

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

April 22, 2019

6:03 p.m.

MEMBERS PRESENT

Senator Shelley Hughes, Chair
Senator Lora Reinbold, Vice Chair
Senator Peter Micciche
Senator Jesse Kiehl

MEMBERS ABSENT

Senator Mike Shower

OTHER LEGISLATORS PRESENT

Representative Andy Josephson

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 3

Proposing an amendment to the Constitution of the State of Alaska relating to the membership of the judicial council.

- MOVED SJR 3 OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 4

Proposing amendments to the Constitution of the State of Alaska prohibiting the establishment of, or increase to, a state tax without the approval of the voters of the state; and relating to the initiative process.

- MOVED CSSJR 4 (JUD) OUT OF COMMITTEE

SENATE BILL NO. 33

"An Act relating to pretrial release; relating to sentencing; relating to treatment program credit toward service of a sentence of imprisonment; relating to electronic monitoring; amending Rules 38.2 and 45(d), Alaska Rules of Criminal Procedure; and providing for an effective date."

- MOVED CSSB 33 (JUD) OUT OF COMMITTEE

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."

- MOVED CSSB 34(JUD) OUT OF COMMITTEE

SENATE BILL NO. 52

"An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to common carrier approval to transport or deliver alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 3

SHORT TITLE: CONST. AM: MEMBERSHIP OF JUDICIAL COUNCIL

SPONSOR(S): SENATOR(S) SHOWER

01/16/19	(S)	PREFILE RELEASED 1/7/19
01/16/19	(S)	READ THE FIRST TIME - REFERRALS
01/16/19	(S)	JUD, FIN
04/12/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/12/19	(S)	Heard & Held
04/12/19	(S)	MINUTE(JUD)
04/15/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/15/19	(S)	Heard & Held
04/15/19	(S)	MINUTE(JUD)
04/17/19	(S)	JUD AT 6:00 PM BELTZ 105 (TSBldg)
04/17/19	(S)	-- MEETING CANCELED --
04/19/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/19/19	(S)	Scheduled but Not Heard
04/22/19	(S)	JUD AT 6:00 PM BELTZ 105 (TSBldg)

BILL: SJR 4

SHORT TITLE: CONST. AM: STATE TAX; INITIATIVE
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/30/19	(S)	READ THE FIRST TIME - REFERRALS
01/30/19	(S)	STA, JUD, FIN
03/26/19	(S)	STA AT 1:30 PM BUTROVICH 205
03/26/19	(S)	Heard & Held
03/26/19	(S)	MINUTE(STA)
03/27/19	(S)	STA AT 6:00 PM BUTROVICH 205
03/27/19	(S)	Heard & Held
03/27/19	(S)	MINUTE(STA)
03/28/19	(S)	STA AT 3:30 PM BUTROVICH 205
03/28/19	(S)	Moved CSSJR 4(STA) Out of Committee
03/28/19	(S)	MINUTE(STA)
03/29/19	(S)	STA RPT CS 5NR SAME TITLE
03/29/19	(S)	NR: SHOWER, REINBOLD, MICCICHE, COGHILL, KAWASAKI
04/01/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/01/19	(S)	Scheduled but Not Heard
04/03/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/03/19	(S)	Heard & Held
04/03/19	(S)	MINUTE(JUD)
04/03/19	(S)	JUD AT 6:00 PM BELTZ 105 (TSBldg)
04/03/19	(S)	Heard & Held
04/03/19	(S)	MINUTE(JUD)
04/15/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/15/19	(S)	Heard & Held
04/15/19	(S)	MINUTE(JUD)
04/17/19	(S)	JUD AT 6:00 PM BELTZ 105 (TSBldg)
04/17/19	(S)	-- MEETING CANCELED --
04/19/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/19/19	(S)	Heard & Held
04/19/19	(S)	MINUTE(JUD)
04/22/19	(S)	JUD AT 6:00 PM BELTZ 105 (TSBldg)

BILL: SB 33

SHORT TITLE: ARREST;RELEASE;SENTENCING;PROBATION
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/23/19	(S)	READ THE FIRST TIME - REFERRALS
01/23/19	(S)	STA, JUD, FIN
02/07/19	(S)	STA AT 3:30 PM BUTROVICH 205
02/07/19	(S)	Heard & Held
02/07/19	(S)	MINUTE(STA)
02/14/19	(S)	STA AT 3:30 PM BUTROVICH 205
02/14/19	(S)	Heard & Held
02/14/19	(S)	MINUTE(STA)

02/19/19 (S) STA AT 3:30 PM BUTROVICH 205
 02/19/19 (S) Heard & Held
 02/19/19 (S) MINUTE(STA)
 02/21/19 (S) STA AT 3:30 PM BUTROVICH 205
 02/21/19 (S) Heard & Held
 02/21/19 (S) MINUTE(STA)
 03/12/19 (S) STA AT 3:30 PM BUTROVICH 205
 03/12/19 (S) Heard & Held
 03/12/19 (S) MINUTE(STA)
 03/14/19 (S) STA AT 3:30 PM BUTROVICH 205
 03/14/19 (S) Heard & Held
 03/14/19 (S) MINUTE(STA)
 03/19/19 (S) STA AT 3:30 PM BUTROVICH 205
 03/19/19 (S) Moved CSSB 33(STA) Out of Committee
 03/19/19 (S) MINUTE(STA)
 03/20/19 (S) STA RPT CS 3DP 2AM NEW TITLE
 03/20/19 (S) DP: SHOWER, REINBOLD, MICCICHE
 03/20/19 (S) AM: COGHILL, KAWASAKI
 03/21/19 (S) STA AT 1:30 PM BUTROVICH 205
 03/21/19 (S) <Bill Hearing Canceled>
 03/25/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/25/19 (S) Heard & Held
 03/25/19 (S) MINUTE(JUD)
 04/19/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/19/19 (S) Heard & Held
 04/19/19 (S) MINUTE(JUD)
 04/22/19 (S) JUD AT 6:00 PM BELTZ 105 (TSBldg)

BILL: SB 34

SHORT TITLE: PROBATION; PAROLE; SENTENCES; CREDITS
 SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/23/19 (S) READ THE FIRST TIME - REFERRALS
 01/23/19 (S) STA, FIN
 02/07/19 (S) STA AT 3:30 PM BUTROVICH 205
 02/07/19 (S) Heard & Held
 02/07/19 (S) MINUTE(STA)
 02/11/19 (S) JUD REFERRAL ADDED AFTER STA
 02/12/19 (S) STA AT 3:30 PM BUTROVICH 205
 02/12/19 (S) Heard & Held
 02/12/19 (S) MINUTE(STA)
 02/14/19 (S) STA AT 3:30 PM BUTROVICH 205
 02/14/19 (S) Heard & Held
 02/14/19 (S) MINUTE(STA)
 02/19/19 (S) STA AT 3:30 PM BUTROVICH 205
 02/19/19 (S) Heard & Held
 02/19/19 (S) MINUTE(STA)

02/21/19 (S) STA AT 3:30 PM BUTROVICH 205
 02/21/19 (S) Heard & Held
 02/21/19 (S) MINUTE(STA)
 02/26/19 (S) STA AT 3:30 PM BUTROVICH 205
 02/26/19 (S) Heard & Held
 02/26/19 (S) MINUTE(STA)
 02/28/19 (S) STA AT 3:30 PM BUTROVICH 205
 02/28/19 (S) Moved CSSB 34(STA) Out of Committee
 02/28/19 (S) MINUTE(STA)
 03/01/19 (S) STA RPT CS 3DP 1DNP SAME TITLE
 03/01/19 (S) DP: SHOWER, REINBOLD, MICCICHE
 03/01/19 (S) DNP: COGHILL
 03/01/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/01/19 (S) Scheduled but Not Heard
 03/04/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/04/19 (S) Heard & Held
 03/04/19 (S) MINUTE(JUD)
 03/06/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/06/19 (S) Scheduled but Not Heard
 03/08/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/08/19 (S) Heard & Held
 03/08/19 (S) MINUTE(JUD)
 03/20/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/20/19 (S) <Bill Hearing Canceled>
 03/22/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/22/19 (S) <Bill Hearing Canceled>
 04/22/19 (S) JUD AT 6:00 PM BELTZ 105 (TSBldg)

BILL: SB 52

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG
 SPONSOR(s): MICCICHE

02/11/19 (S) READ THE FIRST TIME - REFERRALS
 02/11/19 (S) L&C, JUD, FIN
 03/26/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 03/26/19 (S) Heard & Held
 03/26/19 (S) MINUTE(L&C)
 03/28/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 03/28/19 (S) Heard & Held
 03/28/19 (S) MINUTE(L&C)
 04/02/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 04/02/19 (S) Heard & Held
 04/02/19 (S) MINUTE(L&C)
 04/04/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 04/04/19 (S) -- MEETING CANCELED --
 04/09/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 04/09/19 (S) Heard & Held

04/09/19 (S) MINUTE(L&C)
 04/11/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 04/11/19 (S) Heard & Held
 04/11/19 (S) MINUTE(L&C)
 04/16/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 04/16/19 (S) Moved CSSB 52(L&C) Out of Committee
 04/16/19 (S) MINUTE(L&C)
 04/17/19 (S) L&C RPT CS FORTHCOMING 4DP
 04/17/19 (S) DP: REINBOLD, COSTELLO, BIRCH, BISHOP
 04/17/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/17/19 (S) -- MEETING CANCELED --
 04/17/19 (S) JUD AT 6:00 PM BELTZ 105 (TSBldg)
 04/17/19 (S) -- MEETING CANCELED --
 04/19/19 (S) L&C CS RECEIVED SAME TITLE
 04/22/19 (S) JUD AT 6:00 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

BUDDY WHITT, Staff
 Senator Shelley Hughes
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented the changes in the proposed committee substitute (CS) for SB 33, Version U, on behalf of Chair Hughes.

JOHN SKIDMORE, Director
 Criminal Division
 Central Office
 Department of Law
 Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 33.

NANCY MEADE, General Counsel
 Administrative Offices
 Alaska Court System
 Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the hearing on SB 33.

REGINA LARGENT, Staff
 Senator Shelley Hughes
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Answered questions on the proposed committee substitute (CS) for SB 34, Version K, on behalf of Chair Hughes.

KACI SCHROEDER, Assistant Attorney General
Criminal Division
Central Office
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 34, Version K.

NANCY MEADE, General Counsel
Administrative Offices
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of SB 34.

JENNIFER WINKELMAN, Director
Division of Probation and Parole
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 34.

JEFF EDWARDS, Director
Parole Board
Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 34.

ANNA BRAWLEY, Title 4 Project Review Coordinator
and Senior Associate
Agnew Beck Consulting
Anchorage, Alaska

POSITION STATEMENT: Presented a PowerPoint on behalf of Senator Micciche, sponsor of SB 52.

EDRA MORLEDGE, Staff
Senator Peter Micciche
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented a sectional analysis on behalf of Senator Micciche, sponsor of SB 52.

ERIKA MCCONNELL, Director
Alcohol and Marijuana Control Office (AMCO)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 52.

TIFFANY HALL, Executive Director
Recover Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on SB 52.

ACTION NARRATIVE

[6:03:38 PM](#)

CHAIR SHELLEY HUGHES called the Senate Judiciary Standing Committee meeting to order at 6:03 p.m. Present at the call to order were Senators Reinbold, Kiehl, Micciche and Chair Hughes.

CHAIR HUGHES made opening remarks.

SJR 3-CONST. AM: MEMBERSHIP OF JUDICIAL COUNCIL

[6:05:11 PM](#)

CHAIR HUGHES announced that the first order of business would be SENATE JOINT RESOLUTION NO. 3, Proposing an amendment to the Constitution of the State of Alaska relating to the membership of the judicial council.

[6:05:29 PM](#)

SENATOR REINBOLD moved to report SJR 3, work order 31-LS0268\A, from committee with individual recommendations and attached fiscal note(s).

SENATOR KIEHL objected.

[6:05:42 PM](#)

A roll call vote was taken. Senators Micciche, Reinbold, and Hughes voted in favor of reporting SJR 3 from committee and Senator Kiehl voted against it. Therefore, SJR 3 moved from the Senate Judiciary Standing Committee by a 3:1 vote.

SJR 4-CONST. AM: STATE TAX; INTIATIVE

[6:06:15 PM](#)

CHAIR HUGHES announced that the next order of business would be SENATE JOINT RESOLUTION NO. 4, Proposing amendments to the Constitution of the State of Alaska prohibiting the establishment of, or increase to, a state tax without the

approval of the voters of the state; and relating to the initiative process.

[CSSJR 4(STA), Version U as amended, was before the committee.]

[6:08:06 PM](#)

SENATOR REINBOLD moved to report SJR 4, work order 31-GS1071\U as amended, from committee with individual recommendations and attached fiscal note.

SENATOR KIEHL objected.

[6:08:21 PM](#)

A roll call vote was taken. Senator Micciche, Reinbold, and Hughes voted in favor of reporting SJR 4, as amended, from committee and Senator Kiehl voted against it. Therefore, CSSJR 4(JUD) was reported from the Senate Judiciary Standing Committee by a 3:1 vote.

SB 33 -ARREST; RELEASE; SENTENCING; PROBATION

[6:08:51 PM](#)

CHAIR HUGHES announced that the next order of business would be SENATE BILL NO. 33, "An Act relating to pretrial release; relating to sentencing; relating to treatment program credit toward service of a sentence of imprisonment; relating to electronic monitoring; amending Rules 38.2 and 45(d), Alaska Rules of Criminal Procedure; and providing for an effective date."

[The committee adopted the work draft CSSB 33(JUD), Version U, on 4/19/19 and considered Amendments 1-6.]

[6:10:44 PM](#)

At-ease.

[6:11:50 PM](#)

SENATOR HUGHES reconvened the meeting and moved to adopt Amendment 7, work order 31-GS1030\U.7, Radford, 4/19/19.

Amendment 7

OFFERED IN THE SENATE

BY SENATOR HUGHES

TO: CSSB 33(JUD), Draft Version "U"

Page 10, line 3, following "if":
Insert ", before trial,"

SENATOR REINBOLD objected for discussion purposes.

[6:12:04 PM](#)

BUDDY WHITT, Staff, Senator Shelley Hughes, Alaska State Legislature, Juneau, presented the changes in the committee substitute (CS) for SB 33, Version U. He directed attention to page 10, Section 15 of SB 33, Version U. He explained that [subsection (d)] was added because several committee members recognized the importance of notifying victims when a defendant is released or discharged from a treatment program for noncompliance. He said the language specifies mandatory notification, but not that the notification pertains only to the pretrial phase. In response to Chair Hughes, he said that Kaci Schroeder, Department of Law (DOL), requested this language be added to indicate that mandatory notification pertains to defendants in the pretrial phase.

[6:13:16 PM](#)

SENATOR REINBOLD said she preferred the broader language, which would mean that the department would notify victims whenever a defendant is noncompliant. She said she will support Amendment 7. However, she said that she supports notification of noncompliance, whether it is the pretrial or post-trial phase.

CHAIR HUGHES clarified that ten years later, the DOL may not have the contact information for the victim even though the victim may consider the defendant as an offender [but the case is closed]. Therefore, notification is limited to the pretrial phase in this bill.

MR. WHITT offered his belief that the committee added victim notification in a previous crime bill related to the VINE [Victim Information and Notification Everyday] system. Further, victims have the ability to obtain protective orders, he said.

[6:15:13 PM](#)

JOHN SKIDMORE, Division Director, Criminal Division, Central Office, Department of Law, Anchorage, said that without the language in Amendment 7, the Department of Law would be responsible for providing victim notification not just when an offender is noncompliant for failing to complete treatment in a pretrial setting, but also while the offenders are in custody. This could pertain to actions that the DOL may not know about, he said. For example, it could apply to offenders who are

noncompliant during the period of probation or parole. Although the department is involved in probation matters, the DOL is not involved in parole violations since those violations would go to the Parole Board for consideration. Further, as previously noted, if treatment was continued beyond probation, the DOL would not have access to that information. Thus, it would be very difficult for the DOL to provide notification to victims for those timeframes. The department is not currently notifying victims of all probation and parole hearings, he said. If additional notification is added in this bill, the department would need to add a fiscal note to reflect its costs. Since the DOL should already be providing notification for pretrial activity, it does not need a fiscal note to reflect pretrial notification, he said.

[6:16:50 PM](#)

SENATOR REINBOLD asked if notification was added in another crime bill for the VINE system when offenders are discharged from a treatment program for noncompliance.

MR. SKIDMORE asked if she was asking whether VINE notifies victims when offenders are noncompliant with treatment programs.

MR. WHITT clarified that he merely referenced other victim notification items the committee has worked on. He explained that the VINE system is used when offenders are released from prison, not for those who are discharged from a treatment program. In this context, notification to victims is limited to offenders in the pretrial phase, he said. He did not intend to imply that the VINE system notifies victims when offenders are involuntarily discharged from a treatment program.

[6:18:02 PM](#)

SENATOR REINBOLD said she would support Amendment 7. She offered her belief that it would be helpful for victims to know if someone is discharged from treatment for noncompliance because the victim could be a target. It is also important to know the outcomes of programs since the state is investing money in them, she said.

MR. SKIDMORE replied that the department does not have a position on whether that type of notification should be done. However, the DOL may not be the appropriate entity to provide that type of notification if the committee chose to require it. Further, additional notification would have a fiscal impact for the department. He said he did not have an opinion on whether it is a good or bad idea.

CHAIR HUGHES related her understanding that the DOL already can provide notification to victims during the pretrial phase. She said the committee will continue to assess the victim notification process and, if necessary, add additional requirements for the parole and probation phases at some point.

SENATOR REINBOLD removed her objection.

There being no further objection, Amendment 7 was adopted.

[6:19:58 PM](#)

SENATOR HUGHES moved to adopt Amendment 8, work order 31-GS1030\U.8, Radford, 4/20/19.

AMENDMENT 8

OFFERED IN THE SENATE BY SENATOR HUGHES
TO: CSSB 33(JUD), Draft Version "U"

Page 1, line 10:

Delete "continue"

Insert ", the Department of Corrections, and the Department of Public Safety, make continued"

Page 15, line 7:

Delete "**may** [SHALL]"

Insert "shall"

Page 15, lines 8 - 12:

Delete "**all hearings except for trial and sentencings** [ARRAIGNMENT, PLEAS, AND NON-EVIDENTIARY BAIL REVIEWS IN TRAFFIC AND MISDEMEANOR CASES; AND INITIAL APPEARANCE HEARINGS, NON-EVIDENTIARY BAIL REVIEWS, AND NOT GUILTY PLEA ARRAIGNMENTS IN FELONY CASES]"

Insert "arraignment, pleas, and non-evidentiary bail reviews in traffic and misdemeanor cases; and initial appearance hearings, non-evidentiary bail reviews, and not guilty plea arraignments in felony cases"

Page 15, lines 13 - 14:

Delete "**However, with** [WITH]"

Insert "With"

Page 15, line 16, following "cases.":

Insert "The court may order a defendant to appear by contemporaneous two-way video conference at any other hearings."

SENATOR REINBOLD objected for discussion purposes.

MR. WHITT explained that the Department of Law (DOL) in conjunction with the Alaska Court System (ACS) requested the language in Amendment 8. These changes relate to videoconferencing for arraignments and pleas. The specific language would read, "It is the intent of the legislature that the Alaska Court System, the Department of Corrections, and the Department of Public Safety make continued efforts to find efficiencies in the criminal justice system and increase the use of contemporaneous two-way video conference for pretrial hearings whenever possible." He referred to the next change on page 15 of Section 25 to amend Court Rule 38.2(b). He reviewed the specific language. The effect would be to expand use of two-way video conferences for arraignment, pleas, and non-evidentiary bail reviews and not guilty plea arraignments in felony cases, unless otherwise ordered for cause stated by the presiding judge. With the defendant's consent, sentencings may be done by video conferences in traffic and misdemeanor cases, he said. The court may also order a defendant to appear by contemporaneous two-way video conference at any other hearings.

[6:22:26 PM](#)

SENATOR MICCICHE asked Mr. Whitt to clarify the terminology change from "may" to "shall."

MR. WHITT referred to page 15, line 7, and read, "In those court locations in which a contemporaneous two-way video conference system has been approved by the supreme court and has been installed, in custody defendants shall appear by way of [contemporaneous two way video conference]"

CHAIR HUGHES stated that the language would return to "shall."

[6:23:05 PM](#)

SENATOR REINBOLD expressed interest in another crime bill, SB 32, that also contains a court rule change. She asked for clarification on whether Court Rule 38.2 will require a two-thirds vote in the Senate for passage.

MR. SKIDMORE said the rule says that if the change is substantive, then a two-thirds vote is required. He said he believes this change would require a two-thirds majority vote but he would defer to Ms. Meade.

[6:24:25 PM](#)

NANCY MEADE, General Counsel, Administrative Offices, Alaska Court System, Anchorage, responded that this court rule change would require a two-thirds majority vote. She referred to page 18, lines 15-17, of Version K, which indicates that the court rules will only take effect if those sections receive a two-thirds majority vote from each body as required by the Constitution of the State of Alaska. In response to Senator Reinbold, she said that if sections that require a two-thirds majority vote do not receive it, those sections would not pass, but the remainder of the bill would become law.

SENATOR REINBOLD said she was glad to learn the rest of the bill would pass even if the substantive court rule sections did not.

SENATOR KIEHL related his understanding that Amendment 8 would amend Court Rule 38.2 and rename television to contemporaneous two-way video conference and would insert the provision that the court may order a defendant to appear by two-way video conference at any other hearings.

MS. MEADE confirmed that was the change to the court rule. She said that in SB 33, Sections 6-17 have the effect of reverting the language to what the criminal rule currently reads. However, it also adds that the court can order defendants to appear at more hearings by video conference, which was the intent of the bill sponsor, she said.

SENATOR KIEHL asked which other hearings would be included.

MS. MEADE answered that pretrial criminal hearings can be as simple as a status conference, but also include a number of other hearings that can occur before a trial, including pre-indictment hearings. She said that Amendment 8 would add flexibility for the court to avoid transporting defendants for non-substantive hearings. As previously mentioned, the Alaska Supreme Court is very interested in videoconferencing and this rule prompted the Alaska Court System to work with the Department of Law to develop language amenable to both the department and the court system.

[6:27:28 PM](#)

SENATOR REINBOLD asked whether the changes to Court Rule 38.2 were substantial enough to require a two-thirds majority vote.

MS. MEADE responded that it is not whether the change is substantial, but rather if the change is substantive or procedural. She said these court rules are procedural and for the legislature to change them requires a two-thirds majority vote. She offered her belief that the Legislative Legal Services attorney recognized that during the drafting process.

[6:29:29 PM](#)

SENATOR REINBOLD removed her objection.

There being no further objection, Amendment 8 was adopted.

[6:29:48 PM](#)

SENATOR REINBOLD moved to report the committee substitute (CS) for SB 33, work order 31-GS1030\U, Version U as amended, from committee with individual recommendations and attached fiscal note(s).

SENATOR KIEHL objected.

[6:30:09 PM](#)

A roll call vote was taken. Senators Reinbold, Micciche, and Hughes voted in favor of reporting the CSSB 33, Version U as amended, from committee and Senator Kiehl voted against it. Therefore, the CSSB 33(JUD) was reported from the Senate Judiciary Standing Committee by a 3:1 vote.

[6:30:47 PM](#)

At-ease.

SB 34-PROBATION; PAROLE; SENTENCES; CREDITS

[6:33:07 PM](#)

CHAIR HUGHES reconvened the meeting. She announced that the next order of business would be 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."

She noted there was a new committee substitute.

6:33:22 PM

SENATOR REINBOLD moved to adopt the proposed committee substitute (CS) for SB 34, labeled 31-GS1031\K, Radford, 4/22/19, Version K, as the working document.

CHAIR HUGHES objected for discussion purposes.

6:33:58 PM

At-ease.

CHAIR HUGHES reconvened the meeting.

6:35:11 PM

MR. WHITT reviewed the changes in the proposed committee substitute (CS) for SB 34, from Version U to K.

6:35:27 PM

REGINA LARGENT, Staff, Senator Shelley Hughes, Alaska State Legislature, Juneau, testifying on behalf of the Chair Hughes, introduced herself.

MR. WHITT reviewed the first change in the committee substitute for SB 34, Version K.

Title Changes: The following has been added to or removed from the title in order to conform to changes and added provisions;

- relating to restoration of a driver's license

6:35:39 PM

MR. WHITT reviewed Sections 4 and 5.

Sections 4 and 5: Amends AS 28.35.030(o) and AS 28.35.032(q) to allow the Department of Motor Vehicles to restore a person's revoked driver's license when 10 years have elapsed since the revocation and the person has not been convicted of any criminal offense during the intervening 10 years. A license revoked pursuant to a conviction of certain crimes against persons will not be eligible for restoration. (Page 3 Line 14 through Page 4, Line 21)

MR. WHITT explained that in current law if someone is convicted of a felony DUI and the person's license is revoked, even a minor infraction would result in a lifetime revocation.

CHAIR HUGHES asked the record to reflect that it was not a small thing to drive without a valid driver's license. She pointed out that this provision would raise the bar since a person convicted of a serious felony not related to driving could have his/her license restored. This provision would expand revocations to all criminal offenses but allow a reset with a 10-year clean record.

[6:38:09 PM](#)

SENATOR MICCICHE asked whether this would include misdemeanor offenses.

MR. WHITT said he did not hear the question.

CHAIR HUGHES related her understanding that this language currently includes misdemeanors and felonies.

CHAIR HUGHES directed attention to page 3, line 23 of Version K.

MR. SKIDMORE reviewed the language and said that it would broaden it from a driving-related criminal offense to any criminal offense. In further response, he answered that it would include misdemeanors and felonies.

SENATOR REINBOLD remarked that she considered this to be a big change since it would remove "driving-related" offenses. She said this causes her pause. She asked whether the administration supports this change.

MR. SKIDMORE said he was unsure if the administration has a position on this change and that it was not a change the Department of Law requested.

[6:42:00 PM](#)

CHAIR HUGHES related her understanding that the "clock gets set once for 10 years," so a person with a driving-related criminal offense cannot obtain a driver's license unless the person goes through the therapeutic court for a subsequent driving under the influence (DUI) offense.

She stated that she has a conflict of interest until SB 89, related to legislative ethics passes because she has [a family member who interacts with therapeutic courts]. She highlighted the concern that this remedies. She said that some clinic

providers indicated that offenders who attend therapeutic courts can have their licenses restored, but other offenders indicated the only way that they could have their driver's licenses restored would be to commit another DUI and have that offense referred to the therapeutic court. She remarked that is not a good option and this language would remedy it.

MR. WHITT emphasized that this would not eliminate the department's discretion. He directed attention to page 3, line 19, which states the department "may" restore a person's driver's license, but the person must meet certain thresholds. When a person's driver's license has been revoked due to a felony DUI or other crime, a ten-year time clock starts. At the end of ten years, the person would be eligible to apply, and the department would review the application, he said. However, the department may or may not restore the person's driver's license, he said. For example, a "bad actor" would not be issued a driver's license, he said.

[6:44:44 PM](#)

CHAIR HUGHES referred to page 3, line 20, which read "(A) the license has been revoked for a period of at least 10 years;" but on page 3, line 26 it also reads, "shall restore the driver's license if" and lists conditions that must be met.

[6:45:26 PM](#)

SENATOR MICCICHE related a scenario in which a person lost his/her driver's license and makes it to year nine without any criminal offense, but then shoots a moose whose antlers are just shy of the legal 50-inches. He offered his belief that this provision is a huge change since it does not limit it to felony. He offered his belief that this would be a major obstacle for people who have actually turned their lives around and are successful. He said he did not think he could support this language. In response to Chair Hughes, he offered his belief that it should not include misdemeanors and he would like to consider if some minor felonies should also be excluded. He said he preferred the previous language because it was "driving related" and this language relates to driver's privileges and broadening the range of offenses means it is no longer about driving. Further, the reason licenses are revoked is typically due to driving-related offenses. Although his goal is to never break the law, he could envision that he could accidentally take an under legal size bull moose, he said.

[6:47:18 PM](#)

SENATOR REINBOLD asked whether vehicle theft was a driving offense.

MR. SKIDMORE answered no.

[6:47:39 PM](#)

MR. WHITT clarified that in the scenario Senator Micciche mentioned related to a fish and wildlife violation, the individual would lose driver's license privileges for life with no recourse under current law. This language would pave the way for an individual to have his/her driving privileges reinstated. He recapped that if an individual's license was revoked for a period of ten years and the person committed a subsequent criminal offense, the person would lose his/her driver's license for life.

CHAIR HUGHES pointed out that it is limited to driving-related criminal offenses, which was Senator Micciche's point.

MR. WHITT said he understood the distinction.

[6:48:31 PM](#)

At-ease.

[6:54:23 PM](#)

CHAIR HUGHES reconvened the meeting.

[6:54:26 PM](#)

SENATOR MICCICHE moved to adopt Conceptual Amendment 1.

CHAIR HUGHES objected for discussion purposes.

SENATOR MICCICHE explained Conceptual Amendment 1. On page 3, line 22, after the word "a" add the language "driving-related criminal offense or felony."

CHAIR HUGHES removed her objection.

SENATOR REINBOLD objected in order to have the Department of Law provide the administration's view.

[6:55:33 PM](#)

SENATOR MICCICHE said should Conceptual Amendment 1 be adopted, the language on page 3, line 22 would now read: "the person has not been convicted of a driving-related criminal offense or felony in the 10 years preceding the request for restoration [of the license; and]"

MR. SKIDMORE acknowledged that the proposed wording made sense. He said that [Conceptual Amendment 1] would allow someone to get [his/her] driver's license back more easily. The elimination of the "driving-related" criminal offense made this more restrictive, he said.

SENATOR REINBOLD asked for further clarification on "easier to get [his/her] license back" and whether it was relative to the bill or to the amended amendment.

MR. SKIDMORE explained that under current law, when a person's driver's license is revoked, the driver's license can be restored if at least 10 years has passed, and the person has not been convicted of a criminal-related offense. Conceptual Amendment 1 would add to the "10 years has passed" but the person must not have committed a driving-related offense or a felony offense.

He referred to lines 16-18, "unless the revocation was ordered in a case in which the person was also convicted of a crime under AS 11.41.100 - 11.41.210, 11.41.280, 11.41.282, or a similar law in another jurisdiction ..." He said if a person was convicted of crimes listed in the language on lines 16-18, the person could not restore his/her driver's license but could under other circumstances. He explained the conduct that would disqualify a person would be conviction of another felony. It makes it clear restoration occurs after ten years and it also limits the categories of eligibility.

[6:58:15 PM](#)

REPRESENTATIVE JOSEPHSON joined the meeting.

[6:58:24 PM](#)

SENATOR REINBOLD asked who would be impacted by this language.

MR. SKIDMORE explained that this language would apply to a person who committed a felony DUI that did not harm someone. That person would be eligible to get their driver's license back after ten years as long as they didn't commit another driving-related offense or another felony, he said.

He said that this language, [Conceptual Amendment 1], would make it easier for an individual to restore his/her driver's license. This also supports what Chair Hughes mentioned, that some individuals who had committed felony DUIs and had their licenses revoked have had difficulty restoring their driving privileges

without going through the therapeutic court process. The language [in Conceptual Amendment 1] would give these individuals the ability to restore their licenses without going through the therapeutic court process.

[7:00:15 PM](#)

SENATOR REINBOLD asked whether the language on line 24 needed to be revised.

MR. SKIDMORE said no.

SENATOR REINBOLD emphasized that she wanted to be certain this will not impact the license revocation issue addressed during the Senate State Affairs Standing Committee meeting last week.

MR. SKIDMORE said that he was not present at the aforementioned meeting, so he was unsure of the effect.

[7:01:51 PM](#)

KACI SCHROEDER, Assistant Attorney General, Central Office, Criminal Division, Department of Law, Juneau, said that an amendment was passed in another crime bill, SB 32, to recriminalize driving with a license that had been canceled, suspended, or revoked. She answered that it could be considered a driving-related offense, which would make the person ineligible for license restoration and would restart the clock for another ten-year period.

[7:02:23 PM](#)

SENATOR REINBOLD asked whether Conceptual Amendment 1 would make it more difficult.

MS. SCHROEDER responded if the person committed a driving-related offense with a license that had been canceled, suspended, or revoked, the clock would restart. She offered her belief that it would be easier to restore the person's license than under current law.

CHAIR HUGHES said that a person entertaining the thought of committing another DUI in order to use the therapeutic court avenue for license restoration would not be a good outcome. She stated that staying clean for 10 years is a pretty good standard.

[7:03:16 PM](#)

SENATOR MICCICHE commented that he personally knows a pastor who has helped people turn their lives around. He said this license

issue is a major problem since people face permanent license revocation. He recapped that [Conceptual Amendment 1] would allow a 10-year reset so people whose records have been clean for a lengthy time can get back to driving. He offered his support for Conceptual Amendment 1.

CHAIR HUGHES removed her objection.

SENATOR REINBOLD objected to ask how many people this would impact and whether it would increase or decrease public safety.

MS. SCHROEDER said that she was unsure. She suggested that the Division of Motor Vehicles may have those figures. She said the people affected would not have any driving-related offense or felony offense in 10 years, essentially a ten-year streak of good behavior. It would allow them to restore their driver's licenses. She said the Department of Law (DOL) does not have any concerns, but it would not impact the department.

CHAIR HUGHES asked for further clarification that right now a misdemeanor would move them out of the ten-year period. She suggested that this language would make it tougher by adding the felony language.

MS. SCHROEDER said that the way she interprets the current statute, people whose licenses have been revoked for a 10-year period without incurring any new offenses would be eligible for license restoration. However, if these individuals commit any new offenses, they would incur a lifetime ban on their driving privileges. This provision would allow these individuals to have a new ten-year license revocation period. If they commit any crime, it would restart the clock for another 10 years, she said.

[7:06:11 PM](#)

SENATOR REINBOLD highlighted that current law imposes a lifetime ban and this language would reduce it dramatically to ten years.

SENATOR MICCICHE acknowledged this is one solution. He pointed out that many of the people whose licenses are revoked drive anyway. He said [Conceptual Amendment 1] would apply to "the best of the best." This language would apply to people who have a "squeaky clean record" who would otherwise be banned for life due to a single driving-related offense. This provision would apply to a small subset of people who had a felony DUI. It would give them a second chance, he said.

SENATOR REINBOLD stressed that this is important, emphasizing that she does not want to increase risks to the public. She recalled reading statistics that indicate people typically drive seven times with increased blood alcohol levels before they are charged with a DUI. Further, people are not charged with a felony DUI until their third DUI offense. She expressed concern that this policy change could increase risks to the public.

MS. SCHROEDER acknowledged that this type of conduct occurs without people being arrested. However, the department cannot comment on conduct that would not come to the DOL's attention, nor can it estimate how often that conduct occurs, she said. She characterized it as a policy call for the legislature to make. She said the DOL is comfortable with the requirement for a 10-year clean record. She noted that the recidivism rate after 10 years is very low.

CHAIR HUGHES related her understanding that the therapeutic court includes treatment and a requirement for ignition interlock devices. She asked whether the 10-year period would create a higher standard or be equivalent.

MS. SCHROEDER said that 10 years is a long time. The therapeutic court program allows offenders to obtain a limited license; however, she stated that licensing is not her area of expertise.

[7:10:41 PM](#)

NANCY MEADE, General Counsel, Administrative Offices, Alaska Court System, Anchorage, explained that people with a felony DUI are subject to a permanent license revocation. However, those in the therapeutic court may obtain limited licenses. They must be enrolled in the court, in compliance with all treatment, show proof of insurance, and use an ignition interlock device. If therapeutic court is not available, these individuals can ask the court for a hearing to obtain limited licensure, but they must prove they have been sober for 18 months.

She said that under current law, if 10 years has lapsed since sentencing and the offender has not been convicted of any driving-related criminal offense, the offender's driving privileges can be restored. She related her understanding that the issue being addressed is that some people are subsequently charged with driving with license suspended (DWLS), which disqualifies driving privileges for life. She said [Conceptual Amendment 1] would allow a person with a DWLS, as described, to restart the 10-year clock. If the person does not have any driving-related criminal offenses during a 10-year period, the

individual could get his/her license restored. She related that usually those with an alcohol problem will have committed another driving-related offense during that timeframe, which would disqualify them. She characterized this as opening an avenue to those who made a mistake early on.

7:13:00 PM

CHAIR HUGHES asked for further clarification that the shortest timeframe to obtain a limited license would be for those individuals who spend 18 months in therapeutic court with treatment.

MS. MEADE responded that limited licenses could be issued earlier than that since the law only requires them to "participate in therapeutic court."

CHAIR HUGHES offered her belief that this language creates a high standard since it requires people to have a clean record for 10 years.

7:13:36 PM

SENATOR REINBOLD asked whether a DUI offense would include alcohol, marijuana, and drugs.

MS. MEADE answered yes.

SENATOR REINBOLD explained that her concern is whether some of the 43 percent of misdemeanors that are dismissed are DUIs. This increases risk to the public, she said.

MS. MEADE said a person who has gone 10 years after a felony without incident can provide the state some assurance that he/she is upstanding enough to deserve a driver's license. She added that the language on lines 17 and 18 would disqualify those whose DUIs are affiliated with death or a serious assault. She said that language is stronger than current law.

7:15:21 PM

SENATOR MICCICHE offered his belief that the most important change is that it captures non-driving felony offenses. He said this captures many other crimes and makes it stricter. However, "for the best of the best" it resets the clock.

SENATOR REINBOLD commented that people might be confused about "incidents" and conviction. She offered her belief that many people who drink and drive are sneaky. She reiterated that 43 percent of misdemeanors are dismissed. She emphasized that the

bill says conviction. She stated that she would support Conceptual Amendment 1.

SENATOR REINBOLD removed her objection.

There being no further objection, Conceptual Amendment 1 was adopted.

[7:17:28 PM](#)

SENATOR MICCICHE moved to adopt Conceptual Amendment 2.

CHAIR HUGHES objected for discussion purposes.

SENATOR MICCICHE directed attention to page 4, line 18, after the word, "a" and before "criminal" add "driving-related." After the word offense, add "or felony."

He read the revised language on page 4, line 18: "[(2)] the person has not been convicted of a driving-related criminal offense or a felony in the 10 years preceding ..."

CHAIR HUGHES removed her objection.

SENATOR REINBOLD objected to ask for input from the Department of Law and the Alaska Court System.

[7:18:35 PM](#)

MR. SKIDMORE said that Conceptual Amendment 2 is a good amendment. It actually makes the law consistent since previously, the law was inconsistent between DUI and refusal.

SENATOR REINBOLD asked for further clarification that this language would amend Section 5 on page 4, lines 18-19 of the bill.

MR. SKIDMORE answered yes.

SENATOR REINBOLD noted that Nancy Meade, Alaska Court System, was agreeing by nodding her head.

SENATOR REINBOLD removed her objection.

There being no further objection, Conceptual Amendment 2 was adopted.

[7:20:11 PM](#)

MR. WHITT reviewed Section 6.

Section 6: Amends AS 33.05.020(h) to establish by regulation a program that front-loads earned compliance credits where probationers are presented with the total credits the probationer is eligible to maintain if the probationer is compliant with the conditions of probation. (Page 4 Line 22 through Page 5, Line 13)

MR. WHITT said Senator Micciche recommended this change.

[7:20:56 PM](#)

SENATOR REINBOLD asked for further clarification on Section 6.

SENATOR MICCICHE explained that SB 34 would reduce the amount from a one-to-one to one-third of the probation credits. He highlighted that this had strong support. During discussions on incentives, consideration was given to providing incentives for those who are "good for a while" and are fully compliant, and whether those probationers should be allowed to bank that compliance. Section 6 would allow those who are on probation to "bank" some of the credits. He said he learned that if offenders lose all of their compliance credits, they unravel and will exhibit non-compliant behavior. He recapped that this provision would reward offenders for doing "the best they can" and allow them to earn compliance credits if they meet the conditions of probation. He pointed out that the earned compliance credits have been reduced by 66 percent.

CHAIR HUGHES recalled one of her teachers once said that students come into class with an "A" and if they complete their assignments, they will keep the grade. In this instance, the person will not earn any more credit, but the individual will get to keep the time since it is front-loaded.

SENATOR MICCICHE said the probationers must still earn the credit. He said people learn that they will receive benefits for being compliant, which makes them more likely to exhibit good behavior.

[7:23:59 PM](#)

JENNIFER WINKELMAN, Director, Division of Probation and Parole, Department of Corrections, Juneau, said that front-loading earned compliance credit as explained by Senator Micciche will work. She said that "front-loading" means it is theirs to lose. She referred to it as similar to the statutory good time in current statute. Those in custody get one-third off for good

time but if they have any violations, they lose some of the earned-compliance credits.

SENATOR REINBOLD asked whether people would get out of jail sooner under this change.

MS. WINKELMAN answered no, since this provision would only apply to those on probation or parole.

SENATOR REINBOLD asked whether the person would get off probation earlier.

MS. WINKELMAN answered yes.

SENATOR MICCICHE disagreed. He said that the probationer previously received a day off for every day of compliance. This has been reduced to one-third of a day for each day of compliance. Thus, the person would get out later than before, he said.

SENATOR REINBOLD said that is different than front-loading compliance credits. She maintained the person would get out earlier.

MS. WINKELMAN responded that the probationer would "front-load" the compliance credit. Currently the probationer would get 30 days off for 30 days of good behavior. Under Section 6, the person would get one-third off, but the person would receive added time for non-compliance.

CHAIR HUGHES asked for further clarification that this change would not mean the person gets out a day earlier, by front-loading the credits. She related her understanding that as the days pass, the person would accrue compliance credits, but the person would not be released earlier.

MS. WINKELMAN answered yes.

[7:27:33 PM](#)

SENATOR REINBOLD said that she is frustrated because the bill contains many changes and she wanted to make sure that it does not have unintended consequences.

[7:28:30 PM](#)

SENATOR KIEHL asked about the mechanics of the credit in Section 6. He asked whether a parolee or probationer who follows all the

rules for a year then "messes up severely" could retain any of the front-loaded time.

SENATOR MICCICHE related a scenario in which a person was on probation for 90 days. Currently, the probationer would earn 30 days off for earned compliance credit. If the person messes up [and is considered non-compliant] for one day, the person would earn 29 days of earned compliance credit. If the person is non-compliant for 30 days, the person would have zero days of earned compliance credit, he said. He characterized it as an incentive with an expectation that the person will make it 90 days without any noncompliance and thus be off probation in 60 days. He explained that previously any non-compliance would result in a complete loss of earned-compliance credits. He agreed that this front-loads compliance credits, but the person would be off probation or parole in 60 days if compliant.

SENATOR KIEHL said that he struggles with the notion. He said he was unsure that people are thrilled with the way that good time currently works. He offered his belief that this would apply the same good time model for probationers, and he was hesitant to do so. He said that the science of behavior modification is to reward the behavior as it happens to build habits and behavioral change. He wondered whether front loading would reflect the best practice in terms of changing people's behavior.

CHAIR HUGHES offered that she has discussed good time with Ms. Winkelman, and they plan to review the definition of "good time," primarily for incarceration but it could extend to probation or parole. Currently, inmates earn good time by not doing something wrong, she said. However, she expressed interest in allowing good time to be earned by taking classes, obtaining training, or going through treatment. She indicated that an ongoing discussion will happen for good time.

[7:32:07 PM](#)

SENATOR REINBOLD offered her belief that this is a pretty important discussion. She acknowledged that the Department of Law and Department of Corrections seem to be comfortable with this section.

CHAIR HUGHES characterized it as an accounting process, but it does not get anyone out earlier.

[7:32:58 PM](#)

MR. WHITT said Section 7 and Section 20 coincide with one another.

Section 7: Amends AS 33.05.020(i) to exclude from eligibility in a program to earn compliance credits probationers who are on probation for felony crimes against a person, sex offense, unclassified felonies or for crimes involving domestic violence. (Page 5, Lines 14-21)

SENATOR REINBOLD referred to page 5, line 20, which read, "(4) a crime involving domestic violence, as defined in AS 18.66.990, that is an offense under AS 11.41." She asked whether this expands the category or if it replicates the language on lines 9-13, that are being deleted.

MR. SKIDMORE related his understanding the question is whether the change would alter the statute. He asked for further clarification on the specific cite in the bill.

SENATOR REINBOLD referred to the deleted language on page 5, lines 9-13. She said that Section 7, lines 14-21, makes changes. She asked for clarification on the changes.

MR. SKIDMORE said the language in the new subsection is inclusive of domestic violence (DV), but it is limited to DV under AS 11.41. In the language [on line 10], the DV is not limited to AS 11.41, he said.

SENATOR REINBOLD asked for further clarification since the language on line 10 requires treatment programs be completed.

[7:37:08 PM](#)

At-ease.

[7:42:42 PM](#)

CHAIR HUGHES reconvened the meeting.

[7:42:47 PM](#)

SENATOR MICCICHE made a motion to adopt Conceptual Amendment 3, on page 5, line 8, [after AS 33.30.013] to remove ";" and add paragraph (4) to read, "require that a probationer convicted of a crime involving domestic violence as defined in as 18.66.990 complete all treatment programs required as a condition of probation before discharge based on credits earned under this subsection." He said that he is removing "SEX OFFENSES AS DEFINED IN AS 12.63.100 OR".

CHAIR HUGHES objected for discussion purposes.

SENATOR REINBOLD said she wanted certainty that probationers will have access to treatment programs as a condition of probation.

There being no further objections, Conceptual Amendment 3 was adopted.

[7:44:41 PM](#)

MR. WHITT reviewed the language in Section 8, which was brought forth by Senator Shower.

Section 8: Amends AS 33.05.040(a) to remove ambiguity with respect to the duties of a probation officer clarifying that there is an affirmative duty to make a recommendation to the court either to revoke or to maintain probation. (Page 5 Line 22 through Page 7, Line 3)

MR. WHITT, in response to Chair Hughes, said that the Department of Corrections consulted with Ms. Largent.

MS. LARGENT stated that the department did not necessarily share the concern but found the language an appropriate remedy.

[7:46:23 PM](#)

SENATOR KIEHL asked whether Section 7 was discussed.

CHAIR HUGHES said it was wrapped up in an earlier discussion.

SENATOR KIEHL asked whether that language was in the original bill. He asked to focus on the reason to remove all crimes against a person and the difference in the types of domestic violence (DV) that would be eligible.

MR. WHITT asked for further clarification on the question.

SENATOR KIEHL said he understood the rationale used for unclassified felonies and sex offenders. However, he was unsure about removing all felony crimes against a person. He anticipated that a tremendous number of people would be released, and it is imperative to change their behavior once they were out of prison. He asked for further clarification on why DV crimes against a person are treated differently than those that are not, in terms of compliance credits.

MR. WHITT said he probably would be unable to answer the question fully. He related his understanding that Senator Reinbold wanted to add unclassified felonies and Senator Shower wanted the rest of the language. He said he could not speak to why Senator Shower wanted that language. He suggested the Department of Law could respond.

SENATOR REINBOLD deferred to Mr. Skidmore to explain the language on line 19, "a crime involving domestic violence, as defined in AS 18.66.990, that is an offense under AS 11.41." She asked whether this was more limited.

MR. SKIDMORE turned to page 5, Section 7 to answer Senator Kiehl's question. He explained that the original bill did not limit earned compliance credits in the manner that Version K uses. The original bill limited compliance credits only for sex offenses. That was expanded in the Senate State Affairs Standing Committee to include unclassified felonies, in addition to the sex offenses. He said he did not recall the discussion of crimes against a person under AS 11.41. He said that in addition to the sex crimes this would include assault, robbery, and crimes in which a person is injured rather than to property. He recalled that the previous committee did not want earned compliance credits to apply to those types of offenses.

He recalled that Senator Reinbold and Senator Kiehl had questions on page 5, line 20 of Version K, related to the crime of DV as it applies to crimes against a person. In addition to the felonies under AS 11.41, the DV crime against a person in [paragraph] (4) would be a low-level offense in the fourth degree. He said that would not include all sorts of other DV crimes such as criminal mischief or other types of DV crimes found throughout the statutes. He explained that this would only apply to those misdemeanor crimes in AS 11.41. The rationale for the distinction was a policy call. He reasoned that assault in the fourth degree, which deals with injury to a person, must have been deemed more significant than damage to property.

[7:52:56 PM](#)

SENATOR REINBOLD referred to lines 20-21, and read, "(4) a crime involving domestic violence, as defined in AS 18.66.990, that is an offense under AS 11.41." She said that AS 11.41 is a massive section of law.

MR. SKIDMORE said he was unsure whether the Department of Law or the administration took a position on the policy decisions the previous committee made, but the DOL will not take a position on

it here. He explained that the only crimes the DOL has taken a position on are sex crimes and unclassified felonies. This is not something the administration has sought or opposed, he said.

SENATOR REINBOLD suggested that Senator Shower may wish to weigh in on this provision.

7:54:18 PM

CHAIR HUGHES asked whether these crimes were more egregious ones.

MR. SKIDMORE explained that when the DOL considers prosecution of crimes, it tries to focus first on the crimes that are felonies and felonies against a person that are categorized in AS 11.41. This includes assault in the first degree and sexual abuse of a minor, which are more serious crimes.

7:55:40 PM

SENATOR KIEHL asked for references to the Senate State Affairs Standing Committee CS since he was not finding that language.

CHAIR HUGHES asked Mr. Whitt to explain. She recalled that this was discussed in the previous committee and decided to allow this committee to also address the issue.

7:55:50 PM

MR. WHITT pointed out two things. First, he read a request from Senator Shower's office, [not distributed to members]. It read: "a probationer may not be enrolled in the program, established under (h) of this section, if the probationer (1) is on probation or parole for a sex offense, or (2) is on probation or parole for felony crimes against a person or DV assault." He said Senator Shower indicated that this change would make it so that sex offenders, felons, and domestic violence perpetrators will not be eligible for earned credits while on parole or probation. This keeps the most violent people under the supervision of a probation officer longer.

He clarified that the change in proposed Section 7(i)(4) is a crime involving domestic violence, as defined in AS 18.66.990, that is an offense under AS 11.41. He emphasized that it does not say it is a felony offense. It would be any crime in AS 11.41, including crimes against a person. It would match up with DV crimes. He said that felony crimes are addressed in paragraph (3). It says: "a felony crime against a person under AS 11.41;" and this language would be for any crime coupled with a DV charge.

7:58:13 PM

SENATOR REINBOLD described AS 11.41 as "a pretty significant law."

MR. WHITT agreed that all crimes against a person are located in AS 11.41, including rapes, assaults, and murders. In further response to Senator Reinbold, he agreed that this language was not in the State Affairs CS.

SENATOR REINBOLD said she was not comfortable with the proposed language without clarification from the sponsor.

7:59:39 PM

SENATOR MICCICHE said he supports the language. He explained that this pertains to offenders who have served their prison time and are on probation. The language indicates that certain crimes are not eligible to earn compliance credits. He said that reviewing the types of crimes on the list led him to believe that this was the right way to proceed. Further, he said he thinks it fits well with the changes the committee made to other aspects of earned compliance credits. It basically indicates that offenders are not going to earn compliance credits if convicted of one of these crimes

CHAIR HUGHES commented that those offenders will serve 33 percent longer under the proposed language.

8:00:25 PM

SENATOR KIEHL related his understanding that the point of compliance is to change behavior. He said the containment model is used for sex offenders. He said that DV behaviors need to change. He was unsure the reason the only non-felony domestic violence would fall under misdemeanor assault as opposed to some of the other pretty significant crimes that are considered domestic violence. He said he would like to change the behavior of all of those who are committing abusive offenses so limiting it does not make sense to him.

SENATOR MICCICHE explained that the effect would be to essentially create cascading penalties, which was not previously done. He said this language indicates that an earned compliance program would result in a one-third credit unless the person has been convicted of certain crimes. Other discretionary measures also apply. For example, a person could still have his/her probation revoked. The probation system is still conditional. He characterized it as a staged approach. He said he thinks this

will drive compliance because very few people want to go back to prison.

[8:02:58 PM](#)

MR. WHITT clarified that the State Affairs CS addressed AS 33.05.020(i). It reads: "A probationer convicted of a sex offense, as defined in AS 12.63.100, may not be enrolled in the program established under (h) of this section." He said this amendment expands who may not be enrolled in the program.

MR. WHITT continued.

Section 10: Amends AS 33.16.090(a)(1)(D) & (E) by clarifying that where an offender is serving multiple sentences any consecutive or partially consecutive sentence to the primary crime is eligible for discretionary parole after serving $\frac{1}{4}$ of the sentence.
(Page 8, Lines 8-17)

MR. WHITT said that this language was requested by the DOL.

[8:04:37 PM](#)

SENATOR REINBOLD asked the department for an explanation.

MR. SKIDMORE said that Section 10, on page 8 clarifies that when an offender is serving multiple sentences that the consecutive or partially consecutive sentence to the primary crime is eligible for discretionary parole at one-quarter. He said that when the department has a case in which someone is charged with multiple crimes, the one-quarter should apply to the lower crimes instead of applying the same calculus to every crime for which the person is convicted. He said that this would help ensure that the person serves the larger portion of his/her sentence on the primary crime.

MR. WHITT deferred to Mr. Edwards to weigh in.

[8:06:25 PM](#)

JEFF EDWARDS, Director, Parole Board, Department of Corrections, Anchorage, said that Mr. Skidmore covered Section 10 pretty well. He directed attention to page 8, line 8, to subparagraph (D), that would establish the eligibility for discretionary parole. Subparagraph (E) offers some clarifying language that applies to those who do not earn statutory good time. The intention was they would not be eligible for discretionary parole, which seems logical, he said. This language also provides that any consecutive sentence that would disqualify a

person for good time would also make them ineligible for discretionary parole. He offered his belief that the intent was to omit the eligibility for early release on mandatory or discretionary parole.

[8:07:32 PM](#)

SENATOR REINBOLD asked for confirmation that the one-fourth reduction does not conflict with the important changes that were made in the Senate State Affairs Standing Committee.

MR. SKIDMORE responded that he did not believe any conflict exists.

[8:08:31 PM](#)

MR. WHITT turned to Section 20, to page 13, lines 21-28 and then reverted to Section 19. He said the conceptual amendment that was offered on page 5, for Section 6 would also be appropriate to offer in this section. It would conform the language in the two sections. Section 6 applies to probation and Section 19 applies to parole.

CHAIR HUGHES asked for further clarification of the cite.

MR. WHITT referred to [page 13,] line 15, and suggested it should delete the bracket and semi-colon and on line 16, [after "CONVICTED OF"] delete "A SEX OFFENSE AS DEFINED IN AS 12.63.100 OR". The language would read, "[3] require that a parolee convicted of a crime involving domestic violence complete all treatment programs required as a condition of parole before discharge based on credits earned under this section." He added that the bracket would be deleted at the end of line 20.

[8:10:28 PM](#)

At-ease.

[8:12:16 PM](#)

CHAIR HUGHES reconvened the meeting.

[8:12:21 PM](#)

SENATOR MICCICHE moved to adopt Conceptual Amendment 4, on page 13, lines 15. Delete ";" and on line 16 delete "(3)" which would become paragraph (4). In addition, delete "A SEX OFFENSE AS DEFINED IN AS 12.63.100 OR". After the phrase "notifying a victim under AS 33.30.013," the language would read: "(4) require that a parolee convicted of a crime involving domestic violence complete all treatment programs required as a condition

of parole before discharge based on credits earned under this section."

CHAIR HUGHES objected for discussion.

SENATOR REINBOLD asked for confirmation that this is a conforming amendment similar to ones in the other two sections.

CHAIR HUGHES answered yes.

CHAIR HUGHES removed her objection. There being no further objection, Conceptual Amendment 4 was adopted.

[8:14:07 PM](#)

CHAIR HUGHES noted that Senator Reinbold had a question for Mr. Skidmore related to a conflict that may exist regarding the one-fourth provision in Section 10.

[8:14:17 PM](#)

SENATOR REINBOLD referred to the explanation of changes for the committee substitute (CS) for SB 34 [the sectional analysis], which read:

Section 10: Amends AS 33.16.090(a)(1)(D) & (E) by clarifying that where an offender is serving multiple sentences any consecutive or partially consecutive sentence to the primary crime is eligible for discretionary parole after serving [one-fourth] of the sentence. (Page 8, Lines 8-17)

She expressed concern with the language "the primary crime is eligible for discretionary parole after serving [one-fourth] of the sentence." She recalled that language was changed [in Section 11] on page 8, line 25 of Version K, "has served the mandatory minimum term under AS 12.55.125(a) or (b), **one-half** [ONE-THIRD] of the active term of imprisonment ...". She asked whether any conflict exists throughout the bill since several changes have occurred.

MR. SKIDMORE said he did not immediately see any conflict in the section, but he would defer to Mr. Edwards.

[8:15:44 PM](#)

MR. EDWARDS responded that the reference in Section 11 turns to one-half for unclassified offenses and in Section 10 it is one-quarter for class B and class C felonies. He said the types of crimes are differentiated. He noted that Section 11 makes

unclassified felonies eligible at one-half [of the active term of imprisonment] for crimes such as murder in the first degree, murder in the second degree. The others would remain at one-quarter. He asked for confirmation that he was comparing the right sections.

CHAIR HUGHES agreed. She referred to page 8, lines 8-17, which relates to class B and C felonies whereas Section 11, lines 22-26, talks about [discretionary parole] for unclassified felonies.

MR. EDWARDS clarified the page and line number references were on page 8, lines 8-12 [of Section 10] and line 25 of Section 11.

CHAIR HUGHES asked for confirmation that he saw no conflict.

MR. EDWARDS said he did not see any conflict.

[8:17:19 PM](#)

SENATOR REINBOLD said she wanted assurance because these sections were definitely strengthened after multiple hours of discussion in terms of one-third versus one-half credit. She said that she still has pause with discretionary parole and she is thrilled with truth in sentencing in courts to be sure that people understand the eight ways people can get out of jail.

[8:18:35 PM](#)

MR. WHITT continued:

Section 24: Adds a new section of uncodified law requiring the Department of Corrections to develop a needs assessment of all rehabilitative services for each institution including but not limited to education, treatment, vocational education, secular and faith based, and pro social programs and provide a written report to the legislature by January 31, 2020.

[8:19:04 PM](#)

CHAIR HUGHES remarked that the needs assessment report is necessary as the committee and department work to possibly redefine good time. Further, it can help [with the goal] to incentivize those who are incarcerated to get up out of bed and not watch television or play cards but start applying themselves. It will help the legislature have a sense of the type of services available in the institutions throughout the state. This section would ask the Department of Corrections (DOC) for their wish list to help those incarcerated become

productive and improve themselves before they are let out of jail. This report would be available for that purpose, she said.

[8:19:59 PM](#)

SENATOR REINBOLD recalled that Chair Hughes mentioned she wanted to be sure that prisoners are active. She said this request appears to be a needs assessment and report. She said she has no idea whether this language ensures that prisoners obtain treatment. She said she was hoping that best practices were being used on the best programs available. However, this appears to develop an assessment of rehabilitative services.

CHAIR HUGHES responded that the DOC helped develop this language. She added that SB 33 has a provision that asks DOC to develop a matrix based on evidence-based best practices so the legislature can correlate inmate participation and lower recidivism. She acknowledged that [Section 24] is an assessment so the legislature can decide next year about ensuring the options are available. This changes the definition of good time to ensure that inmates must do things to improve themselves. The legislature wants to know what options are available at institutions. For example, she said that treatment programs are available at some institutions and not others. She pointed out that with the drug problem and associated crime, it is important to make treatment available to inmates to the greatest extent possible. The purpose here is to find out what is available at the institutions and address it further next year.

[8:22:25 PM](#)

SENATOR MICCICHE expressed an interest in continuing to take up the additional amendments in members' packets.

[8:22:37 PM](#)

SENATOR REINBOLD related her understanding that the DOC would develop an assessment of rehabilitation services available in each institution and to assess education, treatment, vocational education, secular and faith based, and pro social programs in the state by January 31, 2020. She asked whether this report would identify what is available or if it will identify what the DOC needs.

CHAIR HUGHES answered that the report would identify both what institutions have and what the department feels is appropriate at the various institutions. She mentioned that the department was already working on this, but this provision would make certain that it will be ready for the legislature.

[8:23:44 PM](#)

At-ease.

[8:27:13 PM](#)

CHAIR HUGHES reconvened the meeting.

[8:27:23 PM](#)

SENATOR KIEHL moved to adopt Conceptual Amendment Kiehl 1. He related that his amendments were prepared for a different version of the bill. He asked members to make two changes. On page 5, line 16, after, "for," add "unclassified" and on Page 13, line 23, after "for," to add "unclassified." Conceptual Amendment Kiehl 1 read as follows:

Page 4, line 23, through page 5, line 13:

Delete all material and insert:

"(h) The commissioner shall establish by regulation a program allowing probationers to earn credits for complying with the conditions of probation. The credits earned reduce the period of probation. Nothing in this subsection prohibits the department from recommending to the court the early discharge of the probationer as provided in AS 33.30. At a minimum, the regulations must

(1) require that a probationer earn **credit against the term of probation for compliance** [A CREDIT OF 30 DAYS FOR EACH 30-DAY PERIOD SERVED IN WHICH THE DEFENDANT COMPLIED] with the conditions of probation **and lose earned credit for violation of the conditions of probation;**

(2) include policies and procedures for

(A) calculating and tracking credits earned by probationers;

(B) reducing the probationer's period of probation based on credits earned by the probationer; and

(C) notifying a victim under AS 33.30.013;

(3) require that a probationer convicted of a [SEX OFFENSE AS DEFINED IN AS 12.63.100 OR A] crime involving domestic violence as defined in AS 18.66.990 complete all treatment programs required as a condition of probation before discharge based on credits earned under this subsection."

Page 5, line 16, following "for **unclassified** felony offenses":

Insert "a sex offense as defined in AS 12.63.100."

Page 5, lines 17 - 21:
Delete all material.

Page 12, line 29, through page 13, line 20:
Delete all material and insert:

"**Sec. 33.16.270. Earned compliance credits.** The commissioner shall establish by regulation a program allowing parolees to earn credits for complying with the conditions of parole. The earned compliance credits reduce the period of parole. Nothing in this section prohibits the department from recommending to the board the early discharge of the parolee as provided in this chapter. At a minimum, the regulations must

(1) require that a parolee earn credit against the period of parole for compliance [A CREDIT OF 30 DAYS FOR EACH 30-DAY PERIOD SERVED IN WHICH THE PAROLEE COMPLIED] with the conditions of parole and lose earned credit for violation of the conditions of probation;

(2) include policies and procedures for
(A) calculating and tracking credits earned by parolees;

(B) reducing the parolee's period of parole based on credits earned by the parolee; and

(C) notifying a victim under AS 33.30.013;

(3) require that a parolee convicted of a [SEX OFFENSE AS DEFINED IN AS 12.63.100 OR A] crime involving domestic violence complete all treatment programs required as a condition of parole before discharge based on credits earned under this section."

Page 13, line 23, following "for unclassified felony offenses":

Insert "a sex offense as defined in AS 12.63.100."

Page 13, lines 24 - 28:
Delete all material.

SENATOR MICCICHE objected for discussion purposes.

[8:28:19 PM](#)

SENATOR KIEHL explained that Conceptual Amendment Kiehl 1 would take a different approach to the compliance credits. He offered his belief that the system of compliance credits could use fine tuning and the expertise of the department. He said this conceptual amendment would instruct the department to create a program for compliance credits by regulation. He surmised that the DOC would use best practices and it would give the department the flexibility to tailor the compliance credits where they will do the most good. For example, if it is most important to focus on the first few months outside the institution, the DOC could front-load the credits. However, if it is most important to provide a steady stream of credits over time, the department could do that. He said that this would apply to probation and parole. The exclusions from eligibility would go back to unclassified felons and sex offenders. This would give the department the ability to work on behavior modification to get offenders back on the path to become successful members of society and not reoffending across the broadest range of people where it makes sense.

CHAIR HUGHES paused to removed her objection. Finding no further objection, the committee substitute (CS) for SB 34, work order 31-GS1031\K, Version K was adopted.

CHAIR HUGHES returned attention to Conceptual Amendment Kiehl 1 and asked Mr. Skidmore if the Department of Law supports it.

[8:30:58 PM](#)

MR. SKIDMORE said DOL does not support Conceptual Amendment Kiehl 1 because it provides for earned compliance credits to unclassified felonies.

SENATOR KIEHL clarified that Conceptual Amendment Kiehl 1 was adjusted to make "unclassified" felonies ineligible for earned compliance credits.

[8:32:08 PM](#)

SENATOR MICCICHE maintained his objection.

[8:32:10 PM](#)

A roll call vote was taken. Senator Kiehl voted in favor of Conceptual Amendment Kiel 1 and Senators Reinbold, Micciche, and Hughes voted against it. Therefore, Conceptual Amendment Kiehl 1 failed by a 1:3 vote.

[8:32:40 PM](#)

SENATOR KIEHL moved to adopt Conceptual Amendment Kiehl 2 that reads as follows:

Page 5, line 20, through page 7, line 1:

Delete all material and insert:

"* **Sec. 8.** AS 33.05.040(a) is amended to read:

(a) A probation officer shall

(1) furnish to each probationer under the supervision of the officer a written statement of the conditions of probation and shall instruct the probationer regarding the same;

(2) keep informed concerning the conduct and condition of each probationer under the supervision of the officer and shall report on the probationer to the court placing that person on probation;

(3) use all suitable methods, not inconsistent with the conditions imposed by the court, to aid probationers and to bring about improvements in their conduct and condition;

(4) keep records of the probation work, including administrative sanctions and incentives the probation officer imposes under AS 33.05.020(g), keep accurate and complete accounts of all money collected from persons under the supervision of the officer, give receipts for money collected and make at least monthly returns of it, make the reports to the court and the commissioner required by them, and perform other duties the court may direct;

(5) perform duties with respect to persons on parole as the commissioner shall request, and in that service shall be termed a parole officer;

(6) use administrative sanctions and incentives developed under AS 33.05.020(g) to respond to a probationer's negative and positive behavior, including responses to technical violations of conditions of probation, in a way that is intended to interrupt negative behavior in a swift, certain, and proportional manner and support progress with a recognition of positive behavior;

(7) upon determining that a probationer under the supervision of the officer meets the requirements of AS 12.55.090(g), **consider recommending** [RECOMMEND] to the court [AS SOON AS PRACTICABLE] that probation be terminated, and the probationer be discharged from probation;

(8) for each probationer who owes restitution and who is under the supervision of the officer, create a restitution payment schedule based on the probationer's income and ability to pay if the court has not already set a restitution payment schedule;

(9) accommodate the diligent efforts of each probationer to secure and maintain steady employment or to participate in educational courses or training programs when prescribing the times at which a probationer shall report;

(10) permit each probationer to travel in the state to make diligent efforts to secure and maintain steady employment or to participate in educational courses or training programs if the travel is not inconsistent with other terms and conditions of probation."

Page 14, line 30, through page 15, line 1:

Delete "[THE AVERAGE NUMBER OF SANCTIONS ISSUED UNDER AS 33.05.020(g) BEFORE A PETITION TO REVOKE PROBATION OR PAROLE IS FILED;]"

Insert "the average number of sanctions issued under AS 33.05.020(g) before a petition to revoke probation or parole is filed;"

Page 15, line 9:

Delete "12.55.100(a)(2)(H),"

Page 15, line 10:

Delete "AS 33.05.020(g), 33.05.080(1);"

Page 15, line 11:

Delete "33.16.180(8),"

Page 15, line 12:

Delete ", 33.16.900(2)"

SENATOR MICCICHE objected for discussion purposes.

SENATOR KIEHL explained that this relates to the system of administrative sanctions and incentives, so the department has swift "carrots and sticks" available. This administrative sanction and incentive program would regularize what testimony indicated was inconsistent across the state. This would provide quick, certain punishments for minor violations and still provide incentives and benefits for those who are doing the good

things that they need to do to get their lives turned around. They are not just marking time.

He said the department could implement this by regulation in order to fine tune the system of administrative sanctions and incentives to provide the most effective tool to assist inmates in turning their lives around, so they do not commit new crimes and create new victims.

CHAIR HUGHES asked Mr. Skidmore whether the Department of Law supports or opposes the amendment.

MR. SKIDMORE responded that administrative sanctions are handled by the Department of Corrections.

[8:34:39 PM](#)

MS. WINKELMAN said that the DOC does not want "a cookie cutter approach" to deal with offenders. Rather, they want to tailor the response to an offender's needs. Thus, the DOC opposes [Conceptual Amendment Kiehl 2].

[8:34:59 PM](#)

SENATOR MICCICHE maintained his objection.

[8:35:02 PM](#)

A roll call vote was taken. Senator Kiehl voted in favor of adopting Conceptual Amendment Kiehl 2 and Senators Reinbold, Micciche, and Hughes voted against it. Therefore, Conceptual Amendment Kiehl 2 failed by a 1:3 vote.

[8:35:22 PM](#)

SENATOR KIEHL moved to adopt Conceptual Amendment Kiehl 3:

Page 1, line 5, through page 2, line 4:
Delete all material.

Page 2, line 5:
Delete "**Sec. 2**"
Insert "**Section 1**"

Renumber the following bill sections accordingly.

Page 2, line 10:
Delete "[SUBJECT TO THE LIMITS SET OUT IN
AS 12.55.110]"
Insert "subject to the limits set out in
AS 12.55.110"

Page 2, line 19:

Delete "[SUBJECT TO THE LIMITS SET OUT IN AS 12.55.110]"

Insert "subject to the limits set out in AS 12.55.110"

Page 12, lines 4 - 27:

Delete all material.

Renumber the following bill sections accordingly.

Page 15, lines 9 - 10:

Delete "[PROBATIONERS AND PAROLEES ADMITTED SOLELY FOR A TECHNICAL VIOLATION;]"

Insert "probationers and parolees admitted solely for a technical violation;"

Page 15, lines 13 - 16:

Delete all material and insert:

"AS 12.55.100(a)(2)(H), 12.55.110(f); AS 33.05.020(g), 33.05.080(1); AS 33.16.090(b)(2), 33.16.100(f), 33.16.180(8), 33.16.210(b), and 33.16.900(2) are repealed."

Page 15, line 30:

Delete all material.

Renumber the following paragraphs accordingly.

Page 15, line 31:

Delete "sec. 2"

Insert "sec. 1"

Page 16, line 1:

Delete "sec. 10"

Insert "sec. 9"

Page 16, line 2:

Delete "sec. 11"

Insert "sec. 10"

Page 16, line 5:

Delete "sec. 3"

Insert "sec. 2"

Page 16, line 6:

Delete "sec. 6"
Insert "sec. 5"

Page 16, line 7:
Delete "sec. 7"
Insert "sec. 6"

Page 16, line 8:
Delete "sec. 8"
Insert "sec. 7"

Page 16, line 11:
Delete "sec. 9"
Insert "sec. 8"

Page 16, line 12:
Delete "sec. 13"
Insert "sec. 12"

Page 16, line 13:
Delete "sec. 14"
Insert "sec. 13"

Page 16, line 14:
Delete "sec. 15"
Insert "sec. 14"

Page 16, line 15:
Delete "sec. 16"
Insert "sec. 15"

Page 16, lines 16 - 17:
Delete all material.

Renumber the following paragraphs accordingly.

Page 16, line 18:
Delete "sec. 19"
Insert "sec. 16"

Page 16, line 19:
Delete "sec. 20"
Insert "sec. 17"

Page 16, line 20:
Delete "sec. 21"
Insert "sec. 18"

Page 16, line 21:
Delete "sec. 12"
Insert "sec. 11"

Page 16, line 22:
Delete "sec. 12"
Insert "sec. 11"

Page 16, line 24:
Delete "sec. 4"
Insert "sec. 3"

Page 16, line 25:
Delete "sec. 5"
Insert "sec. 4"

SENATOR MICCICHE objected for discussion purposes.

[8:35:40 PM](#)

SENATOR KIEHL said that this returns the technical violations. He explained that these are for the comparatively small violations by probationers and parolees that help ensure the effective and efficient administration of justice for those in under supervision. He said this would mean that the same level of resources would not be used for those who are late for an appointment as for ones who skip out on their supervision. He said this give the department the ability to scale what it does with technical violations.

CHAIR HUGHES asked Mr. Skidmore whether the Department of Law supports the amendment.

[8:37:19 PM](#)

MR. SKIDMORE responded that the department is vehemently opposed to this amendment. He said that technical violations for 3, 5, and 10-day caps did not end up being swift nor do they end up being proportional. It is a one-size-fits-all cookie cutter approach that line prosecutors resoundingly said was one of the most ineffective provisions in Senate Bill 91.

SENATOR MICCICHE maintained his objection.

[8:38:04 PM](#)

A roll call vote was taken. Senator Kiehl voted in favor of Conceptual Amendment Kiehl 3 and Senators Reinbold (via

teleconference), Micciche, and Hughes voted against it. Therefore, Conceptual Amendment Kiehl 3 failed by a 1:3 vote.

8:38:25 PM

SENATOR KIEHL moved to adopt Conceptual Amendment Kiehl 4:

Page 13, line 29 - page 14, line 1:

Delete all material and insert:

"* Sec. 21. AS 33.20.010(c) is amended to read:

(c) A prisoner is entitled to a good time deduction under (a) of this section for any time spent [UNDER ELECTRONIC MONITORING OR] in a residential program for treatment of alcohol or drug abuse under a prerelease furlough as provided in AS 33.30.101. A prisoner may not be awarded a good time deduction under (a) of this section for any period spent in a private residence or on electronic monitoring.

SENATOR MICCICHE objected for discussion purposes.

SENATOR KIEHL explained that Conceptual Amendment Kiehl 4 would apply to inpatient drug and alcohol abuse treatment. It is written such that no one can receive good time for going to their weekly appointment for drug and alcohol abuse treatment. This is limited to inpatient residential settings where freedom is restricted. This is an opportunity to create more incentives for people in such treatment programs. He pointed out specific language on line 7, "A prisoner may not be awarded a good time deduction ... in a private residence or on electronic monitoring." This language would ensure that this is specifically about inpatient treatment and the more intensive work to get people off of drugs and alcohol. He said that treatment can be critical in turning people around. He offered his belief that not providing a good time deduction makes it much more difficult to get people to be sober and productive members of society instead of addicted and much more likely to commit crimes.

MR. SKIDMORE said the DOL is opposed to Conceptual Amendment Kiehl 4 While he understands the sponsor's position, the administration has been opposed to offering good time except for anything other than a "hard bed."

SENATOR MICCICHE maintained his objection.

[8:40:27 PM](#)

A roll call vote was taken. Senator Kiehl voted in favor of Conceptual Amendment Kiel 4 and Senators Reinbold, Micciche, and Hughes voted against it. Therefore, Conceptual Amendment Kiehl 4 failed by a 1:3 vote.

[8:40:54 PM](#)

SENATOR KIEHL moved to adopt Conceptual Amendment Kiehl 5.

Page 15, line 10:

Delete "12.55.110(f),"

SENATOR MICCICHE objected for discussion purposes.

SENATOR KIEHL explained that this relates to a petition to revoke when someone has not completed treatment. He said that this would remove a section from the repealers and return an affirmative defense when someone cannot afford treatment or cannot get into a free treatment program despite good faith effort. He said that if someone is doing what they can to get into a treatment program but cannot afford it, it is imperative to make treatment available. He clarified that this amendment is not meant for someone who is slacking. He said that showing good faith is an affirmative defense and this language would restore that affirmative defense when someone faces a petition to revoke.

MR. SKIDMORE stated that the department does not have a position. He said that if someone is not able to pay, the DOL would not seek to revoke his/her probation.

SENATOR MICCICHE maintained his objection.

[8:42:55 PM](#)

A roll call vote was taken. Senator Kiehl voted in favor of Conceptual Amendment Kiehl 5 and Senators Reinbold (via teleconference), Micciche, and Hughes voted against it. Therefore, Conceptual Amendment Kiehl 5 failed by a 1:3 vote.

[8:43:28 PM](#)

SENATOR KIEHL said that Conceptual Amendment Kiehl 6 would not be offered since it was addressed in earlier discussions.

[8:43:56 PM](#)

At-ease.

[8:44:55 PM](#)

CHAIR HUGHES reconvened the meeting. She moved to adopt Amendment 7, work order 31-GS1031\K.4, Radford, 4/22/19.

AMENDMENT 7

OFFERED IN THE SENATE BY SENATOR HUGHES
TO: CSSB 34(JUD), Draft Version "K"

Page 8, line 13:

Delete "notwithstanding (b) (7) (C) of this section, a sentence"

Insert "a prisoner sentenced to a single sentence, including a consecutive or partially consecutive sentence,"

SENATOR REINBOLD objected for discussion purposes.

MR. WHITT explained that Amendment 7 pertains to Section 10 and was requested by the Department of Law. It addresses the potential confusion that can arise from the "notwithstanding" language and clarifies that this specific bar to discretionary parole applies to sentences which include consecutive sentences.

[8:46:38 PM](#)

MS. SCHROEDER explained this change would clarify the language in Section 10, page 8, lines 13-17. The department originally requested this language because of a potential conflict between the language in subsection (b) (7) (C) and Section 10. However, the DOL recognized it might add more confusion and decided to instead insert the language, "consecutive or partially consecutive sentence."

SENATOR REINBOLD removed her objection.

There being no further objection, Amendment 7 was adopted.

[8:47:59 PM](#)

CHAIR HUGHES stated that SB 34, Version K as amended, was before the committee.

[8:48:04 PM](#)

At-ease.

[8:49:42 PM](#)

CHAIR HUGHES reconvened the meeting.

8:49:48 PM

SENATOR REINBOLD commented that the bill has moved a little faster than she had envisioned. However, she said she was a strong believer in the crime bills as a crime package to improve public safety in the state. This bill would also help to ensure that the departments are working together to coordinate efforts to improve public safety. She said that Alaska is one of the most dangerous states in the nation. She said that she is a little uncomfortable moving the committee substitute at this pace. However, she heard the bill in the prior committee [Senate Labor and Commerce Standing Committee], so she is very comfortable with the overall bill. She offered her belief that this bill is a critical step in the right direction for law enforcement and to the DOL and DOC. She offered her support for the bill.

8:51:17 PM

SENATOR MICCICHE said that he supports the changes. He was uncomfortable with one section on the license return issue, but the committee worked together and fixed some minor issues in the drafting. He said that he is a "do pass."

8:51:54 PM

SENATOR KIEHL said that he appreciated the work on the DUI section, which was an issue he felt needed to be addressed. He said that on the whole, the bill has a lot of fiscal impact. He said it returns a lot of inconsistent administration of justice, which he believes is a recipe for bad administration. He offered his belief that it will be all fiscal note and no crime reduction. He said that he will object to moving the bill.

CHAIR HUGHES remarked that the public has expressed concern about offenders on the street, but when offenders are incarcerated the public does not have to be concerned about them committing crimes. She said when offenders are on probation or parole that it is incumbent to tighten the reins for the sake of the public. She said she will be a "yes" vote. She thinks that the state can achieve some of the things that people who supported Senate Bill 91 wanted to achieve and also improve public safety. She emphasized that the crime bills are a comprehensive package and the pieces fit together. She thinks that as work continues in the coming year that improvements in public safety will occur. She said that the pre-2014 data, prior to Senate Bill 91 showed that recidivism was dropping. She said she hoped that recidivism would continue to drop.

[8:54:36 PM](#)

SENATOR REINBOLD moved to report the committee substitute (CS) for SB 34, work order 31GS1031\K as amended, from committee with individual recommendations and attached fiscal note(s).

SENATOR KIEHL objected.

[8:55:04 PM](#)

A roll call vote was taken. Senators Reinbold, Micciche, and Hughes voted in favor of reporting the CSSB 34(JUD) from committee and Senator Kiehl voted against it. Therefore, the CSSB 34(JUD) was reported from the Senate Judiciary Standing Committee by a 3:1 vote.

CHAIR HUGHES asked the record to reflect that Legislative Legal Services has permission to make any technical and conforming changes necessary to implement the adopted amendments.

[8:55:46 PM](#)

At-ease.

SB 52-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

[9:00:09 PM](#)

CHAIR HUGHES reconvened the meeting and announced that the final order of business would be SENATE BILL NO. 32, "An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; relating to reports of involuntary commitment; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for an effective date."

[CSSB 52(L&C), Version S, was before the committee.]

[9:00:39 PM](#)

SENATOR MICCICHE, speaking as sponsor of SB 52, said that with all the focus on drugs and crime, the reality is that a very high proportion is related to alcohol. Some experts say that the percentage of alcohol-related crimes is in the high 90s. he said. He said SB 52 rewrites Title 4, which can be described as a 30-year accumulation of mistakes and a hodgepodge of corrections. He said the primary focus is on public safety, public health, industry, the Alcoholic Beverage Control Board (ABC Board), and legislative issues. This bill is the result of approximately 140 stakeholders working together. He noted that everyone has a different way of viewing the importance of

alcohol. The state supports the industry, which is the third largest taxpayer in the state, but representatives from public health and public safety ensure the right mix.

SENATOR MICCICHE, paraphrasing from the sponsor statement, stated the primary goals that stakeholders established as the foundation for developing recommendations:

- Promoting a fair business climate and protect public health and safety.
- Creating rational regulation for all tiers of the state's alcohol industry.
- Limiting youth access to alcohol.
- Promoting responsible alcohol use and reduce the harms of overconsumption
- Implementing change without negative impacts on businesses and responsible operators.

[9:02:38 PM](#)

CHAIR HUGHES referred to the April 22, 2019 PowerPoint in members' packets.

[9:02:56 PM](#)

EDRA MORLEDGE, Staff, Senator Peter Micciche, Alaska State Legislature, Juneau, stated that Ms. Anna Brawley would provide an overview of the bill. She offered to follow the PowerPoint presentation with broad strokes of the 21-page sectional analysis.

[9:03:46 PM](#)

ANNA BRAWLEY, Title 4 Project Review Coordinator and Senior Associate, Agnew Beck Consulting, Anchorage, began a PowerPoint, titled Alcoholic Beverage Control (ABC) Board Title 4 Review Project.

[9:04:00 PM](#)

MS. BRAWLEY turned to slide 2, "Goals of Title 4 Review Process." She stated that this process began in 2012 with the Alcoholic Beverage Control Board (ABC Board) recognizing that Title 4 needed improvements.

Goals of Title 4 Review Process

Promote a fair business climate and protect public health and safety.

1. Create rational regulation for all tiers of the state's alcohol industry.
2. Limit youth access to alcohol, while ensuring youth are not criminalized
3. Promote responsible alcohol use and reduce the harms of overconsumption.

Make Title 4 a clear and consistent legal framework.

1. Increase swiftness, proportionality and consistency of penalties.
2. Increase local law enforcement of Title 4.
3. Increase licensee accountability before the ABC Board for Title 4 violations.

MS. BRAWLEY turned to slide 3, which listed diverse stakeholder groups involved in the process.

Diverse Stakeholders:

- ABC Board, AMCO (staff)
- Public Safety and Law Enforcement
- Industry - Manufacturers - Wholesalers - Retailers
- Public Health - Recover Alaska - Department of Health and Social Services - Alaska Mental Health Trust Authority - Rasmuson Foundation
- Community Advocates • Local Governments

MS. BRAWLEY directed attention to the report in members' packets, "ALASKA TITLE 4 REVIEW FOR THE Alaska Alcoholic Beverage Control Board Recommendations for Statutory Change Updated February 2019." She noted she will refer to that report during this presentation.

[9:04:41 PM](#)

MS. BRAWLEY turned to slide 4, "Categories of Recommendations."

1. Alcohol Licenses, Permits and Trade Practices
2. Role and Functions of the ABC Board and Staff
3. Underage Drinking and Youth Access to Alcohol
4. Regulation of Internet Sales of Alcohol
5. Technical or Administrative Law Changes
6. Local Option Communities*

* Note: Local Option recommendations are documented in the report, but not included in SB 52. More comprehensive discussion of Local Option laws is needed in the future.

*Note: all section references current to CSSB 52 ver. B
4-19-19*

She explained that the categories of recommendations relate to the subcommittee process the stakeholders went through. She said the bill makes some technical changes to local option laws, but most were deferred to further discussion especially in rural communities. Several parts of Title 4 were not touched in SB 52.

9:05:30 PM

MS. BRAWLEY turned to slide 5, "RB-4 Board as Key Partner."

RB-4. ABC Board as Key Partner for Alcohol Education Efforts

- The ABC Board and AMCO would work with other agencies and organizations to develop a coordinated education plan about responsible alcohol use and applicable laws.
- Coordinate with Department of Health and Social Services and other agencies tasked with alcohol-related education.

Section 2, 04.06.075; Section 6, 04.06.0

She said that her presentation focuses on the high-level policy recommendations. One of the ways to be effective in enforcement is to work upstream and educate people about the laws and how to comply with them. One recommendation was to strengthen the Alcoholic Beverage Control Board's (ABC Board) role as a key partner in alcohol education. It is not meant to be in place of other alcohol education since it is specific to education about Title 4. This education would include outreach to local governments, the general public, and the alcohol industry. In response to Chair Hughes, she identified AMCO as the Alcohol & Marijuana Control Office.

9:06:29 PM

MS. BRAWLEY turned to slide 6, "Alaska's Liquor License System: Proposed Changes." This slide illustrated graphics for the manufacturing and wholesale tiers, which are included in the Title 4 Review Report Appendix.

Alaska's license system is based on the 3-tier system of alcohol regulation: separate entities manufacture, distribute, and sell alcohol to the public.

She stated that the next three slides give a broad overview of changes to the licensing system. The slides clarify which endorsements and permits are available for each license.

[9:07:17 PM](#)

CHAIR HUGHES reiterated the 3-tier system encompasses manufacture, distribution, and sales.

[9:07:32 PM](#)

MS. BRAWLEY turned to slide 7 "Alaska's Liquor License System: Proposed Changes." She said that this graphic is intended to illustrate how all the licenses work together. She indicated the changes to brewery retail, winery retail, and distillery retail. One recommendation in SB 52 is to split manufacturing licenses into a production license and what is commonly referred to as a tasting room would fall under a retail license that a manufacturer could hold. The concept of endorsement is new and is intended to give more flexibility for businesses and the ABC Board to consider different business models without creating another license type for that model.

[9:08:18 PM](#)

MS. BRAWLEY turned to slide 8, "Alaska's Liquor License System: Proposed Changes." This continues to illustrate the retail tier, including tourism licenses that tend to fall outside the population limits. Liquor licenses essentially are limited to a number of licenses that are available by community, but those that specifically serve visitors are outside those limits. A few license types are proposed for removal from Title 4, with the intent that they would be replaced by existing license types, including brewpub, bottling works, and public convenience, she said. Currently five types of manufacturing licenses exist, so this bill would also address the types of manufacturer's licenses. In response to Chair Hughes, she identified REPL as Restaurant or Eating Place License and directed attention to the left column on slide 7.

[9:09:30 PM](#)

MS. BRAWLEY turned to slide 9, "Proposed: More Retail Options for Manufacturers." This slide illustrates that most of the recommendations do not make changes to licenses. One exception is to manufacturers. Currently, a brewery license has a production function and a retail function. This bill proposes splitting those into two different license types. It would also give manufacturers the ability to obtain a retail license, not currently allowed except for brewpubs. This would include a bar license, the beverage dispensary license (BDL), a package store,

or any other retail license type. The establishments could retain their current retail license, which would have limited sales volume and limited hours.

[9:10:18 PM](#)

MS. BRAWLEY turned to slide 10, "Proposed Manufacturer Sales Limits." This illustrates the recommendation for each license type and matches what is currently in statute. She directed attention to the offsite sales limits for brewery and wine retail which was changed in the CSSB 52(L&C) adopted on April 19, 2019.

[9:10:42 PM](#)

MS. BRAWLEY turned to slide 11, "Proposed: Endorsements on Licenses."

Add endorsements to existing licenses, giving businesses more flexibility without creating more situation-specific license types.

Endorsements would allow sampling on premises, multiple bar rooms, deliveries by package stores, etc.
Section 10, 04.09.400; endorsements defined in 04.09.410 - .520

She explained that endorsements do not currently exist in Title 4, but it would be an "add on" to a license, similar to a tobacco endorsement for a business license or commercial driver's license endorsement. She stated that most of the endorsements in the bill take existing language from a license type, permit, or regulation and create an endorsement. She further explained that either expands the activities that are allowed under a license or it allows a larger physical premises, such as a golf course endorsement would allow serving alcohol on the course. Most of these changes relocate existing language, she said.

[9:11:33 PM](#)

MS. BRAWLEY turned to slide 12, "Proposed Endorsements."

- R-7A | Bowling Alley Endorsement
- R-7B | Package Store Shipping Endorsement
- R-7C | Package Store Delivery Endorsement
- R-7D | Package Store Re-Packaging Endorsement
- [M-2] Manufacturer Sampling Endorsement
- [R-1] Multiple Fixed Counter Endorsement
- [R-1] Hotel/Motel Endorsement

- [R-1] Large Resort Endorsement
- [R-3] Package Store Sampling Endorsement
- [M-1] Brewery Repackaging Endorsement
Section 10, 04.09.410 - .520

She noted the codes on the left side correspond to those in the report that reference specific recommendations.

[9:11:45 PM](#)

MS. BRAWLEY reviewed slide 13, "R-7 Standardize Permits."

- Unlike licenses, permits are typically issued for single events, on or off licensed premises.
- Define all permit types in statute, not just in regulation
- Fee for all permits is \$50 per event day
- Most permits listed are already in statute or regulation
- New permit: Tasting Event Permit, allowing a Package Store or Manufacturer to host an event on premises, in partnership with a BDL
Section 10, 04.09.600; permits defined in 04.09.610 - .690

She said most permits are time limited for a specific event and defined in regulation. The recommendation is to standardize them and have a standardized fee.

[9:12:14 PM](#)

MS. BRAWLEY reviewed slide 14, "Proposed Permits."

- R-7F | Beverage Dispensary Caterer's Permit (AS 04.11.230; 3 AAC 304.685)
- R-7G | Restaurant Caterer's Dining Permit (3 AAC 304.680)
- R-7H | Club Caterer's Permit (3 AAC 304.690)
- R-7I | Nonprofit Event Permit (AS 04.11.240)
- R-7J | Art Exhibit Permit (3 AAC 304.697)
- R-7K | Alcoholic Beverage Auction Permit (3 AAC 304.699)
- R-7L | Inventory Resale Permit (Retail Stock Sale License, AS 04.11.200)
- R-7M | Tasting Event Permit (proposed)
Section 10, 04.09.600; permits defined in 04.09.610 - .690

She noted they have statute or regulation references.

CHAIR HUGHES asked whether someone who obtained an endorsement would also need a permit for a specific event or if someone could get a permit without a license or endorsement.

MS. BRAWLEY answered that an endorsement must be used with a license. She clarified that some license types can get permits but a license is not necessarily required to use a permit. For example, a nonprofit organization that wants to hold a fundraiser could apply for a certain type of permit and it would not need a license.

[9:13:00 PM](#)

MS. BRAWLEY reviewed slide 15, "Population Limits: Current Title 4."

- Some license types are exempt from population limits: most exempt license types are designed to serve tourists and travelers, such as hotels or outdoor recreation lodges.
- They can be issued if other qualifications are met (ex: minimum number of hotel rooms).

She stated that population limits provide an important public health protection against an excessive density of licenses. These are set by communities. The graphic on slide 15 illustrates that a city within a borough would have two sets of licenses using a formula that looks at permanent residents. Some license types are exempt from population limits. For example, the formula for licenses for restaurants is based on one for every 1,500 residents in the community, but they are also set by type. The more types of licenses the more frequently the clock resets for the number of total licenses. It basically means that the more types of licenses a community has the more outlets for alcohol the community could potentially have even though each one is limited by population.

CHAIR HUGHES said that she resides in the fastest growing part of the state, although Palmer and Wasilla have fairly small city limits. She stated that much of commerce is located on the Wasilla side and it seems to explode during the summer as people head up the Parks Highway. She said she was not sure of the population, but it is a fraction of the number of people who come through Wasilla for services. She asked whether any accommodation is made for that situation since it would mean a small number of licenses if it is based on population even though they serve 100,000 people in the Mat-Su Borough and probably 30,000-40,000 people on a busy summer weekend.

[9:15:11 PM](#)

SENATOR MICCICHE acknowledged that Chair Hughes' issue is a lot like the one in his community. He said that Soldotna has 4,000 people until summer when 30,000 people arrive. He said that this

issue would be covered in more detail, but this bill would give some local options for communities to request additional licenses. He stated that city management from Soldotna and Kenai were involved in this process and they think they have found a healthy solution.

[9:15:59 PM](#)

CHAIR HUGHES said that the City and Borough of Juneau and the Municipality of Anchorage each have massive areas and use the population ratio, but it is different in the Kenai and the Mat-Su Boroughs that have towns with small populations.

MS. BRAWLEY said some things in current law recognize that reality. Some license types such as a bar license for a hotel is exempt from the population limits.

[9:16:40 PM](#)

MS. BRAWLEY reviewed slide 16, "Proposed: Convert Public Convenience Licenses and Applications."

Existing Public Convenience licenses would be converted to regular Restaurant or Eating Place Licenses (REPLs).

Applications that have been completed as of the bill's signing date would be converted to applications for regular REPLs and could be approved by the ABC Board outside the existing population limits.

Sections 165-166, Transition

She said that public convenience is not defined in statute, so the board lacks guidance. The petition process used by an applicant requires a certain number of signatures, but the board does not have a process to verify if they are valid since it is not involved in elections. She said a lot of procedural issues exist.

MS. BRAWLEY reviewed the three proposed replacements. First, the bill proposes converting public convenience licenses to REPLs, which allows transferability to a new location or owner, whereas public convenience licenses are not transferable. It would allow anyone going through the process to have their application converted to a full restaurant.

[9:17:47 PM](#)

MS. BRAWLEY turned to slide 17, "Proposed Seasonal REPL Tourism."

- Seasonal restaurant license
- Available in smaller communities (< 40,000 pop.)
- Same operating requirements and privileges as full-year restaurants (REPL)
- Number of licenses per community determined by formula:
5-year average of annual visitors/months in season =
Average monthly visitor population

(Residents + average monthly visitors) 1,500 =
Available Seasonal REP Tourism licenses

- Season defined as up to 6 months per year, in any combination
- Example: May through September + 1 winter month
Section 10, 04.09.350

MS. BRAWLEY said that second replacement would be to have a Seasonal REPL Tourism license with its own limit. This would be similar to a bar license BVL tourism license in existing statute and would be available in communities under 40,000 in population. It would have the same privileges as a full year restaurant, but it would operate seasonally. She said seasonally would be defined as up to six months per year although it does not have to be consecutive months. For example, it could be the summer months and a winter month, she said.

[9:18:18 PM](#)

MS. BRAWLEY reviewed slide 18, "Proposed: Local Government Petition for Additional Restaurant Licenses," which depicts a graphic flowchart that describes the process to apply for additional restaurant licenses. This would allow the city to petition the ABC Board for a certain number of licenses and use the 40,000 people traveling as justification. If approved, the city cannot petition again for more licenses for another three years. In the event the ABC Board denies the petition the city can reapply with a revised application.

[9:19:36 PM](#)

MS. BRAWLEY reviewed slide 19, "F-1. Adjust License Fees to Reflect Current ABC Budgetary Needs."

- Update license fees according to privileges and administrative costs of each, and collect sufficient revenue to cover the ABC Board's required activities:

- Administration of licenses & permits
- Education about Title 4 and related regulations
- Enforcement of Title 4 and related regulations
- ABC Board required to review license fees at least every 5 years.
- See Appendix, Table 2 of the Title 4 Review report for current license fees and proposed changes.
Section 6, 04.06.090; License fees throughout Section 10

MS. BRAWLEY said this is the first of several global changes to Title 4 that are intended to make it work better as a system. Many license fees have not been increased since 1980. Currently, a restaurant license to serve beer and wine is \$600. A recreational license is somewhere between \$400-\$800; and a bar license is \$2,500. The Alcohol & Marijuana Control Office (AMCO) is a receipts-funded agency. The amount of license fees it takes in for alcohol and marijuana sets its budget. This limits the amount of enforcement, education, and customer service it can provide. The recommendation is to increase the resources available to the agency, not just for enforcement but to provide proactive education, prevention, and working with licensees.

CHAIR HUGHES asked whether these are one-time fees and if the board charges fees for endorsements.

MS. BRAWLEY replied that all license fees are biennial so every two years the licenses must be renewed. She said that most endorsements have a \$200 fee that renews biennially. She said that the license fees are set in statute and the proposal is that the ABC Board would be required to review those fees at least every five years and make recommendations to the legislature with any proposed changes.

[9:21:38 PM](#)

SENATOR KIEHL asked whether all of the Alcohol & Marijuana Control Office's (AMCO) receipts are spent on AMCO.

MS. MORLEDGE deferred the question to Ms. McConnell.

[9:22:06 PM](#)

ERIKA MCCONNELL, Director, Alcohol and Marijuana Control Office (AMCO), Anchorage, said that in the last five years, AMCO has returned approximately \$280,000 to the general fund each year.

[9:22:35 PM](#)

MS. BRAWLEY directed members to the Title 4 Review Report, Appendix Table 2 for a table of all the current and proposed fees.

[9:22:51 PM](#)

MS. BRAWLEY turned to slide 20, "More Accountability for License Fees Allocated to Local Governments." One of the benefits of increasing license fees is that it not only raises revenue for the ABC Board and AMCO, but for local governments that receive an amount equal to the license fees collected in their jurisdiction. This varies year to year depending on the number of licenses and whether the license renewal is occurring in that year. She said that the recommendation in SB 52 is for municipalities to report on education activities related to Title 4. For example, the municipality would need to report to AMCO if it performed a routine inspection of a bar. This is designed to help share the burden of the licensing process and enforcement of licensees in those communities. She said the 2017 sunset audit of the ABC Board found that municipalities receiving these funds are not consistently reporting how those funds are used. She said it takes considerable work for local governments to review license applications, consider a protest, and hold public hearings.

CHAIR HUGHES asked whether any of the fees to keep Alcohol & Marijuana Control Office (AMCO) running are used for education or prevention or if the unused portion of the \$280,000 goes back to the general fund.

MS. MCCONNELL answered that AMCO has a local government specialist on staff whose main purpose is education for local governments and licensees. She offered her belief that the alcohol taxes are distributed in various ways. For example, some of the taxes are dispersed to the Department of Health and Social Services (DHSS) for education programs. She said this is not her area of expertise.

[9:25:24 PM](#)

SENATOR KIEHL said that his initial question was triggered by Ms. Brawley stating that the license fees define the AMCO budget. He corrected that by stating that the appropriation process sets the budget. He recalled some requests have been made for the authority to use more of its fees for enforcement. He said that some of these requests have not ended up in the staffing allocation. He asked the sponsor to provide at some point information on the obligations that municipalities have to provide education.

MS. MORLEDGE offered to do so.

[9:26:11 PM](#)

MS. BRAWLEY turned to slide 21, "Proposed: Regulate Trade Practices." She said the industry brought an issue to the stakeholders' attention, that Alaska is one of the only states without an equivalent state law to the federal law for illegal trade practices. She described these as essentially a set of anti-competitive practices that are illegal at the federal level. For example, situations in which a wholesaler or manufacturer may pressure a retailer to purchase their products and not their competitor's products. The bill proposes putting those into statute so they can be enforced at the state level. They are also not in federal law for beer, just for wine and spirits and this proposal would provide enforcement across the board. It would allow the board to create administrative penalties, recognizing these are business and not criminal issues.

[9:27:04 PM](#)

MS. BRAWLEY reviewed slide 22, "Regulate Internet Alcohol Sales.

INT-1. Winery Direct Shipment License

- Create a license available to all U.S. (including Alaska) wineries to ship orders of wine to Alaska customers.
- Prohibit other online sales of alcohol not under this license or the Package Store Shipping endorsement.

INT-2. Collect Alaska Excise Tax for Internet Sales

- Require all out-of-state holders of a Winery Direct Shipment license to pay the same excise tax on Alaska orders.

INT-3. Board Approval of Common Carriers for Alcohol Delivery

Require all common carriers who transport deliver alcohol directly to consumers in Alaska to be approved by ABC Board

Section 10, 04.09.360; section 87, 04.16.022

She said the next few slides address another absence in Alaska law, which is to regulate Internet alcohol sales. She explained that currently, anyone can go online in Alaska and purchase alcohol, even in a local option community or if they are underage. Neither AMCO nor public safety would be aware of these purchases. She said this would be addressed in three parts. First, the winery direct shipment license, which is addressed in

the next slide. Second, it would allow the Department of Revenue to collect Alaska Alcohol Excise Tax for Internet sales from out of state sellers to consumers. Third, it would regulate common carriers to ensure that any alcohol being delivered is done so responsibly to consumers.

[9:28:01 PM](#)

MS. BRAWLEY turned to slide 23, "Regulate Internet Alcohol Sales."

- Alaska does not limit online sales of alcohol. Orders from out-of-state businesses are not subject to Alaska's alcohol excise tax, and the state cannot track how much alcohol is ordered each year.
- The bill would create a Winery Direct Shipment License and allow online alcohol sales only from U.S. wineries and Alaska package stores.

She said that this system is modeled on one used in 43 or 44 states. This would allow a winery to ship to a customer. The winery would be responsible for ensuring that the person is of age, not in a local option area, and be limited to the amount of personal use alcohol that could be ordered annually. She said Idaho has 780 registered customers for wine and cider. She commented that wineries are accustomed to using this type of system.

[9:28:51 PM](#)

MS. BRAWLEY turned to slide 24, "Regulate Internet Alcohol Sales."

- Common carriers must be approved by the ABC Board to transport and deliver alcohol to consumers throughout the state.
- Carriers must demonstrate that they have policies and train employees to properly handle shipments of alcohol.

She said the third way Internet sales are regulated is by approving common carriers. The stakeholder group worked with FedEx and UPS [United Parcel Service]. These services do not allow shipment of beer and spirits from commercial sellers. This is in line with the system being used in many other states.

[9:29:33 PM](#)

MS. BRAWLEY turned to slide 25, "Tracking Alcohol Orders in Local Option Areas: *Current Title 4.*"

Residents in Local Option communities that allow importation of alcohol may order a limited amount of alcohol each month for personal and non-commercial use.

Sections 7-8, 04.06.095; monthly limits defined in AS 04.11.01

She said that the Winery Direct Shipment license would not allow shipment to local option areas, but this is already allowed for Alaska package stores. She said the ABC Board maintains a database of these orders to ensure that someone is not a restricted purchaser, that the individual has not met his/her monthly limit and that the sale is legal in the community.

[9:30:12 PM](#)

MS. BRAWLEY turned to slide 26, "Public Community-Level Data from Local Option Order Database."

- In current Title 4, all data in the Local Option order database is private and deleted after 1 year.
- The bill would keep individual order information private but retain aggregate data for 10 years and allow the ABC Board to publish annual total sales volume by region or community.
- This valuable information would be available to communities and law enforcement to understand the flow of alcohol into Local Option communities via legal sales.

Sections 7-8, 04.06.095; monthly limits defined in AS 04.11.010

[9:30:51 PM](#)

MS. BRAWLEY turned to slide 27, "RB - 6 Revise Title 4 Penalties."

- Review penalties for all Title 4 sections and revise as needed to make penalties proportionate to the offense, and more consistently enforced.

- Retain existing Misdemeanor and Felony charges for serious offenses, particularly those causing harm to children.
- Ensure that the ABC Board, and licensee, is informed about Title 4 convictions: require court to send records to AMCO, and AMCO to send to the licensee.
- ABC Board retains authority to impose conditions or additional penalties, including suspending or revoking license.
- See Appendix, Table 3 in Title 4 Review Report for table of all current penalties and proposed changes.

Defined throughout; most prohibited acts defined in chapters 11 + 16

She related that this last set of global changes to Title 4 would address penalties. Currently almost everything in Title 4 is a class A misdemeanor. The stakeholder group recommended keeping any serious felonies or misdemeanor under current law, but to make business-related violations or non-compliance minor offenses. She said that this would make enforcement more automatic and retain the ABC Board to take action against a licensee. For example, the board could take action and revoke, suspend, or otherwise take action if a licensee had a stack of violations. In response to Chair Hughes, she clarified that unless otherwise defined the penalties would be a class A misdemeanor.

[9:32:48 PM](#)

MS. BRAWLEY referred to the Title 4 Review Report and to a list of all the sections under current law with a penalty.

CHAIR HUGHES asked the sponsor whether penalties were considered in the prior committees and if the penalty provisions were previously vetted.

SENATOR MICCICHE responded that this bill came before the Senate Judiciary Standing Committee last year. He explained that the bill would retain misdemeanor and felony charges for serious crimes, but minor violations were not being prosecuted. The bill would separate minor technical issues as violations and retain misdemeanor and felony charges for the more serious offenses, such as serving children. He offered to review the details but suggested that the logic will become apparent.

CHAIR HUGHES suggested that it might be helpful to have a cheat sheet to identify violations, misdemeanors, and felonies.

MS. MORLEDGE directed attention to page 68 of the Title 4 Review Report in members' packets, to a six-page cheat sheet of current law and the proposed changes.

[9:35:09 PM](#)

MS. BRAWLEY turned to slide 28, "Why change penalties in Title 4?" Two pie charts on this slide illustrate Title 4 charges, including that 38 percent of all Title 4 charges between the years 2009-2013 were dismissed and 62 percent resulted in convictions. The second pie charge lists the total number of minor consuming alcohol cases between the years 2009-2013 at 16,357 and all other Title 4 cases numbered 5,457.

Prosecutors were dismissing MCA charges; penalties were seen as too high for the offense, or not worth the resources.

Violations of other sections of Title 4 are rare. AMCO has very limited enforcement resources to inspect 1,900 establishments statewide.

She reiterated that the rationale for changing penalties is that they are not proportional to the offense. The state has 1,900 alcohol licenses and AMCO has limited resources to conduct inspections. She explained that if violations are not documented, it would not come to the ABC Board's attention, so this is an opportunity to close that communication loop. This would allow the board to take action when issues arise on premises, she said.

[9:35:48 PM](#)

CHAIR HUGHES asked whether AMCO pursues misdemeanors and felonies or is limited to violations. She asked whether they need to bring in other law enforcement.

[9:36:10 PM](#)

ERIKA MCCONNELL, Director, Alcohol and Marijuana Control Office (AMCO), Anchorage, Alaska, said statute gives AMCO and its employees the authority to criminally enforce these statutes.

[9:36:30 PM](#)

MS. BRAWLEY turned to slide 29, "Revise Penalties."

- In current law, almost all violations of Title 4 are class A misdemeanors.

- When penalties are set high across the board and perceived to be too strict for most offenses, law enforcement is less likely to issue citations and courts are less likely to pursue those cases.
- In the bill, many penalties would become minor offenses. Serious violations, such as selling alcohol without a license, allowing gambling on the premises, or perjury on a license application would remain misdemeanors or felonies, as they are today.

Defined throughout; most prohibited acts defined in chapters 11 + 16

She said that the slide also provides some examples of violations, misdemeanors, and felonies. As Ms. Morledge mentioned, the table in the back of the report gives more detail, she said.

[9:36:48 PM](#)

MS. BRAWLEY turned to slide 30, "Proposed: Licensee Penalties for Overserving an Adult or serving a minor."

In current Title 4, a licensee or employee who knowingly overserves an intoxicated adult or who serves alcohol to a minor is guilty of a class A misdemeanor.

The bill would change the penalty for both statutes to minor offense, with a \$500 fine.

In addition to the penalty to the person who commits the violation, the owner of the license would receive an administrative (non-criminal) penalty of \$250. This alerts the owner that a violation occurred, holds them immediately accountable, and encourages future compliance.

Section 89, 04.16.030; section 101, 04.16.052; sections 124 - 126, 04.16.180

She said the goal is to ensure that not only are servers following the law, but also that the licensees are aware of what is happening on their premises and actively involved in addressing any issues. She said that currently licensees are held accountable during the license renewal process or can be

brought before the board for egregious violations on an emergency basis. She acknowledged that the manager might not disclose that the premise was ticketed. The bill would also recommend administrative penalties for overserving or serving alcohol to a minor, including an automatic \$250 fine.

SENATOR MICCICHE stated the penalty for knowingly serving alcohol to a minor would be increased to a class A misdemeanor.

[9:38:24 PM](#)

MS. BRAWLEY turned to slide 31, "Proposed: Require Keg Registration."

- Reduces adults' incentive to legally purchase alcohol and supply an underage drinking party.
- Kegs tagged with the purchaser's contact information can be tracked if confiscated at an underage party or other situation where minors are given access to alcohol.
- A person, not a licensee, possessing an untagged keg containing alcohol could be fined.
- Modeled on existing Anchorage and Juneau ordinances.
Section 131, 04.21.012

She emphasized this relates to public health and public safety since it addresses adults legally purchasing alcohol and providing it to minors. She said that keg registration is a best practice and is already in place in the City and Borough of Juneau and the Municipality of Anchorage. She described the registration process used when the adult purchases the keg, and if it is not found in an illegal gathering, no issue would arise. However, if the keg was confiscated, it could be traced to the person who purchased it. She said this helps to close the loophole on what is known as "social hosts" when adults provide alcohol to minors.

[9:40:22 PM](#)

MS. MORLEDGE, in response to Chair Hughes, agreed that the sectional analysis for SB 52 is 21 pages.

CHAIR HUGHES directed attention to a two-page summary in members' packets titled, "Sectional Summary, SB 52: Alcoholic Beverage Control; Alcohol Regulations."

[9:40:54 PM](#)

SENATOR MICCICHE pointed out that SB 52 is a 119-page bill. He said the vast majority of the bill reorganizes Title 4.

CHAIR HUGHES said that the long sectional analysis is color-coded, which is helpful to assist members in navigating the changes to Title 4.

[9:42:00 PM](#)

MS. MORLEDGE provided a brief sectional analysis of SB 52. She said Sections 1-9, pages 1-5 of SB 52, set out the authority and duties of the ABC Board. It also includes a requirement for education plans, budget resources, enforcement, training, and prevention. She said it also requires them to post FASD [Fetal Alcohol Syndrome] information online. It also includes a provision for the statewide database Ms. Brawley mentioned.

[9:43:00 PM](#)

MS. MORLEDGE said that the licensing reorganization is in new Chapter 9 of Title 4. Several articles address endorsements, licenses, and permits. It sets fees, and penalties for non-compliance. She pointed out it addresses three manufacturer's licenses, including brewery, winery, and distillery. It also covers two wholesale licenses, including general and limited wholesale of brewed beverages and wine. She indicated that there are 17 retail licenses.

[9:43:50 PM](#)

MS. MORLEDGE said that SB 52 would provide 12 types of endorsements, and Article 6 covers permits. SB 52 has nine permits. Article 7 covers the common carrier approval process.

[9:44:08 PM](#)

MS. MORLEDGE referred Chapter 11, Sections 11-80, (pages 50-83) pertaining to Title 4 licensing. These sections also provide for the winery direct shipment license exemption from the application and renewal process. This chapter relates to imposing restrictions or conditions on licenses, endorsements, permits, population limits, and prohibited financial interests. It adds penalties throughout and reorganizes and renumbers various sections.

[9:44:51 PM](#)

MS. MORLEDGE turned to Chapter 16, Sections 81-130 (pages 83-100) relating to regulation of sales and distribution and prohibited acts. This allows a person to be on a licensed premises off hours to conduct business, such as restocking or maintenance. It aligns state law with federal law regarding

illegal trade practices. It also adds penalties throughout. Further, it includes the prohibition of online sales unless the licensee has a winery direct shipment license or a package store shipment license.

[9:45:32 PM](#)

MS. MORLEDGE turned to Chapter 21, Sections 131-145, (pages 100-107). These sections provide general provisions, including sections related to the statewide keg registration program, provisions relating to alcohol server education, and it provides penalties throughout the chapter. It reorganizes and renumbers existing statutes and provides definitions.

[9:45:57 PM](#)

MS. MORLEDGE turned to Chapter 21, Sections 146-157 (pages 108-113). She said that these are changes to other titles to amend statutory references to the new license types. In response to Senator Micciche, she reiterated the Sections are 146-157. This chapter also allows the Department of Revenue (DOR) to collect an excise tax pertaining to the winery direct shipment license.

[9:46:36 PM](#)

MS. MORLEDGE turned to Sections 158-170 (pages 114-119), which includes the transition language and effective dates.

[9:46:48 PM](#)

CHAIR HUGHES asked whether she could highlight the things that are brand new. For example, she recalled that the winery direct shipment license is new.

MS. MORLEDGE deferred to Ms. Brawley.

MS. BRAWLEY responded that in terms of license types and endorsements [the winery direct shipment license] is new. She turned to page 2 and said that the package store sampling endorsement and the package store sampling endorsements are new. She related that under permits, the tasting event permit for package stores would allow them to hold events on their premises. She reiterated that the illegal trade practice provisions are also new.

[9:48:18 PM](#)

SENATOR MICCICHE said that Alaskan business owners collect taxes on everything they sell. This bill would also level the playing field to support Alaska businesses. Not only will hard liquor no longer be able to be purchased out-of-state, but it will be taxed.

[9:49:20 PM](#)

SENATOR KIEHL asked whether the committee could run through the changes that were made by the Senate Labor and Commerce Standing Committee to the original bill.

CHAIR HUGHES said she would plan that for the next hearing on SB 52. She noted that she previously served on the Recover Alaska group.

[9:50:20 PM](#)

TIFFANY HALL, Executive Director, Recover Alaska, said that she is a lifelong Alaskan. She has served as the Executive Director of Recover Alaska for about three and a half years. She said that her organization has been working on this bill for over seven years. She said over 120 stakeholders and thousands of hours have been put in, largely with a focus to improve the legislation and make it easier to follow. It also emphasizes public health and safety. She highlighted that this bill is evidence-based on best practices that have been in place throughout the rest of the country. She emphasized some important aspects of the bill, including the statewide keg registration, increased license fees to allow for compliance checks. She related that data has shown that underage minors can order online and receive alcohol, so Internet sales regulation of alcohol is important. She said that Recover Alaska works to reduce excessive alcohol use in homes across the state. She said that her organization is not a prohibitionist organization. She recognized that low risk drinking in moderation occurs. This process has allowed her to become familiar with members in the alcohol industry and work together on issues. As a result of this work, other partnerships have been formed outside of this effort, she said. She expressed gratitude to be part of the process.

[9:52:40 PM](#)

CHAIR HUGHES said that SB 52 would be held in committee.

[9:53:21 PM](#)

There being no further business to come before the committee, Chair Hughes adjourned the Senate Judiciary Standing Committee meeting at 9:53 p.m.