

**ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE**

February 20, 2020

3:30 p.m.

MEMBERS PRESENT

Senator Joshua Revak, Chair
Senator John Coghill, Vice Chair
Senator Mia Costello
Senator Scott Kawasaki
Senator David Wilson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Alaska Police Standards Council
Ed Mercer - Juneau
Joseph White - Ketchikan
Jennifer Winkelman - Juneau
Daniel Weatherly - Anchor Point

- CONFIRMATIONS ADVANCED

SENATE BILL NO. 169

"An Act relating to special request registration plates celebrating the arts; and relating to the Alaska State Council on the Arts."

- HEARD & HELD

SENATE BILL NO. 167

"An Act providing for an aggravating factor at sentencing for contractors, volunteers, and employees of the Department of Corrections; and providing for an effective date."

- MOVED SB 167 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 169

SHORT TITLE: LICENSE PLATES: COUNCIL ON ARTS

SPONSOR(s): SENATOR(s) STEVENS

01/29/20	(S)	READ THE FIRST TIME - REFERRALS
01/29/20	(S)	EDC, STA, FIN
02/06/20	(S)	EDC AT 9:00 AM BUTROVICH 205
02/06/20	(S)	Heard & Held
02/06/20	(S)	MINUTE(EDC)
02/13/20	(S)	EDC AT 9:00 AM BUTROVICH 205
02/13/20	(S)	Scheduled but Not Heard
02/18/20	(S)	EDC AT 9:00 AM BUTROVICH 205
02/18/20	(S)	Moved CSSB 169(EDC) Out of Committee
02/18/20	(S)	MINUTE(EDC)
02/18/20	(S)	STA AT 3:30 PM BUTROVICH 205
02/18/20	(S)	Scheduled but Not Heard
02/19/20	(S)	EDC RPT CS 5DP NEW TITLE
02/19/20	(S)	DP: STEVENS, BEGICH, COSTELLO, COGHILL, HUGHES
02/20/20	(S)	STA AT 3:30 PM BUTROVICH 205

BILL: SB 167

SHORT TITLE: AGGRAVATING FACTOR: CORRECTIONS OFFICER

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/27/20	(S)	READ THE FIRST TIME - REFERRALS
01/27/20	(S)	STA
02/11/20	(S)	STA AT 3:30 PM BUTROVICH 205
02/11/20	(S)	Heard & Held
02/11/20	(S)	MINUTE(STA)
02/20/20	(S)	STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

CHIEF ED MERCER, Appointee
Alaska Police Standards Board
Department of Public Safety (DPS); Chief
Juneau Police Department
City and Borough of Juneau
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Board

JOSEPH WHITE, Appointee
Alaska Police Standards Council
Department of Public Safety (DPS); Chief

Ketchikan Police Department
Ketchikan, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council

JENNIFER WINKELMAN, Appointee
Alaska Police Standards Council
Department of Public Safety (DPS); Acting Deputy Commissioner
Department of Corrections (DOC)
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

DANIEL WEATHERLY, Appointee
Alaska Police Standards Council
Department of Public Safety (DPS)
Anchor Point, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

SENATOR GARY STEVENS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 169.

TIM LAMKIN, Staff
Senator Gary Stevens
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Delivered the sectional analysis for SB 169.

BENJAMIN BROWN, Chair
Alaska State Council on the Arts
Juneau, Alaska

POSITION STATEMENT: Answered questions and provided supporting testimony for SB 169.

JENNIFER WINKELMAN, Acting Deputy Commissioner
Department of Corrections (DOC)
Juneau, Alaska

POSITION STATEMENT: Presented the information the committee requested related to SB 167.

KELLY HOWELL, Legislative Liaison
Department of Corrections (DOC)
Anchorage, Alaska

POSITION STATEMENT: During the hearing on SB 167, discussed the spreadsheet on charges disposed.

KACI SCHROEDER, Assistant Attorney General
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Provided information and answered questions related to SB 167.

ACTION NARRATIVE

[3:30:22 PM](#)

CHAIR JOSHUA REVAK called the Senate State Affairs Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Costello, Kawasaki, Coghill, and Chair Revak. Senator Wilson arrived soon thereafter.

CONFIRMATION HEARING(S) **Alaska Police Standards Council**

[3:31:35 PM](#)

CHAIR REVAK announced the first order of business would be consideration of governor appointees to the Alaska Police Standards Council (APSC). He read the mission of APSC, which is "To produce and maintain a highly trained and positively motivated professional, capable of meeting contemporary law enforcement standards of performance."

[3:32:02 PM](#)

SENATOR WILSON joined the committee.

CHAIR REVAK asked Chief Mercer to identify himself, tell the committee about himself, and why he wants to serve.

[3:32:26 PM](#)

CHIEF ED MERCER, Appointee, Alaska Police Standards Board, Department of Public Safety (DPS); Chief, Juneau Police Department, City and Borough of Juneau, Juneau, Alaska, stated that he was born and raised in Sitka and has been a law enforcement officer since he joined the Sitka Police Department in 1992. In 2000, he transferred to the Juneau Police Department and has worked through the ranks from officer to chief. He reported that he holds a Bachelor of Science degree in Criminal Justice and is a graduate of the FBI academy. He listed the

boards he currently serves on and said he wants to serve on the APSC Board because he has a strong purpose to serve and would like to share his experiences with the council members. He offered his belief that his critical thinking and methodical decision-making will be an asset to the board. He voiced support for keeping the law enforcement profession credible by having uniform standards for all Alaska law enforcement officers (LEOs). He stressed the importance for police departments to maintain systems of checks and balances to ensure that personnel perform properly and with integrity.

[3:34:47 PM](#)

SENATOR COGHILL asked what issues he expects to arise with the changing generations.

CHIEF MERCER replied there are always challenges with generational changes, but he does not see any significant challenges with commitment. However, all police departments will need to deal with long-term retention issues.

SENATOR COGHILL said he was interested in how to balance higher standards with retention needs, and the emphasis on integrity.

CHIEF MERCER replied it is important to outline strong expectations and professionalism in law enforcement, provide adequate training via the academy, and to have a council that sets minimum standards for all law enforcement officers in the state.

SENATOR COGHILL commented that Chief Mercer brings a long perspective and will serve well. He expressed appreciation for his willingness to serve.

[3:38:07 PM](#)

SENATOR KAWASAKI asked him to comment on legislation going through the process that increases the standards for police officers and redefines peace officers to include village police officers (VPO) and village public safety officers (VPSO).

CHIEF MERCER replied it is essential that all people who enforce laws in the state go through the necessary standards, exhibit integrity, and do the right thing when they enforce the laws.

SENATOR KAWASAKI agreed that the standards for public servants who wear a badge need to be high. He asked how the state might be able to help communities in very remote areas of Alaska fill VPO or VPSO positions with people who are qualified and have the

highest standards when the pools of qualified applicants in these areas typically are extremely small.

CHIEF MERCER replied communities might consider developing a process of "growing their own" by getting the youth in the community interested in the possibility of a law enforcement career. This could possibly be done through the schools.

3:42:00 PM

CHAIR REVAK thanked him for his dedication to law enforcement.

3:42:35 PM

JOSEPH WHITE, Appointee, Alaska Police Standards Council, Department of Public Safety (DPS); Chief, Ketchikan Police Department, Ketchikan, Alaska, stated that he was born and raised in Alaska, attended school in Ketchikan, and graduated from the University of Alaska Anchorage. He joined the Ketchikan Police Department in 2006 and worked his way through the ranks to the position of chief. He reported that, similar to Chief Mercer, he attended the FBI academy. He said he was appointed to the APSC in May 2018. He said he has a good understanding of the work and believes that this board is one of the most important in the state to maintain public trust.

3:44:47 PM

SENATOR KAWASAKI said the legislature is considering legislation to change the definition of peace officer to include VPOs and VPSOs and raise the standards for these officers to be more in line with troopers and peace officers. He asked how to ensure that rural Alaska maintains a police presence when the pool of eligible applicants is very small and may not include anyone who wants to live in the region.

CHIEF WHITE replied it is critically important to have high standards for VPOs, VPSOs, and troopers throughout the state, but it is a difficult task to raise the standards to ensure competency and still be able to provide services to smaller villages. He relayed that this problem is not just confined to rural villages because Ketchikan is also having difficulty finding qualified applicants to fill positions. There has to be a balance, but high standards must be maintained, or community trust is lost. He agreed with Chief Mercer that one solution is to "grow your own." He related that KPD resource officers go to schools to talk to the students and promote law enforcement as a career. In high school the students are given tours of the police station and can go on ride-alongs. He said he did not know how to incorporate that in the villages, but the Ketchikan

School Resource Officer Program has had good results in local recruiting.

[3:47:12 PM](#)

SENATOR COGHILL asked if there is a proactive side to the Police Standards Council. For example, the council reacts to complaints but is it also proactive in reaching out to departments to suggest a practice that could be improved.

CHIEF WHITE replied chiefs who are looking to enhance their standards or hiring practices can reach out to APSC and get proactive advice. APSC is trying to raise the standards and educate departments statewide. Police chiefs from around the state either call or sit in on the public meetings. The council is also reactive when it receives complaints and ultimately comes to a decision. He opined that APSC has a good balance between proactive and reactive.

SENATOR COGHILL said he brought it up because the committee needs to hear that there are two sides to the council.

CHAIR REVAK thanked Chief White for being willing to serve.

[3:50:00 PM](#)

JENNIFER WINKELMAN, Appointee, Alaska Police Standards Council, Department of Public Safety (DPS); Acting Deputy Commissioner, Department of Corrections (DOC), Juneau, Alaska, advised that when she is not acting in the role of deputy commissioner, she is the director of the Division of Pretrial Probation and Parole. She noted that this is a reappointment to the correctional administrative officer position on the Alaska Police Standards Council.

MS. WINKELMAN reported that she is a fourth generation Alaskan who grew up in Fairbanks and relocated to Juneau in 2016 following a promotion within the DOC. She received a degree in Justice and Paralegal Studies from the University of Alaska Fairbanks and has been with the DOC for just under 20 years in both the institution and the field. She shared her passion for the work and her belief that the best job in the world is to be able to influence the wellbeing of another person.

MS. WINKELMAN said she was asked several questions during her previous confirmation hearing and she would share her answers now that she has more experience on the council.

MS. WINKELMAN described the APSC as very important in maintaining professionalism and integrity in the law enforcement community. It definitely correlates to public safety. She related that when she initially was afforded the opportunity to serve on the council, she viewed it as an honor and privilege to serve in a greater capacity that was outside her comfort zone of corrections. She shared her philosophy that to successfully promote public safety, DOC personnel cannot operate in a silo; they need each other and the communities' efforts. She said serving on the council provides insight into the opportunities that can be afforded to produce highly skilled and trained officers. Serving on the council also provides a way to help restore faith in law enforcement when cases of misconduct are brought forward. She said she believes in the work of peace officers but there must be checks and balances in the system because of the latitude and authority that is granted by the nature of the profession.

MS. WINKLEMAN stated that the value she brings to APSC is a corrections viewpoint as well as a broad statewide perspective because she has managed probation and parole offices from Utqiagvik in the north to Ketchikan in the southern region. This provided exposure and knowledge of the strengths and struggles related to resources, staffing, and how the unique nature of cases in Alaska vary from community to community. She said she has worked with law enforcement agencies in each community and understands that teamwork is imperative to accomplish an independent mission. She said the council lives by its mission and core services, and she feels that her experience will continue to be an asset to APSC. She concluded that while the career field is evolving with technology, ensuring that the State of Alaska produces highly skilled law enforcement agents who have integrity remains a necessity. The APSC is in place to do this and her statewide experience within corrections brings value to the council and ultimately to the state.

[3:54:55 PM](#)

SENATOR COGHILL asked what time commitment is required to serve on the Alaska Police Standards Council.

MS. WINKELMAN responded that there are quarterly meetings that last one to one and a half days. The rest of the business is conducted largely through email and phone calls. Responding to a further question, she confirmed that the time commitment is manageable.

[3:56:01 PM](#)

SENATOR KAWASAKI disclosed he went to school with Ms. Winkelman and she has his support. He asked the same question he asked the other appointees about how to work with small communities that probably have very few applicants and still ensure that these communities have a law enforcement presence that meets the proposed new standards.

[3:56:52 PM](#)

MS. WINKELMAN relayed her understanding that the bills he was referencing will not raise the standards but will codify regulatory language into statute. She said she believes in the overall strategy to discourage hiring unqualified people, encourage increased reporting, and improve law enforcement in rural communities. She referenced Senator Coghill's question about retention and opined that the APSC is in a good position to educate people about the opportunities in rural communities and to ensure those officers are educated, trained, and informed of the resources that exist in rural communities.

SENATOR COGHILL asked if it is the council's perspective that the problems center on a shortage of people or that investments could have been better or in a different place.

MS. WINKELMAN replied the council provides a lot of training opportunities that will hopefully improve retention.

SENATOR COGHILL said he is asking because the legislature is trying to look through correction's eyes to understand what and where the best investments are.

MS. WINKELMAN said one area in corrections that she hopes can be incorporated in APSC is the reentry coalitions in communities, so it is understood that there is a large group of people supporting people in communities, whether it is law enforcement or returning citizens.

[4:01:14 PM](#)

CHAIR REVAK asked her to provide an updated resume to reflect her new position.

[4:02:53 PM](#)

At ease

[4:05:33 PM](#)

CHAIR REVAK reconvened the meeting and asked Mr. Weatherly to begin his testimony.

[4:05:46 PM](#)

DANIEL WEATHERLY, Appointee, Alaska Police Standards Council, Department of Public Safety (DPS), Anchor Point, Alaska, said he was born in Iowa and moved around quite a bit until 1970 when he moved to in Alaska with the U.S. Coast Guard. In 1974 he joined the Alaska State Troopers and was stationed in various communities, including Sitka, Anchorage, Valdez, Kotzebue, and finally Homer. He became a post supervisor in Kotzebue and was involved with the VPSO program from its inception until his retirement in 1996. After retirement, he had a contract for patrol with the Homer Police Department and the Alaska State Trooper jail contract. He subsequently worked on the North Slope running a mini flight service/weather station for the airport and on Alpine's fire department as an operator/driver and as a member of the spill response team. He said he has more than 3,000 hours of police training and 105 college credits. He said the importance of the Alaska Police Standards Council comes down to standards, training for those standards, professionalism, and maintaining the standards.

[4:08:35 PM](#)

SENATOR KAWASAKI asked if he was on the Kotzebue Volunteer Fire Department at the same time that he was a trooper stationed in Kotzebue.

MR. WEATHERLY confirmed that he was with the volunteer fire department when he was stationed in Kotzebue from 1978 to 1982.

SENATOR KAWASAKI asked his thoughts on ways to improve law enforcement in rural Alaska either through the VPSO program or an enhanced trooper presence.

MR. WEATHERLY dropped offline.

[4:10:59 PM](#)

CHAIR REVAK asked the members if they had heard enough from Mr. Weatherly.

SENATOR COGHILL suggested they let Mr. Weatherly finish his statement.

[4:11:38 PM](#)

At ease

[4:12:34 PM](#)

CHAIR REVAK reconvened the meeting and asked Mr. Weatherly to continue.

4:12:42 PM

MR. WEATHERLY informed the committee that the Village Police Officer (VPO) program was the forerunner to the Village Public Safety Officer (VPSO) program. The idea was to give better training, support, and professionalism to people who would work in rural communities. The largest problem then and now is that there is little law enforcement backup or time for these officers to get relief from their jobs. He said the vision was to transfer people between villages much the same as state troopers are transferred around the state but that never really got off the ground. He said the program has been cut back and there have not been many advancements in the monetary and educational benefits or paid leave. Another problem is that being a police officer in a small village where the officer grew up is very difficult and isolating, especially since these individuals are on call 24/7. These VPOs or VPSOs must arrest their friends. In many ways it is more difficult than being an Alaska State Trooper because the troopers can fly in, attend to business, and then leave. But even that model is not ideal because communities get tired of agencies flying in to hold meetings or attend to problems and then leaving. He said he didn't really have a solution but he and other troopers in the Kotzebue and Nenana region have tried to ameliorate this problem by remaining in the community for a while after the workday is finished to walk around, talk to community members and generally provide a presence.

MR. WEATHERLY related anecdotes of being a census taker in Atka that has a dwindling population and his son's experience training prospective firefighters at the university in Fairbanks who have made it clear that they do not intend to stay in Alaska because of the retirement and benefits plan that's offered. He opined that the problems associated with policing small communities will not be resolved until a decision is made on the role of Alaska State Troopers and how that will be extended to rural communities and villages.

CHAIR REVAK thanked him for his dedication to law enforcement and willingness to serve.

4:22:33 PM

CHAIR REVAK opened public testimony on the nominees for the Alaska Police Standards Council. Finding none, he closed public testimony and stated the following:

In accordance with AS 39.05.080, the Senate State Affairs Standing Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration:

Alaska Police Standards Council

Ed Mercer - Juneau
Joseph White - Ketchikan
Jennifer Winkelman - Juneau
Daniel Weatherly - Anchor Point

Signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees; the nominations are merely forwarded to the full legislature for confirmation or rejection.

[4:23:41 PM](#)

At ease

SB 169-LICENSE PLATES: COUNCIL ON ARTS

[4:24:57 PM](#)

CHAIR REVAK reconvened the meeting and announced the consideration of SENATE BILL NO. 169, "An Act relating to special request registration plates celebrating the arts; and relating to the Alaska State Council on the Arts."

[4:25:35 PM](#)

SENATOR GARY STEVENS, Alaska State Legislature, Juneau, Alaska, sponsor of SB 169, stated that he appreciates carrying a bill relating to the Alaska State Council on the Arts (ASCA) because he has always admired the organization and the work it does throughout the state. He related that the council requested this bill to provide stability to its budget structure after complications arose during the last budget cycle. He explained that SB 169 is a housekeeping measure to amend the existing license plate program to allow people who support the arts council to provide it with addition revenue. It also provides a means for legal representation when needed, consistent with the process provided to other state agencies. It holds harmless the ASCA's private funds from the Executive Budget Act.

CHAIR REVAK asked Mr. Lamkin to walk through the sectional analysis for SB 169.

[4:27:22 PM](#)

TIM LAMKIN, Staff, Senator Gary Stevens, Alaska State Legislature, Juneau, Alaska, delivered the sectional analysis

for SB 169. He noted that two members of the committee heard and passed the committee substitute from the Senate Education Committee.

Sec. 1: AS 28.10.421(a), relating to fees paid to the Division of Motor Vehicles (DMV) for vehicle license plates, allows for an additional fee, set by Alaska State Council on the Arts (ASCA) regulation, and not to exceed \$50, when a person chooses a new or replacement ASCA artistic plate. The subsection also provides that these additional fees will be accounted for separately and that the total amount that exceeds the costs of the Artistic License Plate Program may be appropriated to fund the ASCA.

MR. LAMKIN advised that the fee that will go to the ASCA is proposed to be \$3, but it could be increased to \$50 over the long term if there is market demand.

Sec. 2: AS 44.27, relating to the ASCA generally, adds a new section (AS 44.27.053) providing that the Attorney General is legal counsel for ASCA, similar to other state agencies, and also allows the ASCA to retain additional legal counsel as needed, subject to the approval of the Attorney General.

MR. LAMKIN related that the Senate Education Committee added the common contract language that the attorney general approval of the representation would not be unreasonably withheld.

Sec. 3: AS 44.27.055(d), relating to the ASCA managing its affairs, exempts from the purview of the Executive Budget Act those funds received by ASCA from private non-profit foundation partners.

MR. LAMKIN summarized that the funds raised privately to support the ASCA cannot be vetoed.

Sec. 4: AS 44.27.080(a), relating to an ASCA-sponsored competition for artistic plates design, from being mandatory to being optional, every four years, at the discretion of ASCA.

Sec. 5: AS 44.27.080(c), relating to the artistic plate design competition, restores authority for the ASCA to award the artist of the winning design a monetary amount set in regulation, from the funds

generated by the artistic plates. This provision was repealed in 2018.

Sec. 6: Provides an effective date of July 1, 2020.

MR. LAMKIN advised that Senate Education Committee added the effective date at the request of the ASCA.

[4:31:57 PM](#)

SENATOR WILSON asked if the Department of Motor Vehicles would collect the \$30 fee plus the \$3 fee that the ASCA adds.

MS. LAMKIN confirmed that the DMV would collect the \$3 surcharge, which would go directly to the ASCA, and the \$30 fee, which goes to the general fund.

SENATOR WILSON asked if older ASCA plates in inventory will continue to be available.

MR. LAMKIN replied he would defer to the ASCA, but he assumes that just the new plate would be offered.

CHAIR REVAK asked Mr. Brown to respond to the question.

[4:33:20 PM](#)

BENJAMIN BROWN, Chair, Alaska State Council on the Arts, Juneau, Alaska, explained that the idea is that the DMV would issue just one plate at any given time.

CHAIR REVAK asked him to provide his testimony.

MR. BROWN agreed with the sponsor that SB 169 is mostly a housekeeping measure. He explained that after the ASCA shut down for a period of time last year after the governor vetoed their funding, so the council looked for ways to become more self-sustaining. While it is not possible to raise all of the approximately \$700,000 match for the National Endowment for the Arts through earned income, a promising way to come up with a meaningful amount would be to add a small surcharge to the existing Artistic License Plate program. This would not be cost prohibitive to Alaskans who want to lend a financial hand to the ASCA.

MR. BROWN agreed with Mr. Lamkin that the bill allows the ASCA, as a public corporation, to work through the Administrative Procedures Act to select the appropriate amount of surcharge that will be used to match the federal National Endowment of the

Arts funds and reduce the amount of undesignated general funds the ASCA needs to continue operating. He described that as the most important provision in the bill. It provides an opportunity to encourage visual arts and celebrate the beauty of Alaska while providing meaningful revenue at a time when all state agencies are trying to find ways to be more fiscally sustainable.

MR. BROWN opined that Mr. Lamkin ably described the other provisions relating to the attorney general serving as counsel, the ability to hire outside counsel, and the private support exemption from the Executive Budget Act. He said the council requested the Senate Education Committee add the effective date provision to start collecting the surcharge at the start of the next fiscal year to avoid any bookkeeping problems for the administration.

[4:37:34 PM](#)

SENATOR KAWASAKI asked if the old plates would be retired once a new one was available.

MR. BROWN replied people can get new tags for their existing plate, but anyone who wants to buy a license plate could only buy the current plate.

[4:38:57 PM](#)

SENATOR KAWASAKI asked what happens to the unsold license plates that DMV may have in inventory.

MR. BROWN said he would not want to waste either metal or someone's time, but he would defer to the DMV to provide an answer.

MR. LAMKIN added his understanding that the DMV keeps some inventory but has a good sense of the demand for these specialty plates and does not order beyond what they expect to sell. He offered to follow up after conferring with the DMV.

CHAIR REVAK said he had anticipated an answer from the DMV.

[4:41:13 PM](#)

SENATOR WILSON asked the customary amount an artist would receive for designing a new license plate.

MR. LAMKIN replied the most recent ASCA award to an artist was for \$5,000, which is the amount provided in regulation.

SENATOR WILSON expressed satisfaction that there are guidelines in regulation for the amount that can be awarded.

CHAIR REVAK asked the reason for the change in Section 4 from the council "shall" hold competitions to the council "may" hold competitions.

[4:42:40 PM](#)

MR. BROWN said after the traumatic experience of not existing for [a couple of months], the council decided that the less mandatory language in the enabling statute, the better. The intent is for young Alaskan artists to be compensated for creating art while monetizing the council's operations. It also helps the council become less reliant on scarce undesignated general funds.

[4:44:19 PM](#)

SENATOR STEVENS clarified that Mr. Brown meant to say the council did not exist for two months, not two years.

[4:45:10 PM](#)

CHAIR REVAK opened public testimony on SB 169. Finding none, he closed public testimony.

CHAIR REVAK held SB 169 in committee for future consideration.

SB 167-AGGRAVATING FACTOR: CORRECTIONS OFFICER

[4:46:06 PM](#)

CHAIR REVAK announced the consideration of SENATE BILL NO. 167, "An Act providing for an aggravating factor at sentencing for contractors, volunteers, and employees of the Department of Corrections; and providing for an effective date."

He asked Ms. Winkelman or Ms. Howell to discuss the information DOC provided in response to the committee request about the scope of the contraband problem involving the Department of Corrections' employees, contractors, and volunteers.

[4:46:58 PM](#)

JENNIFER WINKELMAN, Acting Deputy Commissioner, Department of Corrections (DOC), Juneau, Alaska, said she would touch on the DOC and human resource research and Ms. Howell would discuss the Department of Public Safety (DPS) information regarding the number of charges for promoting contraband in the first degree.

[4:47:49 PM](#)

KELLY HOWELL, Special Assistant to the Commissioner and Legislative Liaison, Department of Corrections (DOC), Anchorage, Alaska, stated that the response from DOC included a spreadsheet of charges disposed. This data from the Alaska Public Safety Information Network, the state's criminal history repository, provides a global overview of the charges and number of people charged with promoting contraband in the first degree.

She reported that in the five years from 2015-2019, there were 388 charges for 320 individuals. Of those 388 charges, 327 or 84 percent were for promoting controlled substances in the first degree. Six of the promoting contraband charges were for a deadly weapon and 51 were dismissed, [132] resulting in a guilty verdict, and 21 were not prosecuted. She noted that the dismissed charges do not necessarily mean that the individual received no sanction.

[4:50:31 PM](#)

SENATOR WILSON calculated that eight fewer cases were disposed than there were total charges.

MS. HOWELL said she would check the math and follow up.

SENATOR COGHILL said it would be helpful to know the number of people charged or sentenced each year compared to the total number of the workforce.

[4:52:55 PM](#)

MS. WINKELMAN responded that the human resources office said that since 2012, two have been charged with this crime.

SENATOR COGHILL said that is helpful.

CHAIR REVAK asked if the numbers on the spreadsheet represent everybody who has access to the prisoners, not just correctional officers.

MS. WINKELMAN confirmed that the numbers from the Department of Public Safety include everybody. She reiterated that Human Resources said that two DOC employees were subsequently charged.

CHAIR REVAK asked if between 2015 and 2019 there were 132 guilty verdicts for all types of promoting contraband in the first degree.

MS. WINKELMAN answered yes.

MS. HOWELL added that the spreadsheet attached to the response provides more granular detail.

[4:56:24 PM](#)

SENATOR COGHILL asked how many on the spreadsheet were employees and how many were volunteers. He said those numbers show how creative people can be and how porous the system is.

CHAIR REVAK called the data shocking and voiced support for the aggravator.

SENATOR COGHILL said he did not need the information to move the bill, but he would like it before the bill goes to the floor.

CHAIR REVAK requested Ms. Winkelman provide the information.

MS. WINKELMAN agreed to do her best to comply.

[4:58:31 PM](#)

CHAIR REVAK opened and closed public testimony on SB 167. He noted the bill had three fiscal notes attached. The Department of Public Safety and the Department of Law submitted zero fiscal notes and the Department of Corrections submitted an intermediate fiscal note.

[4:59:29 PM](#)

At ease

[5:00:09 PM](#)

CHAIR REVAK reconvened the meeting.

[5:00:17 PM](#)

SENATOR KAWASAKI asked what "a controlled substance" under AS 11.56.375 covers.

CHAIR REVAK asked what drugs elicit these charges.

[5:01:26 PM](#)

MS HOWELL explained that "controlled substance" has a specific definition under AS 11.71.900.

SENATOR COSTELLO asked Ms. Winkelman to comment on the idea of changing the bill to include all employees of the state and the public because the current language would not necessarily capture visitors to correctional institutions.

[5:03:19 PM](#)

MS. WINKELMAN said the intent was to capture those who have signed an oath of service and are entrusted with access to areas of the facility that a visitor or someone who happens to be a state employee would not have.

SENATOR COGHILL related his experience as a volunteer who goes into correctional facilities in a ministerial capacity.

SENATOR COSTELLO opined that all contraband is a problem and the creativity in getting it into the institutions has no limit. She suggested it would be interesting to hear from the Department of Law about how aggravators are addressed and if they act as deterrents.

[5:07:26 PM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Department of Law (DOL), Juneau, Alaska, stated that an aggravator is used to enhance a sentence. She explained that the crime of promoting contraband in the first degree covers the normal range of conduct for that offense and the bill carves out those individuals whose behavior is deemed outside the normal range of conduct because they have signed an oath of service and hold a position of trust. These individuals deserve an enhanced sentence, she said.

MS. SCHROEDER advised that the burden of proof for this aggravator would be beyond a reasonable doubt. The procedure is that the jury considers the aggravator after the trial and verdict for the underlying offense.

SENATOR COSTELLO questioned whether the bill captures all the individuals it should who go into correctional facilities.

MS. SCHROEDER replied it is entirely possible that an inmate may have a visitor who is under the state umbrella and is not listed in this aggravator. Anybody not specifically listed would not be captured in the data.

[5:10:21 PM](#)

SENATOR COGHILL asked Ms. Winkelman if behavioral health professionals and teachers who regularly go into correctional facilities would be considered volunteers.

MS. WINKELMAN explained that it would depend on where the individual has access within the facility. The bill would cover those individuals who have gone through the background check and have extended access, beyond the attorney rooms at the front of

the facility. Responding to a further question, she confirmed that volunteers are on the list.

5:12:24 PM

SENATOR COGHILL moved to report SB 167, work order 31-GS2138\A, from committee with individual recommendations and three attached fiscal note(s).

5:12:40 PM

At ease

5:13:58 PM

CHAIR REVAK reconvened the meeting. There being no objection, SB 167 was reported from the Senate State Affairs Standing Committee.

5:15:06 PM

At ease

5:15:44 PM

CHAIR REVAK reconvened the meeting and outlined the schedule for next week.

5:16:25 PM

There being no further business to come before the committee, Chair Revak adjourned the Senate State Affairs Standing Committee meeting at 5:16 p.m.