RIDLE replied yes, they would be factors that could be discussed in a phone call.

[8:26:10 PM](#)

REPRESENTATIVE LEDOUX removed her objection to the motion to adopt Amendment 2. There being no further objection, it was so ordered.

[8:26:52 PM](#)

MR. MAGDANZ referred to the proposed Amendment 3 [to Version U], which read:

Page 3, line 1, following "not":
Insert ", without the consent of the applicant,"

Page 4, line 18, following "not":
Insert ", without the consent of the applicant,"

MR. MAGDANZ relayed that Amendment 3 was drafted in response to concerns from DOA and possibly the Department of Public Safety (DPS). He explained that Version U requires that for noncompliant ID cards and driver's licenses, DOA may not copy, scan, or retain in any form a document other than an application. He relayed that under Version U, if an Alaska resident visited his/her DMV and requested a noncompliant ID card or driver's license, DMV would verify his/her identity using the documents offered but would not be permitted to retain the documents in any form. He stated that DOA personnel indicated that it does retain copies of source documents, and Alaskans find that practice valuable in the event their documents are destroyed or lost. He maintained that Amendment 3 would allow DMV to continue storing source documents upon consent of the applicant.

[8:28:57 PM](#)

DAN LOWDEN, Captain, Deputy Commander, Division of Alaska State Troopers (AST), Department of Public Safety (DPS), opined that Amendment 3 would not offer DPS sufficient ability to reconcile records or verify identity if consent is required [for document retention]; some records would be retained, and some would not. He maintained that the Criminal Records and Identification (R&I) Bureau [DPS] often must merge records when a person has more than one record or differentiate similar records. He said that if DPS has partial records, it would not be able to achieve that goal.

[8:30:43 PM](#)

REPRESENTATIVE WOOL referred to the scenarios of someone's house burning down or someone losing his/her license. He maintained that when he lost his license, it was easy to get a duplicate from DMV. He asked if in the case of someone losing his/her license who had not consented to have his/her documents retained, DMV would have retained a record of the license but not the affiliated documents.

MS. RIDLE replied correct and explained that DMV would not have the records on hand to issue a duplicate license. The person would have to reapply for a driver's license and again bring in the documents for identification.

REPRESENTATIVE WOOL relayed that he lost his license years ago and was able to obtain a new license. He asked if that was possible because DMV stored his supporting documents, because he submitted documentation to DMV for the new license, or because it happened so long ago.

MS. RIDLE replied that it was possible because DMV stored his documents: personnel were able to look up his identifying records, possibly ask him some questions, and look at his picture on record.

REPRESENTATIVE WOOL summarized that under Amendment 3, if someone not consenting to the retention of his/her records at DMV loses his/her license, he/she must submit the source documents for a duplicate driver's license. If that person loses all his/her documents, such as in a fire, he/she could have a real problem replacing the driver's license.

MS. RIDLE said, "You're correct." She added that DMV also could not offer online renewal.

8:33:26 PM

REPRESENTATIVE LEDOUX asked if birth certificates have always been required.

MS. THOMPSON responded that DMV has always checked birth certificates but just recently has been taking copies due to the existence of scanners. She maintained that people are not always truthful about their intentions; they may be attempting to steal someone's identity; and the DMV's goal is to retain the information to make it as easy as possible for the customers.

REPRESENTATIVE LEDOUX maintained that she got her driver's license when she moved to Alaska in 1978 or 1979; she did not believe she had a birth certificate at the time but showed her driver's license from another state to obtain a license. She asked if she would have needed a birth certificate to replace her driver's license.

MS. THOMPSON explained that it would depend on the situation and the documents that a person offered. She conceded that DMV does not have copies of birth certificates yet for many people because it didn't have the ability to make copies; therefore, people applying for REAL IDs would need to bring in their birth certificates.

REPRESENTATIVE LEDOUX asked if currently a person would be able to get a duplicate license from DMV, if DMV did not have the person's birth certificate and he/she lost his/her license.

MS. THOMPSON agreed that currently the person could do that, because Alaska is not compliant.

REPRESENTATIVE LEDOUX mentioned that she understood Ms. Thompson to tell Representative Wool that a person would need to bring in his/her birth certificate to obtain a duplicate record, if the birth certificate was not on file; she suggested that Ms. Thompson may have been referring to what would be required if Alaska were compliant with REAL ID.

MS. THOMPSON reiterated that it depended on the situation; there may be a birth certificate on file for someone who obtained his/her license in the past ten years. She said that currently, while Alaska is still noncompliant, DMV would ask for other ID and many questions to validate identity.

[8:36:54 PM](#)

REPRESENTATIVE TUCK referred to the scenario of losing one's documents in a house fire and asked if DMV could issue a duplicate ID using only an image. He asked how duplicate IDs or driver's licenses are currently issued for someone with no supporting documents.

MS. THOMPSON answered that it would depend on the documents the person offered originally. Regarding the family whose house just recently burned, if they had obtained their driver's licenses from Alaska DMV and had submitted ID to obtain them, DMV personnel would be able to view their pictures on file and validate the other information according to what is on file.

REPRESENTATIVE TUCK asked whether a person could get a copy of his/her birth certificate from DMV after his/her identity has been verified.

MS. THOMPSON opined that the DMV most likely would not do that, and the birth certificate would be a copy and not be certified.

[8:38:44 PM](#)

REPRESENTATIVE LEDOUX inquired whether retaining documents from some applicants but not others would create an administrative "nightmare" for DMV.

MS. RIDLE responded yes.

[8:39:15 PM](#)

REPRESENTATIVE WOOL moved to adopt Amendment 3, [labeled 30-GH1781\U.3, Martin, 4/10/17].

REPRESENTATIVE LEDOUX objected. She reiterated that Amendment 3 would cause an administrative nightmare for DMV. She asserted that it is not DOA's obligation to retain copies of documents. If a person is worried about losing his/her documents in a fire, he/she should store them in a bank vault.

REPRESENTATIVE WOOL clarified that without the adoption of Amendment 3, anyone who obtains a noncompliant ID will not have his/her records retained by DMV; anyone who obtains a compliant ID will have his/her records stored; and it is that disparity and duality which would be troublesome.

MS. RIDLE answered that the difficulty arises any time DOA has procedures that are not uniform, and personnel must explain different options. She maintained that explaining compliant and noncompliant IDs will be easy because of all the written materials that will be provided; however, adding a third option - the retention of documents - increases the complication.

REPRESENTATIVE TUCK asserted that the American Civil Liberties Union (ACLU) of Alaska supported the original version of HB 74, because people who want noncompliant driver's licenses do not want their data to be exchanged in any way. He stated that he did not support Amendment 3.

A roll call vote was taken. Representatives Johnson, Knopp, and Kreiss-Tomkins voted in favor of Amendment 3. Representatives Tuck, Wool, LeDoux, and Birch voted against it. Therefore, Amendment 3 failed by a vote of 3-4.

[8:43:04 PM](#)

REPRESENTATIVE LEDOUX moved to adopt Conceptual Amendment 1. She referred to page 6, lines 14-15, of Version U and explained that Conceptual Amendment 1 would delete "may" on line 14 and insert "shall" and delete "one year" on line 15 and insert "eight years".

CHAIR KREISS-TOMKINS objected for the purpose of discussion.

MR. MAGDANZ recommended that a conceptual amendment also be introduced to amend the language on page 3, lines 10-11, which addresses identification cards and mirrors the language that would be amended by Conceptual Amendment 1.

MR. STANKER prefaced his remarks by saying that he is not an immigration attorney and immigration law is a complex and technical body of law. He stated that there are a few "indefinite" immigration statuses: a student visa is an indefinite status; people seeking asylum have an indefinite status; and permanent residents obtaining green cards at some point in the 1980s and before, whose green cards did not expire. He pointed out that by requiring DMV to issue all people with indefinite status an eight-year license, it may issue one to someone requesting asylum whose request is rejected in 60 days and then must leave the country.

REPRESENTATIVE LEDOUX asked how a DMV employee would be able to determine whether an immigration status is indefinite forever or indefinite for 60 days.

MR. STANKER replied that in reviewing AS 28.15.101(d), he discovered that during the hearing on House Bill 1 during the Twenty-Eighth Alaska State Legislature, 2013-1014, there was significant committee discussion on that very point. Ultimately the language was written such that DMV would issue regulations to provide additional specificity; however, it was determined that for most immigration documents, DMV would be able to determine the duration of the stay. He stated House Bill 1 provided for the license to be issued for one year for someone with an indefinite stay. He recommended incorporating flexibility in the sentence on page 6, lines 14-15, allowing DMV to issue a license for up to eight years, which may better accomplish the intent of the amendment.

REPRESENTATIVE LEDOUX withdrew Conceptual Amendment 1.

[8:48:24 PM](#)

REPRESENTATIVE LEDOUX moved to adopt Conceptual Amendment 2. She explained that Conceptual Amendment 2 would delete "may" on page 6, line 14, of Version U, and insert "shall" and delete "one year" on page 6, line 15, and insert "up to eight years".

REPRESENTATIVE BIRCH offered that he believes that the proposed amendment addresses his concern and would give DOA flexibility to use its discretion in making determinations regarding the issuance of driver's licenses.

CHAIR KREISS-TOMKINS objected for the purpose of discussion. He stated that he agreed with Representative Birch's assessment.

REPRESENTATIVE TUCK suggested that page 3, line 11, be amended as well.

REPRESENTATIVE WOOL asked what the duration of a license would be for someone with a student visa.

MR. STANKER offered that a student visa is in effect while the holder is a student. A school has an immigration liaison office to ensure that the proper documentation is submitted to federal authorities for the individual to remain in lawful status in the U.S. He expressed his belief that the language in the proposed amendment would give DMV the flexibility to issue a license for

up to eight years; and DMV regulations can provide further guidance explaining the appropriate duration of the license for each of the immigration status categories.

CHAIR KREISS-TOMKINS removed his objection to Conceptual Amendment 2. There being no further objection, Conceptual Amendment 2 was adopted.

[8:52:08 PM](#)

REPRESENTATIVE LEDOUX moved to adopt Conceptual Amendment 3. She explained that Conceptual Amendment 3 would delete "may issue the identification card with a validity of one year", page 3, line 11, of Version U, and insert "shall issue the identification card with a validity of up to eight years".

CHAIR KREISS-TOMKINS objected for the purpose of discussion.

REPRESENTATIVE TUCK mentioned that under Version U, Section 3, subsection (o) would be a new subsection; he asked whether currently immigrants are able to get ID cards.

MR. MAGDANZ replied that the state was issuing ID cards with shorter terms, and the proposed legislation would create a "cleaner" process.

MR. STANKER responded that under AS 18.65.310, there is no expiration date provided for ID cards; however, the statute states that ID cards shall be like driver's licenses but without driving privileges. He mentioned that in Title 28, driver's licenses and ID cards are used interchangeably. He explained that a previous draft of AS 28.15.101(d) had been amended to read "driver's license or identification card"; however, after discussion with Legislative Legal and Research Services, it was decided to take the language from AS 28.15.101(d) regarding the duration for driver's licenses and insert it into AS 18.65.310, applying only to ID cards.

REPRESENTATIVE TUCK offered that the language in Section 3 of Version U aligns statutes regarding ID cards with statutes regarding driver's licenses. He suggested that in the past, because ID cards were issued like driver's licenses, driver's license statutes were applied to the issuance of ID cards.

MR. STANKER responded that ID cards are issued by DMV, and Version U does "clean it up."

CHAIR KREISS-TOMKINS removed his objection to Conceptual Amendment 3.

8:56:26 PM

REPRESENTATIVE TUCK objected for the purpose of discussion. He asked if the requirements for issuing ID cards under [Title] 18 includes DMV and any other state issued card.

MR. STANKER answered that Title 18, Chapter 65, addresses state ID cards and specifies that DOA will administer them; the DMV, which is within DOA, performs the work [of ID card issuance].

REPRESENTATIVE TUCK asked if there are state ID cards issued outside of DMV.

MR. STANKER replied that he is aware only of ID cards issued under AS 18.65 by DMV; he stated he is not aware of any other cards the state issues or whether employee cards or prisoner cards constitute ID cards.

REPRESENTATIVE TUCK stated that his question addresses whether the addition of Section 3, subsection (o) would require all ID cards issued by the state be REAL ID compliant.

MR. STANKER answered no. What is being discussed under Version U are only the ID cards issued under AS 18.65; any other cards issued by the state are not issued under that Title and Chapter.

REPRESENTATIVE TUCK asked if the legislative IDs fall under [Title] 18.

MR. STANKER replied that he is not familiar with the legislative ID, but the IDs issued under AS 18.65, are issued by DMV.

REPRESENTATIVE TUCK removed his objection to Conceptual Amendment 3. There being no further objection, Conceptual Amendment 3 was adopted.

9:00:53 PM

MR. HASBROUCK testified in response to a question posed during the 4/8/17 committee meeting, which was whether a person is or will be required to show ID for airplane travel. He asserted that it is the threat of not being allowed to fly that is driving the potential adoption of HB 74. He relayed that currently there is no federal law or regulation that requires an

ID for airplane travel; he added that DHS has not been able to identify such a law or regulation. He stated that the REAL ID Act sets standards for the types of ID that are acceptable if an ID is required, but it does not itself require an ID for anything. He stated that the requirement for an ID to access a military base is up to DoD, and the requirement for an ID to fly is the prerogative of the Transportation Security Administration (TSA). He maintained that TSA has not been able to point to any such regulation.

MR. HASBROUCK relayed that the clearest statement of the requirement for an ID to travel by airplane was the decision of the U.S. Court of Appeals for the Ninth Circuit ("Ninth Circuit") in Gilmore v. Gonzales - a case brought forth by John Gilmore, who founded the Identity Project. He stated that in that case, the Ninth Circuit judges were able to review "in camera" the "secret" security directives instructing TSA operatives. After reviewing those documents in camera, the Ninth Circuit concluded and publicly ruled that the ID policy then in effect - which was after the REAL ID Act had been adopted - allowed people either to show an ID or to submit to a more intrusive search before getting on an airplane.

MR. HASBROUCK maintained that no legislation has been introduced since [the Ninth Circuit] ruling to change this; no notice of proposed rule-making has been promulgated by DHS or TSA to change this. He declared that any statement about whether people would be prevented from getting on airplanes would be speculation: speculation about some as yet unintroduced legislation that Congress is not even talking about; speculation about some future regulations that have not even been proposed; or speculation about what would be a completely arbitrary act by DHS - an act clearly vulnerable to legal challenge - not only to deny people the right to travel but to arbitrarily single out citizens of some states, such as Alaska, in preference to citizens of other states by interfering with the right [of Alaskans] to travel. He maintained that would be vulnerable to a host of justifiable legal challenges on equal protection grounds that Alaskans are entitled to the same rights as the residents of any other state.

[9:04:50 PM](#)

REPRESENTATIVE TUCK mentioned the Privacy Impact Assessment (PIA) performed on the SPEXS program, which was posted on the Identity Project website.

CHAIR KREISS-TOMKINS asked for committee comments on the proposed legislation.

REPRESENTATIVE TUCK opined that Version U is not ready to be moved out of committee. He questioned whether all the issues in the 4/5/17 letter from DOA, included in the committee packet, were addressed. He stated that committee members were not able to ask their questions regarding the valuable information presented by Mr. Hasbrouck. He maintained that there are more questions that have not been answered. He expressed his belief that the process is not good, and the proposed legislation needs more time.

REPRESENTATIVE BIRCH opined that the proposed legislation is not perfect, but there has been ample testimony and discussion on the "pluses" and "minuses" of REAL ID. He expressed his belief that the committee made a good faith effort in drafting the proposed legislation; the administration advanced a proposal allowing residents the option of either a compliant ID or noncompliant ID; and the legislature has asked the Congressional delegation for an exemption for several years with no success. He stated that he is encouraged by the dialogue and energy of the committee and his desire is that the proposed legislation move out of committee.

[9:10:07 PM](#)

REPRESENTATIVE KNOPP opined that the proposed legislation still has issues even after a great deal of debate. He expressed his disappointment in not being given the opportunity to offer his amendment and to ask all the questions he needed to ask. He opined that more time was needed for additional conversation and needed fixes.

REPRESENTATIVE JOHNSON said that she agrees with the concerns expressed by the other committee members. She opined that the concerns were not "belaboring an issue" but are legitimate concerns. She maintained that the proposed legislation involves Alaska's participation in a new, big database - bigger than anything seen in the history of the U.S.; all states are contributing to it; and she is uncomfortable with her facial image and SSN shipped out to an out-of-state location. She claimed that the database is a national database and is the "golden egg" that any hacker would want to access to penetrate the security of the U.S. and banking information. She maintained that hackers would be concentrating their efforts on this database. She asserted that she would like some assurance

that the data is secure, and she claimed she has not received that. She lamented that not taking the extra time to address the questions is disappointing. She opined that the debate and information are being limited. She stated that she will vote "no" for many reasons, but particularly because she believes the process was not properly followed.

9:13:38 PM

REPRESENTATIVE WOOL stated that there are issues with the proposed legislation: some that could be addressed, some that could never be addressed, and some that constitute fundamental problems for some committee members regardless of changes to the proposed legislation. He expressed his belief that the chair did entertain opposing views and invited testimony from different organizations, including not only state agencies but other groups with very opinionated positions. He maintained that the committee chair amended the proposed legislation to accommodate "a lot of people" - possibly to the chagrin of the administration. He mentioned that the House State Affairs Standing Committee moved [HJR 15] from committee [on 3/28/17] opposing the REAL ID Act of 2005. [HJR 15 passed in the Alaska House of Representatives on 4/16/17.] He relayed that amendments were added to prevent certain data transmissions. He conceded that the public "has data out there everywhere" - Home Depot, Bank of America, SSA, DHS - and he wants data security as much as anyone. He maintained that testimony indicated that what would result is not one big central database but an exchange of verification pointers. He asserted that if a person does not want to obtain a REAL ID driver's license or ID, he/she can opt out and get a passport to travel.

REPRESENTATIVE WOOL offered that even though legally and technically one may not need an ID for airplane travel, for all practical purposes, one does. He stated that if no one traveled with an ID, it would be a real problem for the "system" and may result in a federal law mandating an ID for airplane travel. He reminded the committee that the REAL ID Act originated with [the terrorist attacks of September 11, 2001] and the fact that the attackers had fake driver's licenses, which has not been mentioned in the committee hearings. He maintained that the attackers obtained these driver's licenses quite easily; obtaining a fake driver's license used to be easy to do. He opined that the motivation for the Act, at the end of the day, is security.

REPRESENTATIVE LEDOUX offered that Representatives Knopp and Tuck should be given the opportunity to introduce their conceptual amendments and that discussion and testimony continue as needed.

REPRESENTATIVE KNOPP declined to offer a conceptual amendment.

[9:18:32 PM](#)

REPRESENTATIVE TUCK referred to the PIA performed by Clerus Solutions and stated that the Mississippi Department of Public Safety (DPS) has included the requirement of a PIA in its contract with AAMVA. He suggested that Alaska include such a requirement in its contract with AAMVA. He referred to a Clerus Solutions document [document not provided] which refers to the E-Government Act of 2002 mandating a PIA on any substantially revised or new information system. He maintained that DOJ, not AAMVA, requires that the PIA be disclosed. He said that because the PIA is a disclosed document, he recommends it be performed on a regular basis. He suggested that Legislative Legal and Research Services draft an amendment to mimic the language in Mississippi's contract with AAMVA.

REPRESENTATIVE TUCK stated that "followers want expediency." He maintained that through the proposed legislation, Alaska would be following, not a mandate of the federal government, but a requirement of a group of former AAMVA employees, who set up a system for which they receive sole source contracts from the federal government, as stated in the PIA. He said that Jay Maxwell is the founder of Clerus Solutions; served as technical advisor to the U.S. House Judiciary Committee staff while the REAL ID Act was being drafted; and currently has a sole source contract through AAMVA to manage the program. Representative Tuck said that having no competition "is probably the reason why he took ten years, but it would be interesting to see how much money."

REPRESENTATIVE TUCK stated, "I think this is a shakedown, simply put, on the American people, and I do not like the way this is going on. I don't like that our attorney general is not fighting this; our attorney general is rather rolling over and having DOA roll along with ... this." He opined that the threat of not being able to travel by air is a scare tactic, and it has been proven false. He opined that the threat of not being able to access base is also a scare tactic, because it is obvious that a person can access base. He claimed that "this is nothing more than this organization trying to funnel all this money to

themselves and we're getting shaken down to do that; and we're getting shaken down from the administration; and we're getting shaken down from the federal government; and we're getting shaken down from this Homeland Security."

REPRESENTATIVE TUCK maintained that [participating in REAL ID] introduces many privacy issues. He said that the Tenth Amendment to the U.S. Constitution states: The powers not delegated to the United States by the Constitution, nor prohibited [by] it to the states, are reserved to the states respectively, or to the public. He asserted that the handling of driver's licenses and ID cards has always been Alaska's [prerogative]. He stated, "If you want to circumvent checks and balances, if you want to take care of your buddies by passing a bill in Congress that then gives all that authority and they can willy-nilly change things as they want to, and there is nothing that the states can do about it once a bill like this is passed; ... and you hang out long enough, you wait 12 years, so it just brews and festers; and then finally when you get your SPEXS up and you get your database up, and everything else, then you can go ahead and put the clamp down on states." He said, "That's basically how I see this is going on. I'm a little bit disgusted by it, and I'm not happy with it, and I think it's ... almost a threat - if you do not follow these lines, then you will not go to work, and you will not fly - and I think that's a false threat."

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REPRESENTATIVE WOOL moved to report the proposed CS for HB 74, Version 30-GH1781\U, Martin, 4/10/17, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE JOHNSON objected.

A roll call vote was taken. Representatives Birch, Wool, LeDoux, and Kreiss-Tomkins voted in favor of reporting HB 74, as amended, out of committee. Representatives Johnson and Tuck voted against it. Therefore, CSHB74(STA) was reported from the House State Affairs Standing Committee by a vote of 4-2.

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ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:25 p.m.