

SENATE FINANCE COMMITTEE

May 3, 2019

9:04 a.m.

9:04:03 AM

CALL TO ORDER

Co-Chair von Imhof called the Senate Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Lyman Hoffman
Senator Peter Micciche
Senator Donny Olson
Senator Mike Shower
Senator Bill Wielechowski
Senator David Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Shareen Crosby, Staff, Senator Natasha von Imhof; Rob Carpenter, Analyst, Legislative Finance Division; Senator Cathy Giessel; John Skidmore, Director, Criminal Division, Department of Law.

PRESENT VIA TELECONFERENCE

Jeff Edwards, Executive Director, Alaska Board of Parole, Anchorage.

SUMMARY

SB 19 APPROP: CAPITAL BUDGET; SUPPLEMENTAL

SB 19 was HEARD and HELD in committee for further consideration.

SB 34 PROBATION; PAROLE; SENTENCES; CREDITS

SB 34 was HEARD and HELD in committee for further consideration.

#sb19

SENATE BILL NO. 19

"An Act making appropriations, including capital appropriations, supplemental appropriations, reappropriations, and other appropriations; making appropriations to capitalize funds; and providing for an effective date."

[9:04:53 AM](#)

Co-Chair von Imhof relayed that the committee had heard the bill on March 12, 2019, at which time public testimony had been taken.

Co-Chair Stedman MOVED to ADOPT proposed committee substitute for SB 19, Work Draft 31-GS1904\K (Caouette, 5/2/19).

Co-Chair von Imhof OBJECTED for discussion.

[9:05:55 AM](#)

SHAREEN CROSBY, STAFF, SENATOR NATASHA VON IMHOF, discussed the changes to the bill. She stated that when evaluating projects, the priorities of the capital budget were to maximize federal match, ensure health and safety, determine reasonable deferred maintenance, and protecting access to resources through bridges, roads, airports, and ports. She discussed the changes to the legislation and highlighted the following appropriations in the bill:

Page 2, Line 16
Department of Commerce, Community and Economic
Development
Alaska Energy Authority - Rural Outdoor Lighting
Efficiency Retrofit
\$1,000,000 GF

Page 2, Line 19
Department of Commerce, Community and Economic
Development
Alaska Railroad: Seward Dock Replacement
\$3,100,000 GF

Page 2, Line 24
Department of Commerce, Community and Economic
Development
Alaska Travel Industry Association (ATIA)
\$7,420,000 GF

Ms. Crosby said that Page 3 reflected funding for the Alaska Marine Highway System (AMHS) and additional small district grants.

Ms. Crosby continued with the line items:

Page 4, Line 13
Department of Corrections
Juneau - Lemon Creek Correctional Center Laundry
Expansion
\$420,000 GF

Ms. Crosby noted that intent language had been added on Page 5, Line 30, to allocate up to \$2,000,000 of Pittman-Robertson federal funds for agreements with nonstate entities, the Alaska Mental Trust Authority, and local governments that provided the required federal match for eligible Pittman-Robertson projects.

Ms. Crosby continued with the line items. Page 6, line 12 included \$47,600,000 for statewide deferred maintenance. She noted that the monetary request was the same as the governor's, but the fund sources had been changed. Line 18 was a state match of \$500,000, for federal funds that went directly to the Code Blue Project.

[9:11:13 AM](#)

Ms. Crosby continued to address the changes to the bill. Line 29 listed \$2,500,000 for the Arctic Strategic Transportation and Resources and was the same as the governor's request. She relayed that Page 7, line 17, reflected the addition of \$120,000 for the Jonesville Public Use Area Management Plan, specifically, for detailing the expenditure and scope of the work from the Department of Natural Resources. She furthered that Line 32 reflected receipts of \$250,000 from snowmobile registrations for the Snowmobile Trail Development Program. Page 8, line 3, showed \$2.5 million for the South Denali Visitor's Center, which was 10 percent of the governor's total request. Line 5 reflected the addition of \$1.4

million in federal funds for the Specialty Crop Grant for Peony Research. She said that Line 20 listed the addition of \$1 million for the Alaska Housing Finance Corporation (AHFC) Cold Climate Housing Research, Line 24 showed \$5 million in GF and \$2 million in other funds for AHFC Energy Programs Weatherization. Page 9, Line 8, listed the addition of \$1.75 million for AHFC Teacher, Health, and Public Safety Professional Housing. She relayed that Line 13 and 16 added funds for AMHS, \$3 million and \$13.5 million, respectively. She shared that Line 26 showed a reduction of \$2.5 million, down to \$12.5 million, with intent language encouraging the department to improve standard operating procedures for fleet management.

[9:14:24 AM](#)

Senator Olson considered the \$2.5 million decrease for fleet management. He asked whether the decreased funds were federal funds.

ROB CARPENTER, ANALYST, LEGISLATIVE FINANCE DIVISION, stated that the funds were comprised of collected fees from all agencies for the rental and leasing of state equipment.

[9:15:09 AM](#)

Ms. Crosby continued to address the changes to the bill. She spoke to Page 10, line 4, which were \$60 million, which came back in \$690 million federal match. She said that \$25 million had been added in the CS and was a fully funded match to maximize the federal highway funds. She reminded the committee that the funds had been changed from the governor's reappropriation from the M/V Tustumena. She said that intent language had been added to Lines 9 and 20, requesting a quarterly report from the Department of Transportation and Public Facilities (DOT&PF) on projects.

Ms. Crosby addressed Page 11, line 13, pertaining to University deferred maintenance. She said that the governor's original request had been increased from \$5 million to \$10 million; the current UA deferred maintenance backlog was \$1.2 billion.

Ms. Crosby addressed page 12, which reflected the funding sources, by agency, for Section 1.

Ms. Crosby looked at Section 4 on page 17, which included FY 19 Supplemental Capital Projects requested by the governor.

[9:17:32 AM](#)

Co-Chair Stedman informed the public that in an effort to maintain a positive working relationship with the administration, the legislature had extended the governor's deadline for submitting budget amendments.

[9:18:18 AM](#)

Senator Bishop appreciated that funds had remained in the bill for the Statewide Per- and Polyfluoroalkyl Substances Response.

[9:18:43 AM](#)

Ms. Crosby addressed Sections 5 and 6 on pages 19 and 20, which listed fund sources for Section 4. She spoke to Section 7, which was the Department of Corrections (DOC) Inmate Health Supplemental for \$3 million, requested by the governor. Section 8 contained standard language for RPLs or receipts. Section 9 contained standard language for agencies to collect and expend insurance claims. Line 20, Section 10 contained national Petroleum Reserve - Alaska Impact Grant Program language for FY 19 and FY 20.

Ms. Crosby looked at page 24 of the CS, Sections 11 and 12. Section 11a was a \$200,000 grant for earnings from the Exxon Valdez oil spill restoration fund to the Prince William Sound Science Center. Section 11b was \$125,000 in lapsing cruise funds going to the Railroad Seward Dock Planning.

Ms. Crosby addressed 12a, which was a \$125,000 supplemental reappropriation requested by the governor for abandoned school site assessments. She said that 12b stated that the proceeds from the sale of Department of Education and Early Development (DEED) state-owned land in Sitka received during the fiscal years ending June 30, 2020, June 30, 2021, and June 30, 2022, are to be allocated to Mt. Edgecumbe boarding school. state-owned lands sold in Sitka

[9:21:02 AM](#)

Co-Chair Stedman clarified that the lands were held by DEED for the boarding school and if the properties were sold, the benefit should be for the school.

[9:21:52 AM](#)

Ms. Crosby addressed Page 25, line 10; which combined the request for troopers, wildlife troopers, and VPSO equipment into one appropriation of \$659,958,000.

Ms. Crosby moved to Page 26, Section 14a - sale of any AMHS assets went to the AMHS Vessel Replacement Fund. She said that 14b stated that reappropriation of \$1.6 million in completed project harbor project funds would be returned to the harbor facility matching grant fund. Section 15 was the governor requested, late amendment, for receipt authority for the Alaska Gasline Development Corporation (AGDC), not to exceed \$25 million.

[9:23:07 AM](#)

Senator Wielechowski was curious about the statutory designated program through which the Department of Environmental Conservation (DEC) could receive up to \$25 million.

Co-Chair von Imhof did not know the exact program but did know that this item had been seen over the years. She believed that the receipt authority was to finish the Federal Energy Regulatory Commission (FERC) process. She said that large oil companies that were doing business in the state were interested in seeing the FERC process meet completion. The analysis had shown that an additional \$25 million for the next 18 to 24 months in order to finish the analysis and permitting.

Senator Wielechowski had no problem with the completion with the FERC process but was curious of the fund source for the appropriation.

Mr. Carpenter stated that the cited fund source was the statutory designated program receipts, which included third party, non-state. Non-federal receipts coming to the state.

[9:24:40 AM](#)

Co-Chair Stedman recalled that there were hundreds of millions of dollars invested in the FERC permit, which held value even if there was no project. He wondered whether a financial summary of the cost to the state could be provided to the committee.

Co-Chair von Imhof added that Mr. Carpenter could request a short summary from AGDC of the cost of the FERC process and what timeframe that was expected for completion.

[9:26:38 AM](#)

Senator Hoffman thought that the timeframe for completion of the process was critical information.

[9:26:55 AM](#)

Ms. Crosby relayed that she had notes from AGDC:

- Senate proposes very limited receipt authority to permit AGDC to accept \$25 million of third-party money to help complete defined tasks at hand; very narrow proposal versus last year's denied request for unlimited receipt authority.
- Should AGDC successfully attract third-party funding, it sends a very powerful market signal that Alaska LNG is on the right course.
- AGDC taking very measured approach to Alaska LNG project, focusing on FERC permitting and partner engagement so the state does not have to pay, build, run Alaska LNG.
- AGDC will continue to consult with legislature at every decision point along the way.
- There is no loss of project control to the state at this funding level.
- The third-party funding would allow AGDC to extend remaining funds further and off-set the need for any additional state funds at this point when the state is in a budget crunch.

[9:28:08 AM](#)

Co-Chair Stedman pointed out that Alaska Oil and Gas Conservation Commission (AOGCC) was the regulatory body; and just because an entity received a permit did not mean that there was a project. FERC could issue multiple LNG export permits across the country but that did not guarantee that a project would be built. He

[9:28:53 AM](#)

Ms. Crosby continued to page 27 and addressed Section 16 pertaining to the District 10 library reappropriation to another library in the same district. Section 17 was the scope change of the project in District 35-36. Section 18 was the reappropriation of the Office of the Governor's lapsing funds back to their office, as requested. She added that the word "redistricting" had been added to the language to accommodate census language in the section.

[9:29:41 AM](#)

Senator Wielechowski spoke to Section 18, lines 27-30:

...estimated balance of \$1,100,000, are reappropriated to the Office of the Governor for capital costs relating to advancing the governor's initiatives, including elections voting system replacement and security, and state government efficiency and consolidation initiatives.

Senator Wielechowski asked whether there was more detail available about the aspects of the section.

Ms. Crosby stated that there were election systems that needed upgrades. She offered to get more information from the administration.

Senator Wielechowski was interested to understand what kind of voting system replacement and security was being purchased.

Co-Chair von Imhof echoed Senator Wielechowski's request for more information on Section 18.

[9:30:47 AM](#)

Senator Micciche recalled that there had been an increment denied in the Operating Budget that was being covered by

reappropriations in the Capital Budget. He stressed that these were not additional funds but unexpended funds from the past.

Ms. Crosby agreed.

[9:31:22 AM](#)

Senator Shower spoke to his understanding of the state's election system. He shared that the director of the Division of Elections had testified that the division was currently under a bid for proposals.

[9:31:54 AM](#)

Senator Wielechowski was curious about the items listed in the beginning of Section 18. He wondered why the money was not being spent on what had been previously authorized.

Ms. Crosby agreed to provide the information later.

[9:32:38 AM](#)

Ms. Crosby moved to page 28, Section 19; pertaining to reappropriation of Legislative funds back to the Legislature for Legislative Capital Projects. Section 20 pertained to the Alaska Housing Capital Corporation. She detailed that her office had met with every agency and had scrubbed any lapsing funds. She stated that due to the fiscal situation, it was decided that all lapsing funds would go into one fund entitled, the Alaska Housing Capital Corporation Fund, where the funds would remain until FY 2020.

Co-Chair von Imhof detailed that the reason for the fund movement was due to the long list of reappropriations. She said that time constraints prevented the legislature to reappropriate them individually; the additional time would allow the legislature to plan for FY 2020 and reappropriate equivalently across projects while also knowing the final balance.

[9:34:42 AM](#)

Senator Micciche was curious about the Sterling Highway road widening (Page 31, line 29). He noted that the road was very busy in the summer and assumed that before the

funds were swept that a status of the project had been investigated and that DOT had agreed that the funds were not needed in the immediate.

Ms. Crosby stated that all funds that were lapsing had been approved by the respective agencies.

[9:35:42 AM](#)

Senator Bishop thought some of the projects dated back to 2007 and could be closed out.

Co-Chair von Imhof stated all projects would be closed by Juneau 2019, and had been approved by their respective agency.

[9:36:20 AM](#)

Senator Wielechowski requested more information concerning Page 30, line 12 and Page 31, line 25, which were reappropriations that effected his district.

[9:36:47 AM](#)

Senator Shower expressed concern for the combining of appropriations on Page 25, line 10. He said that he would be monitoring the issue.

[9:37:46 AM](#)

Co-Chair von Imhof reminded that the committee was discussing \$5.4 million that could be reappropriated as general funds, matching funds, or to give districts funds for playgrounds, parks, etc. She stressed that by putting the funds into a big slush fund, it was possible ensure that all districts received the same amount; or, an argument could be made line by line. She asserted that those discussions would occur in the next legislative session.

[9:38:49 AM](#)

Co-Chair Stedman explained that conversations had occurred with the other body concerning how to deal with the funds. He thought the proposed action was the fairest way handle the funds at this time. He emphasized that accounting would ensure that information on the genesis of the project funds

was known. He stated that the action was to close out all the old projects around the state and move forward.

Co-Chair von Imhof added that school bond debt reimbursement was still on a hiatus. She suggested that the \$5.4 million could come in handy for school debt renovation. She believed that waiting a year to revisit how the money should be spent was prudent.

[9:41:24 AM](#)

Senator Micciche appreciated Co-Chair von Imhof's approach on the matter.

[9:41:56 AM](#)

Senator Olson asked whether any of the \$5.4 million balance included lapsing grants by Department of Commerce, Community and Economic Development.

Mr. Carpenter informed that some of the funds included lapsing grants. He could not speak to the amount.

[9:42:31 AM](#)

Ms. Crosby agreed to provide Senator Olson with an amount. She addressed Section 21 of the bill, which covered lapsed provisions. Line 19 of Section 22 was the retroactivity clause. Section 23 through 25 contained effective dates.

Ms. Crosby referenced a document entitled "Multi-year Agency Summary - FY 2020 Senate Structure" (copy on file).

[9:43:42 AM](#)

Senator Hoffman asked about the specificity of the effective date.

Mr. Carpenter said that May 15th had been chosen in anticipation that it would be the last day of the legislative session.

[9:44:15 AM](#)

Senator Wielechowski asked for more detail on the ASTAR project, Page 6, lines 29 and 30. He wanted to know how

much had been appropriated and how the money had been spent.

Ms. Crosby was happy to provide additional details to Senator Wielechowski.

Co-Chair von Imhof recalled that the project was a way to connect the North Slope communities with broadband.

[9:45:12 AM](#)

Senator Olson recalled that there was a commercial impetus to move the project forward.

Co-Chair von Imhof thought some of the guiding principles of the capital budget had been not only health and safety, but connecting Alaskans to each other, and providing access to healthcare, education, and resources. She felt that the ASTAR project embodied those principals.

[9:45:56 AM](#)

Senator Wielechowski asked about the South Denali Visitors Center, Page 8, lines 3 and 4. He wanted more information about how the funds would be used. He wondered whether the state would assume ownership or receive financial benefit from the investment.

Co-Chair von Imhof stated that request was intended to get the project started and begin planning. She thought it was dependent upon the level of the state's involvement in the future. There was an expectation that a fee would be charged at the center. There was a lot of pressure on the Denali park and another entrance closer to Anchorage could relieve some of that pressure. She reiterated that the project was in the planning stages.

[9:47:32 AM](#)

Senator Bishop thought there was a goal to fund the Division of Parks and Outdoor Recreation entirely through designated general funds.

[9:48:02 AM](#)

Ms. Crosby noted that the Legislative Finance Division would have capital budget reports posted to their website.

She relayed that the statewide total for the budget was \$1,385,715,700. The UGF total was \$172,086,300; DGF total was \$55,112,000; other funds totaled \$114,491,300; and federal funds totaled \$1,044,026,100.

Co-Chair von Imhof WITHDREW her OBJECTION. She stated that amendments were due by noon Monday, May 6, 2019.

Co-Chair Stedman thanked Co-Chair von Imhof for her hard work on the capital budget. He discussed his past work on the capital budget and recalled the tremendous amount of work it took to craft the budget.

Co-Chair von Imhof thanked her staff Shareen Crosby and Rob Carpenter.

[9:50:33 AM](#)

Senator Bishop echoed the comments of Co-Chair von Imhof.

SB 19 was HEARD and HELD in committee for further consideration.

#sb34

SENATE BILL NO. 34

"An Act relating to probation; relating to a program allowing probationers to earn credits for complying with the conditions of probation; relating to early termination of probation; relating to parole; relating to a program allowing parolees to earn credits for complying with the conditions of parole; relating to early termination of parole; relating to eligibility for discretionary parole; relating to good time; and providing for an effective date."

[9:50:51 AM](#)

Co-Chair von Imhof stated that the committee's intent was to hear an overview of the bill. She noted that public testimony would be taken on all crime bills at the 1:30 pm meeting.

JOHN SKIDMORE, DIRECTOR, CRIMINAL DIVISION, DEPARTMENT OF LAW, addressed the bill. He informed the committee that the bill focused on probation and parole and would highlight how balance was returned to the criminal justice system to

ensure that the sanctions that were imposed were appropriate. He said that he would discuss the ability for someone to end their probation early, as well as who was eligible for discretionary parole. He relayed that these issues were important because when someone was placed on parole the courts had already found that that person was guilty of a crime, these were the efforts to keep individuals in compliance with the law as they returned to society. He spoke to the sections of the bill:

Section 1 Eliminates language related to caps on technical violations of probation under AS 12.55.110.

Section 2 Eliminates language related to caps on technical violations of probation under AS 12.55.110.

Mr. Skidmore stated that when someone was placed on probation the court sets conditions on them: don't consume alcohol, report to your probation officer, don't have contact with certain people, maintain employment, and other conditions set in probation. He said that when someone violated those conditions, they needed to face the consequences. He said that technical caps had been implemented in order to limit the amount of time that could be imposed as a penalty, modeled after the Probation Accountability with Certain Enforcement (PACE) program that supported swift and certain sanctions. He lamented that the caps had not worked as hoped; people would be released before hearings occurred and then go on to commit further violations. Without the hearing, violations that happened subsequent to release but prior to a hearing, would not carry proper weight for accountability. He lamented that people were not being held accountable for their crimes.

[9:55:00 AM](#)

Senator Wielechowski asked whether the department agreed that had the system worked properly, it would have been retained. He asked whether there was a way to fix the problem rather than abandon caps altogether.

Mr. Skidmore stated that the program was resource intensive and successful only when applied to a small number of people. He did not believe that the program could be resourced to the point where it could work on the statewide level. He added that the PACE program would still exist for

certain offenses, selected by the courts, but would not be applied uniformly for all probationers across the state.

[9:56:38 AM](#)

Mr. Skidmore addressed Section 3:

Section 3 Makes the recommendation of a probation officer for early termination of probation permissive and at the discretion of the probation officer. Also eliminates the timeline for when such a recommendation must be made. Maintains requirement that the probationer is in compliance with their conditions of probation and has completed all of the required treatment programs. Also maintains the prohibition on unclassified felony, sexual felony, and domestic violence offenders from being recommended for early termination.

Mr. Skidmore claimed that recent criminal justice reform had taken discretion away from probation officers. He said that the bill would rectify the issue.

[9:58:11 AM](#)

Mr. Skidmore spoke to Section 4 and Section 5:

Section 4 Allows a person to obtain a driver's license if they have been convicted of felony driving while under the influence and has not also been convicted of a crime against a person, if the license has been revoked for 10 years and in the preceding 10 years the person has not been convicted of a driving related criminal offense or a felony.

Section 5 Allows a person to obtain a driver's license if they have been convicted of felony refusal to submit to a chemical test and has not also been convicted of a crime against a person, if the license has been revoked for 10 years and in the preceding 10 years the person has not been convicted of a driving related criminal offense or a felony.

Mr. Skidmore said that the sections would allow for a path for a person to get their driver license back. He noted that the administration supported the sections.

[9:59:20 AM](#)

Mr. Skidmore discussed Sections 6 and 7:

Section 6 Reduces amount of time that a probationer may decrease their length of probation for good behavior to 1/3. Also requires the credit to be awarded up front similar to statutory good time for prisoners.

Section 7 Prohibits those convicted of a sex offense, unclassified felony, felony crime against a person, and domestic violence crime against a person from earning credit against their period of probation.

Mr. Skidmore lamented that under the current law the 1/1 ratio was significant when combined with other changes made to probation by past reform efforts, additionally, the way that the earned compliance credits were currently written into statute had resulted in significant litigation that occurred in time accounting.

[10:01:14 AM](#)

Mr. Skidmore addressed Section 8 of the bill:

Section 8 Amends duties of a probation officer to require that a probation officer consider recommending early termination of probation. Also eliminates the requirement to use administrative sanctions before filing a petition to revoke.

Mr. Skidmore said that the section made clear under the law that the recommendation from a probation officer was supported and authorized under the law.

[10:02:42 AM](#)

Senator Wielechowski thought Section 8 seemed to be counter to the department's philosophy. He thought that the elimination of administrative sanctions limited responses to positive or negative behavior.

Mr. Skidmore stated that the issue was still under discussion within the department.

Senator Wielechowski asked about the possibility of giving probation officers the ability to impose administrative sanctions without having to go to a judge.

Mr. Skidmore did not think there would be an objection to give parole and probation officers the ability to impose administrative sanctions. He noted that the bill simply removed the requirement. He thought that the department could support probation officers using their own discretion.

[10:04:17 AM](#)

Co-Chair von Imhof let the committee know that Jeff Edwards, Director of the Parole Board, would be available for questions.

[10:04:30 AM](#)

Mr. Skidmore discussed Sections 9 through 15:

Section 9 Requires an application for discretionary parole to be submitted to the parole board before a person can be considered for discretionary parole.

Section 10 Clarifies that a person who is ineligible for a good time deduction from their sentence is also ineligible for discretionary parole. Also, prohibits certain crimes from being considered for discretionary parole. These are the same crimes that were ineligible for discretionary parole prior to January 1, 2017:

- Non-sex class A felonies (Robbery 1, Assault 1, Arson 1);
- B felonies if the person had one or more prior felony convictions;
- C felonies if the person had two or more prior felony convictions; and
- B and C sex felonies (Sexual Assault 2, Sexual Abuse of a Minor 2, Distribution of Child Pornography).

Section 11 Raises the amount of time a person sentenced for an unclassified offense (murder, kidnapping) before they are eligible for discretionary parole from one-third to one-half of the active term of imprisonment or the mandatory minimum whichever is greater. Also requires persons convicted of B felony

level drug distribution to serve one-half of the active term of imprisonment before they can be considered for discretionary parole.

Section 12 Eliminates a presumption of release and thereby returns discretion back to the parole board when determining release on discretionary parole.

Section 13 Allows the parole board to make a person, who does not meet the factors in section 10, ineligible for further consideration of discretionary parole or to have the person serve additional time before they can be considered again for discretionary parole.

Section 14 Conforming language regarding the requirement that a person fill out an application for discretionary parole.

Section 15 Outlines application process for discretionary parole. Ensures that the prisoner is furnished with a copy of the prepare report.

Mr. Skidmore grouped them together as the sections pertained to discretionary parole. He stated that criminal justice reform had affected discretionary parole in several ways. First, the crimes that were eligible to be considered for discretionary parole were expanded. When a person was sentenced by the courts, there was mandatory or discretionary parole. Discretionary parole was not automatic but at the discretion of the parole board. He referenced the movie "Shawshank Redemption." He shared that mandatory parole meant that a person had been released on parole because they had behaved while in custody. He said that mandatory parole was used for population management. He reiterated that there had been restrictions on the people eligible to apply for discretionary parole, which was expanded through criminal justice reform. Secondly, the way in which the Parole Board exercised discretion was altered; under criminal justice reform, when an individual reached a certain period of incarceration, and application was no longer necessary, and parole was an automatic consideration. Thirdly, the Parole Board was directed to presume that everyone that reached a certain date of incarceration should be released unless there was clear and convincing evidence that they were a danger to society.

10:08:01 AM

Mr. Skidmore summarized that all these issues would be resolved by the legislation by returning them to where they had been before the reform legislation.

10:08:21 AM

Mr. Skidmore noted that there were additional things that changed in the bill in other committees. He highlighted Section 11, which discussed discretionary parole. He pointed to Section 7, which identified certain crimes that had different parameters for discretionary parole eligibility.

10:09:21 AM

Co-Chair Stedman had some concerns with the issue of discretionary parole. He wondered about discretionary parole for people convicted of murder.

JEFF EDWARDS, EXECUTIVE DIRECTOR, ALASKA BOARD OF PAROLE, ANCHORAGE (via teleconference), addressed Co-Chair Stedman's question. He stated that the change meant that before any inmate convicted of a classified crime was eligible to appear before the board, they had to serve half of their prison term.

Co-Chair Stedman asked how many individuals were incarcerated for the crime of murder that would be subject to the change proposed in the bill. He asked how often discretionary parole was granted to murderers.

Mr. Edwards did not have the information available. He recalled that individuals convicted of murder, that had been considered for early release, had been found to have served at least half of their sentence.

10:11:51 AM

Co-Chair Stedman maintained his concern for early release of murderers. He referenced a notorious criminal that could have been considered a nice guy. He asked how a first-degree murderer could ever be qualified "good time" or mandatory parole.

Mr. Edwards thought Mr. Skidmore had accurately differentiate between discretionary and mandatory parole. The average murder in the first-degree sentence was around 80 years. Under mandatory release, the inmate would be released after serving two-thirds of the sentence; under the current law they could be eligible after serving only one-third, the legislation changed that to one-half. He said that under the statutory good time clause, every eligible inmate shall receive good time for good behavior while in prison.

[10:13:55 AM](#)

Co-Chair Stedman asked about Second Degree murder charges and eligibility for discretionary parole. He asked about the different charges for murder.

Mr. Skidmore noted that the categories for murder were murder in the first degree, murder in the second degree, manslaughter, and criminally negligent homicide.

Co-Chair Stedman asked to concentrate on second degree murder.

Mr. Edwards replied that concepts were the same. Under Section 11 of the bill, the required time served was increased to one-half of time served. He noted that the mandatory parole did not change in SB 34, only the eligibility to apply for discretionary parole. He found the average sentence length for murder in the second degree was 40 years; under current law, the person would be eligible for mandated release after serving two-thirds of the 40. The maximum sentence for murder in the second degree was 99 years.

[10:16:01 AM](#)

Co-Chair Stedman presumed that 40 years was the average for second degree murder, with eligibility for discretionary parole after 20 years, mandatory after 26 years, with good time.

Mr. Edwards replied in the affirmative.

Co-Chair Stedman thought that releasing a murderer early for good behavior was problematic, particularly for the

families of victims. He thought that tighter requirements for parole should be considered.

[10:17:37 AM](#)

Senator Wielechowski was curious about recidivism rates for those released on parole. He had seen charts that showed the age at which people committed crimes. He thought the age peaked in the 20s and then decreased. He was interested in the cost of keeping elderly inmates in jail.

[10:18:57 AM](#)

Senator Micciche asked about unclassified crimes and discretionary parole eligibility.

Mr. Skidmore stated that previous criminal justice reform had expanded the categories of those that were eligible for discretionary parole. He said that the intent of SB 34 was to revert to what the law said prior to SB 91. He stressed that the legislature had the power to adjust the eligibility crimes within the bill.

[10:20:53 AM](#)

Senator Micciche agreed with Co-Chair Stedman that all the crimes removed from discretionary parole were serious crimes, which he thought seemed counter to logic.

[10:21:53 AM](#)

Senator Hoffman followed up on Co-Chair Stedman's concerns. He asked where the state stood on parole for first- and second-degree murder.

Mr. Skidmore said he could provide the information later.

Senator Hoffman the requested the information could help in comparing Alaska with other states.

Co-Chair von Imhof thought it was fair to give Mr. Skidmore and the department some time to gather information. She wanted to continue moving the bill forward. She stressed that significant policy change needed to be discussed within the next ten days.

[10:23:40 AM](#)

Senator Wilson pondered whether the state was too tough on crime or not tough enough.

[10:23:51 AM](#)

Senator Wielechowski referenced Section 9. He had heard that 40 percent to 50 percent of prisoners were beneficiaries of the Alaska Mental Health Trust Authority (AMHTA). He asked whether eligible people could be left sitting in prison just because they failed to fill out an application.

Mr. Skidmore thought the question was best addressed to the department.

Mr. Edwards noted that there would be an assigned parole officer to assist inmates in the completion of applications. If a prisoner could not fill out their own application, their assigned parole officer would help them fill out the application.

[10:25:41 AM](#)

Co-Chair von Imhof understood that parole was a contentious issue. She asked to return to the topic at another time and continue discussion of the rest of the bill.

Co-Chair Stedman commented that he would like information on what the federal penalties were for some of the topics discussed.

[10:26:55 AM](#)

Senator Micciche considered toughness on crime and wondered about what state had the worst results. He referenced FBI data that put Alaska at 829 violent crimes per 100,000, which was 7 times the lowest state of Maine and twice the national average.

[10:27:32 AM](#)

Co-Chair von Imhof appreciated the robust discussion. She thought Sections 9, 10, and 11 called for further discussion in the future.

[10:27:47 AM](#)

Mr. Skidmore addressed Section 16:

Section 16 Gives a parole officer the discretion to make a recommendation to the parole board that a person's parole be terminated. Maintains requirement that the probationer is in compliance with their conditions of probation and has completed all of the required treatment programs. Also maintains the prohibition on unclassified felony, sexual felony, and domestic violence offenders from being recommended for early termination.

Mr. Skidmore discussed Section 17:

Section 17 Eliminates language referencing technical violations of parole under AS 33.16.215.

Mr. Skidmore spoke to Section 18:

Section 18 Allows the parole board to toll time while the parolee is in violation status. This is similar to how probation works when a probationer is in violation status. Under this provision, the parolee's parole time will not continue to run while the parole violation is under consideration by the parole board.

Mr. Skidmore highlighted Sections 19 and 20:

Section 19 Reduces amount of time that a parolee may decrease their length of parole for good behavior to 1/3. Also requires the credit to be awarded up front similar to statutory good time for prisoners.

Section 20 Prohibits those convicted of a sex offense, unclassified felony, felony crime against a person, and domestic violence crime against a person from earning credit against their period of parole.

[10:29:56 AM](#)

Mr. Skidmore spoke to Section 21:

Section 21 Prohibits a person from earning good time for time spent on electronic monitoring post-sentence.

He asserted that electronic monitoring was a different scenario, and good time was not needed in the same way for

people in "hard beds" (in a facility) in order to incentivize good behavior.

Mr. Skidmore discussed Section 22:

Section 22 Eliminates the requirement that the Department of Corrections submit a report to the Alaska Criminal Justice Commission regarding the sanctions imposed under the administrative sanctions program which is repealed in this bill.

[10:31:14 AM](#)

Mr. Skidmore addressed Section 23:

Section 23 Repealer section.

He stated that the section dealt with repealers in the bill. There were several repealers that dealt with technical caps and administrative sanctions.

Mr. Skidmore continued to Section 24:

Section 24 Requires the Department of Corrections to develop a needs assessment of all rehabilitative services for each institution, including education, treatment, vocational education, secular and faith-based, and pro-special program and report that information to the legislature.

He felt that rehabilitative services should be discussed in future policy concerning criminal reform.

[10:32:33 AM](#)

Senator Bishop appreciated Mr. Skidmore's comments about Section 24. He relayed that he did not want to waste money.

[10:33:12 AM](#)

Mr. Skidmore addressed Section 25 and Section 26:

Section 25 Applicability.

Section 26 Effective date. This bill takes effect on July 1, 2019.

He noted that any adjustments that were made in the legislation would not apply to those currently incarcerated.

[10:34:08 AM](#)

Senator Hoffman understood the people lost the PFD after commission of certain crimes. He wanted a list of provisions that would result in the loss of PFD eligibility.

Mr. Skidmore stated that individuals sentenced to felonies lost eligibility for the PFD. He believed that it would be for every year that they were incarcerated.

Senator Hoffman understood that once an individual was a felon, they lost their dividend for life.

Mr. Skidmore agreed to provide the information.

[10:35:41 AM](#)

Senator Micciche thought that changes to discretionary parole would affect individuals that had already been sentenced.

Mr. Skidmore stated that in the applicability section there were five different subsections that indicated that the subsections would apply to sentences imposed on or after the effective date of the sections. The crime itself had to be committed after the effective date of the bill.

[10:37:58 AM](#)

Co-Chair Stedman thought the bill was like a constitutionally protected benefit plan. He understood that sentences would not be changed but felt the legislature would have no control over adjusting parole classifications once an individual was sentenced.

Mr. Skidmore affirmed that ex post facto was a Constitutional provision; punishment on an individual could not be increased. He reiterated that the law could be guidance as to how discretion should be exercised.

[10:39:28 AM](#)

Mr. Skidmore addressed FN 1 from Department of Law, OMB Component 2202. The note was a zero-fiscal note.

[10:40:59 AM](#)

Co-Chair von Imhof noted that time was of the essence.

[10:42:15 AM](#)

Senator Wielechowski asked about the age distribution of incarcerated individuals and asked about recidivism of those on parole.

Mr. Edwards thought that the recidivism rate was approximately 20 percent. He said in 2018 there were 27 inmates, between 61 and 80, who were discretionary parole candidates; 328 inmates were between 18 and 30.

[10:44:23 AM](#)

Senator Wielechowski asked about the 80 percent success rate with recidivism. He asked about the details of the 20 percent who recidivated.

Mr. Edwards noted that most violations were technical violations: alcohol use, drug use, or failure to report to a parole officer.

[10:45:11 AM](#)

Senator Bishop asked what could be done to get the recidivism rate to 10 percent.

[10:45:55 AM](#)

Senator Shower expressed confusion with the 80 percent success rate. He asserted that the recidivism rate was higher. He was concerned that he was not receiving accurate information concerning recidivism.

[10:47:50 AM](#)

Mr. Edwards affirmed that Senator Shower was correct in that recidivism rates were currently higher. He revealed that he had been quoting for discretionary parolees only. The 80 percent was not reflective of the global inmate population.

Senator Shower appreciated the clarity.

[10:48:58 AM](#)

Senator Wielechowski thought this was an important distinction, since the bill contemplated changing the time of which a prisoner might be eligible for discretionary parole. He thought that if there was an 80 percent success rate under current statute, with 20 percent recidivating under benign technical violations, the result was fairly successful. He was curious to see a breakdown of the technical violations of the 20 percent recidivism for discretionary parole, as well as a breakdown in the violations for recidivism for those under mandatory parole.

Mr. Edwards offered to find Senator Wielechowski more data. He shared that the mandatory release individuals had a much higher recidivism rate. He reiterated that those people were released under mandate and were not interviewed or vetted before being released.

[10:50:40 AM](#)

Senator Micciche thought that information on recidivism for those on discretionary parole should be broken down by type of crime.

SB 34 was HEARD and HELD in committee for further consideration.

Co-Chair von Imhof thought there was more discussion needed. She reminded the committee that amendments could be delivered to her office. She reiterated that public testimony would be taken at the 1:30 pm meeting.

#

ADJOURNMENT

[10:52:41 AM](#)

The meeting was adjourned at 10:52 a.m.