

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

January 23, 2020

3:01 p.m.

**MEMBERS PRESENT**

Representative Zack Fields, Co-Chair  
Representative Jonathan Kreiss-Tomkins, Co-Chair  
Representative Grier Hopkins  
Representative Andi Story  
Representative Steve Thompson  
Representative Sarah Vance  
Representative Laddie Shaw

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative George Rauscher

**COMMITTEE CALENDAR**

HOUSE BILL NO. 187

"An Act relating to correctional facilities; relating to the authority of the commissioner of corrections to designate the correctional facility to which a prisoner is to be committed; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 15

Proposing an amendment to the Constitution of the State of Alaska relating to actions upon veto.

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 187

SHORT TITLE: RESTRICT OUT-OF-STATE CORRECTIONAL FACIL.

SPONSOR(s): REPRESENTATIVE(S) FIELDS

01/21/20 (H) PREFILE RELEASED 1/10/20  
01/21/20 (H) READ THE FIRST TIME - REFERRALS

01/21/20 (H) STA, FIN  
01/23/20 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HJR 15

SHORT TITLE: CONST. AM: VOTES NEEDED FOR VETO OVERRIDE  
SPONSOR(s): REPRESENTATIVE(s) KREISS-TOMKINS

04/15/19 (H) READ THE FIRST TIME - REFERRALS  
04/15/19 (H) STA, JUD, FIN  
01/23/20 (H) STA AT 3:00 PM GRUENBERG 120

**WITNESS REGISTER**

REPRESENTATIVE SHARON JACKSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 187.

NANCY DAHLSTROM, Commissioner  
Department of Corrections (DOC)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 187.

JOSHUA WILSON  
Alaska Correctional Officers Association (ACOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided information and testified in support of HB 187.

JONATHAN PISTOTNIK, Coordinator  
Anchorage Reentry Coalition  
Anchorage, Alaska

**POSITION STATEMENT:** Speaking on behalf of himself, provided information and testified in support of HB 187.

ELIJAH VERHAGEN, Staff  
Representative Sharon Jackson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of Representative Jackson, reviewed the suggested amendment to HB 187.

KEVIN MCGOWAN, Staff  
Representative Jonathan Kreiss-Tomkins  
Juneau, Alaska

**POSITION STATEMENT:** Presented HJR 15 on behalf of Representative Kreiss-Tomkins, prime sponsor.

JOSIAH NASH, Intern  
Representative Jonathan Kreiss-Tomkins  
Juneau, Alaska

**POSITION STATEMENT:** Provided information on HJR 15 on behalf of Representative Kreiss-Tomkins, prime sponsor.

#### **ACTION NARRATIVE**

[3:01:03 PM](#)

**CO-CHAIR JONATHAN KREISS-TOMKINS** called the House State Affairs Standing Committee meeting to order at 3:01 p.m. Representatives Hopkins, Story, Thompson, Vance, Shaw, Fields, and Kreiss-Tomkins were present at the call to order. Also present was Representative Rauscher.

#### **HB 187-RESTRICT OUT-OF-STATE CORRECTIONAL FACIL.**

[3:02:01 PM](#)

**CO-CHAIR KREISS-TOMKINS** announced that the first order of business would be HOUSE BILL NO. 187, "An Act relating to correctional facilities; relating to the authority of the commissioner of corrections to designate the correctional facility to which a prisoner is to be committed; and providing for an effective date."

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**REPRESENTATIVE SHARON JACKSON**, Alaska State Legislature, testified that she supports the proposed legislation; it is important to keep Alaskans in their home state in which they will eventually reenter society. She suggested an amendment to HB 187 to allow a third exemption under which the commissioner of the Department of Corrections (DOC) could send non-Alaska prisoners and prisoners sentenced to serve 99-plus years out of Alaska, if doing so constitutes significant savings [to the state].

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**CO-CHAIR FIELDS**, as prime sponsor of HB 187, presented the proposed legislation with the use of a PowerPoint presentation. He relayed that HB 187 would prohibit sending Alaska prisoners

out of state or to private prisons. He turned to slide 2 of the PowerPoint presentation on HB 187 and stated that the only exceptions would be for limited circumstances: an inmate needs to be transferred out of state for specialized medical treatment not available in Alaska; for extradition of an inmate not from Alaska; or an inmate's family has moved out of state. Other than for these exceptions, HB 187 would prevent privatization of prisons within Alaska and the transfer of prisoners to out-of-state private prisons.

CO-CHAIR FIELDS moved on to slide 3 and noted that the proposed legislation would be consistent with the legislature's past efforts - notably Senate Bill 64 [passed during the Twenty-Third Alaska State Legislature, (2003-2004)] - when the legislature, in a bipartisan action, ended the practice of sending prisoners out of state because of the negative effects of doing so - namely, bringing gangs back to Alaska.

CO-CHAIR FIELDS relayed that last year the legislature passed HB 49 [during the Thirty-First Alaska State Legislature, (2019-2020), signed into law 7/8/19], which strengthened sentencing and improved reentry programs. He maintained that HB 187 would ensure the provision of reentry programs to Alaska prisoners; DOC staff is committed to rehabilitation and reentry programs; there are rehabilitation and reentry coalitions throughout the state. He asserted that the reentry coalitions cannot perform their tasks, if the prisoners are out of state.

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CO-CHAIR FIELDS stated that the practice of sending prisoners Outside decades ago began, perhaps, innocently enough as a temporary solution; however, it "metastasized" and became very difficult to bring those prisoners back to Alaska. He advocated for the state to be consistent with the policies of [former] Governor Frank Murkowski and former legislators, who funded the construction of Goose Creek Correctional Center (GCCC) [Wasilla]. He referred to a quote by Governor Murkowski, shown on slide 3, which read:

Over a decade of gridlock has led to the failure to improve of what was supposed to be a temporary solution of sending prisoners to Arizona...finally, this bill will generate good paying, long term jobs for Alaskans and end the export of over \$14 million per year to Arizona.

CO-CHAIR FIELDS mentioned that the reopening of Palmer Correctional Center (PCC) represents almost 100 jobs. He asked, "Are we going to have these jobs for Alaskans - largely in the [Matanuska-Susitna] Valley or are we going to have those jobs be Outside?"

CO-CHAIR FIELDS referred to slide 4 to give additional background on private prisons in Alaska, which read:

- As Governor Murkowski noted, Alaskan public dollars should stay in Alaska.
- Despite SB 65, private prisons lobbied for earmarks and public dollars through 2007 and were implicated in the VECO scandal.
- By 2007, four cities have voted against establishing such prisons within their limits: Anchorage (2019 and 1997) Delta Junction (1999), Kenai (2001), and Whittier (2005).
- Legislature appropriated \$16.7m to reopen Palmer Correctional Center (PCC) in 12 months.
- In the 12/11/19 HSTA hearing, internal DoC documents show that staff estimated that PCC Medium facility in 9 months for \$14.5m, and entire facility in 12 months for \$21m.

CO-CHAIR FIELDS stated that the understaffing of private prisons leads to the formation of gangs. He turned to slide 5 to address the public safety risks of private prisons, which read:

- In 12/11/19 HSTA Hearing, ACOA President Randy McLellan noted that Alaskans placed in private prisons in Arizona and Colorado were forced to join gangs or seek protection from gangs in private prisons.
- ACOA noted that at least three gangs were brought back from private prisons:
  - The Low Lifes, a NY based prison gang.
  - The 1488s, a white supremacist prison gang.
  - The Native Brotherhood, formed to protect Alaska Native prisoners sent to prisons in the Lower 48.

- First-hand accounts from reentry experts and former prisoners show that Alaskan prisoners faced discrimination and threats because of racial injustice and gangs.

CO-CHAIR FIELDS maintained that the rehabilitation and reentry programs at out-of-state private prisons will never be as strong as at PCC. He referred to the 12/11/19 House State Affairs Standing Committee meeting testimonies summarized on slide 6, which read:

- Corrections Officer Josh Wilson of Alaska Correctional Officers Assoc. noted that elimination of rehabilitation and reentry opportunities will increase costs: 2017 Alaska Justice Information Center Survey of Reentry Efforts, every avoided conviction saves between \$100-\$150k dollars per conviction.
- Chet Adkins, Reentry Coordinator and South-Central Foundation Men's Wellness Expert described his experience as an Alaska Native prisoner: he described private prisons' elimination of cultural programs such as potlucks, reentry programs such as craft shops, and removal of counselors.
- The State of Alaska will still have to incur transportation costs to these remote prisons and will still be responsible for certain forms of medical care.
- Chet Adkins also described in his letters how he witnessed delayed or denied prisoner healthcare, resulting in death or debilitating lifelong conditions for multiple prisoners.

CO-CHAIR FIELDS explained that to have successful reentry, a prisoner must stay connected to his/her family while incarcerated. As the prisoner's release approaches, he/she needs to be working with reentry coalition personnel on housing, treatment, and employment. Representative Fields maintained that coordinating these services is impossible when prisoners are out of state. He added that the reentry activities do not occur just before a prisoner is released; community non-profits provide "inreach" to inmates throughout their incarceration; it is especially important for long-term inmates, who can receive training during their prison stay.

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CO-CHAIR FIELDS maintained that prohibiting the transfer of prisoners out of state would be consistent with actions of both the federal government and other states. He turned to slide 7, which read:

- In 2016, the U.S. Dept of Justice decided to end use of private prisons following an administrative survey.
- Concerns centered around rampant safety issues: of the private prisons contracted with the Bureau of Prisons (BOP), the survey found higher incidents in all categories measured: contraband, lockdowns, inmate discipline, sexual misconduct and more.
- BOP report found they do not provide the same level of services, safety, or rehabilitative programs.

CO-CHAIR FIELDS added that inmates who testified during the 12/11/19 hearing related that there are more drugs infiltrating private prisons because prison guards are not well compensated, therefore, easily bribed to bring drugs into the prison.

CO-CHAIR FIELDS moved on to slide 8 to discuss the actions of other states, which read:

- June 11th, 2019: NV Governor Steve Sisolak signs AB 183, prohibiting state from entering or renewing contract with private, for-profit prison companies.
- 22 other states do not use private prisons or prohibit their use.
- Since 2000, New York, Illinois, Iowa, Arkansas, Kentucky, Maine, Michigan, Nevada, North Dakota, Utah and Wisconsin have all prohibited their use.

CO-CHAIR FIELDS cited Florida's experience with private prisons as summarized on slide 9, which read:

- July 2019: Florida state accountability office ordered to perform study on Correctional Health Care in Florida Dept of Corrections (FDC):
- This study, by an independent auditor, recommended the state end its private healthcare contract.

- The estimated savings of doing so could reach as high as \$40-46 million a year.
- It noted that while cost savings appeared in the short term, consistent service that met contractual obligations was hard to meet-leading to contractor turnover, and terminated contracts, increased inmate health and safety risks and increased litigation.
- The same study recognizes Alaska's own system (state operated) as more inherently stable for attracting and retaining staff.

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REPRESENTATIVE STORY asked the commissioner of DOC why the legislative intent to open PCC was not followed.

[3:13:09 PM](#)

NANCY DAHLSTROM, Commissioner, Department of Corrections (DOC), thanked Representative Fields for his praises of the employees of DOC. She relayed that the DOC population has grown and is continuing to grow with the implementation of HB 49; she expects the trend to continue; currently the population is at 97.3 percent. She mentioned the Request for Proposal (RFP) issued by DOC in October to house prisoners out of state. She stated that today she is announcing publicly that she has signed a notice of cancellation for that RPF. She relayed that from the beginning, the RFP was just one of the tools that she was considering to address prison population management; the department has been consistently looking at any and all viable alternative options; and it has been able to identify in-state solutions to address the growing prison population and provide immediate relief to the burdened system.

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REPRESENTATIVE THOMPSON asked how many prison beds in Alaska are filled by prisoners who are waiting to be tried, and of those prisoners, how many are non-violent, of no risk to society, and could be released with ankle monitors.

COMMISSIONER DAHLSTROM responded that over 51 percent of Alaska's prison population is unsentenced. She said that she

does not know how many are violent. She offered that the department has requested the Department of Law (DOL) and the Alaska Court System (ACS) to institute changes to address the large number of unsentenced prisoners.

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REPRESENTATIVE VANCE asked the commissioner to identify the in-state solutions.

COMMISSIONER DAHLSTROM answered that DOC is working on developing a community resource center (CRC) and turning it into a pilot reentry project; the specifics are still being determined. She maintained that reentry is extremely important and expressed her belief that the pilot will be successful. She added that DOC is beginning the process of addressing the [fire and life safety] issues at PCC to open that facility.

REPRESENTATIVE VANCE asked for a timeline for the pilot project and a timeline for [addressing] the safety issues to open PCC.

COMMISSIONER DAHLSTROM replied that it would take 90 days for the pilot to be implemented and 12-18 months to complete the work at PCC.

REPRESENTATIVE VANCE asked for a current status on the number of correctional officers (COs) needed to maintain safety.

COMMISSIONER DAHLSTROM responded that DOC has 90 open CO positions; in all, DOC has 900 employees. She mentioned good successes with recruiting efforts, which involve recruiting for probation officers, parole officers, medical personnel, clerical workers, and maintenance workers. She described DOC's recruiting efforts: DOC now has a \$5,000 hiring bonus for new COs; it has identified new target audiences; it has expanded its outreach; it is coordinating with the Department of Labor and Workforce Development (DOLWD) to attend job fairs and provide DOC employees to answer questions at the job fairs. She said that DOC has been reviewing and modifying its hiring process to identify the barriers and to shorten the timeline for hiring. Each facility has a contact person to update applicants on the status of their applications.

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REPRESENTATIVE RAUCHER stated that the commissioner's announcement is good news for his district - District 9 - where

PCC is located. He mentioned his past involvement with the prison system. He expressed the importance of a rehabilitation policy - to the state, to the inmates, to the success of reentry, and to recidivism. He maintained that PCC is an important piece in rehabilitation because of what it offers. He offered that the problem is not just crime but how the state treats those who are convicted and ultimately released.

REPRESENTATIVE RAUSCHER mentioned that the Department of Public Safety (DPS) was allocated \$250,000 for the recruitment of police officers, which has been successful for hiring. He asked whether that level of funding would be available for DOC to fill CO positions and whether PCC would be involved.

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COMMISSIONER DAHLSTROM replied, "If the legislature would like to add any recruitment dollars to my budget, that is totally your call, but I would be thrilled with that happening." She stated that she asked for funds to assist with recruitment, but not \$250,000. She reiterated that reentry is extremely important; nationwide, people are realizing the value and importance of reentry; DOC wants inmates to be better when they are released than when they entered.

CO-CHAIR FIELDS mentioned that he has discussed this with the chair of the [House Corrections] Finance subcommittee to explore additional funding for the recruitment of COs.

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REPRESENTATIVE THOMPSON asked whether a CO wage survey has been performed.

COMMISSIONER DAHLSTROM answered that she would provide the date of the last survey.

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REPRESENTATIVE SHAW restated that DOC is short 90 COs, 80 are needed to reopen PCC, and according to testimony at a DOC overview, only 15 applicants make it through the recruiting "pipeline" each year. He asked, "How can we possibly fill that void at the PCC?"

COMMISSIONER DAHLSTROM stated that she feels confident - with the changes that have been made internally - that DOC will have

enough officers to open PCC. She clarified that although there are challenging hiring requirements, DOC's hiring success record is more than 15 new hires per year. She said that as of today, there are 15 new officers with start dates.

3:30:00 PM

CO-CHAIR KREISS-TOMKINS opened invited testimony.

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JOSHUA WILSON, Alaska Correctional Officers Association (ACOA), applauded Commissioner Dahlstrom's decision to cancel the DOC RFP and not utilize private prisons. It is a decision that will promote public safety and will protect Alaskans. He stated that incarcerating Alaskans in out-of-state private prisons - thousands of miles from their homes, communities, and support systems - will result in more crime and more victims in Alaska communities. Private prisons have failed to [do a better job of] facilitating rehabilitation and treatment of incarcerated Alaskans in the past because of their low standards. Given the opportunity, they will fail again. He suggested that incarcerating Alaskans in private prisons equated to sending Alaskans to "crime school." Three of Alaska's worst gangs were created when Alaskans were housed in private prisons - the Low Life's, the 1488s, and the Native Brotherhood. Alaska tried private prisons; the results were horrific; doing so gave Alaska one of the highest recidivism rates in the country. He stated that the 2016 U.S. Department of Justice (USDOJ) review into the use of private prisons, [entitled "Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons"], found that private prisons simply do not provide the same level of correctional services, programs, and resources; they do not substantially save on cost; and as noted in the review, they do not maintain the same level of safety and security.

MR. WILSON emphasized that private prisons do not save money; they increase recidivism, which increases victimization; they endanger Alaskans; and they shift cost to the state. Best practices include keeping prisoners close to home; any Alaskans held in private prisons in the Lower 48 will lose visitation. In 2018, President Trump signed a bipartisan bill that requires federal prisoners be incarcerated no more than 500 miles from their primary residence; any Alaskans sent to private prisons in the Lower 48 would be farther than 500 miles from home. He stated that private prisons lengthen incarceration stays by adding prison conduct violation [time]; they hold inmates about

90 days longer than state prisons. He maintained that prison terms should be determined by a judge in court; private prisons should not be allowed to increase their profit margins by extending a prisoner's sentence, resulting in increased costs for Alaska. Mr. Wilson said that private prisons "cherry-pick" prisoners by excluding those with medical conditions, violent prisoners, and sex offenders. Private prisons have reduced safety and security; there are fewer prisoner checks, fewer staff, less transparency, and lower standards for staff. Medical expenses are often transferred to the state; transportation costs are borne by the state; administrative and litigation costs are additional. He mentioned the greater economic impact to communities - the millions of dollars being spent out of state, lost jobs, increased crime, and victimization. He said that victimization cannot be viewed in just economic terms; it impacts quality of life, tourism, and economic growth.

MR. WILSON stated that if a recruitment and retention campaign were initiated today utilizing the funds that the legislature appropriated for PCC, the minimum security section could be operational within five months and the medium security section operational within nine months, according to DOC's own analysis from the spring of 2019. When GCCC was opened, DOC staff increased by 100 COs in a 10-month period - between 2012 and 2013. In comparison, DPS has a budget of over \$1.6 million for recruitment and advertising for a department of 761 employees. The DOC does not have a dedicated recruitment team made up of officers - as does the Anchorage Police Department (APD) and DPS - and DOC does not have a budget component for either recruitment or advertising. In addition, officer applicants currently must pay for their own medical screenings; troopers and APD applicants do not. He maintained that the barriers to recruitment have resulted in fewer COs. Currently there are over two dozen fewer COs compared with one year ago.

MR. WILSON concluded his testimony by once again applauding the decision to cancel the RFP for the use of private prisons. He said that on multiple occasions, Alaskans decided that private prisons do not make sense for Alaska and voted against them. He asserted that Alaskans deserve better than being warehoused 2,000 miles away with no interaction with their families, village elders, and mentors to help them become productive members of their cities, towns, and villages. Alaska should heed the lessons it has already learned. Private prisons are interested only in increasing the profits to their shareholders; they do not save Alaska money; and they degrade public safety.

He stated that ACOA supports the passage of [HB 187], which will protect all Alaskans.

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JONATHAN PISTOTNIK, Coordinator, Anchorage Reentry Coalition, stated that he is speaking on behalf of himself. He applauded DOC's repeal of the RFP and offered the following statement (original punctuation provided):

Good Afternoon, for the record my name is Jonathan Pistotnik. I am a resident of Anchorage. Although I have many partners in the community that I believe share some of my sentiments I am just speaking for myself this afternoon. Thank you for the opportunity to speak.

I am stating my support for HB 187.

As someone that helps support prisoner reentry into the community on a full-time basis as the coordinator for the Anchorage reentry coalition, I believe that the sending of inmates out of state to private prisons will be detrimental.

Detrimental to those individuals sent out of state to be further isolated and removed from their homes and culture; detrimental to the families of the individuals sent out of state, to the wives and children and parents; and detrimental to those of us engaged in prisoner reentry work throughout Alaska and the communities that will bear the burden of rehabilitation.

I support this house bill and it's [sic] efforts to keep state inmates in Alaska.

Although I have many concerns about the states [sic] intent to send more than 500 Alaskans out of state I would like to make just 2 brief points.

Although I am mainly engaged in community organizing around the topic of prisoner reentry, I do go into correctional institutions, when I can, to educate inmates about reentry programs and services that are available in the community, and in doing so I hope to motivate and encourage them to seek out services that

they may need when they are released and to answer questions to the best of my ability.

Education, awareness, motivation, encouragement, the building trust in those short visits I am afforded are key to my work and that of my partners in the community that make similar efforts to engage with inmates prior to their release.

Drawing upon my background in public health I believe that it takes time to build that trust and knowledge necessary to make real change in this context. So how will those of us engaging in and promoting reentry be able to meaningfully engage with someone that is housed in a prison thousands of miles away in Arizona or Colorado for 5, 10 years?

I can't help but think that it will be a serious step backwards for those of us in the community that are engaged in this work if men are sent out of state with no opportunity to hear our messaging.

The second concern that I have is the exposure to prison gang culture that is likely to occur when Alaskan inmates are sent to facilities that are warehousing inmates from other states.

I have never been privy to a discussion or meeting amongst my reentry partners in Anchorage in which gang affiliation has ever been a practical concern of ours when working with someone that has been released from incarceration.

The only time it comes up is when there is reflection on the last time inmates were sent outside and how it bolstered the small-time cliques that were here.

This is because prison gang culture and street gang culture does not exist in Alaska in the same way it does in the lower 48. In the parlance of the streets, it just isn't as hardcore in Alaska or in Anchorage.

My concern is that if men are sent out of state and warehoused in private prisons where they will be exposed to prison and street gang cultures, and either learn or be forced to adopt that type of lifestyle,

when they return (and they will return) they will bring that gang culture back with them.

And as we know 95% of inmates are eventually released so my concern is that gang culture will eventually permeate into the community, and very simply make everyone less safe.

In closing I want to reiterate my support for HB 187 and any efforts that the legislature proposes, or DOC for that matter, to keep Alaskans in Alaska.

Thank you.

[3:41:48 PM](#)

REPRESENTATIVE STORY asked that the request for a survey on wages include benefits as well. She referred to the commissioner's testimony that 51 percent of the people in Alaska facilities are unsentenced and that a request was sent to DOL. She asked for more information and possible solutions.

CO-CHAIR KREISS-TOMKINS expressed that the 51 percent statistic is shocking - that is, half the prison population is not sentenced. He suggested more discussion in future committee meetings.

[3:43:02 PM](#)

REPRESENTATIVE VANCE asked whether HB 187 would limit the state's ability to transport prisoners within the state.

CO-CHAIR FIELDS answered no.

REPRESENTATIVE VANCE asked for a definition of facility as it relates to public safety and [Alaska Native] tribes in the rural villages. She said that the state often contracts with municipalities and other entities for the use of their prisons to house prisoners before transporting them to a better facility. She asked whether the facilities being used on a temporary basis would be considered public and, therefore, not excluded under HB 187. She expressed her concern that the proposed legislation considers the tribes, as they are under a different law jurisdiction.

CO-CHAIR FIELDS replied that the intent clearly was to not preclude such arrangements that exist currently through public

entities; he expressed his belief that tribes of sovereign governments would be considered public. He offered to confirm this with Legislative Legal Services.

[3:45:22 PM](#)

CO-CHAIR KREISS-TOMKINS invited staff to Representative Jackson to discuss the amendment that the representative wishes the committee to consider.

ELIJAH VERHAGEN, Staff, Representative Sharon Jackson, Alaska State Legislature, on behalf of Representative Jackson, reviewed the suggested amendment to HB 187, which read:

Page 2, line 7:  
Delete "or"

Page 2, line 9, following "prisoner":  
Insert "; or  
(3) to reduce the cost of housing a prisoner who is not a resident of the state or who has been sentenced to a term or aggregate term of imprisonment of 99 years or more"

Page 3, line 2:  
Delete "or"

Page 3, line 4, following "considerations":  
Insert "; or  
(C) would reduce the cost of housing a prisoner who is not a resident of the state or who has been sentenced to a term or aggregate term of imprisonment of 99 years or more"

MR. VERHAGEN explained that the suggested change under the amendment would add another exclusion to the requirement to house Alaska prisoners in state; that exclusion would be in order "to reduce the cost of housing a prisoner who is not a resident of the state or who has been sentenced to a term or aggregate term of imprisonment of 99 years or more". He added that the amendment would not require the commissioner to transfer the prisoner out of state, but it would be an option. He mentioned that the "99 years" was offered by Legislative Legal Services; these are prisoners who are not likely to ever be released; in Alaska they number 200.

CO-CHAIR KREISS-TOMKINS indicated HB 187 would be held over.

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The committee took an at-ease from 3:48 p.m. to 3:51 p.m.

CO-CHAIR KREISS-TOMKINS passed the gavel to Co-Chair Fields.

**HJR 15-CONST. AM: VOTES NEEDED FOR VETO OVERRIDE**

[3:51:03 PM](#)

CO-CHAIR FIELDS announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 15, Proposing an amendment to the Constitution of the State of Alaska relating to actions upon veto.

[3:51:17 PM](#)

KEVIN MCGOWAN, Staff, Representative Jonathan Kreiss-Tomkins, on behalf of Representative Kreiss-Tomkins, prime sponsor of HJR 15, relayed that the proposed constitutional amendment would lower the veto override threshold for appropriation bills from three-fourths of legislators - 45 votes - to two-thirds of legislators, or 40 votes. He said that currently veto overrides of non-appropriation bills in Alaska require two-thirds of legislators. He stated that HJR 15 would create a uniform veto override vote threshold for appropriation and non-appropriation bills. He maintained that Alaska's threshold is disproportionate to every other U.S. state and territory; it is the highest threshold.

[3:52:26 PM](#)

JOSIAH NASH, Intern, Representative Jonathan Kreiss-Tomkins, on behalf of Representative Kreiss-Tomkins, prime sponsor of HJR 15, relayed that Alaska is the only state in the union with a three-fourths veto override vote threshold for appropriation bills. Every other state has a two-thirds, three-fifths, or simple majority vote threshold. He referred to a graphic summary [not included in the committee packet] of the information provided to the committee on veto override vote thresholds by state [Table 98-6.22 Vote Required to Override a Veto of Selected Types of Bills, National Conference of State Legislatures]. He said that 38 states have a two-thirds threshold, 6 have a three-fifths threshold, and 5 have a simple majority threshold; that leaves Alaska as the only state with a high three-fourths vote threshold.

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CO-CHAIR KREISS-TOMKINS stated that he introduced the proposed resolution before there had been any vetoes in the last budget cycle [fiscal year 2020 (FY 20)]. He offered that the veto override vote threshold in the Alaska State Constitution is an anomaly, and through the proposed resolution, he is seeking to avoid the "train wreck coming down the tracks." He relayed that despite varying points of view on the budget last year [2019] and on whether the vetoes should have been overridden, Alaska is "way out of line" from the rest of the country. He said that the Alaska Territorial Legislature had a two-thirds veto override vote threshold for all measures - appropriations and non-appropriations. He offered that in the minutes of the Alaska Constitutional Convention, there was a great deal of discussion on this issue and two camps of thinking. The "three-fourths camp" won by a vote in the Alaska Constitutional Convention; however, the very concerns put forth by those advocating for a two-thirds vote have existed throughout history in Alaska whenever the legislative branch of government has sought to put a check on the executive branch of government. He offered that having a three-fourths threshold essentially gives the executive branch and its administration a blank check to execute its agenda and vision through the "veto pen." He suggested that if an environmental governor two terms from now wanted to end the mining industry in Alaska and line-item veto the Division of Mining, Land, and Water in the Department of Natural Resources (DNR) budget, that governor would likely be able to do that because the override veto threshold is so incredibly high. Regardless of the person [at the top of] the executive branch and the administration, there is a clear imbalance in the separation of powers in Alaska, and HJR 15 seeks to re-balance the separation of powers.

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REPRESENTATIVE STORY expressed her belief that it is important to have public input on the proposed resolution.

CO-CHAIR KREISS-TOMKINS relayed that whenever a constitutional framework has two different override thresholds - one for appropriation measures and one for non-appropriation measures - it inherently creates constitutional ambiguity about what constitutes an appropriation and what does not. A uniform flat override threshold avoids that ambiguity. He mentioned that in the '90s, then Governor Tony Knowles vetoed a bill from the

legislature that gave the University of Alaska a large land grant. The legislature mustered a two-thirds vote to override the veto, but not a three-fourths vote. Governor Knowles rejected the override calling the legislation an appropriation bill. The legislature contended that it was not an appropriation bill and sued the governor. The Alaska Supreme Court found in favor of the legislature. He concluded that not having a flat uniform threshold, but having two categories of override thresholds, creates ambiguity, and it's the lawyers who profit.

REPRESENTATIVE SHAW asked for confirmation that at the Alaska Constitutional Convention, the threshold was originally two-thirds vote for all measures.

CO-CHAIR KREISS-TOMKINS responded that the Alaska Territorial Legislature - before statehood - had a flat two-thirds threshold. At the Alaska Constitutional Convention there was debate on the topic; some delegates advocated for two-thirds, some for three-fourths. The three-fourths camp won the debate.

REPRESENTATIVE SHAW mentioned that Article II, Section 16, of the constitution was amended in 1976 and asked for the specifics of that amendment.

CO-CHAIR KREISS-TOMKINS answered that he did not know but would have that information at the next hearing.

CO-CHAIR FIELDS indicated HJR 15 would be held over.

[4:00:51 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:00 p.m.