

SENATE FINANCE COMMITTEE
March 31, 2017
9:08 a.m.

[9:08:44 AM](#)

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:08 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Mike Dunleavy
Senator Peter Micciche
Senator Donny Olson
Senator Natasha von Imhof

MEMBERS ABSENT

Senator Click Bishop, Vice-Chair

ALSO PRESENT

Jordan Schilling, Staff, Senator John Coghill; Dean Williams, Commissioner, Department of Corrections; Juli Lucky, Staff, Senator Anna MacKinnon; John Skidmore, Director, Criminal Division, Department of Law; Gina Ritacco, Staff, Senator Mike Dunleavy.

PRESENT VIA TELECONFERENCE

Jeff Edwards, Director of Parole Board, Anchorage; Tony Piper, ASAP Manager, Division of Behavioral Health, Anchorage.

SUMMARY

SB 54 CRIME AND SENTENCING

SB 54 was HEARD and HELD in committee for further consideration.

SB 55 OMNIBUS CRIME/CORRECTIONS

CSSB 55(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note from the Senate Finance Committee and a new zero fiscal note from the Alaska Judicial System

SB 97 PENSION OBLIGATION BONDS

SB 97 was HEARD and HELD in committee for further consideration.

HB 57 APPROP: OPERATING BUDGET/LOANS/FUNDS

HB 57 was SCHEDULED but not HEARD.

#sb97

SENATE BILL NO. 97

"An Act relating to pension obligation bonds."

[9:09:37 AM](#)

Co-Chair Hoffman MOVED to CHANGE THE SPONSORSHIP of SB 97 from SENATOR MACKINNON to SENATE FINANCE COMMITTEE. There being NO OBJECTION, it was so ordered.

SB 97 was HEARD and HELD in committee for further consideration.

#sb55

SENATE BILL NO. 55

"An Act relating to criminal law and procedure; relating to controlled substances; relating to sentencing; relating to the period of probation; relating to revocation, termination, suspension, cancellation, or restoration of a driver's license; relating to parole; relating to the duties of the Department of Corrections and the Department of Health and Social Services; and providing for an effective date."

[9:10:30 AM](#)

Senator Micciche MOVED to ADOPT Amendment 1, 30-LS0119\N.1, Martin, 3/29/17 (copy on file):

Page 8, following line 3:

Insert a new bill section to read:

"* Sec. 15. AS 29.25.070(g) is amended to read:
(g) If a municipality prescribes a penalty for a violation of a municipal ordinance, including a violation under (a) of this section, and there is a comparable state crime [OFFENSE] under AS 11 or AS 28 with elements that are similar to the municipal ordinance, the municipality may not impose a greater punishment than that imposed for a violation of the state crime [LAW]. This subsection applies to home rule and general law municipalities."

Renumber the following bill sections accordingly.

Co-Chair MacKinnon OBJECTED for DISCUSSION.

JORDAN SCHILLING, STAFF, SENATOR JOHN COGHILL, explained the amendment. He stated that SB 91 limited authority to have greater punishments for similar state offences than prescribed under state law. The amendment was a provision from SB 54, and should be a considered a technical revision.

Co-Chair MacKinnon WITHDREW the OBJECTION. There being NO further OBJECTION, Amendment 1 ADOPTED.

Co-Chair Hoffman MOVED to REPORT SB 55, as amended, out of committee with individual recommendations and attached fiscal notes. There being NO OBJECTION, it was so ordered.

CSSB 55(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note from the Senate Finance Committee and a new zero fiscal note from the Alaska Judicial System.

[9:12:40 AM](#)

AT EASE

[9:15:39 AM](#)

RECONVENED

#sb54

SENATE BILL NO. 54

"An Act relating to crime and criminal law; relating to violation of condition of release; relating to sex trafficking; relating to sentencing; relating to probation; relating to the pretrial services program; and providing for an effective date."

9:16:04 AM

DEAN WILLIAMS, COMMISSIONER, DEPARTMENT OF CORRECTIONS, (DOC) wondered whether he should provide an overview of the fiscal note.

Co-Chair MacKinnon shared that she and Mr. Williams had a conversation about the magnitude and the implications of the bill. She requested that the conversation be put on the record as to why the Senate was seeing an indeterminate fiscal note. Commissioner Williams realized that it was unusual to provide three fiscal notes from DOC. He shared that there had been great analysis of the financial implications of SB 54. He stressed that the DOC relied on 2015 with new assumptions, with no record of "that really looks like." He felt that DOC was "in a guesstimate place." He felt that the indeterminate note was the best note DOC could offer. He noted that the data was from 2015 related to the C felony issue. He stressed that there were new assumptions from the recent change in the law, so there was no firm standing of the issue. He remarked that there were new assumptions.

9:21:00 AM

Co-Chair MacKinnon wondered how to understand all the effects. She stated that the commissioner had attempted to put a range in the variables to provide the best estimates of the impact.

Senator Olson remarked that approximately one-fifth of the savings from the previous year's projections would be returned. He wondered whether the previous savings would be eliminated. Commissioner Williams replied that some of the changes in SB 54 would cost more money. He stated that there was an understanding that "hard beds are commodities." He agreed that some savings would be lost.

Senator Olson stressed that the public wanted to be sure that public safety would be enhanced. Commissioner Williams

agreed and stated that the intention was always to improve safety.

Senator Micciche felt that the calculations in the fiscal notes were on a one to one basis. Commissioner Williams replied that the department was always contemplating the concerns.

Co-Chair MacKinnon read page 2 of the fiscal note.

[9:30:00 AM](#)

JULI LUCKY, STAFF, SENATOR ANNA MACKINNON, explained the other fiscal notes.

[9:31:20 AM](#)

AT EASE

[9:35:23 AM](#)

RECONVENED

[9:35:36 AM](#)

Senator von Imhof MOVED Amendment 1, 30-LS0461\R.9, Martin, 3/30/17 (copy on file):

Page 8, following line 3:

Insert a new bill section to read:

"* Sec. 15. AS 29.25.070(g) is amended to read:

(g) If a municipality prescribes a penalty for a violation of a municipal ordinance, including a violation under (a) of this section, and there is a comparable state crime [OFFENSE] under AS 11 or AS 28 with elements that are similar to the municipal ordinance, the municipality may not impose a greater punishment than that imposed for a violation of the state crime [LAW]. This subsection applies to home rule and general law municipalities."

Renumber the following bill sections accordingly.

Co-Chair MacKinnon OBJECTED for DISCUSSION.

Senator von Imhof explained Amendment 1. She stated that the language amended AS 33.16.130 subsection C, which dealt with the scheduling of follow-up parole hearings following a denial of parole.

9:37:31 AM

JEFF EDWARDS, DIRECTOR OF PAROLE BOARD, ANCHORAGE (via teleconference), stated that there was ambiguity in the language of SB 91. He shared that prior to SB 91, the board felt obligated to set a ten-year rule.

Senator Olson queried the effect of the parole status of those incarcerated in rural Alaska. Mr. Edwards replied that it would allow more flexibility for the board to make their decisions.

Senator Olson surmised that there would be no negative effect on his district.

9:40:19 AM

JORDAN SCHILLING, STAFF, SENATOR JOHN COGHILL, stated that the sponsor of the bill was in support of the amendment.

Senator Micciche felt that the amendment was an important amendment.

Co-Chair MacKinnon asked Mr. Schilling to remain at the table. She announced some people who were available online to answer questions.

Co-Chair MacKinnon WITHDREW her OBJECTION. There being NO further OBJECTION, it was so ordered.

9:42:30 AM

Senator Micciche Amendment 2, 30-LS046 1 \R.6, Martin, 3/29/17 (copy on file).

Co-Chair MacKinnon OBJECTED for DISCUSSION.

Senator Micciche explained the amendment. He stated there was a report that showed the high cost of controlled substance and alcohol abuse in the state. He stated that the amendment required that individuals complete the Alcohol Safety Action Program (ASAP) program when arrested for misconduct involving a controlled substance.

Co-Chair Hoffman queried the fee schedules. Senator Micciche replied that the fee schedules were in Section 11.

9:45:42 AM

AT EASE

9:45:50 AM

RECONVENED

9:45:53 AM

Senator Micciche stated that the fee schedule was in regulation.

Co-Chair MacKinnon queried the bill sponsor's position on the amendment. Mr. Schilling replied that the sponsor did not oppose the amendment, and it did not conflict with the commission's recommendations.

9:47:28 AM

TONY PIPER, ASAP MANAGER, DIVISION OF BEHAVIORAL HEALTH, ANCHORAGE (via teleconference), introduced himself.

Co-Chair MacKinnon asked for information about the amendment and the fiscal note. Mr. Piper replied that the amount of people added to the system was small enough to use the current staffing. The added fees would help offset any costs.

Senator Olson wondered whether the program participants would pay for at least part of the cost. Mr. Piper replied in the affirmative.

Senator Olson noted that some of the participants were from lower incomes. He wondered how those individuals, especially those in rural Alaska, would pay for the program. Mr. Piper replied that many people could pay the \$200 fee. He stressed that the service was provided regardless of payment.

Senator Olson queried the locations of the programs. Mr. Piper replied that the ASAP offices were in thirteen different areas.

Senator Olson wondered who paid for transportation from the rural areas. Mr. Piper replied that occasionally a treatment office would provide the treatment.

Senator Olson wondered how a someone without access to ASAP participate in the program. Mr. Piper responded that that person would seek help with the closest treatment agency. There were some opportunities for distance agencies, and some treatment over the internet.

9:51:33 AM

Senator Olson noted that internet was only available in schools in rural Alaska. Mr. Piper understood.

Senator Micciche stated that the amendment would only expand ASAP to those violations involving a controlled substance.

Senator Olson asked if the commissioner could comment on the matter.

Commissioner Williams stated that he was unfamiliar with the situation.

Senator Olson stated that rural Alaska often did not have access like the other parts of the state.

9:53:35 AM

JOHN SKIDMORE, DIRECTOR, CRIMINAL DIVISION, DEPARTMENT OF LAW, explained that ASAP was a condition that could be imposed, but not required. He had practiced law in the YK Delta, Bethel, Bristol Bay, and Dillingham, and judges were familiar with what was available in their communities. He reiterated that the amendment would allow people to use ASAP when available.

Senator Olson wondered if people in places such as Chevak would be disadvantaged.

Mr. Skidmore acknowledged that there were not challenges in rural communities.

Senator Olson asked if Mr. Skidmore considered there to be undue challenges.

Mr. Skidmore agreed that there were challenges.

Co-Chair MacKinnon WITHDREW her OBJECTION. There being NO further OBJECTION, it was so ordered.

9:56:06 AM

AT EASE

9:57:00 AM

RECONVENED

9:57:05 AM

Senator Dunleavy MOVED Amendment 3, 30-LS0461\R.5, Martin, 3/28/17 (copy on file0:

Page 11, following line 12:

Insert a new bill section to read:

"*Sec. 18. AS 33.30.061 is amended by adding a new subsection to read:

(d) A prisoner serving a term of imprisonment at a private residence as required by statute when electronic monitoring is not available does not have a liberty interest in that status. The commissioner may return the prisoner to a correctional facility if the commissioner finds that the prisoner has violated the terms and conditions of the imprisonment at the private residence."

Renumber the following bill sections accordingly.

Page 12, line 8:

Delete "sec. 21"

Insert "sec. 22"

Co-Chair MacKinnon OBJECTED for DISCUSSION.

9:57:19 AM

GINA RITACCO, STAFF, SENATOR MIKE DUNLEAVY, explained that the amendment was requested by the Office of Victims Rights. She stated that there was concern about first-time DUI offenders who were not on electronic monitoring would allow for the commissioner to send them to prison for violating their house arrest. The amendment clarified the language that the commissioner had that authority.

Co-Chair MacKinnon wondered whether there was any comment from other agencies regarding the amendment.

Senator von Imhof asked how many people violated the electronic monitoring.

Senator Dunleavy stated that he did not have those numbers.

[9:58:40 AM](#)

AT EASE

[9:59:14 AM](#)

RECONVENED

[9:59:24 AM](#)

Senator von Imhof queried data that provided the number of instances where prisoners violated the electronic monitoring. Commissioner Williams replied that the provision was too new to provide data.

Senator von Imhof wondered if there had been conversations with the Office of Victims Rights regarding the issue. Commissioner Williams replied that the amendment was a "red hot area." He stressed that the issue was about the capacity for the department to respond to the issues.

Co-Chair MacKinnon queried the administration's position on Amendment 3. Commissioner Williams replied that he did not have a position on Amendment 3. He understood the amendment sponsor's intention. He expressed concern about the expectation to respond, and the department's capacity to respond.

Co-Chair MacKinnon looked at line 6 of the amendment, "the commissioner may return the prisoner to a correctional facility, if the commissioner finds that the prisoner has violated the terms and conditions of imprisonment at the private sector." Commissioner Williams recognized that discretionary language.

[10:02:51 AM](#)

Senator Micciche wondered whether the commissioner already possessed the authority. Commissioner Williams replied that there is a debate about whether that authority was already granted. He stated that some believed that the authority was already there.

Senator Dunleavy stressed that the amendment was only clarifying language.

Senator Micciche wondered what it meant when a prisoner did not have a liberty interest in the status.

Mr. Skidmore stated that liberty interest was for first-time DUIs.

[10:06:03 AM](#)

Co-Chair MacKinnon queried the bill sponsor's position on Amendment 3. Mr. Schilling stated that Senator Coghill did not oppose the amendment. The amendment clarified DOC's authority.

Co-Chair MacKinnon WITHDREW her OBJECTION. There being NO further OBJECTION, it was so ordered.

Co-Chair MacKinnon stated that she planned to bring a committee substitute before the committee on Monday.

[10:06:56 AM](#)

Co-Chair Hoffman shared that commission had discussion regarding the zero to ninety-day presumptive jail range.

Mr. Schilling stated that he was in support of the change.

Co-Chair MacKinnon queried comment on the proposal.

Senator Dunleavy wondered whether Co-Chair Hoffman would only be offering one amendment. Co-Chair Hoffman replied in the affirmative.

SB 54 was HEARD and HELD in committee for further consideration.

#hb57

HOUSE BILL NO. 57

"An Act making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; amending appropriations; repealing appropriations; making supplemental appropriations and reappropriations, and making appropriations under art. IX, sec. 17(c),

Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date."

HB 57 was SCHEDULED but not HEARD.

Co-Chair MacKinnon discussed the schedule and deadlines.

#

ADJOURNMENT

10:11:40 AM

The meeting was adjourned at 10:11 a.m.