

HOUSE FINANCE COMMITTEE

April 29, 2019

9:01 a.m.

9:01:17 AM

CALL TO ORDER

Co-Chair Wilson called the House Finance Committee meeting to order at 9:01 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Tammie Wilson, Co-Chair
Representative Jennifer Johnston, Vice-Chair
Representative Dan Ortiz, Vice-Chair
Representative Ben Carpenter
Representative Andy Josephson
Representative Gary Knopp
Representative Bart LeBon
Representative Kelly Merrick
Representative Colleen Sullivan-Leonard
Representative Cathy Tilton

MEMBERS ABSENT

None

ALSO PRESENT

Sylvan Robb, Administrative Services Director, Department of Corrections, Office of Management and Budget; Kelly Goode, Deputy Commissioner, Department of Corrections; Nancy Meade, General Counsel, Alaska Court System; Kelly Howell, Special Assistant, Division of Administrative Services, Department of Public Safety.

PRESENT VIA TELECONFERENCE

Rob Henderson, Deputy Attorney General, Criminal Division, Department of Law; James Stinson, Director, Office of Public Advocacy, Department of Administration; Beth Goldstein, Acting Public Defender, Public Defender Agency, Department of Administration; David Kanaris, Assistant chief, Forensic Laboratories, Department of Public Safety.

SUMMARY

HB 20 SEXUAL ASSAULT EXAMINATION KITS

HB 20 was HEARD and HELD in committee for further consideration.

#hb20

HOUSE BILL NO. 20

"An Act requiring law enforcement agencies to send sexual assault examination kits for testing within six months after collection; and providing for an effective date."

[9:01:42 AM](#)

SYLVAN ROBB, ADMINISTRATIVE SERVICES DIRECTOR, DEPARTMENT OF CORRECTIONS, OFFICE OF MANAGEMENT AND BUDGET, reviewed the new fiscal impact note from the Department of Corrections (DOC), Population Management, OMB Component Number 1381. She elaborated that the bill affected DOC in three areas: tampering with an electronic monitoring device; the changes to misconduct with a controlled substance; and changes to the sentencing ranges for Class B felonies. The department determined that the changes would increase expenditures in FY 2020. The increased number of offenders would stabilize in the second year and subsequent years. She pointed to the analysis on the second page of the fiscal note. The department projected that the number of inmates would increase by 130 in the first year and by 328 each subsequent year. The department averaged 4,485 inmates during the first quarter of CY 19, [calendar year] leaving the system with additional capacity for 179 additional inmates. In the first year, because the system had capacity for the additional inmates, costs for the 130 additional inmates was calculated at the marginal cost of \$44.98 per day for a total cost of \$2,132.7. The additional 149 inmates that exceed existing capacity were calculated at the full cost care rate of \$168.74 per inmate per day.

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Vice-Chair Johnston asked whether the current cost of care included expenditures for behavioral health issues. She asked how behavioral health fit into the fiscal note.

Ms. Robb replied that the inmates that exceeded the current capacity with a cost of \$168.74 included physical and behavioral health care. Vice-Chair Johnston noted that the extra capacity was presently 179. She inquired whether DOC was able to address the behavioral health costs for the 179 extra inmates. Ms. Robb answered that the numbers provided for the level of care the state currently provided.

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Representative LeBon noted that the bill made tampering with an electronic monitoring (EM) device a crime. He asked whether tampering was currently a crime and what had changed in the bill. Ms. Robb was unable to answer the question. Representative LeBon referred to page 2 of the fiscal note that stated, "in CY 18 there were 110 instances of EM tampering" and asked if the fiscal note assumed the same number of tampering in subsequent years. He asked whether it was possible the number would decrease due to the increased sentence for tampering. Ms. Robb answered that the historical data were the only assumptions DOC could base its fiscal notes on. She offered that attempting to predict behavior based on statute changes was difficult.

Representative Josephson noted that the bill incorporated much of HB49-Crimes; Sentencing; Drugs; Theft; Reports introduced by the governor. He could see why the governor's proposed reforms may cost \$40 million. He asked whether the \$40 million was anticipated and reflected by the Office of Management and Budget (OMB) in the budget and the governor's overall fiscal plan.

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Ms. Robb replied that the governor had made his commitment to public safety clear and he was prepared to increase public safety budgets. She deferred the answer to OMB.

Co-Chair Wilson calculated that 4,664 inmates averaged 485 beds but currently, she was informed that there were about 450 beds. She asked about the 179 beds currently available. Ms. Robb delineated that she used the daily average rate for the first quarter of CY 19 and reminded Co-Chair Wilson that the prison population fluctuated daily. She determined that using a quarterly average was a more reliable statistic than merely basing the number on a single day.

Co-Chair Wilson asked what percentage of capacity the 179 beds reflected. Co-Chair Wilson determined that the answer was around 97 to 98 percent capacity and that the average seemed high compared to the current daily numbers of 90 to 91 percent. Ms. Robb guessed that the Co-Chair obtained the numbers from the daily count sheets. The daily count sheet average percentages were compared against the absolute maximum capacity of 4,838. The department was prohibited from operating at maximum capacity for more than 30 days, due to the Cleary Court case [Cleary versus State - 1976]. Co-Chair Wilson asked what percentage was considered maximum for practical purposes. Ms. Robb replied that the general capacity was 4,664 inmates and DOC could operate at the capacity indefinitely. Co-Chair Wilson asked if the department could operate at that range even though DOC was short 70 correctional officers. Ms. Robb answered that the officers were working overtime. She added that the department was working hard to recruit correctional officers. Co-Chair Wilson wanted to ensure the capacity numbers corresponded to a certain number of correctional officers. She asked whether Ms. Robb had additional backup statistics; the department had only considered FY 18. She described the data as a "snapshot" versus examining several years of data or further back to prior SB 91. She read from page 2 of the fiscal note:

For felony A, felony B and felony C as well as misdemeanor B cases of misconduct involving a controlled substance the department projects an increase in inmates. The department projects an additional 118.9 inmates per day for year 1 and an increase of 260.0 inmates in the second year and each subsequent year.

Co-Chair Wilson wondered exactly where the numbers were derived and what years they were based on and at what level of crime; misdemeanors or felonies. She assumed DOC had research staff.

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Ms. Robb affirmed that a research analyst was assembling the data for the department. She reported that the department strove for the best analysis and best data in order to obtain "a reflection that was as close as possible" to the proposed changes in law." She offered more information. She used a felony B crime as an example. She

explained that for the felony B sentence increases, she took the length of stay for felony B inmates from CY 14 and CY 18 and noted the difference. She elucidated that CY 14 was chosen because it was prior to passage of SB 91 and was also used as the baseline year for SB 91 numbers. The CY 14 number was larger, and she employed the increased length of stay relative to the current numbers to the numbers prior to passage of SB 91 measured against how many offenders in 2018. Co-Chair Wilson requested the data. She understood that it was only as accurate as who broke the law. She acknowledged that the numbers would change based on any amendments.

Representative Carpenter asked why DOC could employ the the marginal cost rate versus the full cost of care rate for the 179 and additional inmates at full cost. He asked why DOC used the full rate later. Ms. Robb acknowledged the rates were confusing. She responded that until they reached the point where the system exceeded capacity, the marginal rate represented the additional cost of the 179 individuals at \$44.98 per person. She elucidated that the number reflected food, medical care, medications, clothing, etc. Once the institutions exceeded capacity the system needed to gain additional capacity, and it was necessary to account for all costs at \$168.74 per inmate per day, that was inclusive of running a facility, transportation, healthcare, utilities, staffing, etc. as well as the items included in the marginal care rate.

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Representative Carpenter listed what was included in the marginal care rate and deduced that the rate was effective while institutions operated at general capacity and any amount over general capacity meant the full rate would be necessary. Ms. Robb answered in the affirmative. She used a classroom as an example where the population increased from 23 to 24, which incurred only marginal costs. She offered that at some point a tipping point was reached in the system and beyond that point a cost increase occurred. The situation was similar with DOC's institutions.

Vice-Chair Johnston asked about overtime and the capacity of employees. She stated that there were currently up to 70 positions unfilled, which required overtime from other employees. She asked whether the current costs included overtime. Ms. Robb replied that since they were not paying

for the 70 positions and the slack in the budget helped cover the costs for overtime. She stressed that DOC wanted to fill the full time positions. Vice-Chair Johnston asked if the cost of overtime did not exceed the vacancy. Ms. Robb replied in the affirmative. Vice-Chair Johnston asked about the cost of hiring and training an employee for the positions. Ms. Robb answered DOC had calculated training costs of approximately \$43,000 including the cost to send the officer to the 7 week correctional academy, transport to the academy in Palmer, per diem, pay while training, coverage while an employee was training, academy staff costs, and officer supplies.

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Vice-Chair Johnston asked if the number was included in the costs reflected on the fiscal note. Ms. Robb answered that the \$168.74 number was inclusive of everything including the training elements.

Co-Chair Wilson questioned whether all costs were inclusive in the rate. Ms. Robb replied in the affirmative and added that the number included all direct and indirect costs. Co-Chair Wilson asked about the anticipated amount of overtime and how much was currently spent. Ms. Robb would follow up. Co-Chair Wilson asked whether she kept a running total of overtime and if there was a way to mitigate it or did the department rely on supplemental appropriations instead. Ms. Robb replied that the department did not just spend and ask for supplemental revenue. She acknowledged that proper coverage was maintained but DOC was always looking for ways to keep cost down and kept close tabs on the budget. She noted that if costs increased in one area, the department looked for ways to "contract" in another area.

[9:24:56 AM](#)

Co-Chair Wilson asked what the financial plan for DOC was if it could not hire enough officers. She noted the department was down by a significant number of correctional officers. She noted that current officers were racking up overtime. She wondered whether there was a point where it became too expensive. Ms. Robb responded that there was not really a replacement for the needed correctional officers. There was not an outlet valve due to the stringent requirements. The department had about 904 correctional

officer positions and it eventually filled the vacancies, but it was a "strain."

Representative Carpenter asked where the break point was when the marginal rate could be achieved. Ms. Robb replied that it was the point where the system reached the general capacity number of 4,664. Representative Carpenter looked at the marginal cost rate. He asked at what number of inmates DOC stopped using the full cost rate and moved to the marginal rate. Ms. Robb responded that the \$168.74 was the cost to run the institution which included a large amount of overhead costs. The utilities do not change per number of inmates and some other costs were not variable upon the number of inmates. She delineated that once they were above capacity they started taking in the full costs.

[9:28:36 AM](#)

Ms. Robb pointed out that the marginal rate had been used up to capacity and the full rate beyond that. Healthcare was included in the cost of care, but the costs were reported in its own fiscal note because it was a separate appropriation.

Ms. Robb moved to new fiscal impact note from the Department of Corrections, Health and Rehabilitation Services, OMB Component Number 2952. She detailed that the bill pushed the prison population beyond current capacity. The department proposed to reopen the Palmer Correctional Center (PCC). The department would need to rehire seven individuals to provide medical care to reopen a facility. The fiscal note showed the costs in the personal services line [\$908.5 thousand]. The miscellaneous line costs reflected healthcare cost encompassing contractual services and commodities calculated at \$36.86 per inmate per day. The total for 149 inmates was approximately \$2 million. The total cost to reopen the section of the Palmer facility was estimated at \$2.9 million.

Co-Chair Wilson wondered what DOC was planning regarding the shortage of healthcare professionals including mental health professionals. She understood that the department was currently short staffed in the areas and was encountering difficulty hiring staff.

[9:31:12 AM](#)

Ms. Robb responded that the department had difficulty recruiting healthcare providers for its correctional facilities. She reported that DOC was short by about 50 people in the healthcare rehabilitation services area including psychiatric nurses and health practitioners. The Division of Personnel had done a study on nurses and resulted in a pay increase that she hoped would make the positions more competitive.

Representative Sullivan-Leonard asked whether the institution looked at a job-share program with local hospitals to rotate nurses. Ms. Robb answered that currently when the facilities were short on nurses, DOC asked existing staff to travel to provide coverage. She exemplified that the Lemon Creek Correctional Center (LCCC) [Juneau] lacked enough nursing staff, nurses from Southcentral Alaska were brought in when available or contract agency nurses were used. She noted that Representative Sullivan-Leonard's idea was "interesting."

Vice-Chair Johnston remembered that 25 percent of the prison population was considered to have severe mental health issues. She asked whether the department considered the idea of enlisting one facility to house the severely mentally ill population, which could lead to cost efficiencies.

[9:34:04 AM](#)

Ms. Robb could not answer if the discussion regarding a mental health unit ever took place. She offered that there were challenges related to the transportation of prisoners. She related that the department was always looking for ways to save costs on healthcare and the idea was worth exploring.

Co-Chair Wilson wished that the commissioner or deputy commissioner were also available to answer policy related questions.

Representative Carpenter noted that all three DOC fiscal notes referred to inmate population increases exceeding current capacity. He asked whether the number included a reduction in the number of inmates due to sending some out-of-state or if the number reflected the entire anticipated population. Ms. Robb answered that the fiscal note was in

response to the budget passed by the House that precluded sending inmates out-of-state.

[9:35:43 AM](#)

Ms. Robb addressed a new fiscal impact note from the Department of Corrections, Population Management, allocated to the Palmer Correctional Center, OMB Component Number 712. She explained that the appropriation reflected the one-time costs for reopening the facility at minimum capacity. She delineated that the costs associated with staffing the 42 PCNs [Position Control Number] were included on the Institution Director's Office fiscal note because the positions were included in the full cost of care number. The building was empty since the fall of 2016 and needed some routine work before opening. In addition, any useful equipment was repurposed when closed and required replacing.

Co-Chair Wilson surmised that the total cost for the additional 149 inmates was approximately \$15 million when she added the health and rehabilitation, population management institution appropriations along with the current fiscal note. Ms. Robb replied in the affirmative. She clarified that the numbers included the one-time costs reflected on the Palmer correctional fiscal note, the inmate full costs shown on the Institution Director's Office fiscal note, and the healthcare costs for individuals that exceeded current capacity. Co-Chair Wilson asked what the total cost to reopen the Palmer facility for the 149 individuals was. Ms. Robb was unable to provide the answer and would follow up. Co-Chair Wilson inquired whether DOC should consider closing smaller facilities and open more of the Palmer facility for cost efficiencies. Ms. Robb replied that the Palmer Correctional Center was comprised of several buildings. The minimum section that was reopening was a self-contained building with food service. Co-Chair Wilson asked about the capacity of the building. Ms. Robb replied that the building housed 176 people. Co-Chair Wilson surmised that they would be at the full capacity of the building. However, if the population exceeded the projection, she asked whether DOC had to open another building at what cost. Ms. Robb agreed that the Palmer building would be close to capacity. She indicated that if a different bill passed that increased the number of inmates, DOC would look at opening the entire Palmer facility, which included a medium security unit that was

larger than the minimum security. Co-Chair Wilson asked if Palmer had two buildings and once the minimum security building was reopened, any additional need required opening the entire facility.

[9:40:55 AM](#)

Ms. Robb replied that she did not know the specific answer, but DOC would consider opening the entire facility. She noted it would be preferable to defer the answer to experts in the department.

Representative Josephson relayed that the governor introduced other crime bills that would increase the inmate population. He informed the committee that the bills pertained to pretrial, and probation and parole. He asked what the administration's plan was in terms of inmate growth regarding passage of the other bills. Ms. Robb answered that DOC would need to see where they were in terms of legislation that passed. She remarked that there were currently 16 crime bills under consideration by the legislature. The scenario could lead to increases beyond the Palmer facility capacity, but some inmates may be eligible candidates for Community Regional Centers (CRC) or EM release. Co-Chair Wilson asked what the anticipated incarcerated population was if all three of the governor's crime legislation passed. Ms. Robb replied that HB 51- Probation; Parole; Sentences; Credits and HB 52- Crimes; Sex Crimes; Sentencing; Parole were primarily focused on probation, parole, and pretrial and did not significantly impact the prison population. House Bill 49 would greatly increase the state's prison population by about 525 inmates and had the largest impact on the incarcerated population. She highlighted that the HB 49 projections were 465 additional inmates in the first year, and 523 and 528 in the subsequent two years.

Co-Chair Wilson asked whether the impact to the prison population was minimal, if the other bills that removed credit for time on pretrial EM were adopted.

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Ms. Robb replied that adoption might have some effect but most of the impact on the prison population was due to HB 49. Co-Chair Wilson noted that the pretrial provision was not contained in HB 49 but could be included via amendment.

She deemed that if less offenders received credit for EM jail time would increase. She wondered how passage of the bill resulted in minimal impact because the credit would no longer exist. Ms. Robb replied that she was not in possession of all the information regarding the many versions of the crime bills. She offered to follow up.

Representative Josephson asked whether the 525 figure was the number anticipated by the administration if the governor's entire crime bill package passed. Ms. Robb replied that the number was only based on passage of HB 49. Representative Josephson inquired whether the governor recommended moving prisoners out-of-state due to cost savings and lack of capacity. Ms. Robb responded that she was not part of the discussion and would not speculate.

[9:46:40 AM](#)

Representative Josephson was broadly supportive of the governor's crime bills, albeit with some concerns. He reiterated his prior question. He was starting to sense that the state would not have the capacity. He asked whether the governor had proposed sending inmates out-of-state for both reasons; capacity and costs.

KELLY GOODE, DEPUTY COMMISSIONER, DEPARTMENT OF CORRECTIONS, understood that the proposal had been limited to a cost savings measure. Representative Josephson asked for verification that the measure was proposed for only one purpose. Ms. Goode believed that the decision was merely a cost savings measure.

Vice-Chair Ortiz thought the proposal was all the same thing - trying to save money one way or another. Ms. Goode agreed that the connection existed.

Co-Chair Wilson surmised that Representative Josephson point was that DOC was not going to shut down Wildwood Correctional Center because the population was growing "big time" and the state was not saving money.

[9:49:03 AM](#)

Representative Sullivan-Leonard spoke to the high priority of public safety and acknowledged that the bills would increase the prison population. She conjectured that the legislation was a response to public outcry. Ms. Goode

asked for clarification. She interpreted the question to mean that the bills addressed the public's concern over crime and public safety. Representative Sullivan-Leonard replied in the affirmative. Ms. Goode answered in the affirmative.

Co-Chair Wilson asked where the administration's data was showing that if a person was locked up for a longer period that somehow it would reduce recidivism. She noted the premise that without proper treatment an inmate would reoffend, which was the premise of SB 91. She wondered where the administration's data was refuting the premise and demonstrating that longer incarceration was most effective. Ms. Goode noted that the question was a policy question for the administration. Co-Chair Wilson stated that DOC was before the committee and the administration was uncommunicative.

Representative Carpenter commented that if "offenders chose not to they will not be reformed." The public needed to realize that some people were "bad" individuals and policy was necessary to reflect the belief. He cited the following from the page 2 fiscal note analysis:

Services include fire sprinkler/alarm inspection and repair (if needed), fence alarm testing and repair (if needed), back flow preventer inspection and repair (if needed), water testing and Department of Environmental Conservation approval to operate, waste water operator training/certification, phone system activation and programming, boiler inspection and service, freezer/cooler inspection and startup, kitchen hood inspection, and other smaller services.

Representative Carpenter deduced that the inspections to determine whether the repairs or replacements were necessary had not been performed. He asked whether the numbers accounted for repair and replacement of if the costs could grow.

[9:52:24 AM](#)

Ms. Robb replied that the department felt "fairly confident" with the number. The facility had only been closed since the fall of 2016. The department did not anticipate everything would need repair but had included a margin in the fiscal note with the anticipation that some

items would need repairs. Representative Carpenter concluded that the scenario opened the possibility for a supplemental to cover the cost if something was found to be wrong with the facility.

Representative Merrick pointed to the cost care rate of \$168.74 and asked if the rate was the same at maximum, medium, and minimum security. Ms. Robb answered in the affirmative and added that the number was inclusive for the whole system.

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Representative Merrick asked about the difference between a minimum, medium, and maximum security and the facilities associated with them.

Ms. Goode asked if she was speaking specifically about the Palmer Correctional Facility. Representative Merrick was speaking to correctional facilities in general. Ms. Goode replied that minimum security like the Point Mackenzie Correctional Farm and the minimum facility at the Palmer Correctional Center did not have fencing and contained various housing structures. She elaborated that medium security facilities had more security and maximum had the highest level of security and was considered a "closed" facility that in some cases used double perimeter fencing. Representative Merrick surmised that a lower security prison would cost less to run than a maximum. Ms. Goode asked for clarification. Representative Merrick was speaking about facilities in general. She asked if the reason inmates were sent to a minimum security prison versus a medium security facility was due to cost savings.

Ms. Robb replied that the department would never send a person to a minimum security prison only to save money. She reiterated that the cost of care was aggregated because some inmates care was very expensive for things like mental health and detox treatment that cost roughly \$800 per day. In addition, cost of care varied by areas of the state; Nome and Bethel facilities were more costly to operate. She recapped that the \$168.74 was an aggregate number.

[9:57:17 AM](#)

Co-Chair Wilson referenced the earlier question by Representative Josephson regarding the passage of other

crime bills' impact on costs. She asked how many additional inmates beyond the 525 in HB 49 the bills would add. Ms. Goode would prefer to provide additional fiscal notes from other bills to show the exact numbers.

Representative Josephson stated that he could find the information. He asked whether the fiscal notes expressed the population increase expected for each bill. He hoped that the department had thought about the "totality" of the combined legislation and the number of individuals that would be added to the system. Ms. Goode answered that the department had taken the issue very seriously and considered the totality of the crime bills. She directed Representative Josephson to the analysis of each fiscal note for details.

Co-Chair Wilson surmised that the bills effect on increased population would exceed the 525 number.

Representative Carpenter asked whether DOC shipped inmates from full capacity centers to other areas in the state due to the closure of the Palmer facility. He wondered whether every facility would be at maximum capacity when the Palmer facility reopened.

[9:59:50 AM](#)

Ms. Robb replied in the affirmative. She added that the current general capacity of 4,664 inmates included all the department's institutions. Representative Carpenter thought that the costs in rural facilities were more expensive than urban areas. Ms. Robb agreed; running a prison in rural Alaska was more expensive than in urban areas. Representative Carpenter guessed that DOC filled up the most expensive prisons in order to close a less expensive facility. Ms. Goode answered that the rural prisons were operating at capacity.

Co-Chair Wilson asked how the department dealt with opening a building that was only one level with an expected increase in more dangerous offenders. Ms. Goode answered that DOC had explored the scenario and were confident they had enough minimum security individuals to fill Palmer included in the fiscal note.

Co-Chair Wilson deduced that the inmates did not qualify for a CRC or EM. Ms. Goode answered in the affirmative. Co-

Chair Wilson asked what types of crimes qualified for the minimum level. Ms. Goode answered that many were sex offenders that could not be released in CRCs. Co-Chair Wilson questioned whether the 179 individuals were mostly sex offenders. Ms. Goode answered that not all, but some were sex offenders. She added that the prior population of Palmer included sex offenders. Co-Chair Wilson questioned whether most of the 179 inmates would be sex offenders.

[10:03:52 AM](#)

Ms. Goode responded that many the inmates would be sex offenders. She assured Co-Chair Wilson that DOC confirmed with Classifications that enough minimum security inmates were expected to fill the Palmer facility. Co-Chair Wilson wanted specific data and requested that the data analyst testify when necessary. Ms. Goode replied that the data was reflected in the analysis but would comply.

Ms. Robb reviewed the new fiscal impact note from the Department of Corrections, 24 Hour Institutional Utilities, OMB Component Number 2976. She explained that facilities were included in the daily cost of care rate. However, when the Palmer facility was closed the cost of utilities was not decremented and due to inflation utility costs had increased. The current cost of utilities for the 24 Hour Institutional Utilities line was fully expended and the fiscal note projected the utility cost at the Palmer facility.

Co-Chair Wilson noted that the \$168 was an average. She asked why it would not reflect the true cost in Palmer where energy costs were more affordable. Ms. Robb replied that the department currently spent all the money allocated for utilities. Co-Chair Wilson stressed that the projected inmates were new and calculated at the full costs of care. She assumed utilities were included in the costs. She wondered why, in relation the new inmates at full cost of care, funding was taken out of the department's current utility budget. Ms. Robb affirmed that utilities were included in the cost of care but worried that due to utility increases the number would fall short. Co-Chair Wilson remained confused by the answer.

Vice-Chair Johnston thought the fiscal note could be a result of the recent spikes in utility costs. She thought that departments might have placed utilities as a separate

line item in their budgets. She believed that deferred maintenance caused a significant increase in utility costs and significant increases within the Regulatory Commission of Alaska (RCA) were expected. She surmised that the scenario impacted the Palmer facility and DOC was acting in caution.

Co-Chair Wilson judged that the \$168 was not the "true" amount and suggested the number be adjusted to reflect the cost of utilities. She believed that the utility issue affected other DOC facilities and suggested a breakdown by facility. She stated that "she was pretty sure that Palmer [utilities] was cheaper than Fairbanks."

Representative Merrick asked if the inmates did anything to raise revenue. Ms. Goode asked for clarification. Representative Merrick clarified that she was asking if inmates had a way of generating revenue. Ms. Goode noted that the term was "prison industry" that included the Lemon Creek facility doing laundry for the ferry system. However, currently no major prison industry was in operation. Representative Merrick asked whether inmates offered public services or community service. Ms. Goode answered in the affirmative and reported that the inmates at the Wildwood facility grew vegetables and decided what community organizations would receive the vegetables.

10:11:00 AM

Representative Sullivan-Leonard cited the fiscal note analysis showing that the utilities costs in 2016 for PCC were \$830 thousand. Ms. Goode affirmed the statement. Representative Sullivan-Leonard did not believe that a portion of the \$168. costs went to utilities. She asked for a breakdown of costs for each facility and costs per inmate. Ms. Robb would follow up.

Representative Carpenter looked at the \$830 thousand for 2016 utilities for PCC. He deduced that examining PCC's historical usage and comparing it to current rates would show the expected cost in current dollars and reflected the "actual number" eliminating the need for guessing.

10:13:19 AM

Ms. Robb offered to follow up by looking at the actuals.

Co-Chair Wilson was uncertain whether the costs reflected the utilities in one building or the entire facility. She wanted a cost breakdown.

Representative Carpenter stated his understanding of the previous conversation regarding the inclusion of utility costs, yet they were engaged in a conversation about additional utility costs. He thought it should be a function of the number of inmates divided by costs.

Co-Chair Wilson reiterated that the number may not be \$168 per inmate and agreed that a breakdown of costs per institution was necessary.

10:14:58 AM

ROB HENDERSON, DEPUTY ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW (via teleconference), addressed the new fiscal impact note from the Department of Law, Criminal Division, OMB Component Number 2202. He explained that the fiscal note showed an appropriation in the amount of \$ 1,121.1 million for the addition of 5 new prosecutors statewide and associated support staff. He indicated that the primary driver of the increased cost for five additional prosecutors was related to the change in the drug laws. He elucidated that law enforcement referrals dropped significantly by 740 cases between 2015 and 2017 due to reclassifying all the drug distribution offenses down one classification or two classifications and reclassifying all drug possession to misdemeanor drug referrals. The Department of Law (DOL) predicted that the referrals would increase as a result of passage of HB 20 because law enforcement would reprioritize investigations of drug offenses. The department observed a decrease in the number of misdemeanor drug prosecutions in the same time period and expected them to return to pre-2016 levels.

10:17:18 AM

AT EASE

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RECONVENED

Co-Chair Wilson noted that the committee needed an updated fiscal note and would take the issue up at the 1:30 p.m. meeting.

10:19:10 AM

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, reviewed the new fiscal impact note from Judiciary, Alaska Court System, OMB Component Number 768. She reiterated that DOL would have an updated fiscal impact note for the five new prosecutors and four new staff based on the new drug classifications and anticipation of new drug cases filed. She communicated that in response, the Court System needed staff and judges to account for the increase. The system was seeking to bring back two pro tem judges [retired judges] to travel around the state along with a court clerk. The system also needed five additional staff to account for the increases. She noted that the Public Defender Agency (PDA) and Office of Public Advocacy (OPA) also requested additional attorneys.

Vice-Chair Johnston asked if the state had the capacity for pro tem judges. She asked if any were able and willing to fill the positions. Ms. Mead answered in the affirmative. She indicated that some judges may want to work on a specific case and others for example, were willing to take on a one-year assignment in Bethel or travel around the state. Co-Chair Wilson asked whether more cases would be heard through the increased attorneys and judges.

10:22:15 AM

Ms. Mead answered that the positions the court was seeking were in response to the bill. Co-Chair Wilson reported that there were 750 additional individuals who would be charged with felonies. She mentioned the current case backlog and wondered if the backlog would increase or through the addition of the positions would remain at the same level. Ms. Mead expected that adding the two pro tem judges and five clerks would be enough to keep pace with the 750 additional cases resulting from the bill. Co-Chair Wilson commented that the point was fast justice.

Representative Josephson was considering an amendment that would back away from the bill regarding the governor's proposal to treat first time offenders for misconduct of a controlled substance in the fourth degree as Class C felons. His proposal would impose the first time felony only if the offenders did not complete treatment. He considered how to calculate the cost of the treatment. He looked at the Court System database and listed various

courts including therapeutic, tribal, veterans, and other courts. He wanted to determine how his proposal would affect the Court System's costs.

[10:25:12 AM](#)

Ms. Mead asked for clarity. She wondered if he was proposing to expand therapeutic courts in general or whether there would be additional suspended entry of judgment (SEJ) cases. Representative Josephson responded in the affirmative. Ms. Mead answered that a successful felony or misdemeanor SEJ resulted in case dismissal. Additional SEJs would not cost the Court System more. The expansion of therapeutic court would have a substantial fiscal impact creating logistical problems and was difficult to implement. She delineated that Judiciary favored therapeutic courts but the reason they were not expanded was due to the lack of housing, treatment, and employment in communities. Representative Josephson noted that the state could not offer the same thing in every community. He used an example of a person located in Selawick. He wondered how the courts dealt with the issue. Ms. Mead clarified that Representative Josephson's point was what happened if an offender resided in a community where the therapeutic court was at capacity or did not exist in the area. She relayed that the issue was not resolved. The court was a benefit that could be offered in some locations but not others. She determined that if an offender desired a resolution in therapeutic court it possibly could happen but would not be in the offender's home community. A legal resolution for the matter was nonexistent.

[10:28:51 AM](#)

Co-Chair Wilson asked whether anyone tracked the number of individuals on EM versus those who received credit for time on EM. Ms. Mead answered that the Court System did not track the information. She was unsure who had the information.

[10:29:48 AM](#)

JAMES STINSON, DIRECTOR, OFFICE OF PUBLIC ADVOCACY, DEPARTMENT OF ADMINISTRATION (via teleconference), reviewed the new fiscal impact note from the Department of Administration, Office of Public Advocacy, OMB Component Number 43. He explained that the Office of Public Advocacy

(OPA) fiscal note appropriated \$350.9 thousand and noted that the impact was largely based on figures from the Department of Law. The easiest changes to quantify were the increase in felony drug prosecutions amounting to 750 cases and resulted in a substantial increase in workload - anywhere from 150 to 200 additional felony cases. The agency would need two attorney positions and one staff position to handle the anticipated increase in workload. Co-Chair Wilson noted that the office was asking for fewer positions than DOL. She asked if the reason was because some of the cases were assigned to OPA and others to the Public Defenders Agency. Mr. Stinson answered in the affirmative. He detailed that OPA received cases when a conflict of interest was determined between the public defenders and client. He offered that some cases required a substantial amount of investigation and carried an estimated 25 percent conflict rate that varied depending on the community.

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BETH GOLDSTEIN, ACTING PUBLIC DEFENDER, PUBLIC DEFENDER AGENCY, DEPARTMENT OF ADMINISTRATION (via teleconference), reviewed the new fiscal impact note from the Department of Administration, Public Defender Agency, OMB Component Number 1631. She repeated that the Public Defender Agency (PDA) was requesting an increase primarily due to drug offenses and increasing case load. She expounded that the agency would not receive roughly 20 percent of the cases due to ineligibility and conflicts. Therefore, based on DOL's figures of an increase of 750 cases, PDA expected an additional 600 cases. The agency used the standard set by the American Bar Association of 150 felonies per year per attorney that resulted in a request of 4 new attorneys and 4 support staff positions. She informed committee members that the one to one ratio of attorney and staff was in response to the agency currently lacking support staff and was not operating on a one to one ratio. The request included one additional staff in addition to the three necessary to handle the caseload.

Co-Chair Wilson thanked the department for the information.

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KELLY HOWELL, SPECIAL ASSISTANT, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF PUBLIC SAFETY, addressed the new

fiscal impact note from the Department of Public Safety, Statewide Support, OMB Component Number 527. She explained that the cost increase was for all laboratory services due to testing all sexual assault kits. The provisions were found in Sections 35 through 38 of HB 20. The department requested two additional Forensic Scientist III positions that were necessary to address the increase in caseload. Additionally, the crime lab needed to outsource testing of sexual assault kits for the first year to account for the time and resources needed to fully train two new forensic scientists and maintain the workload. The total first year costs were estimated at \$555,124. The second and subsequent year costs were estimated at \$278,8 thousand.

Co-Chair Wilson asked how difficult it was to fill the positions. Ms. Howell answered that the Crime Lab had trouble filling the positions and had to recruit nationwide. She deferred to the crime lab's chief assistant for further details.

DAVID KANARIS, ASSISTANT CHIEF, FORENSIC LABORATORIES, DEPARTMENT OF PUBLIC SAFETY (via teleconference), answered that the lab was "typically successful" with nationwide recruitments but still need to find candidates within the state that met minimum qualifications but lacked any experience. The state typically trained the new inexperienced hires for one year. He elaborated that the outsourcing costs were approximately \$1,100 per kit times 288 kits and was budgeted based on the two positions requested who would test roughly 72 kits each per year totaling 144 kits plus the time it took to train the analyst requiring the help of two experienced scientists, which required another 144 kits to be outsourced.

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Co-Chair Wilson asked whether the lab had a plan to use an out-of-state facility during the recruitment and training stage of the two positions. She asked whether the scenario was included in the outsourcing cost of \$316.8 thousand. Mr. Kanaris answered in the affirmative.

Representative Sullivan-Leonard asked if there were other crime labs outside of Anchorage. Mr. Kanaris answered that no other full service crime labs existed outside of the state lab. He added that the Anchorage Police Department (APD) had a limited crime lab that performed fingerprint

analysis and worked with a firearms database. Representative Sullivan-Leonard thought she recalled a discussion about a lab in Fairbanks. Mr. Kanaris did not believe there was a lab available in Fairbanks that performed forensic analysis.

Representative Merrick asked if all the sexual assault kits tested were entered into a database once the testing was complete. If so, she wondered if the database provided an automatic notification if there was a match to another crime that had occurred in another location. Alternatively, she wondered if the database user would have to search for a potential match. Mr. Kanaris answered that if there were probative findings on a case, if a DNA result was generally good, the information was entered into the database. He confirmed that when a new entry was made, the database was proactively searched to identify potential matches with historical data.

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Representative Carpenter referred to the \$1,100 cost to process each kit. He asked for a cost breakdown. Mr. Kanaris replied that approximately \$750 to \$1000 was the cost for testing the kit to generate the DNA profile. The additional \$100 was for the review of each case. The process was very time consuming and was outsourced at a cost of \$100 per case.

Representative Carpenter asked about the task being done to account for the \$750 for testing. Mr. Kanaris replied that the cost was primarily for salary, training, equipment, consumables. Co-Chair Wilson asked for a cost breakdown. She asked how much the same tests would cost to send out of state. Mr. Kanaris asked Co-Chair Wilson to repeat the question. Co-Chair Wilson complied. Mr. Kanaris would follow up.

[10:43:16 AM](#)

Co-Chair Wilson pointed to an updated Department of Law fiscal impact note. She noted the committee would ask questions on the note at the afternoon meeting. She reviewed the agenda for the 1:30 p.m. meeting.

ADJOURNMENT

10:45:16 AM

The meeting was adjourned at 10:45 a.m.