

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

March 13, 2018

3:19 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. 325

"An Act relating to computer use by prisoners; and relating to an exemption from the State Procurement Code for contracts for rehabilitation and reentry services."

- HEARD & HELD

INDIRECT EXPENDITURE HEARING

HOUSE BILL NO. 400

"An Act relating to the collection of fees by the Department of Public Safety for fire and explosion prevention and safety services."

- HEARD & HELD

HOUSE BILL NO. 310

"An Act relating to the minimum age of eligibility for marriage."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 325

SHORT TITLE: PRISONER COMPUTER USE; REENTRY SERVICES
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/02/18	(H)	READ THE FIRST TIME - REFERRALS
02/02/18	(H)	STA, JUD
02/13/18	(H)	STA AT 3:15 PM GRUENBERG 120
02/13/18	(H)	Heard & Held
02/13/18	(H)	MINUTE(STA)
03/13/18	(H)	STA AT 3:15 PM GRUENBERG 120

BILL: HB 400

SHORT TITLE: FEES FOR FIRE PREVENTION MEASURES
SPONSOR(s): STATE AFFAIRS

02/28/18	(H)	READ THE FIRST TIME - REFERRALS
02/28/18	(H)	STA, FIN
03/01/18	(H)	STA AT 3:15 PM GRUENBERG 120
03/01/18	(H)	Heard & Held
03/01/18	(H)	MINUTE(STA)
03/08/18	(H)	STA AT 3:15 PM GRUENBERG 120
03/08/18	(H)	Heard & Held
03/08/18	(H)	MINUTE(STA)
03/13/18	(H)	STA AT 3:15 PM GRUENBERG 120

WITNESS REGISTER

DEAN WILLIAMS, Commissioner
Department of Corrections (DOC)
Juneau, Alaska

POSITION STATEMENT: Presented HB 325 on behalf of the House Rules Committee by request of the governor and summarized the issues to be addressed by the proposed legislation.

BROOKE IVY, Staff
Representative Jason Grenn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on the recommendations of the House Finance Committee's Subcommittee on the Department of Administration (DOA) during the indirect expenditure hearing.

HEATHER HEBDON, Executive Director
Alaska Public Offices Commission (APOC)
Anchorage, Alaska

POSITION STATEMENT: Testified during the indirect expenditure hearing.

CHERI LOWENSTEIN, Director
Division of Administrative Services (DAS)
Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Testified during the indirect expenditure hearing.

GREG SMITH, Staff
Representative Gabrielle LeDoux
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on the recommendations of the House Finance Committee's Subcommittee on the University of Alaska (UA) during the indirect expenditure hearing.

ALEXEI PAINTER, Fiscal Analyst
Legislative Finance Division (LFD)
Legislative Affairs Agency (LAA)
Juneau, Alaska

POSITION STATEMENT: Provided information on the recommendations of the House Finance Committee's Subcommittee on the Department of Revenue (DOR) and answered questions during the indirect expenditure hearing.

MILES BAKER, Associate Vice President of Government Relations
University of Alaska (UA)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the indirect expenditure hearing.

DAVID TYLER, Director State Fire Marshall
Division of Fire and Life Safety (DFLS)
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 400.

LLOYD NAKANO, Assistant State Fire Marshal
Division of Fire and Life Safety (DFLS)
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions on during the hearing on HB 400.

CATHY SCHLINGHEYDE, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented the forthcoming Amendment 2 on behalf of the House State Affairs Standing Committee, prime sponsor of HB 400.

NANCY MEADE, General Counsel
Alaska Court System (ACS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions on the forthcoming Amendment 2 during the hearing on HB 400.

ACTION NARRATIVE

[3:19:49 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:19 p.m. Representatives Tuck, Wool, Birch, Johnson, Knopp, and Kreiss-Tomkins were present at the call to order. Representative LeDoux arrived as the meeting was in progress.

HB 325-PRISONER COMPUTER USE; REENTRY SERVICES

[3:22:16 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 325, "An Act relating to computer use by prisoners; and relating to an exemption from the State Procurement Code for contracts for rehabilitation and reentry services."

[3:22:54 PM](#)

DEAN WILLIAMS, Commissioner, Department of Corrections (DOC), explained that the community residential center (CRC) - or halfway house - model has been in existence for 20 years with no changes. The CRCs are where inmates go who are exiting the prison system; some are on furlough; some are on electronic monitoring; they are trying to find a job and a place to live. He stated that currently there is one option for where inmates can live while transitioning from prison to home or to wherever they will live; and that is within the CRC halfway house model.

COMMISSIONER WILLIAMS stated that the problem with the CRC model is that there has been a 60-65 percent recidivism rate in Alaska for the past 15-20 years despite changes in the prison system. He asserted that when people don't have a place to live or a job

when they have finished their sentences, the chance of failure is high. He said that almost half of these failures occur within the first six months of release. This occurs because the process of transitioning from a "hard cell" environment to one in which the person is productive must have a strategic and stepdown plan; Alaska does not have that.

COMMISSIONER WILLIAMS said that another reason the halfway house model is fundamentally "broken" is the "walk-away" rate, or escape rate. Every time someone escapes from the halfway facility, it could result in a felony charge. In 2016, there were 222 escapes from halfway houses; under his leadership and with the assistance of staff, that number was reduced to 83 in 2017; however, every one of those escapes represents a new potential felony charge against the person who walked away from the halfway house.

COMMISSIONER WILLIAMS related a third reason for a broken system: the cost of the CRC halfway house model is very expensive. He recommended that the committee members not look at the budgeted rate for a halfway house bed but look at the actual cost. He offered to share the breakout of the cost with the committee. He gave examples: at Cordova Center [in Anchorage], the bed rate is \$117 per day per person; at Tundra Center in Bethel, the rate is \$312 per day per person; at Northstar Center in Fairbanks, the rate is \$176 per day per person; at Seaside Center in Nome, the rate is \$145 per day per person; and at Glacier Manor Half-Way House in Juneau, the rate is \$206 per day per person. He concluded that it is a costly model, which is the reason he is looking for innovations.

COMMISSIONER WILLIAMS continued by relating other problems with the model: the inmates don't want to go to the halfway houses; it is difficult to fill the beds due to problems at the facility such as drug trafficking; and there isn't enough for the residents to do. He maintained that without work to do or places to go, the temptation is to escape or use drugs.

[3:27:48 PM](#)

CHAIR KREISS-TOMKINS passed the gavel to Vice Chair LeDoux.

COMMISSIONER WILLIAMS gave a final cause contributing to the [halfway house] model being broken: the procurement requirements that DOC is currently under. He pointed out that the request for proposal (RFP) for DOC is 150 pages; it represents the boilerplate procurement procedures; and anything

over \$100,000 requires a very cumbersome and bureaucratic process. He maintained that the places where he wants inmates to go when exiting prison are smaller locations and smaller facilities. People do much better in those locations, and they are cheaper. He referred to testimony during the 2/13/18 House State Affairs Standing Committee meeting from operators of some of those small places.

COMMISSIONER WILLIAMS summarized by saying that it is his desire that the committee members understand the scope of the issue and why there are problems with the current halfway houses. He mentioned that he appreciated the discussion and concerns raised during the 2/13/18 committee meeting hearing. He maintained that he is requesting an exception to the procurement rules, not for the entire department but just for a small amount of money, \$17-18 million, to allow him to pilot a different model.

COMMISSIONER WILLIAMS stated that the model in place has benefited the DOC contractor for 20 years, and millions of dollars are "on the line." He emphasized that this initiative in no way is meant to disrespect the DOC contractor: this is the contract DOC requested; it is the bid DOC awarded; and the contractor provided the service. He maintained that DOC could do better. He is requesting to be allowed an exception to the procurement rules - if not for \$17-18 million, then for \$5 million - to try a pilot project to demonstrate improved results. He said, "Put requirements on me if you must about where that money was spent and how that was put together." He reiterated that the current model is not working, and that is why he is making this request to the committee.

[3:30:59 PM](#)

REPRESENTATIVE JOHNSON referred to Commissioner Williams's testimony that there are drugs inside the halfway houses. She asked if there is legal action that could be taken against a contractor if drugs are allowed inside the halfway house.

COMMISSIONER WILLIAMS answered that the contractors are as deeply concerned about this issue as is he. He maintained that the problem lies in the halfway house model: it houses

50 people with no common purpose; some are using drugs and bring them into the halfway house; some are recovering drug addicts that don't want to have drugs around. He asserted that the contractors are not allowing the presence of drugs but are fighting it like he is.

REPRESENTATIVE JOHNSON expressed her concern regarding establishing a halfway house in a neighborhood without notice to the neighborhood and the possibility that the proposed legislation would allow the requirement of public notice to be circumvented. She added that halfway house residents are criminals and putting them into neighborhoods would understandably make residents unhappy.

COMMISSIONER WILLIAMS replied that the proposed legislation would not preclude any local ordinances, requirements, or controls regarding the locations of the halfway houses. There would be discussions at the municipal level, prospective providers would be heard, as well as objections, and it would be a community decision. He stated that another consideration is that the residents of the halfway houses are being released to the communities regardless. He offered that his proposal addresses a choice: either an inmate will spend the last six months of his/her sentence in a halfway house with a 65 percent recidivism rate upon release due to insecure employment and housing; or the inmate will live in a local, innovative housing unit that is smaller, under the control of local ordinances, but where escapes and drugs are less likely. He added that people in the smaller locations have problems, but there are fewer problems. There are many more problems in the large places with 50-100 men, who have nothing in common; some want to continue trafficking in drugs and some want to get well.

[3:35:07 PM](#)

REPRESENTATIVE KNOPP expressed his concern that if halfway houses are placed in communities with no economic opportunities, an inmate who was not productive before prison, would not be productive upon release even if he/she was in a smaller residential facility. He offered that if procurement is an issue, it could be addressed administratively. He referred to the communities - Bethel, Cordova, and Nome - and questioned what could be done in a halfway facility - whether it housed six or sixty men - that would result in the residents being productive. He maintained that there are drugs in prisons, hospitals, and schools; the size of the facility would not make a difference; if the residents are using drugs, then it is impossible to keep the drugs out of the facility. He concluded that he is unable to make the connections between procurement codes, smaller living facilities, and the type of rehabilitation that Commissioner Williams is seeking.

COMMISSIONER WILLIAMS replied that research shows that for peer-oriented returning citizens, who have a common issue that they are working on together, a six-bed facility is better than a sixty-bed facility. He described the larger halfway houses: sixty people housed in one place; four to six people to a room; varied sleeping and employment schedules; and residents who are not working. He stated that they are a "hodge-podge" of individuals who don't have "a lot pulling together."

COMMISSIONER WILLIAMS said that the reason that smaller locations work better is because the residents support each other; they help each other find jobs; and they are held accountable by a house parent. He said that this model is used in Norway; the recidivism rate is 25 percent. He maintained that the success in that country is not just because of the money that is spent on prison treatment programs. Their prisons are not that much better than those of the U.S., although there are a few things they do better. He said, "What they are better at is how they step people down." The prisoners start out at a maximum-security facility; they work their way out; they go into a halfway house in downtown Oslo with a maximum of 15-20 beds; and they all have jobs. He continued by saying that finishing one's prison sentence in one of these halfway houses is a privilege; the residents all have a lot to lose. He reiterated that the research on the success of the small peer-oriented facilities is very clear; and the operators of these small facilities have testified that the results are good.

COMMISSIONER WILLIAMS mentioned a facility in the Kenai area: it is a faith-based organization; there are three individuals just out of prison at the facility; the operator is helping them to secure jobs and "keep on track"; and the individuals go to Narcotics Anonymous Alcoholics Anonymous (NAAA) meetings. He maintained that the operator is barely able to keep the facility operating. He stated, "It's all on a shoestring. It's amazing the results." He asked to be given the opportunity and flexibility to pilot this initiative, because he sees already that it is working.

REPRESENTATIVE KNOPP commented that he has put many of the men whom Commissioner Williams referenced to work and has seen very limited success. He said that the men worked for a while; they did very well; they were hard-working and smart; they were happier than they had ever been; and they were making more money than they had ever made. He stated that after about 30-60 days of good paychecks, they don't make it to work on Monday; then lose more days of work; then don't show up again; and

Representative Knopp gets a phone call that they are incarcerated. He maintained that he is not as optimistic as the faith-based [organization] that is doing this work every day. He conceded that there have been a few successes with the men being actively involved with the church.

[3:41:32 PM](#)

REPRESENTATIVE BIRCH referred to sixty men in a halfway house with ten units and six people to a unit. He conceded that a small housing unit offers a more normal lifestyle for the residents but suggested that there would be efficiencies in having 60 men under one roof; having the men in ten different properties would be very labor intensive and require additional oversight, administration, and management.

COMMISSIONER WILLIAMS responded that the larger facility might be operationally efficient; however, it is not economical. He said that the larger facilities are very costly due to requirements regarding cameras, doors, staffing, and many other "hard" costs. He reiterated that he has broken out the costs and can demonstrate the actual cost of the beds.

COMMISSIONER WILLIAMS relayed that the other consideration is that the failure rate is high [for the large facilities]. He maintained that the smaller nonprofits are better at transitioning inmates back into society: these facilities are in smaller peer-oriented communities; the facilities are run by well-intentioned and seasoned people who are in recovery and have been for five to ten years; the involvement of the operators in helping people reenter society is not only different, but better. He explained that inmates do not want to go to halfway houses, and their issues and concerns about going to halfway houses are "real."

COMMISSIONER WILLIAMS expressed his belief that the current halfway house model is the cornerstone of the failure to control the high recidivism rate; and his staff is convinced of this as well. He said that when asked why he is not putting more people in halfway houses, he responds that there is a problem with the model; the model was developed for relief for population control; it is no longer used for that purpose but as a step-down unit. He summarized that the easiest course of action for him is to do nothing; however, continuing to follow the same failed model after 20 years will not produce different results. He stated that his job is to bring problems to the forefront and

attack them with new solutions. He asked the committee for its help and for any suggestions it might offer.

[3:45:45 PM](#)

REPRESENTATIVE BIRCH stated that his principle objection to HB 325 is bypassing the procurement guidelines. He expressed his belief that there are administrative remedies, which the Department of Law (DOL) could provide. He offered that absent the procurement waiver proposed by HB 325, a competitive bid document could be drafted by DOC that defines exactly what is wanted. He expressed that Commissioner Williams appears to have a very clear idea of what he wants for DOC and that it is a model that Representative Birch supports. Representative Birch offered his belief that there are people willing to operate small halfway houses who could meet the standard established by DOC, and the competitive bid process would work. He maintained that the state gets into trouble when it waives procurement guidelines; it has at times had a poor track in that area.

[3:47:41 PM](#)

REPRESENTATIVE WOOL expressed that he understands being intimidated by a ream of paper with requirements. He commented that the halfway house model is broken, as evidenced by the recidivism rates, and the state should not allow "some old methodology of 100 pages of procurement" stop it from trying something new. He mentioned that he spoke to Kara Nelson [Director, Haven House Juneau] who testified during the hearing on HB 325 [during the House State Affairs Standing Committee meeting of 2/13/18]. He referred to the public television [360 North] documentary, [entitled "Inside Out Leaving Prison Behind"]; he recommended that the committee members see the documentary. He repeated the question he asked Ms. Nelson after the meeting, which was: Haven House is operating well; therefore, what is the problem?

COMMISSIONER WILLIAMS replied that the scope of the problem is expecting someone from Haven House to work through an RFP. He said that he appreciates the suggestion to shorten the RFP but maintained that he doesn't know how to do that. Even if the RFP is soliciting a proposal for a six-bed facility, if the bid is for over \$100,000, the entire process must still be followed.

COMMISSIONER WILLIAMS stated that he is working on a "Plan B" if HB 325 doesn't pass. He maintained that there is a reason that

the small facility operators don't apply and expend the great effort.

REPRESENTATIVE WOOL said that he learned [from Ms. Nelson] the state can't pay Haven House to house inmates transitioning to life outside, because the organization has not fulfilled the procurement obligation; Haven House is operating on a volunteer, nonprofit, donation basis; and it is not getting money from the state. He mentioned that the state is paying the Northstar Center in Fairbanks, \$176 per day per person. He added that the center is across the street from his business; the center has "walk-aways", but that doesn't impact him because they don't stay in the area. He mentioned that in the neighborhood where he lives, there are a couple group homes for troubled youth, and he doesn't really notice them either.

REPRESENTATIVE WOOL maintained that he likes the Haven House model as a method of transitioning prisoners to functioning on the outside world. He asserted that he does not agree with the statement, "Because they're once prisoners, they're forever deemed unproductive, and you can never get them functioning in society." He stated that he knows people who have been incarcerated and are now out of prison and functioning well. There are different reasons for people to go to jail; not all are destined to a life of nonproductivity; people can be helped, as Norway has demonstrated. He said that he believes that downsizing and allowing for closer interactions is a good model. He said that he applauds Commissioner Williams for exploring a different model; and he supports circumventing the procurement codes to allow for a limited pilot project. He said, "What's the hurt in trying, because we're doing pretty poorly as it is?" He mentioned the expense of one person supervising six residents but maintained that there is a high cost associated with a 60-70 percent recidivism rate, that is, the added expense of public safety, court, and prison.

[3:52:56 PM](#)

Vice Chair LeDoux stated that before supporting HB 325, she wants to hear someone from the Department of Administration (DOA) say that there is no way for smaller projects to have a fast track or "lighter" procurement policy. She maintained that if there is no way, then that is a problem. She offered that rather than address this problem on a department-by-department, project-by-project basis, there should be a mandate that the administration adopt realistic procurement codes. She maintained that she supports the model that Commissioner

Williams has presented; however, she claimed that she wants to make sure there is no way the change could be made in the procurement code. She stated that she would rather spend her legislative time on something that resulted in a simpler procurement code so that the requests from departments didn't come in one by one and each need separate legislation. She offered that projects under a certain amount could have a streamlined procurement process.

COMMISSIONER WILLIAMS responded by saying that for under \$100,000, there is a fast track; however, that amount is spread out between three to five years. He gave an explanation using a hypothetical situation: DOC signs a contract with Haven House; it awards Haven House \$50 per night per individual; there are four to five people who are still serving sentences but are now housed at Haven House; the amount exceeds \$100,000 over the course of three to five years - the length of the contracts. He suggested that perhaps there should be more flexibility on the fast track dollar amount.

COMMISSIONER WILLIAMS said that \$17 million is spent on halfway houses. He asked that as an alternative to the proposed legislation, he be allowed to bypass the procurement rules for \$5 million; institute a pilot project; track the results after three years; and try to improve the halfway house model.

[3:56:05 PM](#)

VICE CHAIR LEDOUX maintained that if DOC has a problem with the fast track, there are probably other departments with that problem. She suggested that the procurement code should be revised not just for DOC, but for all departments; and without that, she cannot support the proposed legislation.

[3:56:50 PM](#)

VICE CHAIR LEDOUX passed the gavel back to Chair Kreiss-Tomkins.

REPRESENTATIVE TUCK acknowledged the high recidivism rate; he expressed that he is shocked by the escape rate at the halfway houses. He suggested that the contracts require the halfway houses not to allow escapes or to be penalized for them. He offered that DOC could do better with the escape rate.

REPRESENTATIVE TUCK stated that he looked through the DOC halfway house RFP and was not able to identify anything that could be eliminated. He mentioned two provisions - facilities

must pay utilities and they must be bonded - and offered that they are necessary. He asked what in the RFP specifications could be eliminated. He also asked why DOC couldn't write the RFP specifications to set a limit for the number of residents in a halfway house. He maintained that a large part of a prisoner's success upon leaving the corrections system is oversight by proper peers - parole officers and probation officers. He conceded that more focused attention on the inmates does lose "economies of scale"; however, the greater personal attention may help reduce the recidivism rate.

REPRESENTATIVE TUCK summarized the reasons for the failures of the current system: the expense per inmate is high; the stepdown plan is inadequate stepdown; there is a high rate of escapees; people don't want to live there because of the atmosphere of drug trafficking; and there is nothing for the residents to do.

[4:00:54 PM](#)

REPRESENTATIVE BIRCH cited Section 3 of HB 325, [page 3, lines 19-23], which read in part:

(b) In authorizing a contract for rehabilitation and reentry services made under AS 36.30.850 and (a) of this section, the commissioner or the commissioner's designee shall make a determination that the payment for rehabilitation and reentry services will promote the use of community-based and culturally relevant rehabilitative and reentry services most suited to provide support for the individual

REPRESENTATIVE BIRCH suggested that at some point DOC needs to quantify what is being asked for in a contract: number of square feet for a room; smoke detectors; and supervision requirements. He maintained that DOC could describe what it wants in detail; however, he conceded that quantifying the qualifications of staff to provide rehabilitation and reentry services would be more difficult. He stated that he supports looking for options within the existing procurement code; he expressed his belief that those options exist. He mentioned that the commissioner's objective is meritorious; however, the "safest bet" is for DOC to decide what it wants, put out an RFP, and rely on a competitive bid process.

[4:03:00 PM](#)

CHAIR KREISS-TOMKINS announced that HB 325 would be held over.

REPRESENTATIVE TUCK asked for the various ways that people are put into halfway houses.

COMMISSIONER WILLIAMS answered that the walk-away rate decreased by about one-third from the prior year due to being "smarter" about who was allowed into a halfway house. He stated that he has been criticized for not releasing more inmates to halfway houses; however, he maintained that to avoid the escape rate of 2016, DOC has pared down who was eligible for halfway houses. He relayed that except for very few exceptions, halfway house residents are people still serving sentences with six months to a year remaining. The two main groups of halfway house residents are inmates who are furloughed, as determined by statute, and inmates on electronic monitoring.

REPRESENTATIVE JOHNSON stated that she got involved in government because of someone trying to circumvent the procurement code and has reservations about allowing it to happen. She suggested that DOA staff provide information on the procurement code and the committee explore possible changes to the code. She also suggested that the committee hear testimony from the halfway house contractors and get their input on possible solutions to the halfway house problems.

[4:06:42 PM](#)

CHAIR KREISS-TOMKINS concurred with the suggestions.

REPRESENTATIVE WOOL referred to the phrase "culturally relevant rehabilitative and reentry services" and asked for the percentage of halfway house inmates who are from outside of Alaska's urban areas, who might receive a greater benefit by being in a place with people from their own cultural background and closer to home. He mentioned that there are a fair number of Alaska Natives incarcerated; someone from a rural area paroled in Anchorage must stay in Anchorage to be close to his/her parole officer; rural halfway houses could help this urban-rural divide, if there are such places willing to bid on halfway house contracts.

COMMISSIONER WILLIAMS replied that another reason why the current model is broken is that there are not smaller facilities in rural areas; people do not want to go to halfway houses in one location and try to get a job, knowing that eventually they

will be leaving. He added that even the Matanuska-Susitna ("Mat-Su") Valley does not have stepdown housing.

COMMISSIONER WILLIAMS mentioned Unalakleet and similar rural communities and emphasized the benefits of financially supporting even one stable home in such a region to allow Alaska Natives to return to that location. An operator of a home that size would never be able to prepare a bid according to the current procurement code; the specification of square footage is much less important than the location of the home; and closeness to home and one's support system is more important. He stated that the commissioner of DOC still has full custody of halfway house inmates; in the smaller halfway houses, any problems can be immediately and appropriately addressed with a measured response. He agreed that the current halfway house model is not culturally relevant to many inmates, and there are very few options for finding a culturally relevant environment.

[4:10:36 PM](#)

REPRESENTATIVE KNOPP clarified his earlier question: For a person who was nonproductive before jail, what would make them productive upon release? He expressed his belief that smaller halfway houses would have no effect on encouraging an inmate to become productive. People who have had a lifetime of being productive are likely to be productive after incarceration.

REPRESENTATIVE KNOPP stated that there are two reasons for his disagreement with the proposal in HB 325: one is waiving the procurement code; the other is that contracting with smaller facilities loses economies of scale. If the [hypothetical] house in Unalakleet is not full, the price per square foot or per bed would have to increase. He relayed that the discussions on Senate Bill 91, [passed during the Twenty-Ninth Alaska State Legislature (2015-2016) and signed into law 7/11/16], and the discussions of HB 325 both noted the disproportionately higher incarcerations rates of rural Alaska Natives and a need for culturally relevant treatment. He maintained that if housing inmates in a small rural community to attain cultural relevance results in just one or two inmates, DOC has lost all economies of scale.

REPRESENTATIVE KNOPP stated that he does not support HB 325 for two reasons. He maintained that he does not support an exception to the procurement code, however, would support a review of the procurement code. He stated that secondly, he

does not agree with the overall plan behind the proposed legislation.

[HB 325 was held over.]

INDIRECT EXPENDITURE HEARING

[4:14:31 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be the Indirect Expenditure Hearing. He stated that first to be considered are the recommendations from the House Finance Committee's Subcommittee on the Department of Administration (DOA) ("House DOA budget subcommittee") related to the Alaska Public Offices Commission (APOC) and the Division of Motor Vehicles (DMV).

[4:15:23 PM](#)

BROOKE IVY, Staff, Representative Jason Grenn, Alaska State Legislature, reviewed the statutory change recommendations offered by the House DOA budget subcommittee in the fiscal year 2018 (FY 18) closeout report, with the use of a handout, entitled "Statutory Recommendations of DOA Finance Subcommittee:" included in the committee packet.

MS. IVY relayed that the first two recommendations refer to APOC. The first recommendation is to streamline some of the reporting statutes. She mentioned that the APOC office has been reduced by six positions since FY 16; therefore, workload has become a problem. Five areas of the statute were identified in which small changes could be made to create efficiencies and streamline the workload. A revision to AS 15.13.374(c) would extend the response time for advisory opinion requests from seven days to ten working days. This change would avoid pulling staff from time-sensitive projects. An additional four areas of statute were identified for possible amendments. In AS 15.13.030(7), the elimination of the word "all" would allow the agency some discretion in choosing the documents to be investigated, examined, and compared for audits. A revision to AS 15.13.040(g) would extend to "groups" the exemption from certain filings for contributions to small campaigns; it would apply to groups raising no more than \$2,500 in a calendar year. There was a recommendation to repeal AS 15.13.040(k), which requires a filing for a report that is redundant. A new subsection added by AS 15.13.090(c) would clarify some size requirements for the "paid for by" identifiers.

MS. IVY relayed that the second recommendation relates to exploring increases to APOC fee collection. In the FY 18 proposed governor's budget, there was an effort to increase designated general fund (DGF) program receipts; however, APOC testified that it would be unable to collect those receipts unless it has statutory authority to do so. Certain user groups were identified as requiring the most significant portion of APOC's time, and these groups were not included in statute; therefore, the recommendation was to ensure that these user groups were addressed in statute to be able to collect fees from them. Registration fees were considered for other user groups, such as public officials, legislators, and candidates for registration, which is addressed under HB 91.

CHAIR KREISS-TOMKINS asked where HB 91 is currently in the process.

MS. IVY expressed her understanding that HB 91 has passed out of the House Finance Committee and is currently in the House Rules Standing Committee.

REPRESENTATIVE WOOL asked Ms. Ivy to identify HB 91.

MS. IVY replied that HB 91 was sponsored by Representative Sam Kito; it creates fees for lobbyists filing with APOC; and it establishes a \$50 registration fee for public officials, with an exception for those in communities of 15,000 population or less. She added that persons not qualifying as a group or non-group entity would be subject to a \$100 registration fee; and this would include the previously mentioned entities not captured in statute.

[4:21:22 PM](#)

REPRESENTATIVE BIRCH asked for clarification on the recommendations and asked if they support HB 91.

MS. IVY explained that the recommendations she related were offered by the House DOA budget subcommittee in FY 18 based on an amendment process that took place in the committee; however, the subcommittee is not explicitly offering support for HB 91; it is simply noting that the issues raised in the recommendation would be being partially addressed by HB 91. She added that she cannot relay the rate of the fee, since it was not addressed in the subcommittee.

CHAIR KREISS-TOMKINS added that the finance subcommittees look at what the agencies are doing and try to cut the budget where possible. Sometimes previous legislatures have passed statutes that direct agencies to perform activities that are superfluous; therefore, eliminating those statutes can help those agencies streamline and reduce the budget. He stated that the recommendations represent ideas for the legislators; it is their choice whether to act on them.

REPRESENTATIVE BIRCH asked if these are just suggestions from some members of the subcommittee.

CHAIR KREISS-TOMKINS answered that they specifically came from the House Finance Committee's Subcommittee on DOA. He offered that the introduction of HB 400 [which relates to fees for fire prevention measures], resulted from recommendations of the House Finance Committee's Subcommittee on the Department of Public Safety (DPS). He maintained that some of these ideas can be rolled into a committee bill and be acted upon; however, it is at the discretion of the committee.

[4:24:10 PM](#)

REPRESENTATIVE KNOPP explained that in the finance subcommittee process, one of the conversations was about expenses of the state, but it also addressed [lost] revenue called "indirect expenditures" due to subsidies, waivers, or exemptions for something for which the state would typically charge a fee. He maintained that the process of looking at indirect expenditures is to determine if they are being utilized, if the state is being too generous with them, and whether they should continue. He added that HB 91, also referred to as the "lobbyist bill," addresses the recommendations for generating revenues for APOC.

CHAIR KREISS-TOMKINS concurred.

[4:25:23 PM](#)

HEATHER HEBDON, Executive Director, Alaska Public Offices Commission (APOC), stated that APOC is in support of the statutory recommendations, which would alleviate some of the heavy workload due to staff reduction.

[4:26:06 PM](#)

MS. IVY referred to the second page of the handout, entitled "Statutory Recommendations from DOA Finance Subcommittee:"

included in the committee packet, to describe the third and fourth recommendations, which relate to DMV. She relayed that the third recommendation is to amend AS 18.65.310(g) to change eligibility for identification (ID) card fee waiver from 60 years of age and older to 65 years of age and older. She explained that it currently is a \$15 waiver. She said that making this change would make the age for this waiver consistent with the other DMV related waiver - the \$100 registration fee waiver - specified in AS 28.10.411(f). She added that the Legislative Finance Division (LFD) supported this change.

[4:28:08 PM](#)

CHERI LOWENSTEIN, Director, Division of Administrative Service (DAS), Department of Administration (DOA), relayed that by establishing the \$15 waiver at age 65 instead of 60, there would be approximately 11,925 ID cards that would not be waived for the next five years, which would amount to \$178,875 in additional revenue to the state.

MS. IVY stated that the fourth recommendation is to amend AS 28.10.421(d) to increase the vehicle registration fee for municipal governments and charitable organizations from \$10 to \$50; under the current waiver, they pay \$10 - a \$90 deduction. She added that there are many users of that exemption.

MS. IVY relayed that the fourth recommendation includes also the repeal of AS 28.10.481(i), which would remove the \$100 per vehicle exemption for those with amateur mobile radios.

REPRESENTATIVE WOOL referred to the 5,543 vehicles mentioned in the handout as the number of vehicles for which the discount was used. He asked Ms. Ivy if she has a breakdown of the vehicles - municipal versus charitable.

MS. IVY replied that she did not have that breakdown. She mentioned that the numbers on the handout are directly from the closeout report from the House DOA budget subcommittee. She said that she has since learned that the total number of vehicles in FY 17 for which the exemption was used was 9,008, but it was for a period of over two years.

MS. LOWENSTEIN responded that she did not have the breakdown of vehicles receiving the exemption but would provide that information.

[4:31:25 PM](#)

REPRESENTATIVE WOOL referred to the \$498,870 in lost annual revenue incurred by the \$90 discount per vehicle, stated on the handout, and said that by reducing the discount to a \$50 discount, DMV will not recoup the full half a million [dollars]. He asked if Ms. Ivy had the revised revenue amounts.

MS. IVY answered that she has calculated the FY 15 savings; an additional \$40 per vehicle would have resulted in \$221,720 in additional revenue. She stated that these recommendations were passed via the amendment process in the House DOA budget subcommittee.

CHAIR KREISS-TOMKINS clarified by saying that eliminating the exemption entirely would result in about half of a million dollars in savings; changing the exemption to \$50 would result in about quarter of a million dollars in savings.

MS. IVY concurred.

[4:33:12 PM](#)

CHAIR KREISS-TOMKINS stated that the recommendations from the House Finance Committee's Subcommittee on the University of Alaska (UA) ("House UA budget subcommittee") would be presented, which relates to the Alaska "Washington, Wyoming, Alaska, Montana, and Idaho" (WWAMI) Program.

[4:33:47 PM](#)

GREG SMITH, Staff, Representative Gabrielle LeDoux, Alaska State Legislature, referred to the handout, entitled "2018 Session Operating Budget Statutory Change Proposal," and reviewed the recommendations of the House UA budget subcommittee related to the WWAMI Program. He relayed that the recommended statutory change would impact AS 14.43.510(a); currently students that do not return to the state pay 50 percent of the state financial assistance; under the proposal, students would pay 100 percent of the state assistance. He explained that currently students pay 50 percent of what can be \$150,000 state share, if they do not return to practice in the state. He expressed his belief that they must also pay 100 percent if they don't complete the schooling.

MR. SMITH stated that he has heard that graduates not returning to the state pay about \$400,000 annually; however, he expressed

his belief that even with doubling the percentage of repayment, the amount to be paid would not double due to "behavior change."

CHAIR KREISS-TOMKINS asked for a restatement of the statutory recommendation.

MR. SMITH stated that the purpose of the recommendation is to increase the amount that a WWAMI student, who does not return to the state, must pay from 50 percent to 100 percent.

CHAIR KREISS-TOMKINS asked what the fiscal impact of the proposed change would be.

MR. SMITH referred to page 51 of the Indirect Expenditure Report [January 2017, LFD], included in the committee packet, and said that the estimated revenue impact stated in the report represents the total loan forgiveness for WWAMI graduates; for those students returning to Alaska, a percentage of the state assistance [owed] is removed every year depending on the student being in a rural or urban setting. He said that the amounts shown on the report account for that adjustment. He expressed his belief that doubling the percentage owed by non-returning WWAMI students would not result in the state recouping the approximately \$1.5 million in estimated revenue for FY 15 shown on the report [page 51(8)]. He said that WWAMI students not returning to the state are currently paying about \$400,000 per year; with the repayment at 100 percent, the amount would be close to \$800,000; however, the question is, "Would some return if the full amount was being required?"

[4:37:43 PM](#)

CHAIR KREISS-TOMKINS asked for the estimated impact of the statutory change.

[4:37:55 PM](#)

ALEXEI PAINTER, Fiscal Analyst, Legislative Finance Division (LFD), Legislative Affairs Agency (LAA), answered that the estimate would have to be determined via a fiscal note; the behavioral change is difficult to estimate. He stated that currently students are awarded "forgiveness" based on the years that they practice medicine in Alaska; therefore, if the benefits of doing that are significantly larger, more students would do that. He maintained that it would be misleading to assume that the state would "capture" all those savings. He said that the \$400,000 figure is the current amount of repayment

going into the general fund (GF); it represents the repayment of students not returning to the state. He added that the size of WWAMI was increased in 2007 from 10 students to 20 students per year; therefore, there should be larger classes and a larger impact over time. The impact would have to be determined via a fiscal note. The numbers in the report are from FY 15, and therefore, outdated.

[4:39:14 PM](#)

REPRESENTATIVE BIRCH stated that he is uneasy about this recommended change. Alaska has no law school and no medical program, and the WWAMI Program has had a [positive] impact on UA. He maintained that he would like input from UA to determine if the proposed change would compromise a program that has worked very well. He asked if UA has been contacted regarding the proposal.

CHAIR KREISS-TOMKINS answered that the recommendation came from the House Finance Committee's Subcommittee on UA, and Representative LeDoux offered the amendment.

REPRESENTATIVE BIRCH asked for the genesis of the proposal. He opined that it is not a good idea and asked if the sponsor has a specific reason for proposing it.

REPRESENTATIVE KNOPP expressed his understanding that the WWAMI Program offers students a loan to attend Western Washington University (WWU); currently if the students do not return to the state, they must repay 50 percent of the loan; under the amendment, they would be required to repay 100 percent of the loan.

MR. PAINTER explained that through the WWAMI Program, the students pay tuition at an in-state rate; all the states in the program pay a cost per student as a member of the WWAMI cooperative. He continued by saying that the State of Alaska considers half of the cost to be a loan, and that loan is repaid by the students unless they return to Alaska and practice medicine for three years in rural Alaska or five years in urban Alaska. He stated that the other half of the cost is considered a subsidy and is not repaid. He summarized that the payment is structured as a loan but is really a subsidy for which the state requires a partial payback.

REPRESENTATIVE KNOPP offered that the proposed change would eliminate the subsidy if the student does not return.

MR. PAINTER replied, "That is correct." He said that part of the reason LFD recommended a review rather than made an outright recommendation is because it would constitute a strong disincentive to join the WWAMI Program due to the cost being too high. He maintained that LFD does not know if that is true or not.

REPRESENTATIVE KNOPP asked, "Why would we care what the cost is?" He said that the program was an incentive program to get students to return and practice in the state and asked, "Why would we pay, if there's no benefit to us?"

[4:44:10 PM](#)

REPRESENTATIVE WOOL clarified that the program includes Washington, Wyoming, Alaska, Montana, and Idaho. He reiterated that students pay in-state State of Washington tuition; therefore, is not a "free ride" on tuition. The cost to Alaska is the cost of joining WWAMI so that Alaska does not have to build a medical school or create an entire medical school program. It represents an additional cost; the fee would not even exist if the student attended the University of Colorado Medical School, because there would be no state buy-in. He referred to page 51 of the Indirect Expenditure Report and cited the amount of estimated annual monetary benefit to recipients shown in (2) of the section entitled, "Legislative Finance Analysis per AS 24.20.235," which reports the amount of \$8,641. He asked for the cost per student that Alaska pays to be included in the WWAMI cooperative.

MR. PAINTER replied that he does not know the cost per student; however, the approximate cost of the WWAMI Program to the State of Alaska is \$3 million; there are 20 students in each class; it is a three-year program, which calculates to roughly \$50,000 per student.

REPRESENTATIVE WOOL asked what the "\$8,600" amount represents. He asked if it is the annual payment of a loan that is paid off in 20 years, or if it is the amount incurred every year while in school.

MR. PAINTER responded that \$8,641 is the amount per recipient lifetime per year. He explained that if a student graduates, has a reduced cost, and holds the loan for many years, that amount represents the benefit per year that the student holds

the loan; there are 183 people identified holding these loans and the total cost is divided by 183.

REPRESENTATIVE WOOL asked for confirmation that the loan period is not a set number of years; therefore, the amount owed by the student is not known upon graduation.

MR. PAINTER agreed that he does not know that amount.

REPRESENTATIVE WOOL referred to Representative Knopp's comment: Why should we care? Why should we give them any incentive if they're not going to come back? He asked if he could be provided with the difference in economic impacts for an Alaska student who chooses the WWAMI Program and most likely returns to Alaska, or for one who goes to Colorado and doesn't know if he/she will return.

MR. PAINTER replied that it is a discussion for the committee to have. The recommendation was based on data from FY 15; the cost of medical school has changed since then; and the subcommittee did not want to make a recommendation that would not stand up over time.

CHAIR KREISS-TOMKINS asked that the amounts be calculated for the current fiscal year [FY 18].

MR. PAINTER answered that the figures could be updated; however, LFD is not equipped to compare the costs of medical schools.

[4:48:59 PM](#)

REPRESENTATIVE BIRCH asked, "How much discussion has gone on between ... the sponsor of this proposal and the University of Washington (UW) or UA or whoever is ... coordinating the WWAMI Program?" He maintained that there is great cost associated with starting a medical school; Alaska does not have a medical school; and the program has provided Alaska with physicians.

[4:49:57 PM](#)

MILES BAKER, Associate Vice President of Government Relations, University of Alaska (UA), relayed that the statutory change was a recommendation from the House UA budget subcommittee; it was not a recommendation put forward by UA. He stated that there have been many questions from legislators this year regarding the WWAMI Program; UA has provided legislators information in response to those questions. He offered that the program can be

complicated: it is operated by the UW on behalf of the State of Alaska to allow the state to be part of a medical school; the agreement is among the Alaska Commission on Postsecondary Education (ACPE), UW, and UA. He relayed that the state pays a fee to be in the WWAMI coalition; if a student does not adhere to the obligation of serving in Alaska, some of that fee is recouped through an agreement between ACPE and the student. He suggested that the committee hear from Jane Shelby, Ph.D., Director of the Alaska WWAMI Program, and Stephanie Butler, Executive Director of ACPE.

REPRESENTATIVE BIRCH expressed his interest in hearing from people involved with the WWAMI Program to ensure that the program is not comprised.

[4:53:00 PM](#)

REPRESENTATIVE KNOPP expressed his understanding that Alaska pays a fee for its students to participate under an in-state resident rate; the fee Alaska pays compensates for the non-resident rate; the students do, however, pay tuition. He asked for clarification on the amount that is forgiven and the amount required to be repaid. He said, "Is it simply ... if they don't return to the state to practice, they have to pay 50 percent of what the state paid to the organization for the non-resident rate or for participation in the program, or is part of their tuition's student loans being forgiven as well?" He expressed that he would like to know what Alaska is requesting to have repaid.

MR. BAKER responded that the WWAMI Program was statutorily created by the legislature, because Alaska does not have a medical school. He maintained that there are huge benefits to having a medical school, including Alaskan trained Alaska physicians. The state has agreed to pay a fee to subsidize the medical school and the twenty slots that Alaska gets at the medical school annually. Alaska students compete to be accepted to one of the best medical schools in the country. They pay a tuition; however, because Alaska is in the WWAMI cooperative, the students pay tuition at a resident rate. He said that as the program has developed over the years, much of the student's training can be done in Alaska.

MR. BAKER stated that the "fee" that is being discussed is the fee that Alaska pays to be in the coalition; the fee becomes an obligation to the student, when the student does not agree to return to Alaska to practice either three years in rural Alaska

or five years in urban Alaska. If a student serves part of that time, the 50 percent fee obligation is prorated. He said that the fee is really the cost to the State of Alaska to have a medical school through UW; the 20 students are benefiting from that agreement. He emphasized that the benefit does not represent a scholarship or the state paying the student's tuition; it is the State of Alaska's fee to be in the cooperative. If the students do not follow through with the signed commitment to return to Alaska to practice for an extended period, then a portion of that fee becomes an obligation of the student.

[4:58:14 PM](#)

REPRESENTATIVE WOOL asked whether a Washington resident, who lives in Washington and attends the UA Medical School, would have the additional "membership" fee or if that fee is unique to students from the other WWAMI states.

MR. BAKER replied that for the students from the states in the coalition, there is reciprocity in terms of practicums and residencies, which can be done in any of those states during the time the students are in the program. He said that each state has a different arrangement with UW in terms of fee structure and whether it is built into the tuition.

REPRESENTATIVE WOOL asked for the actual fee assessed per student under the WWAMI Program - either for the total schooling or annually. He added that the fee being discussed is the fee that alleviates Alaska from having to build and maintain a medical school.

MR. BAKER responded that the fee for Alaska is \$50,000 per year per student during the second, third, and fourth years. He said that 50 percent of that would be \$25,000, and over the three years would total about \$70,000; this is the potential repayment amount for a student not meeting the obligations of the program, plus interest.

REPRESENTATIVE WOOL confirmed that the amount does not represent tuition but the fee for Alaska being in the coalition.

[5:01:32 PM](#)

REPRESENTATIVE LEDOUX suggested that there are states in the WWAMI coalition that have medical schools - Oregon being one.

MR. BAKER confirmed that Oregon was not one of the WWAMI states.

REPRESENTATIVE LEDOUX asked whether the other three WWAMI states have medical schools.

MR. BAKER answered that he did not know.

REPRESENTATIVE LEDOUX asked whether UW is the only medical school that Alaska sends students to under the WWAMI Program.

MR. BAKER concurred.

CHAIR KREISS-TOMKINS offered to invite WWAMI staff to a future committee hearing.

MR. BAKER asserted that he would provide information about other WWAMI states having medical schools.

[5:03:40 PM](#)

CHAIR KREISS-TOMKINS stated that the recommendations from the House Finance Committee's Subcommittee on the Department of Revenue (DOR) ("House Revenue budget subcommittee") would be presented.

[5:04:12 PM](#)

MR. PAINTER relayed that the House Revenue budget subcommittee originally recommended that the exemption from studded tire fee or lightweight studs continue. Currently a \$5 fee is charged upon purchase of a studded tire, because they create more wear on the road. Since the fee is too low to dissuade people from purchasing studded tires, SB 50 has been introduced to raise the fee to \$50 per tire and to change the weight under which a stud can qualify as "lightweight" from 1.1 grams to .5 grams. He concluded by saying that the recommendation was that the lightweight stud exemption be continued, and the studded tire fee be reviewed.

[5:05:37 PM](#)

REPRESENTATIVE BIRCH stated that he loves his studded tires.

REPRESENTATIVE KNOPP relayed that he would not want to discourage people from using studded tires; he does not support an increased fee. He expressed his belief that at one time there was legislation addressing steel studs; people

transitioned then to aluminum studs - the lightweight studs. He asserted that the \$5 fee was to apply to the heavier steel studs. He said that SB 50 was a surprise.

REPRESENTATIVE KNOPP stated that the Department of Transportation & Public Facilities (DOT&PF) personnel has mentioned the use of a softer, more pliable asphalt mix to address contraction and expansion [of roadways]. He suggested that the asphalt may be too soft, causing the excessive wear from tires. He suggested that consideration be included in the conversation.

REPRESENTATIVE WOOL clarified that the weight of a stud in grams refers to steel versus aluminum and not the size of a stud. He maintained that a \$50 tax on a \$90 or \$100 tire is punitive and ridiculous.

[5:07:54 PM](#)

CHAIR KREISS-TOMKINS stated that the second recommendation of the House Revenue budget subcommittee relates to recreational vehicle (RV) rental tax.

[5:08:05 PM](#)

MR. PAINTER relayed that the House Revenue budget subcommittee recommended reconsidering the rate of the RV tax. He stated that when the legislature enacted the vehicle rental tax 15 years ago, there was concern that RVs, which cost more per day to rent, would face a very high tax at 10 percent; therefore, they were taxed at 3 percent, which was considered a roughly equivalent per vehicle per day cost. He said that the recommendation is for the legislature to review the statute to determine if the rate is still appropriate.

CHAIR KREISS-TOMKINS asked to be provided with the undiscounted vehicle rental tax rate and the indirect expenditure impact.

MR. PAINTER answered that the normal rate is 10 percent and the rate for RVs is 3 percent.

REPRESENTATIVE BIRCH expressed that he believes the ratio to be appropriate; a car can be rented for \$20 per day and a motorhome for \$60-\$100 per day.

REPRESENTATIVE WOOL suggested that renting an RV from a rental company is more in the \$200-\$225 range; through 1-800-RV it is

about \$200, depending on the size. The rental cost for a sport utility vehicle (SUV) is more like \$70-\$80 per day.

REPRESENTATIVE LEDOUX asked how the taxes on RVs compare with hotel taxes.

MR. PAINTER offered his belief that hotel taxes are municipal taxes.

REPRESENTATIVE LEDOUX asked for the municipal hotel tax ranges.

MR. PAINTER replied that it varies greatly by community.

REPRESENTATIVE LEDOUX asked for the rationale for the tax rate being only 3 percent for RVs and 10 percent for cars.

MR. PAINTER relayed that he reviewed the legislative hearings on the legislation creating the 3 percent tax for RVs; the discussion was centered around ensuring that RV rentals were charged the same tax as cars even though RVs were much more expensive. He mentioned that the RV rental costs at the time were much lower than they are today. The intention of the tax was to generate money to support tourism; therefore, per visitor was more important than per vehicle to create parity.

REPRESENTATIVE LEDOUX commented that if the tax were per visitor, the tax on an RV rental would be greater because it holds more people.

MR. PAINTER maintained that the intent was to make the cost roughly equal per vehicle regardless of vehicle type. The easiest way to do that would have been to charge a set cost per vehicle, but it was not done that way.

HB 400-FEES FOR FIRE PREVENTION MEASURES

[5:13:22 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 400, "An Act relating to the collection of fees by the Department of Public Safety for fire and explosion prevention and safety services."

[Because of their length, some amendments discussed or adopted during the meeting are found at the end of the minutes of HB 400. Shorter amendments are included in the main text.]

CHAIR KREISS-TOMKINS referred to the forthcoming Amendment 2, labeled 30-LS1490\A.2, Bannister, 3/13/18, which read: [The text of Amendment 2 is listed at the end of the 3/13/18 minutes of HB 400.]

5:14:00 PM

DAVID TYLER, Director State Fire Marshall, Division of Fire and Life Safety (DFLS), Department of Public Safety (DPS), relayed that his staff suggested that DFLS use the "fix-it ticket" concept. [Testimony was suspended due to audio difficulties.]

5:15:39 PM

LLOYD NAKANO, Assistant State Fire Marshal, Division of Fire and Life Safety (DFLS), Department of Public Safety (DPS), relayed that he is unable to describe the amendment because he has not seen it.

5:16:07 PM

CATHY SCHLINGHEYDE, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, on behalf of the House State Affairs Standing Committee, prime sponsor of HB 400, noted that the forthcoming Amendment 2 is a modification of the amendment introduced during the 3/8/18 committee hearing on HB 400. She stated that the new amendment addresses the concern of committee members that it would be unfair to charge for an inspection and immediately issue a fine for violations. Under Amendment 2, a correctable citation would be issued, called a "fix-it ticket"; this would be like being ticketed for driving without a license and given the option of paying the ticket or showing the court a copy of the driver's license to allowing the ticket to be waived. She maintained that Amendment 2 would utilize the same scheme: if a person is cited for a fire code violation upon inspection, the person would have 30 days to provide DPS with proof that the problem was corrected and that he/she is now in compliance with the fire code. Subsequently, DPS will contact the court and waive the ticket. She referred to Section 3, subsection (k), on page 2 of the amendment, lines 23-29.

MS. SCHLINGHEYDE addressed the concern that DPS would be motivated to impose fines to put money into the DPS budget. She explained that the amendment is written so that the money generated by the fines go to the Alaska Court System (ACS) and ultimately to the general fund (GF) and would not be designated for DPS.

REPRESENTATIVE WOOL expressed his appreciation with the changes to the amendment. He stated that he is still concerned with the fine levied per day of noncompliance and asked how that would coordinate with the 30 days. He maintained that for a small operator, a "per day" fine may be severe. He stated that he supports giving the fire marshal and fire safety people the authority to fine to pressure people into compliance.

[5:19:55 PM](#)

NANCY MEADE, General Counsel, Alaska Court System (ACS), stated that ACS's position on Amendment 2 is neutral; it would require ACS court to establish a schedule of bail amounts, as stated in Section 3, subsection (m), on page 3, lines 4-8. She cited the language on page 1, lines 12-14, which read: "Each day that the violation or noncompliance continues is a separate offense." She offered that the provision may impose a logistical problem: when someone gets a ticket, it is immediately electronically filed with the court and can be paid online or later; however, the ticket is for the amount on the ticket, and ACS would not be counting days and assessing an amount more than what is on the face of the ticket. She suggested that the language may be a remnant of when a violation was a Class B misdemeanor. She maintained that the wording is not wording that she has seen in conjunction with a citation.

MS. MEADE continued by saying that ACS can accommodate a procedure that involves people correcting violations and demonstrating proof of correction to DPS, and DPS notifying ACS. She stated that the "30 days" is the same timeframe that ACS allows for people to pay the citation, before sending a warning letter. She maintained that shortening the period in the amendment would allow ACS to avoid sending warning letters to people who are correcting their violations within the 30 days. She concluded that ACS can comply with everything else in the amendment; there are some redundancies, but they are drafting issues.

[5:23:01 PM](#)

REPRESENTATIVE WOOL relayed that depending on the type of infraction and the remedy required, 30 days may or may not be a long time. He suggested that instead of shortening the period allowing for a correction, the "fining" process be started after the 30 days if no correction has been made, which would avoid letters being sent unnecessarily.

MS. MEADE answered that she does not know if DPS could comply with that procedure, since personnel use hand-held devices that perform automated downloads to ACS at the end of their shifts. She stated that she is not certain if they can reverse citations written so that the citations are not filed with ACS. She added that the warning letter, sent to a person who has not paid or responded to a fine, goes out 30 days after a citation and it is required by statute; the person must get a warning within 30 days before ACS can issue a default against the person. She suggested that the citation could be dismissed after the 30 days, if DPS notifies ACS that the violation has been corrected; however, warning letters would have been issued unnecessarily.

[5:25:03 PM](#)

REPRESENTATIVE KNOPP relayed that he supports issuing the warning letter right at 30 days; the person with the violation has 30 days to correct it and submit the proof; if that doesn't happen then the letter serves as a reminder and notifies the person that penalties are forthcoming. He maintained that smaller violations could be remedied in a few days or a week; violations regarding larger commercial fire extinguishing and retardant systems may take longer.

REPRESENTATIVE BIRCH expressed that the proposed legislation is a step in right direction. He asked whether there is a scenario under which HB 400 would impose multiple-day fines. He asked if his understanding is correct: the language that "each day is a separate offense" is incorrect; an infraction incurs only one fine for up to \$500; and the fines do not accumulate over multiple days.

MS. MEADE responded that the language with respect to citations is new to her; ACS does not typically impose fines that way; and under HB 400, ACS would be setting the fines for each of the violations listed in AS 18.70. She reiterated that in her experience, she hasn't seen an "escalation" clause or "rolling" clause; ACS will set the appropriate fines and the person receiving the fine will owe the dollar amount shown on the citation, and not a multiple of that fine based on the days of noncompliance.

REPRESENTATIVE BIRCH suggested that the amendment could be corrected to reflect that concern.

[5:28:09 PM](#)

REPRESENTATIVE LEDOUX expressed her understanding of the amendment: if the person does not correct the violation within the 30-day period, he/she is charged up to \$500 per day. She cited page 1, lines 12-13, which read: "Each day that the violation or noncompliance continues is a separate offense."

MS. MEADE replied that she does not believe that sentence belongs in the proposed legislation because it is incompatible with ACS establishing a bail schedule and setting an amount for an offense, that is, one citation with a single dollar amount.

CHAIR KREISS-TOMKINS suggested that the language could be revised under a new amendment.

REPRESENTATIVE WOOL referred to DPS downloading citations at the end of a shift using an automated device. He asked if that is the case for fire marshal inspections. He stated that his recollection is that upon inspection of his business, he was given a hand-written booklet by a fire inspection person, which is different than being stopped and cited by an Alaska State Trooper (AST) on the highway. He asked if fire marshals use handheld automatically downloadable devices.

MS. MEADE answered that her understanding is that the proposed legislation would be the first law that gives fire marshals the authority to issue citations, as opposed to charging violators with misdemeanors.

[5:30:59 PM](#)

MR. NAKANO replied that currently DFLS does not have a process for issuing citations; however, if HB 400 passes, it will use the same process that AST uses, since deputy fire marshals that conduct fire inspections are police officers. They will use two electronic devices: one to conduct the fire inspection and one to issue the citations.

REPRESENTATIVE KNOPP mentioned that the bail amounts cited on page 3, lines 4-8, would be set by ACS, and the language on page 1, lines 12-14, would be "cleaned up" to clear up the "per day" issue. He asked if his understanding is correct: the set dollar amount is for the citation and the bail schedule is for the misdemeanor charge.

MS. MEADE referred to the language on page 3, lines 4-8, which read: "The supreme court shall establish a schedule of bail

amounts." She stated that the meaning of the word "bail" in this context is probably 100 percent different from what Representative Knopp is expecting in terms of criminal procedures. She said that it would be more appropriate to refer to it as "fine amounts," but for historical reasons it is referred to as "bail amounts." She maintained that ACS establishes fine schedules; for example, it does so for traffic violations and for Alaska Department of Fish & Game (ADF&G) violations; the legislature has directed ACS to establish fine amounts. She stated that under HB 400, ACS would establish the fine amounts for all the offenses listed in AS 18.70.010 through AS 18.70.100, and the fines would be \$500 or less.

CHAIR KREISS-TOMKINS summarized by saying that the legislature delegates the responsibility of setting the fine amounts to ACS.

MS. MEADE concurred.

REPRESENTATIVE KNOPP asked whether fire marshals were more suitable than ACS for setting fine amounts for the different levels of violations.

MS. MEADE responded, "That's right." She said that when ACS is assigned this task by statute, it exclusively works with the agency involved. She maintained that ACS does not have the expertise to determine appropriate fines; therefore, it would create the bail schedule in conjunction with the agency involved.

[5:34:50 PM](#)

MS. SCHLINGHEYDE offered that the amendment was written [giving ACS the task of setting the bail schedule] because there were concerns about regular updates to the fire code; if the fines were set in statute, the legislature would have to review the statutes every year; if ACS sets the bail schedule in conjunction with DPS, it can keep abreast of the current fire codes.

REPRESENTATIVE LEDOUX asked whether ACS revises these schedules on a regular basis.

MS. MEADE answered, "No and yes." She said that ACS is passive and receptive to requests from agencies. She explained that typically ACS responds to an agency's request for a fine to be updated; the request becomes a project assigned to staff,

accompanied by a series of meetings and preparation for the revision.

The following amendment to HB 400 was either discussed or adopted during the hearing. [Shorter amendments are provided in the main text only.]

AMENDMENT 2 [30-LS1490\A.2, Bannister, 3/13/18]

Page 1, line 2, following "**services**";:

Insert "**and relating to penalties for violating fire protection and safety requirements and orders**"

Page 1, following line 9:

Insert new bill sections to read:

*** Sec. 2.** AS 18.70.100(a) is amended to read:

(a) **A** [EXCEPT AS PROVIDED IN (c) OF THIS SECTION, A] person who violates a provision of AS 18.70.010 - 18.70.100 or a regulation adopted under those sections, or who fails to comply with an order issued under AS 18.70.010 - 18.70.100, is guilty of a **violation and shall be punished as provided in AS 12.55 by a fine of not more than \$500. Each day** [CLASS B MISDEMEANOR. WHEN NOT OTHERWISE SPECIFIED, EACH 10 DAYS] that the violation or noncompliance continues is a separate offense.

*** Sec. 3.** AS 18.70.100 is amended by adding new subsections to read:

(d) A peace officer or an employee of the department who is authorized by the commissioner of public safety to enforce AS 18.70.010 - 18.70.100 may issue a citation to a person who commits a violation identified under this section.

(e) A citation issued under this section must comply with the standards adopted under AS 12.25.175 - 12.25.230. A person receiving the citation is not required to sign a promise to appear in court.

(f) The time specified in the notice to appear on a citation issued under this section must be at least 35 working days after the issuance of the citation.

(g) The commissioner of public safety is responsible for the issuance of books containing appropriate citations and shall maintain a record of each book and each citation contained in the book. The commissioner of public safety shall require and retain a receipt for each book issued to an employee of the

department designated by the commissioner of public safety to provide investigative services to enforce provisions of AS 18.70.010 - 18.70.100.

(h) On or before the 10th working day after issuance of a citation, a peace officer or an employee issuing a citation under this section shall deposit the original or a copy of the citation with a court having jurisdiction over the alleged offense. Upon the deposit of the citation with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The peace officer or employee who issued the citation may not dispose of the original or copies of the citation or of the record of the issuance of the citation except as required under this subsection and (i) of this section.

(i) The commissioner of public safety shall require the return of a copy of each citation issued under this section and of the copies of each citation that has been spoiled or on which an entry has been made and not issued to an alleged violator. The commissioner of public safety shall also maintain in connection with each citation issued a record of the disposition of the charge by the court in which the original or copy of the citation was deposited.

(j) A citation issued under this section is considered to be a lawful complaint for the purpose of prosecution.

(k) If a person to whom a citation is issued under (d) of this section provides proof to the department within 30 days after the issuance of the citation that the person has corrected the condition for which the citation was issued, the person may not be convicted of the violation. The department shall notify the court if the department, within 30 days after the issuance of the citation, receives sufficient proof from a person to whom a citation is issued under (d) of this section that the person has corrected the condition for which the citation was issued.

(l) Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, or bail has been forfeited under this section, a person who fails to appear in court to answer a citation issued under this section, regardless of the disposition of the charge for which

the citation was issued, is guilty of failure to obey a citation under AS 12.25.230(b).

(m) The supreme court shall establish a schedule of bail amounts. The maximum bail forfeiture amount for a violation may not exceed the maximum fine specified under (a) of this section for that violation. The issuing peace officer or employee shall write on the citation the amount of bail forfeiture applicable to the violation.

(n) If a person cited for a violation for which a bail forfeiture amount has been established under (m) of this section does not contest the citation, the person may, within 30 days after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer or employee

(1) the amount of bail indicated on the citation for that offense; and

(2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered, and the bail is forfeited.

(o) When the cited person has forfeited bail under (n) of this section, the court shall enter a judgment of conviction. Forfeiture of bail is a complete satisfaction for the violation. The clerk of the court accepting the bail forfeiture shall provide the offender with a receipt stating that fact if requested.

(p) A person cited under this section is guilty of failure to obey a citation under AS 12.25.230(b) if the person fails to pay the bail amount established under (m) of this section or fails to appear in court as required.

(q) Notwithstanding other provisions of law, if a person cited for a violation for which a bail forfeiture amount has been established under (m) of this section appears in court and is found guilty, the court may not impose a penalty that exceeds the forfeiture amount for that violation established under (m) of this section.

(r) In this section, "department" means the Department of Public Safety."

Renumber the following bill section accordingly.

Page 1, following line 13:

Insert a new bill section to read:

"* **Sec. 5.** AS 18.70.100(c) is repealed."

[End of Amendment 1 - HB 400 was held over.]

[5:37:09 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 5:37 p.m.