

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 26, 2018

3:18 p.m.

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chris Tuck
Representative Adam Wool
Representative Chris Birch

MEMBERS ABSENT

Representative DeLena Johnson
Representative Gary Knopp
Representative Andy Josephson (alternate)
Representative Chuck Kopp (alternate)

COMMITTEE CALENDAR

PRESENTATION ON VOTE BY MAIL MUNICIPAL ELECTION

- HEARD

PRESENTATION

- HEARD

HOUSE BILL NO. 408

"An Act relating to revocation of a driver's license."

- HEARD & HELD

Approval of introduction of potential committee legislation

- REMOVED FROM AGENDA

PREVIOUS COMMITTEE ACTION

BILL: HB 408

SHORT TITLE: REVOCATION OF DRIVER'S LICENSE

SPONSOR(S): JUDICIARY

04/04/18 (H) READ THE FIRST TIME - REFERRALS

04/04/18 (H) STA, JUD
04/26/18 (H) STA AT 3:15 PM GRUENBERG 120

WITNESS REGISTER

BARBARA JONES, Municipal Clerk;
Election Administrator
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Presented results of Anchorage's first vote by mail municipal election.

JOSIE BAHNKE, Director
Central Office
Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska

POSITION STATEMENT: Presented a PowerPoint on 2017 Fiscal & Policy Challenges titled, "Decide Alaska's Future".

BRIAN JACKSON, Elections Program Manager
Central Office
Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska

POSITION STATEMENT: Answered questions during the PowerPoint on 2017 Fiscal & Policy Challenges titled, "Decide Alaska's Future".

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

POSITION STATEMENT: Answered questions during the discussion of HB 409.

SEAN HOOPER
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 408.

NANCY MEADE, General Counsel
Administrative Staff
Office of the Administrative Director
Alaska Court System (ACS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 408.

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

POSITION STATEMENT: Answered questions during the hearing on HB 408.

ACTION NARRATIVE

[3:18:45 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:18 p.m. Representatives Kreiss-Tomkins, LeDoux, Birch, and Tuck were present at the call to order. Representative Wool arrived as the meeting was in progress.

PRESENTATION ON VOTE BY MAIL MUNICIPAL ELECTION

[3:18:50 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be a presentation on Vote by Mail.

REPRESENTATIVE KREISS-TOMKINS referred to a document titled "Certification of the April 3, 2018 Regular Municipal Election" in members' packets.

[3:20:01 PM](#)

BARBARA JONES, Municipal Clerk; Election Administrator, Municipality of Anchorage, stated that the Municipality of Anchorage (MOA) just finished its first official "Vote by Mail" election for a regular municipal election.

MS. JONES explained that the MOA mailed 194,000 packets to registered municipal voters with the final count of 79,295 ballots cast. She applauded the MOA Municipal Clerk's office for doing a great job with its outreach and education efforts. As a result, she did not receive any calls from people who were unaware the election was a "vote by mail" process, although some people called to express disappointment that the election was a "vote by mail" process.

MS. JONES explained the election process, such that the MOA had 12 drop boxes placed throughout the municipality for voters who did not wish to use the United States Postal Service (USPS). The MOA also had five accessible "vote centers" for people who chose not to vote by mail ballot or did not receive a ballot in the mail.

[3:21:36 PM](#)

MS. JONES provided voting statistics; that MOA voters cast 12,000 ballots from the accessible vote centers; however, the majority of the ballots cast were via the USPS. The MOA had anticipated that people's preference would be to use the drop boxes rather than the USPS, so it was surprising to find the majority of people voted by mail.

MS. JONES thanked the State of Alaska [Division of Elections] for its assistance, including providing voter data and the processes to ensure the MOA obtained voter signatures. The division rejected only one ballot for lack of a reference signature, she said. She related that the Municipal Clerk's office met with the election workers, the stakeholders, and the Anchorage Municipal Assembly's Ethics and Election Committee about what comes next. The Municipal Clerk's Office will also meet with the Anchorage Municipal Assembly in a work session tomorrow and with the State of Alaska in May, she said. The MOA has lots of plans going forward and has recognized that some things worked, but other things did not, so the process of figuring out how to do things differently has begun.

[3:23:00 PM](#)

CHAIR KREISS-TOMKINS asked whether she could elaborate on what worked, what did not work and what the Anchorage Municipal Clerk's Office would do differently.

MS. JONES identified the number one thing that worked was the MOA's outreach and education campaign. She acknowledged some misunderstandings occurred; however, most voters understood the instructions for voting; how to mark their ballot, to place the ballot in a security envelope, and put the security envelope containing the ballot into the return envelope. That seemed to work very well, she said. She attributed that success to the PSAs [public service announcements], the media, including social media, as well as conducting presentations at the community councils and for other groups. She characterized the outreach as being very effective.

[3:24:04 PM](#)

MS. JONES praised the election center and offered to take members on a tour if they have not already done so. The election center building was a big, open warehouse, which helped to provide a transparent process for the public.

MS. JONES highlighted issues that people raised, such as the drop boxes were hard to see in winter since they were painted white and snow was on the ground. Election workers requested more computers to supplement the current 47 computers the election center had, which recognizes elections have moved from clerical to technological in nature.

[3:25:38 PM](#)

CHAIR KREISS-TOMKINS asked what the MOA would do differently in the future.

MS. JONES pointed out that the recent MOA election was a mayoral election which historically has a better voter turnout. She hoped to keep the voter momentum going for the assembly elections over the next two years. Since elections are now technology-based elections, it is important to ensure that the MOA has the appropriate skill sets to manage the technology, she said.

[3:26:55 PM](#)

REPRESENTATIVE TUCK, referring to her report, related his understanding that 194,507 ballot packages were sent out. He acknowledged there were a number of duplicates and wondered if her report reflected the duplicates.

MS. JONES answered that the figures do not include the duplicate ballot packages; however, the number of duplicates was a bit misleading. She explained that 1,400 replacement ballots were sent to voters who changed their names or addresses using the State of Alaska's voter registration from March 1 to March 10. In addition, approximately 3,000 replacement and absentee ballot packages were mailed to voters, however, she did not believe those figures were included in her figures [of 194,507].

[3:28:12 PM](#)

REPRESENTATIVE TUCK asked for clarification that more than 194,507 ballot packages were mailed out.

MS. JONES answered that was correct; the 194,507 figures reflected the ballots mailed out on March 13, 2018, by the printer.

[3:28:34 PM](#)

REPRESENTATIVE TUCK asked whether he understood correctly that more ballots were cast by mail. He questioned that since by adding 31,000 ballots retrieved from ballot boxes with 12,000 cast at the accessible voting centers totaled 43,000 ballots, which would be less than 50 percent of the votes cast by mail, he said.

MS. JONES responded said the figures reflected in her report do not include ballots from drop boxes since those ballots were considered separately. She referred to pages 3-4 of her report (in members' packets), which identified 46 percent of the ballots had been returned by the USPS, that 38 percent were returned via the secure drop boxes, and 14 percent were cast via the accessible vote centers.

[3:29:40 PM](#)

REPRESENTATIVE LEDOUX asked for clarification on the number of ballots that were undeliverable.

MS. JONES responded that she did not provide a percentage. She stated that two figures relate to the undeliverable ballots. First, approximately 218,000 voters were registered in Anchorage, but 22,000 voters had a condition code of undeliverable, so the MOA only mailed out [194,507] ballot packages. Second, after the MOA mailed out the [194,507] ballots, an additional 20,000-21,000 ballots were returned as undeliverable. Therefore, the undeliverable ballots totaled over 40,000 ballots, she said.

[3:30:52 PM](#)

REPRESENTATIVE LEDOUX said she was trying to extrapolate the percentage of undeliverable ballots based on the population in Anchorage.

MS. JONES answered that the MOA used the number of registered voters rather than the overall population. She clarified that

about 19.6 percent or basically 20 percent of the ballots were undeliverable.

REPRESENTATIVE LEDOUX commented that was a pretty significant percentage.

MS. JONES acknowledged that that the number of undeliverable ballots in voter registration database and was one of the aspects the MOA did not expect to find. The MOA mailed out 208,000 postcards on January 3, 2018 to notify Anchorage voters of their current address of record on file and some voters responded [with updates]; however, her office expected to receive more responses than it did. She advised members that the MOA worked with the Alaska Division of Elections (DOE) on ways to educate voters and others about the importance of maintaining their correct address in the state's database and to update their addresses when they move. She offered her belief that currently Anchorage has good data going forward.

[3:33:13 PM](#)

REPRESENTATIVE LEDOUX assumed that the MOA had advertised via television, radio, and social media, such as Facebook about the vote by mail election to give the registered voters an opportunity to contact the MOA if they did not receive a ballot. She asked whether the MOA did a lot of advertising.

MS. JONES answered yes.

PRESENTATION BY THE DIVISION OF ELECTIONS: 2017 FISCAL & POLICY CHALLENGES

[3:34:18 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be a presentation by the Division of Elections: 2017 Fiscal & Policy Challenges titled "Decide Alaska's Future".

[3:34:38 PM](#)

JOSIE BAHNKE, Director, Central Office, Division of Elections (DOE), Office of the Lieutenant Governor, introduced herself.

BRIAN JACKSON, Elections Program Manager, Central Office, Division of Elections (DOE), Office of the Lieutenant Governor, introduced himself.

[3:35:05 PM](#)

MS. BAHNKE began a PowerPoint, paraphrased from prepared comments, which read as follows [original punctuation provided]:

Thank you for the opportunity to bring awareness to the committee regarding activities of the Election Policy Work Group. I will be happy to take questions following my presentation.

In 2015, Lt. Governor Mallott convened a small working group to discuss election policy issues and expanded the Election Policy Work Group to continue a dialogue on making Alaska's election system a effective, cost efficient and responsive to Alaska voter needs. In January 2017, the DOE published the "2017 Fiscal & Policy Challenges" report for the group which outlines the issues facing the division and includes technology, elections administration and potential cost savings measures.

[3:36:21 PM](#)

MS. BAHNKE continued a PowerPoint [slides 1-2] and paraphrased from prepared comments, which read as follows [original punctuation provided]:

In its effort to address the issues outlined in the report and to advance policy discussions and recommendations, the EPWG has held five meetings from May 2017- January 2018. These discussions have been facilitated by David Becker from the Center for Election Innovation and Research.

MS. BAHNKE read the Election Policy Work Group (EPWG) members, which included the Lieutenant Governor Mallott, former Lieutenant Governors Fran Ulmer, Mead Treadwell, and Craig Campbell, and two legislators, one from the House, Representative Kreiss-Tomkins, and one from the Senate, Senator Gary Stevens; several city or borough clerks from Ketchikan, Juneau, Kenai-Peninsula Borough, and the Municipality of Anchorage, Fairbanks and Bethel. She stated the group who participated has grown over time and currently consists of about 30 members.

[3:37:47 PM](#)

MS. BAHNKE continued with slide 3, titled "EPWG - Guiding Principles." She paraphrased from prepared comments, which read as follows [original punctuation provided]:

During it's first meeting, the EPWG agreed that the replacement of our 20 year old voting system was the top priority for the group and they established some principles to guide its work and recommendations. These principles include:

Maximized Accessibility: elections should be accessible to all Alaskans regardless of their circumstances. If it doesn't work for rural Alaska, it doesn't work at all.

Cost Effectiveness: costs must be contained in order to abide by state budgetary constraints.

Voter Satisfaction & Confidence: participating in an election should be a satisfying experience for voters. Their satisfaction with and confidence in the process is key.

Longevity in the Solution: any new system or solution adopted must endure the test of time.

Coordination & Buy-in: the DOE, local governments, tribes, and other stakeholders need to agree on changes to Alaska's elections. No one should be left out of the consensus oriented decision-making process.

Security & Integrity: Alaska's elections and election systems must be designed with security and integrity in mind. Election officials and voters alike must trust in the systems that are used.

Voter Outreach: voters need to know how to interact with Alaska's elections. Outreach must be tailored to get them the information they need, effectively and efficiently.

[3:40:26 PM](#)

MS. BAHNKE continued with slide 5, titled "How Do Alaskans Vote?" She paraphrased from prepared comments, which read as follows [original punctuation provided]:

In addition to establishing guiding principles, the group also looked at voting trends. Just to give you an idea, in the 2016 General Election, there were 321,271 ballots cast for a final turnout of 60.77 percent. This election generated a record number of voters who voted early, absentee or questioned ballots; over 123,000 compared to about 90,000 in 2014.

Approximately 32 percent of Alaskans voted via an alternative method in 2016. A record number of voters, 39,242 voted early at the regional office voting stations and the division expects that voting trend to continue to increase in future elections. In response, for 2018, we've expanded early voting sites from 5 to 10 locations.

Another factor at play and something that the EPWG acknowledged is that the MOA conducted their municipal election entirely by mail and invested in the infrastructure specific to vote by mail. With the largest municipality in Alaska going to vote by mail, approximately 40 percent of the registered voters are now included in vote by mail elections.

[3:42:19 PM](#)

REPRESENTATIVE TUCK asked whether the 12 percent early voting included in-person absentee voters.

MS. BAHNKE answered that was included in the figures. In further response, she clarified "early voting" figures applied to people who voted two weeks prior to the election, whether they voted at the university or at the absentee voting center [Bethel area] in Tuntutuliak.

[3:43:12 PM](#)

REPRESENTATIVE WOOL asked for clarification on the 1 percent touch screen.

MS. BAHNKE answered that under the federal Help America Vote Act (HAVA) [2002], the state was required to use the direct recording devices in each polling place for those with language assistance needs, audio, or those with disabilities. These devices produce a paper record, she said.

[3:44:01 PM](#)

MS. BAHNKE proceeded with slides 5-7, titled "Exploring Ballot Delivery Systems." She paraphrased from prepared comments, which read as follows [original punctuation provided]:

There are three scenarios the EPWG has discussed.

In scenario one, Alaskans would keep voting the way it is now. (Slide included bullets) Paper ballot precinct based. 441 precinct polling places statewide. No statutory or procedural changes to consider. Absentee and Early Voting are also available. Outright purchase - \$6.77M plush \$489k Annual License/Warranty.

[3:45:12 PM](#)

REPRESENTATIVE LEDOUX asked for clarification on the DOE's process for voters who live in an area without a polling place and if the division mails ballots to them or if these voters must request the ballots.

MS. BAHNKE answered that the division has a designation of "permanent absentee voter" for those living in remote areas such as in Skwentna, which is an area consisting of all permanent absentee voters. These residents automatically are sent their ballots by mail. She added that in even numbered years absentee-in-person voters can sign up to receive their ballots on January 1 of the election year, but they must apply.

[3:46:15 PM](#)

REPRESENTATIVE LEDOUX asked whether anyone can become a permanent absentee voter.

MS. BAHNKE was unsure. She offered to research it.

REPRESENTATIVE TUCK answered no; which was the reason HB 1 was introduced. The proposed bill would allow a person to register to vote by mail and check off a box to automatically continue to receive their vote by mail ballots; however, currently that process is not available.

[3:46:44 PM](#)

REPRESENTATIVE LEDOUX wondered if the division had criteria in place for permanent absentee status.

MS. BAHNKE briefly described the process, that someone would apply for the status and the division subsequently evaluate it.

[3:47:23 PM](#)

CHAIR KREISS-TOMKINS mentioned one of his precincts on Prince of Wales Island consists of small communities, including Whale Pass, Edna Bay, Port Protection, and Coffman Cove. He was not aware of any [polling places] in that vicinity on election day. He wondered if that was the type of precinct which is comprised entirely of permanent absentee voters.

MS. BAHNKE answered that was correct.

[3:48:02 PM](#)

REPRESENTATIVE LEDOUX remarked that the MOA had great voter turnout with its recent municipal vote by mail election. She wondered if the voting turnout in areas with permanent absentee voters was typically higher than similarly situated places with a polling place.

MS. BAHNKE stated that the DOE contacts some of its rural education attendance areas by mail. She recalled that when Whale Pass incorporated in 2017, the process was conducted all by mail. She said the division would need to research the voter turnout comparison, although her next slide may help address the question.

[3:49:20 PM](#)

CHAIR KREISS-TOMKINS added to Representative LeDoux's question. He was specifically interested in the comparison of the overall turnout rates for permanent absentee ballot precincts to the overall in person precincts for both primary and general elections in Alaska.

[3:50:42 PM](#)

MS. BAHNKE turned to slide 6, titled "Exploring Ballot Delivery Systems." She paraphrased from prepared comments, which read as follows [original punctuation provided]:

In scenario two, Ballots are mailed to all Alaskan voters and you have 2-3 weeks to complete and mail

back. Outright purchase - \$2.1M plus \$181k Annual License/Warranty.

Currently three states (Oregon, Washington and Colorado) use vote by mail exclusively for all elections. Another 22 states allow certain, but not all, elections to be conducted entirely by mail, including Alaska. Here, the division conducts some of the Rural Educational Attendance Area elections by mail as well as special elections such as incorporation and liquor option elections.

Although the division has not conducted a full cost analysis, the division anticipates that conducting elections by mail would result in a cost savings. For instance, mailing a ballot package to every registered voter is less expensive than paying for election workers, election worker training, and polling place rental. Vote by mail would also eliminate the type of human error inherent in polling place voting and could mean increased voter convenience, like we see in ANC.

The Division also anticipates a potential cost savings related to polling place supplies and equipment-although unique considerations of mail service in rural Alaska would need to be carefully considered. An entirely vote by mail may be unacceptable due to the challenges rural communities might experience with both receiving and returning ballots. Also, language assistance must continue to be provided in order to comply with Section 203 of the Voting Rights Act and to ensure that voting is accessible for all Alaskans.

[3:53:33 PM](#)

REPRESENTATIVE WOOL suggested some communities vote largely by absentee voting because they lack a polling place. Most polling places have someone to assist voters who need assistance. He further recalled that touchscreens are required to be available in polling places, too. He asked whether voting by mail violated the requirement of having someone to assist voters. He pointed out that touchscreens allow people to vote entirely independently without the need for someone to read the ballot to them or provide other assistance. He asked for clarification on how the assistance currently works in villages.

MS. BAHNKE answered that in specific communities falling under Section 203 of the Voting Rights Act, election workers are trained to assist voters with disabilities and language needs. She reported that the state has settled two lawsuits in the past ten years that designated those communities. She reiterated that the division does have bilingual outreach workers on election day in the polling place of those communities.

[3:55:12 PM](#)

CHAIR KREISS-TOMKINS asked how many communities were on the list designated by those lawsuits or order of magnitude.

MS. BAHNKE answered that under the Koyukuk settlement about 40 communities were designated; the DOE translates all election materials in six dialects of Yup'ik and Gwich'in. In addition, the DOE also translates the official election pamphlet in Spanish and Tagalog for those areas of the state that require the division to do so. She commented that the DOE also had a new requirement which added Alutiiq and Aleut for some communities.

[3:56:15 PM](#)

REPRESENTATIVE TUCK asked what types of errors happen at the polling place.

MS. BAHNKE offered an example of human error, such as a House District 40 lawsuit, in which an election worker provided 2 ballots to voters.

[3:55:44 PM](#)

REPRESENTATIVE TUCK recalled that voting by mail would eliminate a lot of precinct polling errors. He suggested that she made it sound like there might be other errors.

MS. BAHNKE said she mentioned the District 40 issue as just one example that came to mind. She stated that the process of sending out ballots and voters returning them eliminated the possibility of human error.

[3:57:18 PM](#)

REPRESENTATIVE TUCK highlighted that people are concerned about integrity of the voting system with voting by mail. He understood the DOE would like to eliminate precinct errors, but

the process of signing in, showing voter identification, voting in a booth, and dropping the ballot in a ballot box seemed pretty secure. He recalled earlier testimony in which signatures in the recent MOA election could not be validated. He recalled these ballots represented 100 of 79,000 votes cast. He questioned the overall number of precinct polling errors if precinct polling errors were being reduced. He asked for the number of polling errors outside the House District 40 issue and if it was safe to say there were not a lot of polling errors.

MS. BAHNKE agreed. She stated that the election workers work very hard to protect the integrity and security of the election. The results are verified and audited; that the DOE has never been more than 1 percent off in any audit. In further response, she clarified that she previously spoke to human errors, not polling errors.

[3:59:05 PM](#)

REPRESENTATIVE LEDOUX asked for clarification that the DOE has never be more than 1 percent off in polling error.

MS. BAHNKE stated that following an election, the state review board audits the election results. She asked her staff, Mr. Jackson, to explain the process.

[3:59:39 PM](#)

MR. JACKSON explained that following the election all the election materials are sent to Juneau and stored until the State Review Board (SRB) can review them. Two different boards review the election materials, she said. The hand-count verification team randomly selects one precinct from each House district to be hand counted. The team would match its results with the electronically-generated results in the system. The DOE has not been more than 1 percent off between the hand count and the electronically-generated results, he said.

REPRESENTATIVE LEDOUX said that 1 percent seemed high, especially in close elections, such as the ones won or lost by a coin toss.

[4:01:16 PM](#)

CHAIR KREISS-TOMKINS said his initial election was subject to a recount. He offered that the tabulation always changes. In his

case, the change was ultimately two votes, he said. He noted that 1 percent was not much if the sample size was large.

REPRESENTATIVE LEDOUX said it was not meant to be a criticism of the division; however, candidates sometimes win or lose their elections by a 5 or 10 vote difference, and on occasion an election is won by 1 vote. She asked what could be done about the discrepancies since the 1 percent error rate seemed significant to her.

[4:02:39 PM](#)

MS. BAHNKE suggested she would not get stuck on 1 percent. She explained that the difference was between the paper and electronic ballots. She offered one explanation, that in close races the difference in the numbers could mean that the division had not received the election materials from a community. It might also mean there were under-voted or over-voted ballots and the optical scan did not read the ballot. During a recount, if the machine does not read the ballot, the director would make a call on whether there is voter intent and the ballots are tallied in that way.

CHAIR KREISS-TOMKINS clarified that he heard her say "never more than 1 percent." He asked if she knew offhand what the median variance would be. He clarified he was interested in, for example, what the variance amount for 9 times out of 10 would be .1 percent or .01 percent. It might be helpful for the committee to know that number if it was easy to track down.

MS. BAHNKE attested that the current election system is very accurate.

[4:04:31 PM](#)

MS. BAHNKE turned to slide 7, titled "Exploring Ballot Delivery Systems." She paraphrased from prepared comments, which read as follows [original punctuation provided]:

Under the third scenario, the Modern Hybrid system, all voters would receive a ballot by mail but you have options for returning it. You can mail it in or drop it off at a local vote center that is open 1-2 weeks before Election Day. You can also vote in person at the Vote Center, which offers help to voters who need it. And if a voter fails to receive a ballot, or loses it, they can obtain a new one, and cast it, at any

vote center before or on Election Day. Outright Purchase \$2.1M plus \$181k Annual PLUS cost of vote centers.

Jurisdictions like the State of Colorado and Denver County have experienced many benefits since switching to this new hybrid system like cost savings, increased voter satisfaction, and decreased labor requirements and training. As a result of a fact finding trip to Colorado, the EPWG determined that once tailored to Alaska's unique voting challenges, a hybrid system could be a viable option to deliver better results for Alaskan voters at a reduced cost. The EPWG determined that further research must be conducted to gauge the viability of an alternative ballot delivery system for Alaska, including rural areas.

Discussion with group on funding of a new system, what will it look like (including options that expand upon precinct based voting, alternative ballot delivery mechanisms like vote by mail, and other options), what are the trends going that might work for Alaska, the need for a long term solution that will serve the 21st century voter for many years.

MS. BAHNKE recalled that the MOA had five vote centers during its first vote by mail election.

[4:07:09 PM](#)

REPRESENTATIVE WOOL commented on the hybrid system; that the United States has moved towards being a paperless society; that bills are paid on-line so now it is easy for paper mail [or snail mail] to be misplaced. He said he has relatives in Oregon who miss the activity of going to a ballot booth. He liked the idea of the hybrid system since the person could still vote with proper identification.

MS. BAHNKE agreed. She added that the statutory and procedural changes would need to be considered and Alaska Statutes (AS) 15 would require a major overhaul or reform in order to implement the proposed changes. She reiterated the cost would be the same for the vote by mail plus the additional cost to implement the vote centers.

[4:08:56 PM](#)

CHAIR KREISS-TOMKINS said that having a paper trail of ballots is vital to any approach. He highlighted that the gold standard for elections would be to have a paper trail for every ballot.

MS. BAHNKE agreed that was correct. She stated that several states who moved away from the paper trail are moving back to it.

[4:10:10 PM](#)

REPRESENTATIVE TUCK asked whether Colorado was all by mail voting and if the state had changed to a hybrid election model. He said his notes said Oregon, Washington, and Colorado do all vote by mail elections.

MS. BAHNKE answered yes; that Colorado has a "hybrid" piece to it. She related that Colorado's elections are exclusively by mail, similar to Alaska's REAA [Regional Educational Attendance Area] elections and special elections by mail.

[4:11:03 PM](#)

REPRESENTATIVE TUCK asked for clarification on Colorado's election system; that it was exclusively an all vote by mail, but how voters return their ballots makes it a hybrid.

MS. BAHNKE agreed.

[4:11:17 PM](#)

CHAIR KREISS-TOMKINS asked whether the MOA's system would be considered a hybrid election system given that it has accessible vote centers in which ballots can be returned in person.

MS. BAHNKE answered yes.

[4:11:39 PM](#)

REPRESENTATIVE WOOL asked if voters who received their ballots in the mail and misplaced them can vote in person at the vote center with proper identification.

MS. BAHNKE answered that a vote center provides three things; first, it provides a means for someone to receive a ballot and vote in person; second, it provides a place to drop off a voted mail ballot that the person received in the mail; and third, centers provide language assistance or special assistance voters

might need. She envisioned, for example, that a vote center might be placed at a tribal center [in the Western Alaska] village of Chevak, rather than the division placing a big concrete box in the village.

[4:12:39 PM](#)

REPRESENTATIVE WOOL referred to online ballot delivery services, which seemed as though a person could fill out a ballot online and print it out; however, it allowed for electronic or e-mail delivery for return. At that point, the ballot would be printed out and entered as a paper ballot. He acknowledged that it would provide a paper trail, but the person voting would not see it. He assumed the DOE does not find that system very secure.

MS. BAHNKE answered that he is correct. She said this was discussed with the Election Policy Work Group, who has had a lot of concerns due to the international cyber threats. She stated that the DOE has suspended the online return. In 2018, the DOE will provide voters who request online ballots, but they must print it off return it by mail or fax.

[4:14:09 PM](#)

REPRESENTATIVE WOOL related that he has multiple USPO boxes, receives mail at his home, so he understood how mail could get tossed in a person's vehicle. He offered his belief that the mail trail could present challenges. He liked online printing since a person could print it out and return it by mail as part of the hybrid method.

[4:14:50 PM](#)

CHAIR KREISS-TOMKINS was not aware the division had suspended the e-mail option. He recalled reading a report in which Alaska was given a "B," as one of the best grades in the nation, but one of the complaints on Alaska's system was the e-mail delivery option. He characterized it as heartening and commendable to hear DOE acted on this.

[4:15:20 PM](#)

MS. BAHNKE turned to slide 8, title "EPWG Steps Forward." She related that the EPWG's next meeting is on May 9, 2018, in Anchorage. The group will report on its projects. First, the division partnered with UAA's Institute of Social and Economic Research (ISER), who is conducting a survey on behalf of DOE of

registered voters in the Kusilvak, Bethel, and Dillingham census areas. The survey asks voters to weigh in on alternative voting methods and their perceptions of the mail service and any barriers they perceive in voting. The division's target for the survey is 400 completed surveys. As of this week the division had received 385 completed surveys. The work is ongoing, and the findings will be released by the end of May, she said.

[4:16:24 PM](#)

MS. BAHNKE said that to complement the survey, the division hosted focus groups in Bethel last week with elders and youth. The division's Yu'pik interpreter held group-style meetings with questions aimed at facilitating discussion among elders and youth. She remarked that the youth all wanted to vote online. She explained the purpose was to consider the pros, cons, and concerns around current voting methods and the three proposals discussed today, including the hybrid system being considered.

MS. BAHNKE offered that the DOE has invited all four federally certified vendors - Clear Vote, Dominion, ES&S [Election Systems and Software], and Hart [InterCivic], to Anchorage to conduct demonstrations on three types of voting systems: a paper ballot precinct-based system, a paper ballot vote by mail system, and a vote by mail system. She invited members to attend the demonstrations. She said the DOE was exploring whether there was a good alternative for the state to replace its 20-year old system.

[4:18:33 PM](#)

CHAIR KREISS-TOMKINS noted that the Senate capital budget line item was added to replace election equipment. He asked whether the line item was inserted in consultation with the division and if there was any vision for how the funds would be spent.

MS. BAHNKE agreed the division was aware of the proposed funding.

[4:19:01 PM](#)

MS. BAHNKE referred to slide 9, titled "EPWG Recommendation." She said that in recognition of Alaska's need to replace its aging statewide voting equipment and modernize and improve the integrity of the state's elections, the division anticipates the EPWG will make an advisory recommendation to the Lt. Governor in the upcoming months. Once a decision is made or the DOE gets

direction, it would need to conduct a full cost analysis of the recommended voting system, identify the necessary changes to AS 15, and draft legislation for the legislature's consideration.

MS. BAHNKE anticipated that the division would need to hire a project manager to see it through the process, but the division will also need to continue to work with the legislature, municipalities, community and tribal leaders, and other key stakeholders to ensure that these groups agree. She recalled Ms. Jones mentioned the MOA's success with its outreach program. She hoped to use the MOA's model as an example. She acknowledged that community outreach was important, so voters are knowledgeable and understand the changes to Alaska's voting system.

[4:20:37 PM](#)

MS. BAHNKE said that lastly, the division will need to go through a formal procurement process. Presently, the DOE has secured approximately \$5 million to put toward a replacement system. In March 2018, the DOE received \$3 million in Help America Vote Act (HAVA) funding and the remaining \$2 million in funding will come from a combination of existing HAVA funds and the previously mentioned capital budget line item. That line item was a reappropriation of lapsing funds from the Governor's office. In addition, the division will have a five-percent match to the HAVA funding, or \$150,000, with the total funding of \$5 million for the new election system.

MS. BAHNKE indicated that the division was ramping up for the 2018 election cycle and it does not wish to lose momentum. As evidenced with the MOA, any change in an election system requires significant discussion and time to execute. In closing, she quoted one of the members at the first EPWG meeting who said, "This is about making government work and voting is a fundamental right. Cost effectiveness and other related concerns are critical, but well-run elections are of paramount importance."

[4:22:43 PM](#)

REPRESENTATIVE TUCK commented that he was glad to see DOE moving in this direction. He hoped that the division would also give this presentation to the Senate. He recalled the pie chart that illustrated early voting versus absentee voting. He said people sometimes are confused about early voting, which may happen in rural Alaska. Many people who tried to vote early were denied

because they were told they needed to be absent to vote since it consisted of an in-person absentee application. He offered his belief that calling it "early voting" was an easy way to handle it. In that way, poll watchers and poll workers also understand the function. He acknowledged that some processes are handled differently but the public just needs to know they can "early vote" and do not need to go to a vote center to do so.

[4:24:05 PM](#)

REPRESENTATIVE TARR pointed out that the report and the EPWG can be found on the website.

HB 408-REVOCATION OF DRIVER'S LICENSE

[4:24:45 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 408, "An Act relating to revocation of a driver's license."

[4:25:23 PM](#)

REPRESENTATIVE GABRIELLE LEDOUX, on behalf of the House Judiciary Committee, presented HB 408. She said that the impetus for HB 408 was brought forth by a constituent who will testify on his experience; however, this bill also would affect many other people. She paraphrased from a sponsor statement, which read as follows [original punctuation provided]:

In Alaska, a person who has had their license permanently revoked due to alcohol related offenses can apply to have their driver's license restored if 10 years have passed since the revocation and they have not been convicted of a driving-related criminal offense in that time. However, if someone was convicted of any driving-related crime (such as driving without a license) any time after the date of revocation, their license may never be restored under current law.

[4:26:45 PM](#)

REPRESENTATIVE LEDOUX explained the limited exception. She related that if a person was convicted after three strikes and had his/her driver's license [permanently] revoked, but the person subsequently was arrested for another DUI [driving under

the influence] offense, the person would be eligible to apply for a limited license. She then highlighted the inconsistency in current law pertaining to DUIs. She said that a person who stayed totally clean for 10-15 years and has not been charged with a DUI has no pathway to obtain a driver's license; however, a person who had a fourth DUI who adhered to the therapeutic court process would be eligible to get his/her driver's license back.

[4:29:06 PM](#)

REPRESENTATIVE WOOL asked for clarification on how current law would affect someone who lost their license but did not drive for ten years.

[4:30:16 PM](#)

GREG SMITH, Staff, Representative Gabrielle LeDoux, Alaska State Legislature, stated that HB 408 would address someone whose license was permanently revoked due to 3 felony DUIs within a 10-year period. If that person committed any driving-related offense, there would not be any remedy to reinstate driving privileges. He was not sure about the insurance requirements.

[4:31:10 PM](#)

REPRESENTATIVE WOOL reiterated the purpose of the bill, to create a pathway for reinstating a limited driver's license for those who are "clean" for ten years, including not driving without a license.

MR. SMITH answered yes; that was his understanding. He described the situation was being encountered by someone who had multiple DUI convictions as a young person, had his/her license permanently revoked, but who has since reformed and cannot obtain a driver's license.

[4:33:18 PM](#)

REPRESENTATIVE TUCK asked for clarification for someone who was conviction of a felony DUI, but in Year 9 was subsequently cited for driving without a license, that the person would need to wait 10 years before he/she was eligible for a limited driver's license under the bill.

MR. SMITH answered yes; that the intent of the bill is that the person must have 10 years of no driving-related criminal

offenses before they could petition for restoration of his/her driver's license.

[4:34:11 PM](#)

SEAN HOOPER described his experience with losing his driver's license. In 2002, he received a felony DUI, went through treatment, and in 2003 was cited for driving a motorcycle without a license. It has been nearly 15 years since he straightened out his life. He has tried several times to have his license reinstated; however, since he had an offense after his license was revoked due to a felony DUI, he is not eligible for a limited license or license reinstatement of any type.

REPRESENTATIVE LEDOUX thanked him for testifying since it identifies an issue that affects not only him, but many others.

[4:36:08 PM](#)

REPRESENTATIVE WOOL asked whether his license was revoked for a third felony DUI.

MR. HOOPER answered that it was his third offense right after the law was changed to reflect three DUI offenses within five years. He said he had three DUIs in his early 20s.

[4:36:53 PM](#)

REPRESENTATIVE WOOL asked whether he was driving the motorcycle without a valid license and if it triggered something else.

MR. HOOPER said his license was permanently revoked for a [third] felony DUI. The law was written that after 10 years from supervised probation a person would be eligible to apply for termination of revocation unless the person had any criminal offense. His criminal offense was driving with a revoked license in 2003, he said.

[4:37:55 PM](#)

REPRESENTATIVE WOOL said it sounded as though he could have applied for the termination of driver's license revocation if he had not had a moving violation on the motorcycle. He was unsure if Mr. Hooper could have applied for his license under current law.

REPRESENTATIVE LEDOUX responded that Mr. Hooper could have applied after ten years if he had not had a driving-related criminal offense. Mr. Hooper did have one since his criminal offense was driving without license. She said he has been "clean" now for 15 years; however, he can never obtain a license.

CHAIR KREISS-TOMKINS remarked it was a bit like the SR-22 issue.

[4:39:08 PM](#)

REPRESENTATIVE WOOL recapped that essentially the bill would allow a person to apply for termination of driver's license revocation after ten years with a clean record. This bill would reset the ten-year clock, he said.

[4:39:59 PM](#)

CHAIR KREISS-TOMKINS recalled that part of the concept, as he understood it from the House Judiciary Standing Committee hearing was that under current law with justice reform that SB 91 has a pathway to reinstate his/her license. He asked for clarification on the pathway.

[4:41:02 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Office of the Administrative Director, Alaska Court System (ACS), responded that prior to passage of SB 91, there was not any pathway for a person with a felony DUI law, which required permanent revocation to get a limited driver's license. She explained that misdemeanants could obtain a limited license to allow the person to drive to work under certain circumstances. She stated that SB 91 added a provision that would allow a person with a third felony DUI conviction within 10 years, whose license has been permanently revoked, to obtain a limited license if the person had gone through a therapeutic court program and met other requirements such as proof of financial responsibility [SR-22], use of the ignition interlock device, and a few other things.

MS. MEADE explained that if an individual lived in a community without a therapeutic court, the person must demonstrate to a judge that the person had completed a treatment program with conditions similar to a therapeutic court, including that it spanned 18 months, had intensive oversight, and had some residential component. If the person could do that it was an

alternative to the therapeutic court, she said. She related that a person who had driven under the limited felony license for three years could apply under the same provision, AS 28.35.030(o) under proposed Section 2, to obtain a full restoration. She stated that the provision was retroactive. For example, if someone went through therapeutic court in 2004, the person meeting the requirements could have his/her driver's license reinstated.

[4:42:53 PM](#)

REPRESENTATIVE TUCK asked for clarification whether a person who used the therapeutic court exception and obtained a limited license would need to use the ignition interlock system or not.

MS. MEADE explained that the ignition interlock device is a requirement for anyone conviction of a DUI. The law states that the person would permanently lose his/her driver's license; however, the law also says when and if the person ever drives again, the person must use the ignition interlock device for a set period of time. She related that language was included in every judgment. She acknowledged that after three years of a limited license the person can have his/her driver's license restored. She referred to language on page 1, starting at line 13. She explained that proposed AS 28.35.030(o) provides a different method for those who do not go through the therapeutic court process to obtain a full driver's license restoration after 10 years of a clean driving record despite the fact that the revocation was permanent.

[4:44:12 PM](#)

REPRESENTATIVE TUCK related a scenario in which a friend got three DUIs early on and only recently after 15 years or longer, with passage of SB 91 was able to obtain a driver's license but uses an ignition interlock device. He also went through therapeutic court, he said. He asked for clarification that with passage of HB 408, if his friend had no prior violations in 10 years that he could apply for a full driver's license, which would remove the requirement for the ignition interlock device and he would have the same privileges as any other driver.

MS. MEADE answered yes; but there would be a better avenue to get the full driver's license, which would be after driving under a limited license for three years without any driving related problems could get his license restored. She said it would be more advantageous to use that route.

[4:45:48 PM](#)

REPRESENTATIVE BIRCH said he liked [the bill] and believed in redemption. He expressed an interest in statistics on drivers whose license was reinstated after ten years who subsequently reoffended.

MS. MEADE stated that [AS 28.35.030(o)(1)&(2) went into effect in 2002, which relates to restoration of a revoked driver's license after 10 years with no convictions of any driving-related criminal offenses. Thus, the first people eligible to apply under this statute would have been in 2012. She deferred to the DMV to provide figures on the number of people who applied and how many were granted. She agreed with Representative Wool's assessment that many drivers whose licenses were revoked continued to drive with suspended licenses and therefore disqualified themselves.

[4:47:35 PM](#)

MARLA THOMSON, Director, Division of Motor Vehicles, Department of Administration (DOA), was unsure but offered to provide information to the committee.

[4:47:59 PM](#)

MR. SMITH said he found information showing that revocation of a license was a mechanism to reduce recidivism, but what was less conclusive was the optimal length of a revocation. In some cases, long revocation periods taught people that it was okay to drive without a license when they discovered they could drive and not be caught.

REPRESENTATIVE BIRCH said that ultimately it is about public safety, so he was interested in the recidivism rates.

[4:48:50 PM](#)

REPRESENTATIVE LEDOUX asked whether someone like Mr. Hooper, whose DUIs were 15 years ago, would be eligible to attend therapeutic court.

MS. THOMSON answered no; that therapeutic court was an alternative option to deal with a DUI charge; therefore, the case must be active. The courts do not provide social services to people who do not have an active case. If a person was

arrested and came before the court, the therapeutic court provides an alternative route to the traditional court.

[4:49:47 PM](#)

REPRESENTATIVE LEDOUX related her understanding that if Mr. Hooper got an additional DUI and was referred to therapeutic court, he could then apply for a limited license. Obviously, Mr. Hooper would not want to get a DUI, but in keeping on "the straight and narrow path" places him in a worse position than if he got a subsequent DUI.

MS. MEADE answered that was literally true; however, therapeutic court is an intensive 18-month program with social workers, probation officers, and seeing the judge every few days at the beginning and tapering off to a weekly visit. Everyone must agree that the person is an appropriate candidate for the therapeutic court route; for example, they must agree that the person was capable of rehabilitation, she said. She said she did not wish to indicate that anyone could go through the therapeutic court because it is a difficult process.

[4:51:06 PM](#)

REPRESENTATIVE LEDOUX said she understood this; however, it seemed unfair that someone could go through the therapeutic court route to get his/her driver's license back. However, someone without a DUI after 15 years could never get his/her license privileges restored.

MS. MEADE answered that this is what the law currently provides. She offered her view of what happened in SB 91; that there was not a way to provide a limited license. The ten-year period without any DUIs does not help anyone who drives with a suspended license, which many people in that situation choose to do at some point. She further stated that under SB 91, the view was taken to make it available to some people, but still have some assurance that this person will not recidivate and show some signs of rehabilitation. She acknowledged that therapeutic court was one concrete indicator.

[4:52:20 PM](#)

CHAIR KREISS-TOMKINS asked Ms. Meade to describe the therapeutic retroactivity associated with the therapeutic court pathway to restore a person's driver's license.

MS. MEADE responded that SB 91 offered a route for those with offenses before the effective date of SB 91; for example, if a person had a felony DUI in 2009, had not been driving since that date and went through therapeutic court, the person could still apply to DMV for a limited driver's license. It was intended to address parties who needed some avenue to restore their licenses. Therapeutic court was one way to show the person was somewhat rehabilitated, she said.

[4:53:35 PM](#)

REPRESENTATIVE WOOL related his understanding that prior to the passage of SB 91 someone with a felony DUI who lost his/her license permanently and had no violations within 10 years could apply to get their driver's license restored.

MS. MEADE answered yes.

[4:54:05 PM](#)

REPRESENTATIVE WOOL suggested that having some option to obtain a legal driver's license was good since the penalty for someone whose license was suspended and continued to drive would not be a deterrent. He asked whether 10 years would be the appropriate amount of time. He was unsure of the penalty for driving with license suspended [DWLS] and whether people would get jail time for the offense.

MS. MEADE responded that the DWLS was a common charge and conviction. She reported that approximately 1,800 per year are convicted of DWLS. She stated that SB 91 separated the crime. If a person whose license was suspended was caught driving for a reason other than DUI or refusal, the penalty is an infraction with a \$300 fine. However, if the driver's license was suspended due to a DUI, the penalty is a Class A misdemeanor under SB 91. The statute spells out the penalty as 10 days in jail with 10 days suspended and the second offense would result in 10 days in jail.

[4:56:29 PM](#)

CHAIR KREISS-TOMKINS asked whether the DMV has taken a position on HB 408.

MS. THOMSON stated that the DMV has not yet taken a position on the bill.

4:57:28 PM

REPRESENTATIVE TUCK remarked that he was glad to reform some things, including the SR-22 remedy. He viewed HB 408 as an amendment rather than a bill and it is a necessary fix that needs to happen.

4:58:02 PM

CHAIR KREISS-TOMKINS announced that HB 408 would be held over.
[HB 408 was held over.]

4:58:46 PM

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:58 p.m.